

PERMANENCY HEARINGS

La. Ch. C. arts. 701-711

LOUISIANA
CHILD IN NEED OF CARE BENCHBOOK
FOR JUVENILE JUDGES

SECTION

10

INTRODUCTION

A. BACKGROUND

The law requires periodic judicial review of the status of children placed in foster care to ensure a permanent placement is secured for each child as soon as possible. Foster care is, and should always be, the safety plan of last resort. It is designed to offer temporary care in times of family crisis and is not meant to be a substitute for family. There are two separate components of planning when a child remains in foster care after the Disposition: the case review hearing process and permanency planning process. The purpose of these hearings is to provide for judicial review and oversight of the Department of Children and Family Services (DCFS) planning and decision making on behalf of children who have been removed from their parent's¹ custody.

If the child remains in foster care for 12 months, then a Permanency Hearing² is mandated to determine and approve the child's permanent plan pursuant to Federal³ and State law (Articles 701-711).⁴ The court shall determine the permanent plan for the child that is most appropriate and in the best interest of the child in accordance with the following priorities of placement: (1) return the child to the legal custody of the parents; (2) adoption; (3) placement with a legal guardian; (4) placement in the legal custody of a relative; or (5) placement in the least restrictive, most family-like alternative permanent living arrangement (APLA). APLA can only be considered for youth who are 16 or 17 years old, and there must be compelling reasons for designating this as their permanent plan. DCFS is still required to identify and establish permanent connections for the youth if APLA is determined to be the permanent plan. Article 603(22) does not include custody to a relative or APLA in the definition for "permanent placement." The court can approve custody to a relative as the permanent plan, but it is less favored than adoption or guardianship, both of which carry more legal gravity.

B. PRIOR TO THE HEARING

Although not required by the Children's Code, DCFS submits a court report per policy at least 10 days prior to the Permanency Hearing. This court report should make a recommendation for the permanent plan and provide updates regarding the status of the child and results of assessments conducted on relatives or other individuals and the Interstate Compact on the Placement of Children (ICPC) home study, if received. Evaluations by service providers, the Foster Caregiver Progress Form, and other important documents may be attached to the report. If appointed, the Court Appointed Special Advocate (CASA) will also submit a report in advance of the hearing, although there is not a required timeframe for doing so (unless set forth in local court rules).

While the case plan is not generally reviewed (but it can be) at this hearing, the Children's Code requires DCFS to file a case plan 10 days prior to the Permanency Hearing. The Youth Transition Plan (YTP) must also be provided if the child is 14 years of age or older.

C. TIMING, NOTICE, AND PRESENCE

The initial Permanency Hearing shall be held within 9 months after Disposition if the child was removed prior to Disposition or within 12 months if the child was removed at Disposition. Permanency Hearings shall occur at least every 12 months thereafter until the child achieves a "permanent placement"⁵ (or earlier upon motion per Article 702(B)). If a judicial determination has been made that reunification efforts are not required pursuant to Article 672.1, a Permanency Hearing may occur immediately and shall occur within 30

¹ The plural form of "parent" is used throughout the Benchbook for simplicity, even though at times only one parent has been identified in a case.

² The Children's Code title for this chapter is "Dispositional Reviews" instead of "Permanency Hearings," but the article provisions refer to the "Permanency Hearing" which is in line with ASFA terminology; thus, "Permanency Hearings" will be used in this Benchbook Section.

³ See 42 U.S.C. § 671(a)(15)(E), 45 C.F.R. § 1356.21(h)(2), and 45 C.F.R. § 1356.21(b)(2) and 1356.71(d)(1)(i).

⁴ Some courts call the initial permanency a "Permanency Hearing" and subsequent hearings "Permanency Review Hearings."

⁵ See La. Ch. C. art. 603(22).

days of that ruling. There are Title IV-E funding repercussions for the State if the court does not determine the child's permanent plan, and DCFS does not make reasonable efforts to finalize the permanent plan within the mandated timeframes. In that instance, DCFS may not receive Federal reimbursement for the child while the determinations and findings are delayed.⁶

At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. The court shall not admit any person who does not have a proper interest in or is not necessary to the proceedings. As in all Child in Need of Care (CINC) hearings, the parents and children have a right to be present, as do "foster caregivers" (foster parents, pre-adoptive parents, and relatives) caring for the child and CASA (if appointed). An essential role of the court is to determine whether parties have been properly served for hearings. Because the initial Permanency Hearing is particularly critical, the court should take care to confirm that parents have been properly served. In addition, DCFS has a duty to provide notice to the parents and foster caregivers, and the court shall confirm that notice was properly given.

For all parties present, the court is responsible for providing and paying for interpretation, translation, and/or language assistance services and reasonable accommodations for those with disabilities. There must be ample time for legal interpreters to review pertinent legal documents prior to the court proceeding. Interpreters must be familiar with the case-related details to provide an accurate, meaningful, and effective interpretation.

Before the case is called, the judge should inquire as to whether counsel for the parents and counsel for the child had sufficient opportunity to consult with their clients. This ensures due process for the family.

D. INTERVENTION

As at the Case Review Hearing, a person, agency, or organization can move to intervene at the Permanency Hearing. There must be good cause for such an intervention, and it must facilitate the permanent placement of the child and ensure the child's best interest is protected. The court has discretion in deciding whether to allow intervention. If the court grants intervention, the court may limit the nature and extent of the intervenor's participation in the hearing for good cause upon motion by any party. For example, a court could allow an intervention for purposes of presence at the Permanency Hearing but not allow the intervenor access to the court file or DCFS file. There is significant case law on intervention, especially in certain jurisdictions.

E. EVIDENCE AND TESTIMONY

Parties have the right to call witnesses and present evidence at the Permanency Hearing. Witnesses may be sequestered. If a DCFS staff member, CASA volunteers, or foster caregiver are going to be called as witnesses they may, too, be sequestered because they are not parties. However, a DCFS representative would likely need to remain in court to assist the assistant district attorney (ADA). Of course, sequestration is different from closing a hearing upon motion of a party since a closed hearing is one in which only the parties are present.

Testifying in court is stressful for many parents and children. Court is intimidating for most individuals (including non-party witnesses), and the stakes could not be higher for parents and children in CINC cases. Many parents and children are coming to court with a history of trauma. Nevertheless, some parents and children may benefit from having their voice heard. It is critical for the judge to consider information provided by the parents and children, and to convey that their testimony is being taken into account in the court's ruling. Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.⁷

The child can testify if present or appearing by audiovisual conferencing. Whether the child is present or not, the child's attorney should make sure that the court knows the child's wishes regarding the permanent plan. Foster caregivers also have a right to be heard at the Permanency Hearing and, as the day-to-day caregivers of the child, likely have valuable information for the court.

⁶ See La. Ch. C. arts. 672.1 and 702; 42 U.S.C. § 671(a)(15)(E); 42 U.S.C. § 675(5); and 45 C.F.R. § 1356.21(b)-(h); See also https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=142 and https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=59.

⁷ Gatowski, S., Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: Improving court practice in child abuse and neglect cases. Reno, NV: National Council of Juvenile and Family Court Judges, p. 16 [hereinafter Gatowski].

It can also be helpful to hear testimony of therapists, teachers, domestic violence advocates, parenting instructors, and other service providers at the Permanency Hearing. These witnesses can provide useful information to the court concerning the family's progress and their recommendations. If a provider is not available to attend the hearing, a written report from the provider should be attached to DCFS's court report. The court may also want to consider coordinating services with the Louisiana Department of Health (LDH), Office of Juvenile Justice (OJJ), Louisiana Department of Education (LDOE), and other agencies by having one or more of these representatives at the Permanency Hearing. A multidisciplinary approach is especially critical for youth who may have mental health concerns, delinquency matters, and/or disabilities and may benefit from coordinated services and supports.

F. PERMANENT PLAN

At the Permanency Hearing, the court shall determine the permanent plan for the child that is most appropriate and in the best interest of the child. The Children's Code sets out priorities of placement that the court shall follow in rendering its decision. The first priority is reunification with the child's parents. If reunification is not a viable option, the court shall look to the most appropriate plan given the following order of priorities: adoption, guardianship, custody to a relative, and APLA.

In determining the permanent plan, the court shall consider the child's need for continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship in accordance with Article 1269.2. Preserving a child's relationships and family connections is an important aspect of ensuring continuity and the child's sense of security.⁸ In an age-appropriate manner, the court shall consult with the child regarding the proposed permanency or transition plan for the child. In the case of a child who will not be returned to his/her parents, the court shall consider in-State and out-of-State permanent placement options for the child. The child's health and safety are the paramount concern in the court's determination of the permanent plan.

DCFS will recommend a permanency goal (sometimes referred to as the case plan goal) for the child. CASA will also make a recommendation to the court for the child's permanent plan. As stated above, the attorney for the child will present evidence, make arguments and express the child's wishes regarding the permanent plan. The attorney for the parent will also present evidence and make arguments regarding the permanent plan. The court will consider all testimony, evidence, positions, and recommendations in its determination of the child's permanent plan.

Some courts approve an "Adoption and Safe Families Act (ASFA) exception" or "ASFA extension" at the initial Permanency Hearing as requested by a party or DCFS when there has been substantial parental compliance with the case plan, there is a reasonable expectation of continued, significant improvement in the parent's protective capacities, and reunification is promising. However, there are no specific ASFA provisions for an extension or exception at the Permanency Hearing. Instead, the court can maintain reunification as the child's permanent plan in accordance with the findings required in Article 702(C)(1). If such a finding is made and reunification remains the permanent plan or concurrent permanent plan at this hearing, more frequent case reviews (or Status Hearings) should be scheduled to ensure progress is made, and permanency is timely achieved.

G. REASONABLE EFFORTS TO REUNIFY

DCFS shall make reasonable efforts to reunify the child with his/her parents. The court shall determine if reasonable efforts were made by DCFS and that finding shall be entered into the Permanency Hearing Order.⁹

⁸ La. Ch. C. art. 702, 2001 Comments.

⁹ See La. Ch. C. arts. 672.1 and 702; 42 U.S.C. § 671(a)(15)(E) and 672(a)(1); 45 C.F.R. § 1356.21(h)(2), 45 C.F.R. § 1356.21(b)(2) and 1356.71(d)(1)(i); See also Child Welfare Policy Manual, Section 8.3C.4, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?cidID=59 Edwards, Leonard. "Overcoming Barriers to Making Meaningful Reasonable Efforts Findings." ABA Child Practice Today. January 29, 2019, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/overcoming-barriers-to-making-meaningful-reasonable-efforts-find/; Edwards, Leonard. (2014). Reasonable Efforts: A Judicial Perspective, <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=210§ionid=2&articleid=5428> ("Congress designed the law to ensure child welfare agencies provide families with services to prevent disruption of the family unit, and to respond to the problems of unnecessary removals and foster care drift. The reasonable efforts requirement is an enforcement mechanism to guarantee that each State provides adequate preventative and reunification services."); Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>.

DCFS should be held accountable for meeting its obligation to provide appropriate services to assist the parents in their effort to reunify with their child (unless the court finds that reasonable efforts were not required per applicable State and Federal laws). The court shall make a thorough inquiry and provide specific factual findings about the efforts DCFS is making or made towards reunification and whether such efforts are or were reasonable. The court should identify any areas where DCFS efforts are inadequate and enter orders to address the inadequacies.

Examples of reasonable efforts to reunify may include, but are not limited to, updating the case plan with the parents, ensuring the case plan is reasonably related to achieving reunification, providing quality visitation time (or such opportunities) between the parents and the child, helping (or attempting to help) the parents achieve case goals, assisting parents in timely accessing appropriate and effective services and supports needed to address the conditions for the removal, conducting assessments with the family to identify safety concerns and ways to address them, and seeking needed court interventions (i.e. Temporary Restraining Orders (TRO) and/or Protective Orders (PO)).

H. REASONABLE EFFORTS TO ACHIEVE PERMANENCY

DCFS shall make reasonable efforts to place the child in a timely manner in accordance with the permanent plan and complete the steps necessary to finalize the permanent placement of the child. The court should be aware of the steps necessary to effectuate any permanency plan. Judges should actively inquire about each step in the process of finalizing the current permanency plan and issue orders clearly articulating the subsequent steps DCFS must take to finalize the plan and the timeframes for the completion of those steps. Issuing general orders to “proceed to finalization of an adoption,” for example, does not outline the specific steps and timelines needed to complete the adoption process so the court can adequately assess progress at its next hearing. Courts will have difficulty holding DCFS accountable for making reasonable efforts if those efforts are not delineated in court orders at each hearing.¹⁰

Examples of reasonable efforts to achieve permanency include, but are not limited to, conducting a thorough Dispositional alternative investigation, ensuring the case plan is reasonably related to achieving permanency, providing quality visitation time (or such opportunities) between the child and potential placements, timely assessments of relatives and other possible placements, making diligent efforts to search for possible placement with relatives or other individuals with whom the child has a significant relationship, timely initiation of ICPCs and background checks, involving youth in the development of their YTP, implementing the YTP, planning for the youth’s successful transition to adulthood (which includes establishing permanent adult connections, independent living skills, career path, etc.), assessing whether the youth wants to participate in extended foster care, continuing to search for family-like placements for children placed in group homes, timely seeking termination of parental rights (TPR), making efforts to complete adoption if the parents’ rights have been terminated, proof that Adoption Petition filed, proof of surrender documents, etc.

I. SANCTIONS

The Children’s Code specifically allows the court to sanction DCFS for failure to comply with permanency planning requirements. See Article 712.

J. ADVISEMENTS

If the permanent plan is reunification, the court shall advise the parents of their obligation to achieve the case plan goals and correct the conditions requiring the child to be in care within the required timeframes. The court should further advise that, otherwise, another permanent plan for the child will be selected and a TPR Petition may be filed. If the permanent plan is adoption, then the court shall advise the parents of their authority to voluntarily surrender the child and consent to adoption prior to the filing of a TPR Petition.

¹⁰ Gatowski, *supra* note 7, at 267.

The Children's Code is silent as to advisements for other permanent plans; however, the court should make clear to all persons before the court how critical it is to achieve the child's permanent plan as soon as possible, which can be especially important in mitigating further trauma to the child.

K. CASE PLAN

The case plan is typically reviewed at the Case Review Hearing, not the Permanency Hearing, though these hearings may be held simultaneously. However, on its own motion or motion of any party and for good cause, the court may consider the content or implementation of the case plan or any response filed concerning it. If the permanent plan has changed, other circumstances in the case have changed, or new information has come to light, the case plan may need to be modified accordingly. Additional or different services may be needed than those identified in the most recent case plan. In addition, the visitation schedule may need to be modified. For example, if the goal has changed from reunification to guardianship or adoption, visit frequency should likely be increased with a potential relative or other permanent placement. Thus, if the case plan is not reasonably designed to achieve the child's permanent plan determined by the court, the court should order DCFS to revise it.

L. JURISDICTION AND APPEAL

Although the court has continued jurisdiction over custody matters, under the law, the case will conclude upon the child's permanent placement; there is no need for further hearings unless the court orders continued supervision, or some action is taken by the other parties. Any party may appeal the findings or orders of the court, which shall be taken within 15 days from the mailing of the notice of the judgment. See Article 332(A).

M. NEXT STEPS

An attorney or the court is responsible for completion of the Permanency Order. All attorneys and unrepresented parties should review the order before the judge signs it to ensure it accurately reflects the proceeding. Time permitting, best practice is to sign the Order on the same day as the hearing. The court should consider giving the attorneys time to meet with their clients at the conclusion of the hearing. Parents and children may have questions and concerns after the hearing. It is best for the family if immediate issues can be addressed while they are still at court.

If DCFS has placed the child in the home of a parent or if the court has transferred custody to a parent, it is advisable to set a Status Hearing to address any needs of the family and/or adjust issues that may arise. When reunification has not occurred but is expected, the court should ask questions about transition planning at the hearing. Depending on the age of the child, best practice may be to transition the child to the parent's home rather than a sudden upheaval. In some jurisdictions, DCFS promulgates a transition calendar with the input of all involved. The court can order a transition period with a goal date for reunification.

When a transition of any kind occurs for the child (i.e., change in placement or custody), it is critical to the child's well-being for judges to collaboratively strategize with all involved to reduce the trauma experienced by the child in the transition. DCFS has developed tools to try to minimize this trauma, including a guide for planful transitions. Transition plans can include multiple, extended visits, such as overnight visits as well as other additional contacts including using Zoom, FaceTime, etc., to ensure the most positive experience possible for the child.¹¹ These activities should occur both prior to the move and after the move to provide the child a less traumatic separation from previous caregivers and better connection to the new caregivers.

¹¹ DCFS Policy 6-305 "Guidelines for Care Setting Decision Making for Children Under Age Six" (March 15, 2019).
















The court should schedule the next Case Review Hearing and/or Permanency Hearing. The Permanency Hearing shall be held at least every 12 months. Best practice may be to schedule a Case Review Hearing at the same time as the Permanency Hearing. That way, the case plan is thoroughly reviewed when the permanent plan is considered and/or reviewed.

Regardless of the frequency of mandatory review, the court can conduct hearings more frequently than the minimum intervals. While Case Review Hearings are mandated at least every 6 months, it is advisable to hold reviews at 2- or 3-month intervals at particularly critical stages of a case. In certain circumstances, parties should also be able to bring matters back to court on short notice.¹² Even though the case plan is generally updated every 6 months (unless otherwise ordered sooner), holding these hearings every 3 months allows the court and parties to resolve issues with the case plan and keep the case moving forward towards achieving permanency more expeditiously.

Depending on the child's permanent plan, the court may need to inquire about the status of the filing of the TPR Petition. The Children's Code requires the TPR Petition filing when the child has been in DCFS custody for 17 of the last 22 months unless the court finds DCFS has documented in the case plan a compelling reason why filing a TPR Petition not in the child's best interest. The timely filing of the TPR Petition goes towards reasonable efforts on the part of DCFS to achieve permanency for the child.

¹² Gatowski, *supra* note 7, at 260.

OUTLINE

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OVERVIEW

A. PRIOR TO THE HEARING

ARTICLES 424.7, 673-4, 676, 688-9, 691

(1) CASE PLAN FILED BY DCFS:

- **FILING:** DCFS shall file a copy of the case plan with the court at least 10 days prior to the Permanency Hearing, which shall include the YTP if the child is 14 years of age or older. See the [Department of Children and Families Case Plan Template](#) and [Department of Children and Family Services Youth Transition Plan \(YTP\) Template](#) in the [Appendices Benchbook Section 12](#).
- **PROVIDE COPIES:** Upon filing, DCFS shall provide a copy of the case plan to:
 - Counsel of record either by mail or electronic mail; AND
 - Any unrepresented party either by certified mail at his/her last known address or by electronic mail at the address expressly designated by the party in a pleading, at the Continued Custody Hearing (CCH) or Continued Safety Plan Hearing (CSPH), or at any other hearing at which the party personally appeared before the court, unless otherwise ordered by the court for good cause.
- **RESPONSE:** Any party may file a written response to the case plan as submitted.

PRACTICE TIPS:

- **Court Not Required to Approve at Permanency Hearing:** The case plan is typically reviewed at the Case Review Hearing, not the Permanency Hearing. However, on its own motion or motion of any party and for good cause, the court may consider the content or implementation of the case plan or any response filed concerning it.
- **Court Should Review Once Permanent Plan Established:** Once the court establishes the child's permanent plan, it should examine whether the case plan aligns with the permanent plan. If the case plan is not reasonably designed to achieve the permanent plan determined by the court, it should order DCFS to revise the case plan.
- **Timing for Development of Case Plan:** Federal and State law requires that the case plan be updated every 6 months after it is initially developed and until the case is closed.¹³ If the Permanency Hearing is held less than 6 months since the previous hearing, the case plan may not have changed.
- **Permanency Goal:** The case plan should include the permanency goal for the child that DCFS recommends to the court for consideration.
- **CASA Can Request Copy:** CASA can request a copy of the case plan (Article 424.6).
- **Transmission by Email:** Service by electronic mail is complete upon transmission but is not effective if the serving party learns the transmission did not reach the party to be served.
- **Purpose of Response:** Filing a response puts the parties on notice of potential issues relevant to the case plan. However, the Children's Code does not require a written response.

HELPFUL GUIDANCE:

- **Signed by Family Members:** Per DCFS policy, case plans should be signed by the family members who participated in developing it.
- **Family Team Meetings (FTM):** By the time of the initial Permanency Hearing, at least two FTMs should have occurred. FTMs are facilitated by DCFS and are important because they are where case planning occurs for the family. Efforts to hold timely and meaningful FTMs support reasonable efforts findings to achieve reunification and/or permanency.

¹³ DCFS Policy 6-810 "Legally Mandated Case Plan" (August 17, 2020).

(2) PERMANENCY COURT REPORT FILED BY DCFS:

- **DCFS POLICY:** The Children’s Code does not provide a specific article regarding the filing of a court report by DCFS for the Permanency Hearing. However, per DCFS policy, DCFS files a court report prior to the Permanency Hearing (similar to the requirements set forth in Articles 688 and 689 regarding Case Review Reports) to provide the court and parties with information needed at the Permanency Hearing for the court to make required findings. Some jurisdictions call these court reports “court letters,” while others call them according to the hearing name (i.e., Disposition Report, Permanency Report, etc.). Filing the report 10 days in advance helps move the case forward and achieve timely permanency. Courts should insist on timely filing of reports. Adequate representation is harder when reports or amendments are distributed the day of the hearing or even a few days before a hearing.
- **PROVIDE COPIES:** In practice, DCFS provides a copy of the court report to counsel of record, CASA, and unrepresented parties, but there are no provisions in DCFS policy or the Children’s Code specifying this requirement. It is recommended that DCFS serve a copy of the court report along with the case plan (which is governed by Article 674 and specified above). If the information provided in the report is considered by the court, there are due process concerns if parties are not able to review it prior to the hearing.
- **CONTENT:** The content of the court report will generally include the current placement of the child, updates on how the child is doing, the proposed permanent plan with supporting reasons, updates on visitation, efforts to find relatives and other individuals, and conditions for return of child to his/her home. The court report may also have multiple attachments, including the [Foster Caregiver Progress Form](#) if the foster caregivers providing care for the child chose to submit the form to DCFS prior to the Permanency Hearing. Other attachments may include the [Family Connections Form](#) and [Circle of Influence Form](#). See the [Appendices Benchbook Section 12](#) for these forms. For more information see the [Department of Children and Family Services Permanency Court Report Template](#) in the [Appendices of Permanency Hearing Benchbook Section 8](#). **IMPORTANT:** Use of the DCFS Court Report templates provided in this Benchbook for Disposition Hearings, Case Review Hearings, and Permanency Hearings are being implemented in a phased-in approach across the State.
- **RESPONSE:** The Children’s Code does not discuss submission of a Permanency Court Report and, thus, does not mention filing a response to this report. As allowed by Article 691 concerning the Case Review Report, parties should be given the opportunity to file a written response to the court report prior to the Permanency Hearing as long as the response is submitted to counsel of record and any unrepresented party at least 5 days prior to the Permanency Hearing.
- **TIMING OF RESPONSE:** Court reports are not always timely filed, but the court should insist that they are. The court has discretion to allow a response later than 5 days prior to the hearing when the filing of the court report is delayed and/or when it is in the best interest of the child.

(3) COURT REPORT FILED BY CASA:

- **FILING:** If the court has appointed CASA, the CASA program shall submit reports to the court. See [CASA Court Report Template](#) in the [Appendices Benchbook Section 12](#).
- **DISTRIBUTE COPIES:** CASA shall distribute a copy of such reports prior to or at the time it is submitted to the court, to:
 - All counsel of record;
 - Any unrepresented party; AND
 - DCFS.

PRACTICE TIPS:

- **Timing of Submission:** The Children’s Code does not state how many days before the Permanency Hearing that the court report should be filed with the court. However, it is recommended that it be submitted within the same timeframe as required for the DCFS Case Review Report (i.e., at least 10 days prior to the hearing).
- **Exception to Submission:** CASA reports may be subject to a Protective Order (PO) upon the request of the CASA volunteer, a party or party’s attorney, or by the action of the judge. If a PO is contemplated, the request should be made at the time the report is filed.
- **Mode of Distribution:** This article permits a more informal distribution of the court report. Each court by local rule may determine how counsel of record, DCFS, and unrepresented parties receive copies of CASA reports.

• **OVERALL GUIDANCE:**

- **Importance of Timing:** Timelines for submitting case plans and court reports are not followed in some jurisdictions, but they should be. Filing the case plan and court report at least 10 days in advance of the hearing is important for moving the case forward and achieving timely permanency. Parties have the right to review the case plan and report and respond to them (see above); however, they will not be able to respond if DCFS does not timely file these documents and provide copies to counsel of record, unrepresented parties, and CASA (if appointed). Adequate representation is harder when reports or amendments are delayed, since such delays can make it impossible for counsel to meet with their clients and follow up on the information provided.
- **Local Court Rules and Orders:** While the Children’s Code does not provide a specific procedure on timing or mode of service, such as for court reports, CASA reports, or physical examinations, courts may want to consider setting those requirements by local court rule. Additionally, the court can include such in its written Orders.

B. TIMING AND CONTINUANCES

ARTICLES 672.1, 702, 711, LA. SUP. CT. RULE XXXIII, 42 U.S.C. § 671(a)(15)(E); 42 U.S.C. § 675(5); and 45 C.F.R. § 1356.21(b)-(h)

(1) TIMING:¹⁴

- **Within 30 Days of an Article 672.1 Judicial Determination:**
 - At any time in a CINC proceeding when a child is in the custody of DCFS, the State may file a motion for a judicial determination that reasonable efforts to reunify the parents and child are not required per Article 672.1. If the court make this judicial determination, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.
- **Initial Permanency Hearing:**
 - **If Removed Prior to Disposition Hearing:** A Permanency Hearing shall be conducted by the court¹⁵ 9 months after the Disposition Hearing if the child was removed prior to Disposition (i.e., removed on an Instanter Order or at CCH); OR
 - **If Removed at Disposition Hearing:** A Permanency Hearing shall be conducted by the court 12 months after the Disposition Hearing if the child was removed at Disposition but in no case more than 12 months after removal.
- **Ongoing Permanency Hearings:**
 - **Every 12 Months After Initial Permanency Hearing:** Permanency Hearing shall be conducted at least once every 12 months after the initial Permanency Hearing and until:
 - The child is permanently placed;¹⁶ OR
 - The motion of a party for good cause shown or upon the court’s own motion.

PRACTICE TIPS:

- **Adoption and Safe Families Act (ASFA):** One of the major reform goals of ASFA is to expedite court proceedings so that earlier determinations affecting the child’s health and welfare occur. Nothing is prohibiting the court from holding these hearings sooner than the required timeframes. For example, the court should hold a hearing if there is an issue with the family that needs to be addressed. The information should drive the timing of the hearing.
- **Simultaneous Hearings:** Article 711 expressly approves the use of simultaneous Case Review and Permanency Hearings. In fact, this may be advisable so that the case plan and permanent plan are reviewed in tandem with one another. In such instances, findings and orders must be separated for each type of hearing.

¹⁴ In computing a period of time prescribed by law, the date of the event after which the period begins to run is not included; the last day of the period is included but if a legal holiday—including Saturdays and Sundays—then the period runs until the end of the next day which is not a legal holiday. La. Ch. C. art. 114.

¹⁵ Whenever “court” is used in this Section, that includes a court-appointed or court-approved administrative body since the Children’s Code allows such entities to hold these hearings.

¹⁶ See La. Ch. C. art. 603(22).

- **Contempt:** The contempt articles (Articles 1503 et seq.) are always available to the court, if appropriate, when investigations and/or evaluations previously ordered to be completed prior to this hearing have not been completed on time, or the case plan or Permanency Hearing Report is unnecessarily delayed.

(2) CONTINUANCES:

- **Report to Louisiana Supreme Court (LASC):** If a continuance is granted, or a delay permitted, that exceeds the maximum allowable times established by the Children's Code, the court is mandated by Supreme Court Rule XXXIII, Part II, Sections 1 and 2, to report such continuance within 10 days to LASC, along with the reasons for the delay and a copy of the Order. See https://www.lasc.org/children_families/timelinessreport.pdf for a copy of the report that must be submitted by the court to LASC. See also Louisiana District Court Rules, Title V, Chapter 42, Rule 42.1, for more information.

C. APPEARANCES

ARTICLES 607-8, 643, 704-8

- (1) PROPER INTEREST OR NECESSARY:** At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. The court shall not admit any other person unless it determines that the person has a proper interest in or is necessary to the proceedings.

PRACTICE TIP:

- **Include Other Agencies:** Coordinating services with the Louisiana Department of Health (LDH), Office of Juvenile Justice (OJJ), Louisiana Department of Education (LDOE), and other agencies may be helpful. The court may want to consider having one or more of these agencies represented at the hearing. A multidisciplinary approach is especially critical for youth who may have mental health concerns, delinquency matters, and/or disabilities and may benefit from coordinated services and supports.

HELPFUL GUIDANCE:

- **Privacy and Confidentiality:** Limiting the number of persons present in the courtroom protects the privacy of children in CINC cases. The judge is mandated to exclude all but the listed persons unless first determining the person has a proper interest or is necessary to the proceedings. Law students or social workers studying juvenile procedure might qualify as persons with proper interest. If the court allows other persons to be present, the court should stress the confidentiality of the case information.

(2) ESSENTIAL JUDICIAL FUNCTION - ASSISTANCE SERVICES AND SPECIAL ACCOMMODATIONS:

Under State and Federal law, the court is responsible for providing interpretation, translation, and/or language assistance services for parties to CINC hearings and/or reasonable accommodations for parties to CINC hearings with disabilities. When the court appoints counsel for indigent persons, it is also responsible for appointing and paying for a qualified interpreter or translator for indigent persons with these needs to assist in communication with counsel in all phases of the preparation and presentation of the case.¹⁷ There must be ample time for legal interpreters to review pertinent legal documents with the party prior to the court proceeding.¹⁸ Interpreters must be familiar with the case-related details to provide accurate, meaningful, and effective interpretation.¹⁹

(3) CHILDREN: Children are parties and shall be present at the hearing unless an exception below applies.

- **12 and Older:** If the child is 12 years of age or older, he/she shall be present in court unless his/her presence is waived by the court upon motion of the child's attorney.
- **Below 12:** If the child is below the age of 12 years of age, he/she shall be present in court upon request of the child's attorney or the court.
- **Waive:** The court shall state in the Order whether or not the court waived the presence of the child at the hearing. See Disposition Hearing Benchbook Section 8 C(3) for more on the importance of children's presence at hearings.

(4) PARENTS: Parents of the children are parties and shall be present at the hearing.

PRACTICE TIPS:

- **Effect of Nonappearance of Parent:** If a parent is absent, the hearing may only proceed if it is established on the record that the parent was served but is not in attendance or that efforts to serve the parent have been unsuccessful.
- **Reunification Case Plan Goal:** If reunification with the absent parent is the case plan goal, DCFS shall:
 - Make continuing diligent efforts to locate the absent parent;
 - Notify him/her of the nature and outcome of the hearing;
 - Promptly inform the court of known or discovered address; AND
 - Promptly inform the court of any new address that becomes known through the case planning process.
- **Unidentified Father:** If a father is unidentified, it is not necessary to appoint a curator ad hoc for that parent. The father shall be considered unidentified if:
 - The biological father's name is not provided on the birth certificate;
 - There is no presumed father; AND
 - No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.
- **Incarcerated:** To ensure the attendance of any parent who is incarcerated at the Permanency Hearing, a writ or motion should have been filed and an order issued by the court and served on the warden or administrator of the facility prior to the Permanency Hearing. Service should be made sufficiently in advance of the hearing to afford time for the facility to arrange for transportation of the parent to court (or video conferencing where the parent's physical attendance at the hearing is not possible).

¹⁷ See C.C.P. Art. 192.2; La. R.S. § 46:2364; 42 U.S.C. § 3711; 28 U.S.C. § 604(a)(14), (15), and (16), § 1827, and § 1828; see also https://www.lasc.org/language_access and https://www.lasc.org/District_Court_Rules?p=TitleI.

¹⁸ See National Consortium of Interpreter Education Centers. (2009). Best practices American Sign Language and English interpretation within legal settings. U.S. Department of Education, Rehabilitation Services CFDA #84.160A and B, Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind, <http://www.interpretereducation.org>

¹⁹ Id.

- **Direct Parent Present to Identify Other Parents:** If a parent has still not been located, the judge should direct the parent who is present under oath to provide name, address, and whereabouts for any parent who has not been located and emphasize the importance of identifying and locating any absent parents.
- **Determining Paternity/Maternity:** The court must ensure that efforts by DCFS are thorough and diligent in locating and involving all legal and putative parents and that paternity or maternity of all children is legally determined. If the identity and whereabouts of an alleged parent is known but filiation has still not been legally determined, the court can order that DCFS acquire information needed to determine filiation (i.e., obtain DNA testing, copy of birth certificate, certificate regarding Putative Father Registry, certificate of results from Clerk of Court showing whether an acknowledgement was filed in the parish of the child's birth, etc.), including ordering that DCFS make arrangements for DNA tests to determine the paternity/maternity of any alleged parents and that the alleged parents comply.
- **Direct Parent Present to Identify Potential Relative Caregivers:** Establishing paternity or maternity is also critical for finding potential relative caregivers for the child; thus, the court may also want to direct the parents under oath to identify relatives of the child.

 **HELPFUL GUIDANCE:**

- **Identification of Parents or Legal Custodians:** Courts should ensure all biological, legal, and putative parents are legally established as soon as possible. Decisions made in CINC hearings can affect a child's entire life if this information remains unknown. When a child does not know who one of his/her parents is, that also means the child may not know his/her race, ethnicity, medical background, culture, relatives, religious ties, and more. Timely resolution of filiation and paternity or maternity issues is in the best interest of the child and essential to due process and avoiding permanency delays.
- **Maternity:** There may be cases where there is an issue with maternal filiation. However, Louisiana law has not been amended to contemplate situations when, for example, two women are married and one gives birth to a child during the marriage. Louisiana filiation laws for paternity would likely be instructive for similar maternity issues.

(5) ATTORNEYS:

- a. **Parents:** The Indigent Parents' Representation Program shall provide qualified legal counsel, including curatorship appointments, to indigent or absent parents in CINC cases unless a parent waives his/her right to counsel (See Articles 575, 608, and 643).
- b. **Children:** An attorney for the child shall be present at every hearing, assert the child's wishes, and protect the legal interests of the child even if the child is not present (Article 607).²⁰
- c. **State:** An assistant district attorney (ADA), an attorney the ADA designates, or a DCFS attorney (Bureau of General Counsel/ BGC) representing the State should be present at the hearing.

 **PRACTICE TIPS:**

- **Due Process:** Judges play an important role in helping to ensure due process for all parents and children in their courts. The child's attorney and the parent attorneys should zealously advocate for their clients whether they are present or not.
- **Clients Consult with Attorneys:** Before the case is called, the judge should inquire whether counsel for the parents and counsel for the child had sufficient opportunity to consult with their clients, thus ensuring due process for the family.

(4) DCFS: DCFS staff member or representative should be present at the hearing.

²⁰ LA. SUP. CT. RULE XXXIII, PART III.

(5) CASA: May be present if the court appointed them.

(6) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD: Foster caregivers (i.e., foster parents, relatives, or pre-adoptive parents) providing care for the child have a legal right to receive notice of and be present at the Permanency Hearing. The court may permit the hearing to be held in the person's absence even if they were not properly notified. See [Continued Custody Hearing \(CCH\) Benchbook Section 5 B\(8\)](#) for more information.²¹

(7) AUTHORIZED OFFICERS OF THE COURT AND WITNESSES:

- **Authorized officers of the court:** As designated by the judge, may be present at the hearing.
- **Witnesses:** Under examination may be present at the hearing.

(8) INTERVENOR: If intervention granted (see [Intervention Section D](#) below).

D. INTERVENTION

ARTICLE 707

(1) REQUIREMENTS: The court has discretion to allow any interested person, agency, or organization to intervene in a Permanency Hearing if good cause is shown such that the intervention:

- Facilitates permanent placement of the child; AND
- Ensures the best interest of the child is protected.

(2) LIMITATIONS: The court may limit the nature and extent of the intervenor's participation in the Permanency Hearing:

- Upon motion of a party; AND
- For good cause shown.

(3) HELPFUL GUIDANCE:

- **Case Law:** There is significant case law on intervention, especially in certain jurisdictions.

E. NOTICES

ARTICLES 623, 640-1, 643, 703-8, 42 U.S.C. § 675(5)(G), 45 C.F.R. § 1356.21(o)

The court shall determine if proper notices of the hearing were made to all parties, counsel of record, and foster caregivers, and enter required findings in the Order.

(1) PARTIES AND COUNSEL: Written notice of the date, time, and place of the Permanency Hearing shall be served and return made in the same manner as a Petition on all parties and also counsel of record at least 15 days prior to the hearing unless the parties have been notified in open court at a prior hearing. Any party who has received notice of the Permanency Hearing and does not appear shall be deemed to have waived his/her right to be present. See [Answer Hearing Benchbook Section 6 D](#) and Articles 635.1-645 for more information.

(2) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD:

- **Notice and Right to Be Heard:** The court shall determine whether DCFS:
 - Gave notice of the date, time, and place of the Permanency Hearing to any foster caregiver providing care for the child; AND
 - Informed the recipient of his/her right to attend and be heard at the hearing.
- **Fails to Appear:** If a foster caregiver fails to appear at a hearing, DCFS shall report to the court whether notice was given or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing to be held in the person's absence.

²¹ See La. Ch. C. arts. 623 and 705; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

F. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS

The court should consider whether any of the following Federal laws or regulations apply to this case:

- **Americans with Disabilities Act (ADA);**
- **Service Members Civil Relief Act (SMCRA);**
- **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA); AND/OR**
- **Interstate Compact on the Placement of Children (ICPC), as codified in La. Ch. C. art. 1608 et seq.**
 - **ICPC Generally:** ICPC is an agreement between all 50 States, Washington, D.C., and the U.S. Virgin Islands. It provides for the movement and safe placement of children between States when the children are sent out of State for placement in foster care or as a preliminary step to a possible adoption. The process involves several steps and goes from the local or field level in one State, through the central or State office of each State, to the local level in the other State for investigation. At the conclusion of the investigation, a report is sent from the local level to the State administration and back to Louisiana. The process usually takes several months to complete, so it is recommended that this process begins as soon as a potential caregiver out of State is identified and determined to be a suitable potential placement or resource. If the receiving State finds that the proposed placement is contrary to the interests of the child based on the receiving State's criteria, DCFS may not place the child with that caregiver. The judge still has authority to grant custody or guardianship to the out-of-State caregiver without ICPC approval. Still, there would be no supervision of the home and may be other severe repercussions. See [Disposition Hearing Benchbook Section 8 D](#) for more information on ICPC.

G. EVIDENCE AND TESTIMONY

ARTICLES 424.5, 424.7, 706, 708-9, LA. SUP. CT. RULE XXXIII, PART III, SUBPART II

- (1) EVIDENCE:** The court shall consider all relevant evidence offered by the parties. The court may consider evidence which would not be admissible at the Adjudication Hearing. The court may limit the admissibility or weight of any evidence which it deems unreliable, cumulative, or unduly dilatory. The court should consider the evidence presented and arguments of parties when determining the child's permanent plan and reasonable efforts, including permanency recommendations made by DCFS and CASA.
- (2) PARENTS:** Parents may testify, confront and cross-examine adverse witnesses, and present evidence and witnesses.
- (3) CHILDREN:** Children may testify, confront and cross-examine adverse witnesses, and present evidence and witnesses.
 - **Wishes:** If the child is present in court the child may choose to testify as to his/her wishes, and the court shall consider the child's testimony in the matter.²²
 - **Methods of Testimony:** Any testimony given by a child may be taken by:
 - A videotaped interview or by closed-circuit television, as authorized by Chapter 8 of Title III of the Louisiana Children's Code;
 - An in-chambers conference attended only by the judge and court reporter and by counsel for the child, the petitioner, and the parents; OR
 - If no party objects and the parties agree as to the procedure, the child may be examined "in chambers, on or off the record, and with or without parents and/or counsel being present."²³
 - **Exclusion:** Prior to the commencement of the hearing, the court shall determine whether it is in the child's best interest for the child to remain in the courtroom during the testimony of the witnesses.

PRACTICE TIPS:

- **Child Present or Not:** Whether present or not, the child's attorney shall make sure the court hears the child's wishes (i.e., regarding permanent plan, custody, visitation, placement, services, etc.).²⁴
- **Methods of Communication:** If the child wishes to be heard but is not able to present or does not want to be present in the courtroom, the court should consider the use of other methods of communication, such as audio or visual conferencing.

²² LA. SUP. CT. RULE XXXIII, PART III, SUBPART II.

²³ *Watermeier v. Watermeier*, 462 So. 2d 1272, 1275 (La. App. 5th Cir.), cert. denied, 464 2d 301 (La. 1985).

²⁴ LA. SUP. CT. RULE XXXIII, PART III, PART III, SUBPART II.

- **Well-Being:** The court should inquire about the child's physical, emotional, mental health and educational needs and identify any gaps in services needed by the child.

(4) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD: The court shall solicit and consider information regarding the care and treatment²⁵ of the child from any foster caregiver providing care for the child who appears for the Permanency Hearing.²⁶

PRACTICE TIPS:

- **Valuable Information to Consider:** The court should value the role of the child's daily caregivers and the insight they can provide to the court about how the child is doing and what he/she needs. Because of their day-to-day care of the child, foster caregivers have useful information that the court, DCFS, CASA, and parties to the CINC case need to make crucial decisions regarding the child's well-being. Thus, their role in the court process is to provide current and accurate oral and/or written information about their observations of how the child is doing so that judges can make informed decisions in the best interest of the child.
- **Solicit Information:** While foster caregivers are not parties, they have a legal right to be heard at any CINC hearing regarding a child in their care. There are at least 2 ways the court can solicit and consider information from caregivers. The caregiver can: (1) submit a Foster Caregiver Progress Form to DCFS prior to the hearing and/or (2) attend and speak at the hearing, or both.
- **Submit a Foster Caregiver Progress Form:** The Foster Caregiver Progress Form is one of the ways foster caregivers can exercise their right to be heard but is not required. If the caregiver chooses to complete the form, they will submit it to DCFS, who will bring copies of the form to the hearing. The form can be submitted to DCFS even though the caregiver may not attend the hearing. These forms contain hearsay information and should be treated as information about the child in the same way DCFS provides other information to the court. Even if the caregiver submits the form, they still have the right to attend and be heard at any CINC hearing regarding the child in their care. See the [Foster Caregiver Progress Form Template](#) in the [Appendices Benchbook Section 12](#).
- **Speak at Hearing:** Speak at the Hearing: In accordance with State and Federal law, if the foster caregiver attends the hearing, the court shall solicit information from the caregiver about the care and treatment of the child (even if they submitted a Foster Caregiver Progress Form). At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. This includes foster caregivers. After the court hears from parties and evidence is presented, if another party has not called on the caregiver to speak, the judge should call on them to see if they would like to speak. Some caregivers may wish only to attend and not speak. Judges may allow the caregiver to use the form to guide them when they speak and/or may want to utilize the form to ask the caregiver questions.²⁷

(5) CASA: CASA (if appointed) may be called as a witness in the proceedings by any party or by the court and may request of the court the opportunity to appear as a witness.

²⁵ Neither State nor Federal law provides a definition for "care and treatment," but DCFS policy states that it "includes information that the foster parent, relative, or pre-adoptive parent feels is critical to the safety and well-being of the child, such as how the child is doing physically, developmentally, emotionally, behaviorally, mentally, socially, and academically and what supports or services are needed for the child or caregiver to properly care for the child."

²⁶ See La. Ch. C. arts. 623 and 705; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

²⁷ Id.

PRACTICE TIP:

- **Recommendations for Permanency and Services:** Judges should consider CASA's recommendations for permanency and services necessary for the child. If that information is not included in the CASA report, the court should ask the CASA volunteer for those recommendations and reasons for them. All parties should have the opportunity to examine CASA's permanency recommendations.

(6) OTHER WITNESSES: On its own motion or the motion of any party, the court may order that non-party witnesses be excluded from the courtroom. On request of a party, the court shall order the exclusion.

PRACTICE TIPS:

- **Cannot Exclude Parties:** Parties to a proceeding cannot be excluded from the courtroom. Only the child can be taken out of the courtroom during testimony that may not be in their best interest to hear. See Article 661(E).
- **DCFS and CASA are Not Parties:** Neither DCFS nor CASA are parties to CINC proceedings. DCFS staff or a CASA volunteer may be excluded if any party plans to call them as a witness. However, a DCFS representative would likely need to remain in court to assist the ADA. See La. Code Evid. Art. 615(B)(2).
- **Foster Caregivers Are Not Parties:** Foster caregivers are not parties. While they have a right to be heard at any CINC hearing regarding a child in their care, they may be excluded and asked to be present only when they speak. However, it is encouraged that they are allowed to remain during the duration of the hearing. Allowing them to be present at the hearing communicates that they are a valued partner in ensuring the child's well-being. Because they provide day-to-day care to the child, it is also important for them to stay abreast of developments in the case and have the opportunity to meet and communicate with those involved in the case (i.e., the child's attorney, parents and relatives of the child, the CASA volunteer, etc.). The caregiver's presence at the hearing may better situate them to support the child during and after the hearing.²⁸
- **Exemption of Witnesses:** In the interest of justice, the court may exempt any witness from its order.
- **Closing a Hearing:** Sequestration is different from closing a hearing upon motion of a party. Closing a hearing means that no one is present except for the parties.

OVERALL GUIDANCE:

- **Engagement:** The court should do all that it can to support and encourage the meaningful engagement of families in CINC proceedings.²⁹ Testifying in court is stressful for many parents and children. Court is intimidating for most individuals (including non-party witnesses), and the stakes could not be higher for parents and children in CINC cases. Many parents and children are coming into court with a history of trauma. Regardless of the trajectory of the case, parents and children may benefit from having their voice heard. It is critical for the judge to consider information provided by the parents and children, and to convey to the parents and children that their testimony is being given due consideration in the court's ruling. Positive engagement is critical to successful outcomes in the case.³⁰ Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.³¹

²⁸ Id.

²⁹ Gatowski, *supra* note 7, at 68.

³⁰ Id.

³¹ Gatowski, *supra* note 7, at 16.

H. PERMANENT PLAN CONSIDERATIONS

ARTICLE 702

The court shall determine the child’s permanent plan according to the following priorities of placement:

(1) REUNIFICATION WITH PARENTS: The court may return the child to the legal custody of parents within a specified time period consistent with the child’s age and need for a safe and permanent home, and with or without continued supervision.

PRACTICE TIPS:

- **Requirements and Findings:** In order for reunification to continue to be the permanent plan for the child, parents must be complying with the case plan and making significant measurable progress toward achieving its goals and correcting the conditions requiring the child to be in care. Best practice is to hold more frequent case reviews (or Status Hearings) to ensure progress is continuing to be made and permanency is timely achieved.
- **No ASFA Exception:** At the initial Permanency Hearing, some courts approve an “ASFA exception” or “ASFA extension” as requested by a party or DCFS when a parent has made significant progress towards correcting the conditions requiring the child to be in care and where reunification is likely. However, there are no specific ASFA provisions that provide for such extensions or exceptions. Instead, the court can maintain reunification as the child’s permanent plan in accordance with the findings required in Article 702(C)(1). If such a finding is made and reunification remains the permanent plan or concurrent permanent plan at this hearing, more frequent case reviews (or Status Hearings) should be scheduled to ensure progress is continuing to be made and permanency is timely achieved.
- **Granting Custody to Parent:** In some cases, the permanent plan may not be returning the child to a parent’s custody but rather “granting” custody to another parent who did not have custodial rights to the child and/or was not previously legally filiated with the child.³²
- **Child Welfare Safety Assessment and Decision Making Model (CWADM):** If the child has been removed from his/her parents and reunification is still the case plan goal, the court should insist on a clear articulation of the current safety threat keeping the child in foster care or in an some other out-of-home placement. Children should be returned home immediately once all safety threats have been eliminated regardless of whether the case plan has been completed. The CWADM includes an assessment used by DCFS (and should be used by all child welfare stakeholders) to help determine whether a child is safe or unsafe at all junctures of the CINC proceeding. A child is considered safe when: (1) there are no threats of danger, (2) if there is a threat of danger, the child is not vulnerable to the threat of danger; or (3) if there is a threat of danger, the parents or caretakers possess sufficient protective capacities to manage the threat of danger and keep the child safe. At each hearing, the court should make the following inquires to assess what barriers if any exist, that make it unsafe for the child to return home:
 - Are the threats of danger to the child still present?
 - Is the child still vulnerable to those threats?
 - Does the parent still lack protective capacities?

If the child can be safely returned to (or placed in) the custody of one or both of his/her parents, the court should order the child be returned and, if needed for the child’s protection and safety, could consider ordering an in-home safety plan, PO, and/or other terms and conditions. Other terms and conditions could include ongoing supervision by DCFS and/or another agency. Courts should consider carefully whether parents can provide a minimally adequate standard of care for their child. All issues in the case do not need to be resolved before a child can return home. A child should be returned home when he/she can be safe in the home, which may or may not also require supportive services and protective supervision.³³ See [Child Welfare Safety Assessment and Decision Making Model \(CWADM\) Benchbook Section 11](#).

³² Gatowski, *supra* note 7, at 214.

³³ Gatowski, *supra* note 7, at p. 229.

- **Reunification Within Specific Time Period:** The court may also set a specific time period to return the child to his/her parents consistent with the child's age and need for a safe and permanent home. In such instances, the court would maintain that the child's permanent plan is reunification and set a specific time period for the child's return home (or custody to be granted to a parent, if applicable).
- **Reunification or Trial Placement:** It is important for judges to know that DCFS policy allows for a trial placement of the child with his/her parents if the home is determined to be safe, but there are still some transition concerns and/or items left to resolve. DCFS policy states: "If trial placement back with the parent with the Department maintaining custody is in the child's best interest, it should not exceed 90 days as long as the child is safe, and the parent is progressing in his/her case plan. Trial placement should only be initiated when the parent's home is deemed safe."³⁴ In this case, the court would order that the child remain in DCFS custody, and DCFS could choose a "trial placement" for the child with his/her parents. The court could also order a transition period with a goal date for reunification. If the child is moved to his/her parent's home with DCFS retaining custody, the court can gain information at the next hearing about how the child and parent are doing in the home together (in such cases, the court should consider setting a hearing sooner than the timeline for Case Review or Permanency Hearings).

(2) ADOPTION: If reunification is no longer a viable option, the court may make adoption the permanent plan for the child.

PRACTICE TIPS:

- **Governing Articles:** Agency (i.e., DCFS) adoptions are governed by Chapter 9 of Title XII of the Children's Code (Articles 1198-1220). The parents must either surrender their rights to the child or have their parental rights terminated per applicable law before the State may proceed with an adoption.
- **Adoption and Reasonable Efforts:** If the permanent plan for the child is adoption, the court must hold DCFS accountable to expeditiously completing adoption for the child. Finding relatives, individuals, and/or foster parents able to adopt the child, prompt certification of relatives or individuals, timely filing of the TPR Petition, proof that the Adoption Petition was filed, obtaining surrender documents, etc. are not only critical to show reasonable efforts to achieve permanency for the child but also essential for the child's well-being and security.

(3) PLACEMENT WITH LEGAL GUARDIAN: If reunification is no longer a viable option, the court may make legal guardianship the permanent plan for the child.

PRACTICE TIPS:

- **Governing Articles:** Legal guardianship is governed by Chapter 19 of Title VI of the Louisiana Children's Code.
- **Purpose of Guardianship:** Legal guardianship appears to be underutilized in Louisiana. Guardianships, although not as legally durable as adoption, can provide permanency for a child. Legal guardianships may provide more expedient permanency than adoption since they do not require a termination of parental rights. Guardianships are often preferred by relative caregivers who may not want to jeopardize familial bonds by adopting the child.
- **Financial Support and Subsidy:** If a relative or individual is interested in becoming the child's legal guardian, foster care certification must be completed (along with other DCFS requirements) to receive a subsidy from the State after a transfer of guardianship. In such cases, the court may want to request updates on status of certification to ensure timely completion. The guardian may also be eligible for some of the financial support listed under "[Financial Support](#)" below.³⁵

³⁴ DCFS Policy 6-2000 "Planning for Exit from Foster Care Custody" (April 1, 2020).

³⁵ See <http://dcfs.louisiana.gov/page/grandparent-relative-caregiver> for more information. DCFS has legal and custodial information available on their website for kinship caregivers: <http://dcfs.louisiana.gov/page/kinship-caregivers-legal-and-custodial-information-fact-sheets>.

- **Authority of Guardian (Articles 116 and 718-724.1):** Guardianship means the judicial placement of a child under the duty and authority of a guardian to make decisions in matters having a permanent effect on the life and development of the child. A legal guardian has greater authority than a custodian and only slightly less authority than that exercised by a natural or adoptive parent. Guardians are given legal authority over the child until the child turns 18 years of age, which includes: physical custody of the child; protecting the child; training and providing reasonable discipline for the child; providing food and shelter; enrolling and making educational decisions for the child; and, making medical decisions for the child.
- **Permanent Placement:** Placement of a child with a legal guardian is a “permanent placement,” eliminating further periodic case or permanency reviews. The order granting legal guardianship remains in force until the child reaches his/her 18th birthday (unless modified by law or another duration is set by the court).
- **DCFS No Longer Involved in Case:** Since DCFS is no longer involved once guardianship is granted, DCFS-provided services and supports will generally not be available to the family unless a DCFS Family services case is opened.
- **Modification:** Any party has the right to seek a modification of the guardianship judgment, as may be needed. The modification process is governed by Articles 713 to 717.
- **Parental Rights:** Guardianship does not require that the legal parents’ rights to the child be surrendered or terminated, although some of the parent’s parental rights are transferred to the legal guardian. Thus, guardianship could be useful in cases where, for example, a grandparent can care for the child, but adoption is not an option.
- **Parent Contact:** The court can order conditions regarding parent contact in the judgment granting the guardianship. The court’s authority to limit the frequency of visitation includes the authority to forbid contact with the parents altogether. If there is proof by clear and convincing evidence that parental contact would cause substantial harm to the child, contact can be constitutionally limited.³⁶

 **HELPFUL GUIDANCE:**

- **Parents’ Obligation:** The parents still have an obligation to financially support the child even when guardianship of the child has been granted to someone else.
-

(4) LEGAL CUSTODY TO RELATIVE: If reunification is no longer a viable option, the court may make placement of the child in the legal custody of a relative who is willing to offer a safe, wholesome, and stable home for the child the permanent plan for the child.³⁷

 **PRACTICE TIPS:**

- **Definition of Relative:** Article 603(20) defines “relative” as an individual with whom the child has established a significant relationship by blood, adoption, or affinity. Affinity means relationship by marriage.
- **Purpose of Custody to Relative:** While custody can offer a more expedient resolution of the case than keeping a child in foster care, a permanent plan of adoption or guardianship to a relative shall be considered by the court before custody to the relative. Article 603(22) does not include permanent custody to a relative in the definition for “permanent placement.” The court can set custody to a relative as the permanent plan, but it is less favored as a permanent placement.
- **Financial Support and Subsidy:** Caregivers who have been certified to receive a board rate for the child placed in their care by DCFS will not continue to receive a subsidy if custody is transferred from DCFS to the caregiver. The custodian may be eligible for some of the financial support listed under “[Financial Support for Relatives](#) and [Other Individuals](#)” below.

³⁶ La. Ch. C. art. 723, 2011 Comments.

³⁷ The Children’s Code uses the word “placement” interchangeably with “custody.” For example, in some instances it uses “placement” and prohibits the court from specifying the placement of a child in DCFS custody (Article 672). However, in Article 702 it states that the court can place the child in the legal custody of a relative.

(5) ALTERNATIVE PERMANENT LIVING ARRANGEMENT (APLA): If the child is 16 years of age or older, the court may make placement in the least restrictive, most family-like APLA the permanent plan for the child. DCFS shall document the compelling reason for recommending this plan over the preceding higher priority alternatives in the child's case plan.

PRACTICE TIPS:

- **APLA Is Not a Permanent Placement:** Per Article 603(22), APLA is not a permanent placement. APLA is a plan of last resort. If APLA is set as the youth's permanent plan, DCFS is still required to identify and establish permanent connections for the youth.
- **Search for Family:** Per DCFS policy, if the youth is in a residential placement, DCFS is still required to continue to search for a family placement.³⁸ The search shall continue, unless a current assessment indicates the youth cannot be maintained in a less restrictive placement due to his/her behavior or lack of appropriate skills to function satisfactorily in a family and the need for treatment continues. Efforts to locate a family home placement should resume when ongoing assessment indicates a family can safely provide for the youth.³⁹
- **Example of Compelling Reasons:** The following is an example of when there may be compelling reasons for a plan of APLA:
 - A youth, age 16, lives in a stable therapeutic foster family placement. The foster parents are not interested in adoption or guardianship or it is not possible, but they have stated the youth can remain there after his 18th birthday if he elects to go into the extended foster care program. The youth feels comfortable and safe in the home and wishes to remain. The APLA would be for the youth to continue to reside with the foster parents into adulthood.

HELPFUL GUIDANCE:

- **For Ages 16 and 17 Only:** APLA is an option only for youth 16 and 17 years old.⁴⁰ APLA is the plan of last resort as a permanency goal for a youth. This option does not provide the youth as much legal gravity as reunification, adoption, guardianship, or a custody. It also lacks the stability of an ongoing support network for the youth during his/her transition into adulthood.

OVERALL GUIDANCE:

- **Permanency Goal:** At the Permanency Hearing, the court should consider the permanency goal recommended by DCFS for the child (which should be included in the case plan and/or court report) in addition to the recommendation of CASA regarding permanency. The court must also consider evidence presented and the arguments of the parties when making its permanent plan determination. All permanency goals should include the action steps necessary to achieve the most appropriate permanent plan for the child.⁴¹
- **Federal Requirement to Place Siblings Together:** Per Federal law, DCFS shall make reasonable efforts to place siblings removed from their home in the same foster care, guardianship, or adoptive placement, unless DCFS documents that such joint placement would be contrary to the safety or well-being of any siblings; and if siblings are not so jointly placed, to provide frequent visitation or other ongoing interaction between siblings, unless DCFS documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any siblings. Thus, courts should require DCFS to show evidence that such efforts were/are being made.⁴²
- **Sibling-Type Relationship:** Judges should also be cognizant that a child may have a sibling-type relationship and bond with another child who is not a biological sibling but just as significant to the child.

³⁸ DCFS Policy 6-860 "Permanent Plan Goal: Alternative Permanent Living Arrangement." (August 15, 2020).

³⁹ In 2021, Louisiana will have to comply with the Family First Prevention Services Act (H.R. 5456 (P.L. 115-123)), signed into law as part of the Bipartisan Budget Act on February 9, 2018, which will make significant changes to the placement of children in congregate care (i.e., group homes, qualified residential treatment programs, etc.).

⁴⁰ DCFS Policy 6-860 "Permanent Plan Goal: Alternative Permanent Living Arrangement." (August 15, 2020).

⁴¹ CW Policy 6-840 Permanent Plan Goal: Reunify with Parent(s) or Principal Caretaker(s); CW Policy 6-802 "Case Plan Goal Establishment and Concurrent Planning" (October 1, 2019).

⁴² See 42 U.S.C. § 671(a)(31)(A) and 42 U.S.C. § 671(a)(31)(B).

- **Importance of Placing Full and Half-Siblings Together:** The child's significant relationships and bonds with another child with whom he/she has been raised should also be considered for placement (when the child is in DCFS custody), custody, guardianship, and visitation.⁴³ The research shows that when siblings, including those the child considers siblings, are separated from each other, many children feel "they have lost a part of themselves," adding to the pain and anxiety they experience over removal from their parents and home.⁴⁴ Unless contrary to their safety and well-being, supporting and sustaining the sibling bonds of children who have been placed in foster care or otherwise removed from their homes should be a priority for the child welfare system and the court.
- **Continued Obligation to Find Potential Caregivers:** All persons and parties before the court have a continuing obligation to achieve timely permanency for the child. It is critical for relatives and other individuals to be found as soon as possible, so that permanency can be achieved expeditiously if reunification becomes no longer viable. Finding potential placements early on in the case is also crucial to reducing further trauma to a child who may form secure attachments with caregivers as a case continues. The court's role is to persist in holding persons before the court, parties, and DCFS accountable to these obligations.
- **Information on Potential Caregivers:** If reunification is not a feasible permanent plan, courts should confirm that DCFS has investigated all available information on relatives and other individuals who are potential caregivers (i.e., child welfare background checks, criminal background checks, ICPC, home studies, etc.). This information should be available for the judge at Permanency Hearings and subsequent hearings until the child is permanently placed. DCFS should provide updates about these processes in its Permanency Court Report. See also Appendices Benchbook Section 12 for the Family Connection Form and Circle of Influence Form DCFS uses with children and parents to help identify potential caregivers and supports.
- **Preference to Relatives Per Federal Law:** For States to receive funding for foster care and adoption assistance, Federal law under Title IV-E of the Social Security Act requires that States "consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards."⁴⁵ Per the Fostering Connections to Success and Increasing Adoptions Act, anytime a relative is identified DCFS is required to contact all known adult relatives of the child and to inform them about placement and permanency possibilities for the child. Title IV-E of the Social Security Act also requires all States to exercise due diligence to identify and provide notice to all grandparents, all parents of a sibling of the child, where such parent has legal custody of the sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents) that (1) the child has been or is being removed from the custody of his/her parents; (2) the options the relative has to participate in the care and placement of the child; and (3) the requirements to become a foster parent to the child. These Federal laws are based on evidence that placement with relatives maintains the child's connections with his/her family, and children generally fare better in many child well-being indicators when placed with a relative.⁴⁶
- **Suitable Individuals and Cultural Considerations:** The court should press parties and persons before the court to consider not only biological relatives but also individuals with whom the child has a significant relationship (also referred to as "fictive kin," "suitable persons," or "suitable individuals"). These persons are not related by blood, marriage, or adoption to the child but could be close family friends or someone the child considers family. It is important to consider the child's culture, heritage, customs, traditions, religion, etc., in determining placement and custody options. For example, some children may call a close friend their "auntie" even though they are not related by blood. However, the auntie may be the best placement for the child but overlooked if no thorough inquiry is made.
- **Parents of Half-Siblings:** If there are half-siblings, the court should consider granting custody of the child to the sibling's parent if appropriate and safe to do so. The sibling's parent may already have a relationship with the half-sibling, but even if not, that parent may be willing to take custody to keep the siblings together.⁴⁷
- **Child Specific Certification for the Relative or Suitable Person:** DCFS provides "child specific" foster care certification for relatives and others who the child knows and may be a good placement (and potential permanent plan placement). This certification requires fewer classes than general foster care certification and allows the relative or individual to receive a board

⁴³ Id.; See also <https://www.ncsl.org/print/cyf/FosteringConnectionsSummary.pdf>.

⁴⁴ Kernan, Emily. Keeping siblings together: past, present, and future. National Center for Youth Law, <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/>.

⁴⁵ 42 U.S.C. § 671(a)(29).

⁴⁶ See Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>; Center on Children and the Law. (2016) Judicial Tip Sheet: Kin First. Washington, DC: American Bar Association, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/july-2016/judicial-tip-sheet-kin-first/; Issue Brief, Strong Families (2019) Why Should child protection agencies adopt a kin-first approach? Casey Family Programs, <https://www.casey.org/kin-first-approach/>; National Conference of State Legislatures. (2019) The Child Welfare Placement Continuum: What's Best for Children?, <https://www.ncsl.org/research/human-services/the-child-welfare-placement-continuum-what-s-best-for-children.aspx>; Child Welfare Information Gateway. (2018). Placement of children with relatives. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/placement.pdf>.

⁴⁷ See Child Welfare Information Gateway. (2019). Sibling issues in foster care and adoption. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>.

rate (monthly financial support) like a certified foster parent. The child can be placed with the caregiver prior to completing the certification but will not receive retroactive financial assistance. Thus, DCFS should provide the caregiver with information set forth above about the other forms of potential financial support. However, if the child receives disability or survivor benefits, this would be in place of the monthly board rate (they can choose the higher of the amount). If applicable, the court may want to request updates on status of certification at future hearings to ensure timely completion.

- **Financial Support for Relatives or Individuals:** Relatives and other persons who are granted custody and/or guardianship of the child may be eligible for financial support, for example, through the Kinship Care Support Program (KCSP), Supplemental Nutrition Assistance Program (SNAP), Family Independence Temporary Assistance Program (FITAP), and/or Child Support Program (CSP). If one or both parents of the child are deceased, the caregiver may also be eligible for survivor benefits owed to the child. The caregiver may also be eligible to receive the child's disability benefits (if the child is entitled to them). However, if the relative or individual is foster care certified and the child receives disability or survivor benefits, the caregiver would have to choose between those benefits and the monthly foster care board rate (They can choose the higher of the amounts).⁴⁸
- **Transition Plan:** If the permanent plan includes a change in custody, transfer of guardianship, or a move of any kind, judges should be cognizant of the impact the transition may have on the child.⁴⁹ Judges should consider including a transition plan that is in the best interest of the child in the Order. DCFS policy recognizes that it is traumatic for a child to be moved from one caregiving setting to another even when the change is made in the best interests of the child or to achieve permanency for the child. When a move will occur, it is critical to the child's well-being, regardless of the reason, for judges to collaboratively strategize with all involved to reduce the trauma experienced by the child.⁵⁰ DCFS has developed tools to try to minimize this trauma, including a guide for planful transitions. Transition plans can include multiple, extended visits, such as overnight visits as well as other additional contacts via Zoom, FaceTime, etc., to ensure the most positive experience possible for the child.⁵¹ These activities should occur both prior to the move and after the move to provide the child a less traumatic separation from previous caregivers and to enhance the connection to the new caregivers.⁵²

I. RULINGS AND FINDINGS

ARTICLES 672.1, 682, 702, 710, 712, 1269.2, 42 U.S.C. § 671(a)(15)(E); 42 U.S.C. § 675(5); and 45 C.F.R. § 1356.21(b)-(h)

The court shall make the following written, separate, and individualized findings and orders for each child:

- (1) ESSENTIAL JUDICIAL FINDING – PERMANENT PLAN FOR THE CHILD:** While parties, DCFS, and CASA may propose a permanent goal for the child, per Federal and State law, the court shall determine the most appropriate permanent plan that is in the child's best interest in accordance with the priorities outlined in Article 702(D) (also outlined in the Permanent Plan Considerations Section H above) and set within the timeframes required by law.

The court shall base the child's permanent plan rulings and findings on the following factors:

- **Health and Safety:** The child's health and safety is the paramount concern in the court's determination of the permanent plan.
- **Significant Relationships:** A child's need for continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship in accordance with Article 1269.2.
- **Consult with the Child:** The court shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

⁴⁸ See <http://dcfs.louisiana.gov/page/grandparent-relative-caregiver> for more information. DCFS has legal and custodial information available on their website for kinship caregivers: <http://dcfs.louisiana.gov/page/kinship-caregivers-legal-and-custodial-information-fact-sheets>.

⁴⁹ See Touchpoints. Preparing Children for Transitions. Milwaukee, WI: Coalition for Children, Youth, Families, <https://wifostercareandadoption.org/cms/assets/uploads/2017/10/touchpoints3.pdf>; Child Welfare Information Gateway. (2016). Reunification: Bringing your children home from foster care. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunification.pdf>; Child Welfare Information Gateway. (2018). Helping your foster care child transition to your adopted child. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, https://www.childwelfare.gov/pubPDFs/f_transition.pdf.

⁵⁰ DCFS Policy 6-300 "Guidelines for Selecting a Care Setting/Replacement Resource" (April 1, 2019).

⁵¹ DCFS Policy 6-305 "Guidelines for Care Setting Decision Making for Children Under Age Six" (March 15, 2019).

⁵² Id.

- **Both In-State and Out-of-State Placements:** In the case of a child who will not be returned to his/her parents, the court shall consider in-State and out-of-State permanent placement options for the child.

PRACTICE TIPS:

- **Purpose:** The purpose of the Permanency Hearing is for the court to make a determination as to the permanent plan for the child. Foster care is meant to be temporary. ASFA requires a permanent plan for the child that will be stable and lasting and will occur as soon as possible.
- **Concurrent Permanent Plan:** One of the priorities listed in Article 702(D) (also outlined in the [Permanent Plan Considerations Section H](#) above) should be clearly articulated in the Permanency Order, or two if a concurrent permanent plan has been approved by the court.

HELPFUL GUIDANCE:

- **Preserving Child's Significant Relationships:** Preserving a child's significant relationships is an important aspect of ensuring continuity and the child's sense of security.⁵³

(2) ESSENTIAL JUDICIAL FINDING - REASONABLE EFFORTS: At the Permanency Hearing, the child's permanent plan shall be determined by the court, which shall make written and individualized findings within the mandated timeframes as to whether reasonable efforts were or were not made by DCFS to: (1) reunify the parents and the child or (2) finalize the child's placement in an alternative safe and permanent home according to child's permanent plan. Per State law, these findings shall be made at each required Permanency Hearing;⁵⁴ per Federal law, these findings shall be made within 12 months from the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child remains in foster care. However, if the court makes a judicial determination that reasonable efforts to reunify the parents and child were not required per Article 672. 1, the child's permanent plan shall be determined by the court and a reasonable efforts finding shall be made by the court immediately or within 30 days of the court's Article 672.1 ruling and at least once every 12 months thereafter while the child remains in foster care. Determining and approving the child's permanent plan and making requisite findings within the mandated timeframes are critical for the State to maintain ongoing Title IV-E foster care eligibility for the child.⁵⁵

- Reasonable Efforts Required:** The court shall make one of the following judicial determinations for each child as to the reasonable efforts made by DCFS based on the facts and circumstances of the case and the efforts articulated by DCFS:
 - **DCFS Made Reasonable Efforts To:**
 - Reunify the parents and child; OR
 - Finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan including, if appropriate, through an interstate placement.
 - **DCFS Did Not Make Reasonable Efforts To:**
 - Reunify the parents and child; OR
 - Finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan including, if appropriate, through an interstate placement.

⁵³ La. Ch. C. art. 702, 2001 Comments.

⁵⁴ See La. Ch. C. arts. 672.1 and 702.

⁵⁵ See 42 U.S.C. § 671(a)(15)(E) and 672(a)(1);, 45 C.F.R. § 1356.21(h)(2), 45 C.F.R. § 1356.21(b)(2) and 1356.71(d)(1)(i); See also Child Welfare Policy Manual, Section 8.3C.4, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=59 Edwards, Leonard. "Overcoming Barriers to Making Meaningful Reasonable Efforts Findings." ABA Child Practice Today. January 29, 2019, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/overcoming-barriers-to-making-meaningful-reasonable-efforts-find/; Edwards, Leonard. (2014). Reasonable Efforts: A Judicial Perspective, <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=210§ionid=2&articleid=5428> ("Congress designed the law to ensure child welfare agencies provide families with services to prevent disruption of the family unit, and to respond to the problems of unnecessary removals and foster care drift. The reasonable efforts requirement is an enforcement mechanism to guarantee that each State provides adequate preventative and reunification services."); Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>.

- b. **Reasonable Efforts To Reunify Not Required:** If the court has made a judicial determination that reasonable efforts were not required per Article 672.1, it shall make a written, separate, and individualized finding that reasonable efforts were not required in the Order.
- **Per Judicial Determination:** Per Article 672.1, at any time in a CINC proceeding when a child is in the custody of DCFS, a motion may be filed for a judicial determination that efforts to reunify the parents and child are not required. DCFS shall have the burden of demonstrating by clear and convincing evidence that reunification efforts are not required, considering the health and safety of the child and the child's need for permanency. Reasonable efforts to reunify the parents and child are not required if the court determines one of the reasons outlined in Article 672.1 are met.

PRACTICE TIPS:

- **Reasonable Efforts:** If the child has been removed from the custody of his/her parents, the courts and DCFS have an ongoing reasonable efforts obligation under State and Federal law until the child is reunified with his/her parents or achieves permanency. DCFS has the burden of demonstrating the reasonableness of the efforts they made to: (1) prevent or eliminate the need for removal, (2) reunify the family, and/or (3) achieve timely permanency for the child. The court shall make these reasonable effort findings for each child accordingly in its Orders, thus, holding DCFS accountable. In all reasonable efforts findings, each child's health and safety shall be the paramount concern and should be based on the facts and circumstances of each individual case and child.⁵⁶
- **Reunify the Family:** When the permanent plan is family reunification, DCFS should be held accountable for meeting its obligation to provide appropriate services to assist the parents in their effort to reunify with their child unless the court finds that reasonable efforts were not required per Article 672.1. The court must make a thorough inquiry and provide specific factual findings about the efforts DCFS is making and/or made to reunify the child with his/her parents and whether such efforts were reasonable. The court should identify any areas where DCFS efforts are inadequate and enter orders to address the inadequacies. State's determine at which hearing this finding must be entered into the Order.⁵⁷ Louisiana the Children's Code requires the reasonable efforts to reunify the family finding in the Judgment of Disposition and all Permanency Orders.
- **Examples of Reunifying the Family Include (but are not limited to):** Conducting a thorough Dispositional alternative investigation, developing and/or updating the case plan with the parents, ensuring the case plan is reasonably related to achieving reunification, providing quality visitation time (or at least opportunities for them to take place) between the parents and the child, making diligent efforts to establish paternity or maternity, maintaining (or attempting to maintain) ongoing contact with the parents, helping (or attempting to help) the parents achieve case plan goals and involving parents in the case planning process, assisting (or attempting to assist) parents in timely accessing appropriate and effective services and supports needed to address the conditions for the removal and safety concerns, conducting appropriate assessments with the family to identify safety concerns and ways to address them, facilitating FTMs with the parents, seeking court interventions (i.e., TRO, PO, and/or court-ordered safety plan), etc.
- **Achieve Permanency:** When the safe return of the child to his/her parents is no longer viable, DCFS shall make reasonable efforts to place the child in a timely manner in accordance with the permanent plan (i.e., adoption, legal guardianship, custody to a relative, etc.) and complete the steps necessary to finalize the permanent placement of the child. The court should be aware of the steps necessary to effectuate any permanency plan. Judges should actively inquire about each step in the process of finalizing the current permanency plan and issue orders clearly articulating the subsequent steps DCFS must take to finalize the plan and the timeframes for the completion of those steps. Issuing general orders to "proceed to finalization of an adoption," for example, does not outline the specific steps and timelines needed to actually complete the adoption process so the court can adequately assess progress at its next hearing. Courts will have difficulty holding DCFS accountable for making reasonable efforts if those efforts are not spelled out in

⁵⁶ Id.

⁵⁷ Gatowski, *supra* note 7, at 267.

court Orders at each review hearing.⁵⁸ Judges will generally make this third reasonable efforts finding at the Permanency Hearing or TPR Hearing. In Louisiana, the Children's Code requires this finding in all Permanency Orders. Still, it may also be applicable at a Disposition and/or Case Review Hearing.

- **Examples of Achieving Permanency Include (but are not limited to):** Conducting a thorough Dispositional alternative investigation, ensuring the case plan is reasonably related to achieving permanency, providing quality visitation time (or at least opportunities for them to take place) between the child and potential placements, making diligent efforts to establish paternity or maternity to determine other possible relative placements, making diligent efforts to search for and assess possible placement with relatives or other individuals with whom the child has a significant relationship, timely initiation of ICPCs and background checks, involving youth in the development of their Youth Transition Plan (YTP), helping the youth implement the YTP, planning for the youth's successful transition to adulthood (which includes establishing permanent adult connections, independent living skills, career path, etc.), assessing whether the youth wants to participate in extended foster care, continuing to search for family-like placements for children placed in group homes, timely seeking TPR, making efforts to complete adoption if the parents' rights have been terminated, proof that Adoption Petition filed, proof of surrender documents, etc.
- **Sanctions and Permanency Planning:** Sanctions may be ordered if DCFS has failed to comply with permanency planning requirements. See Article 712.
- **DCFS Did Not Make Reasonable Efforts:** If the court finds that DCFS did not make reasonable efforts, this finding does not preclude the court's other findings and/or orders.
- **Case Plan Goal:** The case plan goal (or permanency goal) should not be changed from reunification to adoption or guardianship unless the court has made a determination per Article 672.1 that reasonable efforts to reunify the parent and child are not required.

(3) OUT OF STATE PLACEMENT: If a child is in an out-of-state placement, the court shall make findings as to whether the placement is safe, appropriate, and otherwise in the best interest of the child.

 **PRACTICE TIP:**

- **Interstate Compact on the Placement of Children (ICPC):** See information on ICPC above under the [Applicability of Federal Laws and Regulations](#) section and in [Disposition Hearing Benchbook Section 8 D](#) for more information on ICPC.
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(4) ALTERNATIVE PERMANENT LIVING ARRANGEMENT (APLA): For a child whose permanent plan is placement in the least restrictive, more family-like APLA, the court must:

- Make findings as to why, as of the date of the hearing, APLA is the best permanency plan for the child; AND
- Provide compelling reasons why it continues to not be 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.
- **ESSENTIAL JUDICIAL INQUIRY - YOUTH INPUT ON APLA:** If the permanent plan is placement in the least restrictive, most family like APLA, the court must consult with the child on the appropriateness of this plan.

⁵⁸ Gatowski, supra note 7, at 267; Edwards, Leonard. (2014). Reasonable Efforts: A Judicial Perspective, <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=210§ionid=2&articleid=5428> ("The law requires judges to make these findings, and good reasons exist to do so. By making the reasonable efforts/no reasonable efforts findings the court informs the parties, the agency, and the Federal government that the agency is or is not meeting its legal responsibilities. By monitoring the agency's actions, the court ensures that the agency has complied with its legal obligation to provide services to prevent the child's removal from parental care, assist the family safely to reunify with its child, and make certain to finalize a permanent plan for the child. The reasonable efforts/no reasonable efforts finding are the most powerful tools juvenile court judges have at their disposal in dependency cases, and attorneys and judges should pay special attention to them to ensure that the agency is doing its job, to make positive changes in the child protection system, and, most importantly to improve outcomes for children and families.").

J. ADVISEMENTS

ARTICLE 702

(1) PERMANENT PLAN OF REUNIFICATION: If the court determines that the permanent plan is reunification, it shall advise the parents that:

- It is their obligation to achieve the case plan goals and correct the conditions that require the child to be in care within the time period specified by the court; AND
- Otherwise, an alternative permanent plan for the child will be selected and a TPR Petition will be filed.

(2) PERMANENT PLAN OF ADOPTION: If the court determines that the permanent plan is adoption, it shall advise the parents of:

- Their authority to voluntarily surrender the child and consent to the adoption prior to the filing of a TPR Petition.

HELPFUL GUIDANCE:

- **Advisements for Other Permanent Plans:** The Children's Code is silent as to advisements for other permanent plans; however, the court should make clear to all persons before the court how critical it is to achieve the child's permanent plan as soon as possible, which is especially important in mitigating further trauma to the child.
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K. FURTHER FINDINGS AND ORDERS

ARTICLES 309, 618, 672(A)(2), 677, 681-4, 710, 712

The court may make additional orders in the best interest of child, such as:

(1) CUSTODY/GUARDIANSHIP: The court retains jurisdiction over custody and guardianship and may maintain or modify the current Disposition, which may include the following dispositional alternatives provided in Articles 681-683:⁵⁹

- Return the child to the custody of (or grant custody to) parents, with or without continuing supervision of DCFS (i.e., in-home safety plan) and/or issuing a PO;
- Place the child in the custody of a relative or suitable person;
- Place the child in the custody of a private or public institution or agency (i.e., DCFS);
- Grant guardianship of the child to a nonparent;
- Remove the child from parental custody and place the child in the custody of a private or public institution or agency (i.e., DCFS) (If the court orders that a child be removed, it must also make contrary to welfare and reasonable efforts findings per State and Federal law).⁶⁰
- Commit a child found to have a mental or intellectual illness to a public or private institution for persons with mental or intellectual illness; OR
- Grant other such Disposition or combination of the above Dispositions as the court deems to be in the best interest of the child. See Disposition Hearing Benchbook Section 8 J for more information on dispositional alternatives.

(2) CASE PLAN: On its own motion or upon motion of any party for good cause shown, the court may consider the content or implementation of the case plan or of any response filed concerning it. See Case Review Hearings Benchbook Section 9 for more information on the content and implementation of the case plan.

⁵⁹ La. Ch. C. art. 309 ("A court exercising juvenile jurisdiction shall have exclusive authority to modify any custody determination rendered, including the consideration of visitation rights in CINC proceedings.").

⁶⁰ See 45 C.F.R. § 1356.21(c); 42 U.S.C. § 472(a)(2)(A)(iii); 42 U.S.C. § 479(B); See also Child Welfare Policy Manual, Section 8.3A.6, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?citID=37

PRACTICE TIP:

- **Modify Case Plan:** If the permanent plan ordered by the court is different from the permanency goal recommended by DCFS in the case plan, other circumstances in the case have changed, or new information has come to light, the case plan should be modified accordingly. Additional or different services may be needed than those identified in the most recent case plan. The visitation schedule may need to be modified if, for example, the goal is no longer reunification (i.e., may want to increase frequency of visits with a potential relative or other adoptive placement).⁶¹

(3) PLACEMENT IN DCFS CUSTODY: While the court has the authority to change custody, if the child is in DCFS custody, the court has no authority to order a specific placement for the child (i.e., foster parents the child will be placed with by DCFS). However, pursuant to Article 672(A)(2), the court does have the authority to disapprove the placement chosen by DCFS and order DCFS to choose a more suitable placement. Per Article 672(A)(2), there must be a contradictory hearing and the judge may disapprove the placement upon finding that the placement is not in the child's best interest. For example, after a contradictory hearing, the court could determine that the placement chosen by DCFS is not in the child's best interest if the child is not placed with his/her siblings.⁶²

PRACTICE TIPS:

- **Disapprove Case Plan:** Alternatively, the judge is given the authority and responsibility to review the case plan at Permanency Hearings upon motion of the court or party. Thus, because the placement of the child is central to the case plan (referred to as the "Child's Care Setting" in the case plan), the court (alternatively to disapproving the placement pursuant to Article 672(A)(2)) could reject the case plan in part due to not approving the placement chosen by DCFS.
- **Revise Case Plan:** The elements of the case plan related to the child are often contingent on the placement. Thus, if the court disapproves the placement, the court should carefully review the case plan to see if other parts of the plan need to be revised accordingly.
- **Court's Role in Placement:** If the child is in DCFS custody, the court should address the child's current placement to ensure that the child is safe, and to determine whether the child's health, educational, cultural, religious, and emotional needs are being met. This may include but is not limited to the following:
 - Ensuring DCFS has made reasonable efforts to place siblings together;⁶³
 - Reviewing information regarding the child's well-being and overall adjustment to his/her placement and to school;
 - Evaluating the specific services being provided to see if they are meeting the child's physical, emotional, and educational needs;
 - Examining the steps DCFS is taking to ensure foster caregivers are following the "reasonable and prudent parent standard" and that the child has regular opportunities to participate in age- or developmentally-appropriate events such as sports, field trips, and overnight activities;
 - Ensuring that all health and education information is up to date and that the child is receiving health and education services;
 - Ensuring that the caregivers of a child with a trauma history have the specialized training and support needed for the placement to succeed;⁶⁴
 - Ensuring that a child's connections to his/her cultural heritage, religion, ethnicity, and traditions are preserved and promoted; AND

⁶¹ Gatowski, *supra* note 7, at 268.

⁶² The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351).

⁶³ *Id.*

⁶⁴ Courts are encouraged to attend TBRI Fridays, sponsored by Crossroads NOLA, and to encourage others to attend as well: <https://crossroadsnola.org/tbri/>.

- Asking DCFS to explain how the placement is appropriate to prepare the child for his/her transition into the permanent placement (i.e., reunification, adoption, guardianship, custody with a relative, etc.).⁶⁵

(4) VISITATION/FAMILY TIME: The court has the authority to modify the visitation schedule per Article 309.⁶⁶

 **PRACTICE TIP:**

- **Court's Authority Over Visitation:** Although the plan for visitation between the child and his/her parents, siblings, and others is included in the case plan, Article 309 gives the court continued jurisdiction over visitation in all CINC proceedings.

 **HELPFUL GUIDANCE:**

- **Court's Role in Visitation at Permanency and its Ongoing Obligation:** At the Permanency Hearing, the court's role is to determine the child's permanent plan. It is important for courts to determine whether the visitation/family time schedule needs to change to align with achieving the permanent plan. Anytime there is a change in the child's circumstances, placement, custody, and/or permanent plan, the court should consider if changes need to be made to the visitation schedule to better serve the best interest of the child. This may include increasing or decreasing frequency or lengths of visits, moving to less or more supervision, and adding or removing visits and/or contact with siblings, other family members, or significant individuals. The safety and well-being of children should always be paramount in considerations of family time. Judges should ensure the plan for family time is in the best interest of the child, individualized, and age and developmentally appropriate for the child.
- **Reunification:** As long as the permanent plan remains reunification, preserving and enhancing the parent-child relationship while providing for the safety and well-being of the child is crucial for many reasons (i.e., maintaining attachment, reducing trauma, providing ability to put parenting skills into practice, etc.), including the child's future transition back into the custody of his/her parents. Initiating or continuing visitation and/or contact with relatives or individuals is critical for the child's well-being.
- **Parents' Rights with Regard to Involvement:** If the child has been removed from the parents' custody and reunification remains the permanent plan, the parents should still be invited to attend all medical appointments, school conferences and activities (including eating lunch with the child at school), sports and extracurriculars, and other important events involving the child (unless there is an order otherwise preventing this, such as a criminal no contact order).
- **Permanency:** It is also important if reunification becomes no longer viable (i.e., if a child is placed with foster parents by DCFS) that visitation with relatives or other individuals who are being considered as a permanent placement for the child are included in the visitation schedule. For example, there may be a relative living out-of-State that could be a permanent placement for the child. Establishing and/or maintaining contact with that relative early on would be critical in lessening the child's difficulties adjusting if later moved to live with that relative.
- **Frequency:** Although DCFS policy provides a minimum requirement for visitation, the court should consider ordering more frequent visitation than the minimum based on the best interest of the child.
- **Unsupervised Visits:** Family time should be frequent, liberal, and presumed unsupervised unless there is a demonstrated safety risk to the child.

⁶⁵ Gatowski, *supra* note 7, at 268.

⁶⁶ La. Ch. C. art. 309 ("A court exercising juvenile jurisdiction shall have exclusive authority to modify any custody determination rendered, including the consideration of visitation rights in CINC proceedings.").

- **Methods of Contact:** The court should consider increasing contact through virtual and other means. Contact may include in-person visitation as well as more limited arrangements such as phone calls, Zoom or FaceTime, texts, letters, emails, or simply the exchange of personal information. For a considered discussion of visitation/family time, please see [Continued Custody Hearing \(CCH\) Benchbook Section 5 M](#).⁶⁷
- **Visitation Not to be Used as Incentive or Disincentive:** Visitation is a right of both parents and children in CINC cases. The fashioning of visitation should be based on promoting the important connection between the parents and child. Visitation between parents and children should not be used as an incentive or disincentive for parents with regard to mitigating the reasons for State intervention.

SECURE OR PROVIDE SERVICES TO CHILD: The court has authority to order an agency, institution, or person to whom the child is assigned, including the responsibilities of any other agency, institution, or person having legal responsibility to secure or provide services to the child which the court has determined are needed.

 **PRACTICE TIPS:**

- **Located in Disposition Hearing Articles:** This provision (Article 684(A)(3)) is located in the Disposition Hearing articles; however, it is not prohibited by the articles governing Permanency Hearings.
 - **Identify Services:** The court is required to identify any services that the child needs and to allocate responsibilities of both the legal custodian and any agencies (i.e., DCFS, LDH, OJJ, LDOE, Office for Citizens with Developmental Disabilities, etc.) to ensure that such services are in fact provided to the child.
 - **Trauma and Behavioral Health Screen (TBH):** It is DCFS policy for children in foster care and DCFS Family Services from birth to age 18 to receive trauma and behavioral health screening initially and every 6 months. DCFS utilizes the Trauma and Behavioral Health Screen (TBH) and when indicated by the TBH score, the agency will refer the child for treatment. DCFS should provide updates in its court reports. The court may want to consider the appropriateness of and/or need for services in light of the results of the screening.
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(5) TERMS AND CONDITIONS: The court can specify any other applicable terms and conditions that apply to the legal custodian.

 **PRACTICE TIP:**

- **Located in Disposition Hearing Articles:** This provision (Article 684(A)(3)) is also located in the Disposition Hearing articles; however, it is not prohibited by the articles governing Permanency Hearings.
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(6) FAMILY TEAM MEETING (FTM): If the child is in DCFS custody or has an open DCFS Family Services case, DCFS should propose a tentative date for the next FTM. The court can provide notice of and encourage participation by all parents, caretakers, children, foster caregivers, attorneys for children and parents, and CASA workers, and as applicable.

⁶⁷ For more resources on visitation/family time, see: <https://www.childwelfare.gov/topics/systemwide/assessment/family-assess/progress/visitation/>.

PRACTICE TIP:

- **Set Tentative Date for Next FTM:** Facilitating a tentative or confirmed date and time for the next FTM while everyone is at the hearing and including it in the Order helps ensure FTMs are timely held. Also, without enough notice of the FTM date and time, some team members may have difficulty participating. FTMs should be conducted at least every 6 months.

HELPFUL GUIDANCE:

- **Purpose:** FTMs are facilitated by DCFS, and they are important because FTMs are where case planning occurs for the family. FTMs are where parents, children, and other stakeholders and supports give valuable input on the services and assistance needed by and to be provided to the family.

(7) POTENTIAL PLACEMENTS: The court can order DCFS to:

- Explore all possible suitable relative or individual placements with results and/or updates on results to be presented prior to or at the next Case Review/Permanency Hearing;
- Initiate child welfare background clearance, criminal background check, assessment of home or home study so that they can be considered for placement by DCFS and/or custody or guardianship at the Permanency Hearing(s);
Take steps necessary to complete timely foster care certification (i.e., to receive guardianship subsidy if applicable); AND/OR
- Initiate ICPC process for potential placement with any out-of-State relatives or individuals.

(8) SANCTIONS PER ARTICLE 712: Upon determination by the court that DCFS has failed to comply with permanency planning requirements, including those in the Permanency Hearing Articles, the court may:

- Subpoena agency witnesses to testify regarding the failure to comply.
- Order the agency or appropriate representatives to show cause why a contempt order should not issue.
- Order that the agency not seek Federal reimbursement for the cost of the child's care where the court finds that reasonable efforts were not made.
- Submit a report of noncompliance to appropriate State and Federal agencies.
- Refer the agency representative found responsible for the failure to comply to the appropriate department personnel for administrative reprimand or other administrative sanctions.

HELPFUL GUIDANCE:

- **Discretion:** The court has discretion to issue subpoenas and contempt orders.

(9) OTHER ORDERS: Court may make orders related to facilitating timely achievement of each child's permanent plan including, for example, if adoption is the child's permanent plan, the filing of TPR Petition, proof that Adoption Petition filed, surrender documents. The court may also make orders related to paternity/maternity, PO, child's education, services, mental or physical health examinations on the child and/or parents, etc.

(10) ESSENTIAL JUDICIAL FINDING - INDIAN CHILD WELFARE ACT (ICWA): Per the Indian Child Welfare Act (ICWA), at every CINC hearing, the court shall ask each person whether they know or have reason to know that the child is a member of or eligible for membership in a Federally recognized Indian Tribe and a biological child of a member of a Federally recognized Indian Tribe. Further, the court shall advise all to inform the court if any of the above information is subsequently discovered. If the court knows or has reason to know, the court shall follow Articles 624, 624.1, 661.1, and 25 U.S.C. § 1901 et seq. The court should also inquire as to DCFS's due diligence in locating and contacting the Tribe. Noncompliance with ICWA may result in an invalidation of the proceedings, including a subsequent adoption. See also [Indian Child Welfare Act \(ICWA\) Bench Card](#).

L. ORDER OF NOTICES AND FUTURE HEARINGS

ARTICLES 424.7, 674, 688-9

The court should also include the following orders:

- (1) FUTURE HEARINGS:** The parents of the child, all attorneys of record, a DCFS representative, and CASA be present at all future hearings.
- (2) CASE PLAN:** DCFS shall file case plan with the court at least 10 days prior to the Case Review/Permanency Hearing(s) and upon filing shall provide copies to counsel by mail or email and unrepresented parties by certified mail or email if requirements of Article 674 are met.
- (3) COURT REPORT FILED BY DCFS:** DCFS file its court report at least 10 days prior to the Case Review/Permanency Hearing(s) and provide copies to CASA, counsel, and unrepresented parties. (Although Children's Code is silent on submission of the court report for the Permanency Hearing, DCFS policy requires court reports to be filed beginning at Disposition).
- (4) COURT REPORT FILED BY CASA:** CASA should file its court report prior to the Case Review/Permanency Hearing(s) and shall distribute a copy of such reports prior to or at the time it is submitted to the court, to all counsel of record, any unrepresented party, and DCFS.
- (5) SET MATTER FOR APPROPRIATE HEARINGS:**
 - **Status or Revised Case Plan Hearing:** Set if there are other issues that need to be addressed or resolved (i.e., if the case plan was reviewed and court did not approve the case plan).
 - **Case Review Hearing:** Shall be held at least once every 6 months until the child is permanently placed⁶⁸ (or earlier upon motion per Article 692(B)).
 - **Permanency Hearing:** Shall be held every 12 months until the child is permanently placed⁶⁹ (or earlier upon motion per Article 702(B)). However, if the court has made a judicial determination that reasonable efforts to reunify the family are not required per Article 672.1, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.
- (6) SERVICE AND NOTICE OF HEARINGS:**
 - Clerk to notify all parties of the date, time, and location of the hearing and that all parties of interest appear;
 - Sheriff's Office to serve the parents with a summons commanding him/her to appear at court for the hearing;
 - DCFS to provide notice to the parents of the date, time, and location of the hearing as well as the nature of the allegations;
 - Notice of the hearing shall be made on counsel of record and CASA (if appointed); AND
 - DCFS to provide notice to any foster caregiver providing care for the child of the date, time, and location of the hearing and that the recipient has the right to attend and be heard.
- (7) ARRANGEMENTS FOR ANY INCARCERATED PARENT:** Be made to attend the hearing, either in person or remotely.

PRACTICE TIPS:

- **Notice and Schedule Hearings in Open Court:** The court may schedule future hearings and serve notice in open court.
- **Scheduling:** When calendaring the next hearing, all parties, including the parents, should be asked if the scheduling works for them, and if not, find options for a different day/time.
- **Schedule Earlier:** The timelines for the hearings are driven by ASFA. Courts retain the ability to schedule hearings to occur earlier than the maximum allowable timeframes and should do so whenever practicable and in the child's best interest. Best practice is to conduct review hearings a minimum of every 3 months or, in some cases, more frequently. Even though the case plan is generally updated every 6 months (unless otherwise ordered sooner), holding review hearings every 3 months allows the court and parties to resolve issues with the case plan and keeps the case moving forward towards achieving permanency more expeditiously. The information should guide the timing of hearings.

⁶⁸ See La. Ch. C. art. 603(22).

⁶⁹ Id.

M. CASE MANAGEMENT

(1) ENGAGEMENT:

- Specifically, ask the parents and children if they understand what occurred at the hearing and engage them in a conversation about the next steps.
- Ask parents (and children, if appropriate) if there is anything the court and other stakeholders involved could do to support their efforts to reunify their family (if reunification is still viable)?
- Advise parents of the importance of their active participation in all proceedings.
- Advise parents of the rigorous timeframes for child abuse and neglect cases outlined in State and Federal laws.
- Advise parents of the consequences for failure to appear at any further court hearings.
- Ensure that parents and children have contact information for case workers and attorneys and understand the process to request court review if necessary.
- Ask if there are any questions for the court.
- It is helpful for children and parents to be able to meet briefly with their attorneys after the hearing so that the attorneys can address immediate issues.

(2) PREPARATION FOR NEXT HEARING

- Identify tasks to be accomplished by the various parties for the next hearing.
- Make oral findings and orders that all participants can understand.
- An attorney or the court is responsible for the completion of the Order. See [Permanency Order Template](#) in the [Appendix](#).
- All of the attorneys and unrepresented parties should review the Order before the judge signs it to ensure it accurately reflects the proceeding.
- Time permitting, best practice is to sign the Order on the same day as the hearing.
- Ensure all orders are written, signed, copied, and distributed at the end of the hearing.
- Provide parents with a copy of the Order immediately following the hearing.

N. POSSIBLE NEXT STEPS

ARTICLES 330-8, 700, 710, 1004, 1004.1, 42 U.S.C. § 675(5)(E)(i)-(iii)

(1) STATUS HEARING: The court may want to set a Status Hearing if there are issues that need to be addressed or resolved. For example, if the child has recently moved to a new placement, the court may want to see how the child is adjusting sooner rather than waiting for the next Case Review or Permanency Hearing.

(2) HEARING TO APPROVE REVISED CASE PLAN: If the court does not approve the case plan (and the issues in the case plan cannot be resolved at the Case Review Hearing), the court must include in its Order that it does not approve of the case plan, and best practice is for the court to schedule another hearing for it to consider the amended case plan (sometimes referred to as a “Case Plan Review Hearing”). It is not advisable to wait until the next scheduled Case Review Hearing or Permanency Hearing to review the revised case plan. Otherwise, DCFS will not be able to implement the changes timely. Some courts return within 30 days or less of the Case Review Hearing to consider the revision.

(3) CASE REVIEW HEARING: Case Review Hearings shall be held at least every 6 months from when it was initially held and until the child is permanently placed (or earlier upon motion per Article 692(B)).⁷⁰

(4) PERMANENCY HEARING: Permanency Review Hearings shall be held at least every 12 months until the child is permanently placed⁷¹ (or earlier upon motion per Article 702(B)). However, if a judicial determination is made per Article 672.1, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.

(5) APPEAL: Any person directly affected may appeal the findings or orders of the court. Appeal shall be taken within 15 days from the mailing of the notice of the judgment. See Article 332(A).

⁷⁰ Id.

⁷¹ Id.

 **HELPFUL GUIDANCE:**

- **Governing Law:** The appeal process in CINC proceedings is governed by Title III of Chapter 9 of the Children's Code (Articles 330-338). In CINC proceedings, an appeal may be taken only after a Judgment of Disposition. Timelines for appeals in CINC proceedings differ from timelines for appeals in the Louisiana Code of Civil Procedure.
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(6) TERMINATION OF PARENTAL RIGHTS PETITION: See Article 1004 and 1004.1 for the persons and agencies who have a legal right to file a petition to terminate parental rights (TPR), including the timing and grounds for which a TPR may or must be filed.

 **PRACTICE TIPS:**

- **Court on Own Motion:** At any time, including in any hearing in a CINC proceeding, the court on its own motion may order the filing of a TPR Petition on any ground authorized by Article 1015 (Article 1004(A)).
 - **DCFS Shall File TPR Petition:** If a child has been in DCFS custody for 17 of the last 22 months, DCFS shall file and pursue to judgment a petition to terminate the parental rights (TPR) of the parent or parents. However, DCFS has discretion not to file a petition to terminate parental rights if DCFS has documented in the case plan a compelling reason why filing is not in the best interest of the child. The court's role is to hold DCFS accountable to showing such compelling reasons. See also 42 U.S.C. § 675(5)(E)(i)-(iii) and 675(5)(F)(i)-(ii).
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(7) ADOPTION: Agency adoptions are governed by Chapter 9 of Title XII of the Children's Code. See Articles 1198-1220.



APPENDIX

PERMANENCY HEARINGS

La. Ch. C. arts. 701-711

BENCH
CARD



PURPOSE

For the court to determine the child's permanent plan (given that foster care is meant to be temporary), which is to be stable and lasting and occur as soon as possible, and to make reasonable efforts findings.

Prior to Hearing

ARTICLES 424.7, 673-4, 676, 688-9, 691

- (1) **CASE PLAN:** DCFS shall file at least 10 days before hearing; upon filing provide copies to counsel by mail/email and unrepresented parties by certified mail/email per Article 674. Any party may file written response.
- (2) **DCFS COURT REPORT:** DCFS policy requires reports beginning at Disposition, even though Children's Code is silent on submission; DCFS files at least 10 days before hearing with copies to counsel, unrepresented parties, and CASA.
- (3) **CASA COURT REPORT:** If appointed, CASA shall file before hearing; distribute copies per Article 424.7.

Timing and Continuances

ARTICLES 672.1, 702, 711, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2

- (1) **TIMING:** If removed before Disposition Hearing, hold within 9 months after Disposition Hearing. If removed at Disposition Hearing, hold within 12 months of Disposition Hearing. Hold every 12 months after initial hearing until permanently placed or upon motion of party for good cause or court's own motion. If Article 672.1 judicial determination made, may hold hearing immediately and shall hold within 30 days of ruling. See Article 114.
- (2) **CONTINUANCES:** Court shall report continuance exceeding maximum allowed within 10 days to Louisiana Supreme Court, with reasons and copy of Order.

PRACTICE TIP | Hold Simultaneously: Case Review and Permanency Hearings may be held simultaneously; however, findings and orders shall be separated for each type of hearing; DCFS Court Report should address information required for both types of hearings.

Intervention

ARTICLE 707

- Court has discretion to allow upon showing of good cause that intervention facilitates permanent plan for child and ensures best interest of child; may limit nature and extent of participation upon motion and showing of good cause.

PRACTICE TIP | Case Law: There is significant case law on intervention, especially in certain jurisdictions.

Appearances

ARTICLES 607-8, 643, 704-8

- (1) **ONLY ADMIT PERSONS WITH PROPER INTEREST/NECESSARY:** Including parents, child, attorneys for child and parents, DA/ADA/DCFS attorney (BGC), DCFS representatives, CASA, foster caregivers, witnesses under examination, and intervenors (if granted).
- (2) **CHILDREN ARE PARTIES:** 12 years or older, shall be present unless waived upon motion of child's attorney; include if waived or not in Order. Under age 12, shall be present upon request of child's attorney or court.
- (3) **PARENTS ARE PARTIES:** If parent absent but established on record parent was served or efforts to serve unsuccessful, hearing may proceed. If incarcerated, verify writ/motion to guarantee parent's attendance filed and Order issued/served timely on facility.
- (4) **ATTORNEYS:** Child shall have attorney appointed and present (Article 607); indigent and absent parents shall be provided representation (Articles 575 and 608) unless right waived by a parent per Article 608.

ESSENTIAL JUDICIAL FUNCTION | Assistance and Accommodations:

Court responsible for providing interpretation, translation, and language assistance services and reasonable accommodations for parties.

PRACTICE TIP | Foster Caregivers (Foster Parents, Pre-Adoptive Parents, and Relatives): Are not parties but have legal right to notice and opportunity to be heard at any hearing involving a child in their care. If they do not appear, DCFS shall report whether notice given/diligent efforts made to locate and notify caregiver; hearing may be held in their absence even if notice not given by DCFS. (Articles 623 and 705; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o)).

PRACTICE TIP | Coordinating Services: Louisiana Department of Health (LDH), Office of Juvenile Justice (OJJ), Louisiana Department of Education (LDOE), and other agencies may be helpful to have at hearing. Especially critical for youth who may have mental health concerns, delinquency matters, and/or disabilities and may benefit from coordinated services and supports.

PRACTICE TIP | Reunification: If reunification with absent parent is the case plan goal, DCFS shall make continuing diligent efforts to locate absent parent and notify him/her of nature and outcome of hearing and promptly notify court of any new address that becomes known.

PRACTICE TIP | Confidentiality: If court allows other persons to be present, stress confidentiality of case information.

Notice

ARTICLES 623, 640-1, 643, 703-8, 42 U.S.C. § 675(5)(G), 45 C.F.R. § 1356.21(O)

- Court shall determine if proper notices of hearing were made to all parties, counsel, and foster caregivers; enter required findings in Order.

Evidence and Testimony

ARTICLES 424.5, 424.7, 706-9, LA. SUP. CT. RULE XXXIII, PART III, SUBPART II

- (1) **EVIDENCE:** Consider: (a) all relevant evidence offered but may limit admissibility or weight of any evidence deemed unreliable, cumulative or dilatory; and (b) evidence presented and arguments of parties when determining permanent plan and reasonable efforts, including permanency recommendations made by DCFS and CASA.
- (2) **PARENTS/CHILDREN:** Right to testify, confront and cross-examine adverse witnesses, present evidence and witnesses.
- (3) **CASA:** May be called as witness by any party or court; may request opportunity to appear as witness.
- (4) **FOSTER CAREGIVERS:** Right to be heard regarding child in their care. If attend, court shall ask if they would like to speak regarding care and treatment of child. Articles 623 and 705; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

PRACTICE TIP | Child's Wishes: Whether present or not, child's attorney shall ensure court hears child's wishes (i.e., permanent plan, custody, placement, services, visitation, etc.). If child wishes to be heard but is not able or does not want to be present in courtroom, consider other methods of communication, such as audio or visual conferencing, videotaped interview, or in-chambers conference.

PRACTICE TIP | Foster Caregivers Progress Form: Foster caregivers can give to DCFS, who will submit form to court, parties, and CASA (if appointed) before hearing. Form contains hearsay and should be treated as information about child in same way DCFS provides other information to court. As child's day-to-day caregiver, they likely have valuable information to share with court.

Permanent Plan Considerations

ARTICLES 702

Court shall consider the child's permanent plan according to the following priorities:

- (1) **REUNIFICATION WITH PARENTS:** Set specified time period consistent with child's age and need for safe and permanent home; parents must be complying with case plan and making significant measurable progress toward goals and correcting conditions requiring child to be in care.
- (2) **IF REUNIFICATION IS NO LONGER VIABLE:**
 - a. **ADOPTION;**
 - b. **PLACEMENT WITH LEGAL GUARDIAN;**
 - c. **PLACEMENT IN LEGAL CUSTODY OF A RELATIVE; OR**
 - d. **ALTERNATIVE PERMANENT LIVING ARRANGEMENT (APLA):** Only allowed if child is 16 or 17 years old. DCFS shall document in case plan and report compelling reason for recommending this plan.

PRACTICE TIP | Child Welfare Assessment And Decision Making Model (CWADM): Court should insist on clear articulation of current safety threat keeping child in an out-of-home placement. Child is considered safe: (1) when there are no threats of danger; (2) if there is a threat of danger, child is not vulnerable to threat of danger; or (3) if there is a threat of danger, parents/caretakers possess sufficient protective capacities to manage the threat and keep child safe. See [Child Welfare Assessment and Decision Making Model \(CWADM\) Benchbook Section 11](#).

PRACTICE TIP | Trial Placement: DCFS policy allows for trial placement of child with one or both parents if the home is determined to be safe, but there are still some transition concerns and/or items left to resolve. Court could order child remain in DCFS custody and set transition period with goal date for reunification. If child moved to parents home with DCFS retaining custody, court can gain information at next hearing about how the child and parents are doing in the home together (in such cases, consider setting hearing sooner than timeline for Case Review or Permanency Hearings).

PRACTICE TIP | ASFA Exception: Some courts approve an "ASFA exception" or "ASFA extension" to give parents more time, but there is no such provision in the law. Instead, court would maintain reunification as permanent plan per findings required in 702(C)(1). If reunification remains permanent plan or concurrent permanent plan, more frequent case reviews (or Status Hearings) should be scheduled to ensure continued progress.

PRACTICE TIP | Siblings: Per Federal law, DCFS shall make reasonable efforts to place siblings removed from their home in same foster care, guardianship, or adoptive placement, unless DCFS documents that such joint placement would be contrary to safety/well-being of any siblings; and if siblings not so jointly placed, to provide frequent visitation/other ongoing interaction between siblings, unless DCFS documents frequent visitation/other ongoing interaction would be contrary to safety/well-being of any siblings. Court's role is to hold DCFS accountable to showing evidence of such reasonable efforts. See 42 USC § 671(a)(31)(A and B).

HELPFUL GUIDANCE | Adoption: If permanent plan for child is adoption, hold DCFS accountable for expeditiously completing adoption for child. Finding relatives, individuals, and/or foster parents able to adopt child and resolving other matters necessary to complete adoption (i.e., prompt certification of relatives/individuals, timely filing of TPR Petition, proof Adoption Petition filed, surrender documents obtained, etc.) is not only critical to show reasonable efforts but also for child's well-being and security.

HELPFUL GUIDANCE | Guardianship: Provides more expedient permanency than adoption because it does not require termination of parental rights. May be preferred by relative caregivers who do not want to jeopardize familial bonds by adopting the child. If relative/individual is interested in becoming child's legal guardian, foster care certification must be completed (along with other DCFS requirements) to receive subsidy. Court may want to request updates on status of certification to ensure timely completion.

PRACTICE TIP | Custody: Can offer a more expedient resolution to the case than keeping the child in foster care. However, permanent plan of adoption or guardianship to a relative shall be considered before custody to a relative.

HELPFUL GUIDANCE | Financial Support: Relatives and other persons granted custody and/or guardianship of child may be eligible for financial support (i.e., Kinship Care Support Program (KCSP), Supplemental Nutrition Assistance Program (SNAP), Family Independence Temporary Assistance Program (FITAP), Child Support Program (CSP), survivor benefits owed to child, child's disability benefits, etc.).

PRACTICE TIP | APLA: Per Article 603(22), APLA is a plan of last resort, not a permanent placement. DCFS is still required to identify and establish permanent connections for the youth if court approves APLA as child's permanent plan.

Rulings and Findings

ARTICLES 672.1, 682, 702, 710, 712, 1269.2, 42 U.S.C. § 671(A)(15)(E); 42 U.S.C. § 675(5); 45 C.F.R. § 1356.21(B)-(H)

Court shall make the following written, separate, and individualized findings and orders for each child:

- (1) **PERMANENT PLAN FOR CHILD:** Court shall set most appropriate permanent plan in child's best interest based on:
 - a. Child's health and safety is paramount concern;
 - b. Child's need for continuing contact with relatives who child has significant relationship per Article 1269.2;
 - c. Consult, in age-appropriate manner, with child regarding proposed plan; AND
 - d. Consider in-State and out-of-State options if child will not be returned to parents.
- (2) **REASONABLE EFFORTS (RE):** Court shall make one of the following determinations for each child as to RE made by DCFS based on facts and circumstances of case and efforts articulated by DCFS:
 - a. DCFS made RE: To reunify parents and child OR finalize child's placement in alternative safe and permanent home according to child's permanent plan.
 - b. DCFS did not make RE: This finding does not preclude court's other findings and/or orders; OR
 - c. RE to Reunify Finding Not Required: Due to an Article 671.2 judicial determination that reunifying parents and child not required.
- (3) **IF OUT-OF-STATE PLACEMENT:** Whether placement is safe, appropriate, and otherwise in best interest of child.
- (4) **ALTERNATIVE PERMANENT LIVING ARRANGEMENT (APLA):**
 - Why, as of date of hearing, APLA is best permanent plan for child; AND
 - Provide compelling reasons to not return home, be placed for adoption, with legal guardian, or with fit and willing relative.

ESSENTIAL JUDICIAL FINDING | Child's Permanent Plan: While parties, DCFS, and CASA may propose permanent plan for child, per Federal and State law, court determines appropriate permanent plan in child's best interest per Article 702 within the mandatory timeframes.

ESSENTIAL JUDICIAL INQUIRY | APLA: If youth's permanent plan is APLA, court shall ask youth about desired permanency outcome. DCFS shall document compelling reason for Title IV-E purposes.

ESSENTIAL JUDICIAL FINDING | Reasonable Efforts: Court shall make written and individualized findings as to whether RE were/were not made by DCFS to: (1) reunify parents and child or (2) finalize child's placement in an alternative safe and permanent home according to child's permanent plan. Per State law, findings shall be made at each Permanency Hearing (Article 702); per Federal law, these findings shall be made within 12 months from date the child is considered to have entered foster care and at least once every 12 months while child remains in foster care. However, if court makes judicial determination that RE to reunify not required per Article 672.1 (which is in line with Federal law), permanent plan shall be determined by court and a RE determination shall be made immediately or within 30 days of court's Article 672.1 ruling and at least once every 12 months thereafter until permanency. Determining child's permanent plan and making these findings within mandated timeframes are critical for State to maintain its ongoing Title IV-E foster care eligibility for child.

PRACTICE TIP | Examples of Efforts to Reunify May Include: Ensuring case plan is related to achieving reunification, providing quality visitation (or such opportunities), helping parents achieve case goals and timely access services and supports, seeking needed court interventions (i.e., Protective Order), etc.

PRACTICE TIP | Examples of Efforts to Achieve Permanency Include:

Ensuring case plan is reasonably related to achieving permanency, providing quality visitation with potential permanent placements, timely assessments of relatives/other individuals, prompt foster care certification of relatives/other individuals, making diligent efforts to find possible placements with relatives/other individuals, timely initiation of ICPC and background checks, involving youth in development of their YTP, implementing YTP, planning for transition to adulthood, timely seeking TPR, making efforts to complete adoption, etc.

PRACTICE TIP | Reasonable Efforts Not Required: After a written motion is filed per Article 672.1, DCFS shall have burden of demonstrating by clear and convincing evidence that reunification efforts were not required based on grounds listed. DCFS should not change case plan goal (or permanency goal) from reunification to adoption, guardianship, or custody to relative in case plan until court has either made a RE to reunify finding or determination that RE to reunify were not required per Article 672.1.

HELPFUL GUIDANCE | Transitions: When a child will experience a transition of any kind (i.e., change in custody, placement, etc.), be cognizant of impact transition may have on child and consider including transition plan in best interest of child in the Order. Regardless of reason for transition, it is critical to child's well-being for judges to collaboratively strategize with all involved to reduce trauma experienced by child. See [Disposition Hearing Benchbook Section G](#).

Advisements

ARTICLE 702

Court shall give advisements to parents in conformity with Article 702, including advising:

- (1) **IF PERMANENT PLAN REUNIFICATION:** Parents of obligation to achieve case plan goals and correct conditions requiring child to come into care within time period specified by court; otherwise, alternative permanent plan for child will be selected, and TPR Petition may be filed; AND
- (2) **IF PERMANENT PLAN ADOPTION:** Parents of their authority to voluntarily surrender child and consent to adoption before the filing of a TPR Petition.

Further Findings and Orders

ARTICLES 309, 618, 672(A)(2), 677, 681-4, 710, 712

Court may make additional orders in best interest of child, such as:

- (1) **CUSTODY/GUARDIANSHIP:** Court retains jurisdiction over custody/guardianship and may maintain or modify current Disposition to return or grant custody to a parent, with or without continuing supervision and/or issuing Protective Order (PO); grant custody to relative/suitable person, guardianship to nonparent; etc.
- (2) **CASE PLAN:** Case plan is typically reviewed at Case Review Hearing. However, on its own motion or motion of any party for good cause shown, court may consider content/implementation of case plan or any response filed concerning it.
- (3) **PLACEMENT AND DCFS CUSTODY:** Court cannot choose placement when child in DCFS custody. However, court has authority to disapprove placement chosen by DCFS if Article 672(A)(2) requirements are met.
- (4) **VISITATION/FAMILY TIME:** Court has continued jurisdiction to modify in all CINC proceedings under Article 309.
- (5) **SECURE/PROVIDE SERVICES:** Court has authority to order agency, institution, person to whom child is assigned to secure or provide services to child, including coordination with LDH, OJJ, LDOE, etc.
- (6) **TERMS AND CONDITIONS:** Court can specify other terms and conditions applicable to legal custodian.
- (7) **POTENTIAL PERMANENT PLACEMENTS:** Court can order DCFS to (a) explore all possible permanent placements with results/updates to be presented prior to or at next hearing; (b) initiate child welfare background clearance, criminal background check, and/or assessment of home/home study on potential permanent placements; (c) take necessary steps for potential caregiver to timely complete foster care certification (i.e., to receive guardianship subsidy if applicable); and (d) initiate Interstate Compact on the Placement of Children (ICPC) process with any potential out-of-State placements.
- (8) **FAMILY TEAM MEETINGS (FTM):** DCFS should propose tentative date for next FTM and court can provide notice and encourage participation.
- (9) **SANCTIONS PER ARTICLE 712:** Court can order for DCFS failure to comply with permanency planning requirements.
- (10) **OTHER ORDERS:** Related to facilitating timely achievement of each child's permanent plan including, for example, if adoption permanent plan: filing of TPR Petition, proof that Adoption Petition filed, surrender documents, etc.; paternity/maternity, PO, child's education, services, mental or physical health examinations, etc.

ESSENTIAL JUDICIAL FINDING | Indian Child Welfare Act (ICWA): At every CINC hearing, court shall ask each person whether they know or have reason to know child is a member of or eligible for membership in a Federally recognized Indian Tribe and biological child of a member of Federally recognized Indian Tribe. Advise all to inform court if any of above information is subsequently discovered. If know or have to reason to know, proceed per Articles 624, 624.1, 661.1, and 25 U.S.C. § 1901 et seq. Inquire as to DCFS due diligence in locating and contacting Tribe. See [Indian Child Welfare Act \(ICWA\) Bench Card](#).

PRACTICE TIP | Modify Case Plan: If permanent plan ordered by court is different from permanency goal recommended by DCFS, other circumstances in case have changed, or new information has come to light, case plan should be modified accordingly. Additional or different services may be needed than those identified in most recent case plan. Visitation schedule may need to be modified if, for example, goal is no longer reunification (i.e., may want to increase frequency of visits with potential relative/other adoptive placement).

HELPFUL GUIDANCE | Visitation: To preserve valuable relationships and connections in best interest of child, court should consider frequency and type of visitation and if other visitation or contact is needed. Visitation planning and scheduling include an ongoing assessment of child's established and significant relationships with parents, grandparents, siblings, relatives, and other important individuals in child's life. As long as permanent plan remains reunification, preserving and enhancing parent-child relationship while providing for safety and well-being of child is crucial for many reasons (i.e., maintaining attachment, reducing trauma, providing ability to put parenting skills into practice, etc.), including child's future transition back into custody of parents. Initiating or continuing visitation and/or contact with relatives/individuals is not only critical for child's well-being but also important if reunification becomes no longer viable.

Order of Notices and Future Hearings

ARTICLES 424.7, 674, 688-9

Court may also make the following orders:

- (1) **PARTIES, COUNSEL, DCFS, AND CASA:** Be present at all future hearings;
- (2) **DCFS CASE PLAN:** Be filed at least 10 days before hearing; copies provided to counsel by mail/email and unrepresented parties by certified mail/email per Article 674;
- (3) **DCFS COURT REPORT:** Be filed at least 10 days before hearing and provide copies to CASA, counsel, and unrepresented parties;
- (4) **CASA COURT REPORT:** Be filed before next hearing; copies distributed per Article 424.7;
- (5) **SET DATES/TIMES FOR NEXT HEARING(S):**
 - **Status Hearing/Revised Case Plan:** Set if other issues to address or resolve or case plan review requested and court did not approve case plan.
 - **Next Case Review Hearing:** Shall be held at least once every 6 months after initial until child is permanently placed (or earlier upon motion per Article 692(B));
 - **Next Permanency Hearing:** Shall be held at least every 12 months after initial until child is permanently placed (or earlier upon motion per Article 702(B)); if an Article 672.1 judicial determination made, hearing may be held immediately or shall be held within 30 days;
 - **If Adoption Permanent Plan:** Timelines for hearings are different; see Articles 1042 and 1146.
- (6) **SERVICE/NOTICE OF HEARINGS:** Be made on parties, counsel, CASA, and foster caregivers; AND
- (7) **ARRANGEMENTS FOR ANY INCARCERATED PARENT:** Be made to attend hearing, either in person or remotely.

PRACTICE TIP | Schedule Earlier: Courts retain ability to schedule hearings to occur earlier than maximum allowable timeframes and should do so whenever practicable and in child's best interest. Best practice is to conduct review hearings every 3 months or, in some cases, more frequently, even though case plan is generally updated every 6 months (unless otherwise ordered sooner). Holding review hearings every 3 months allows court and parties to resolve issues with case plan and keep case moving forward towards achieving permanency more expeditiously.

PRACTICE TIP | Open Court: May schedule future hearings and serve notice in open court.

Case Management

- An attorney or the court is responsible for completion of Order. See [Permanency Order Template](#).
- All attorneys and unrepresented parties should review Order before judge signs to ensure it accurately reflects proceeding.
- Time permitting, best practice is to sign the Order on the day as the hearing.
- Consider giving attorneys time to meet with clients after hearing to discuss questions and/or concerns.
- Provide parents with copy of Order immediately following the hearing.

Possible Next Steps

- 📄 ARTICLES 330-8, 700, 710, 1004, 1004.1, 42 U.S.C. § 675(5)(E)(i)-(iii)
- (1) **APPEAL:** Any person directly affected may appeal findings or orders of court; shall be taken within 15 days from mailing of notice of Judgment. See Article 332(A).
 - (2) **TPR Petition:** At any time, court on its own motion may order filing of TPR Petition on any ground authorized by Article 1015. If child in DCFS custody for 17 of last 22 months, DCFS shall file TPR Petition unless a compelling reason why filing is not in best interest of child is documented in case plan.

• • •

CRITICAL CONSIDERATIONS FOR ALL AT EACH CINC HEARING:

Can the child safely go home today (*if reunification is still possible*)? If not, what needs to happen to make return possible? Who is responsible? What is the timeframe?

STATE OF LOUISIANA

IN THE INTEREST OF

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

Filed: _____

DOCKET NUMBER: _____

SECTION: _____

COURT: _____

PARISH OF _____

STATE OF LOUISIANA

DEPUTY CLERK: _____

PERMANENCY HEARING ORDER

THIS CAUSE came for ☐ an initial Permanency Hearing or ☐ a Permanency Review Hearing on the _____ day of _____, 20_____, concerning the following minor child(ren), _____.

I. APPEARANCES

The child(ren), _____, is/are present.

The child(ren), _____, is not present and:

(Please check the applicable box for each child)

☐ the child, _____, is age 12 or older, counsel moved to waive the child's appearance, and the court grants the waiver.

☐ the child, _____, is younger than 12 years and counsel did not request the child's appearance.

☐ _____.

Parent _____ Department of Children and Family Services

Parent's Attorney _____ Staff/Representative _____

Parent _____ Foster Parent(s), Pre-adoptive Parent(s), Relative(s)

Parent's Attorney _____ Providing Care for Child(ren) _____

Caretaker(s) _____

Child(ren) Attorney(s) _____ Assistant District Attorney _____

_____ Bureau of General Counsel _____

Others _____

II. NOTICE

THE COURT FINDS that: *(Please check the applicable boxes for each parent)*

☐ the parent(s), _____, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard was properly served.

☐ the parent(s), _____, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard was provided in open court at a prior hearing which was attended by the parent(s).

☐ the parent(s), _____, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard was not provided in open court at a prior hearing and was not properly served.

THE COURT FINDS that: *(Please check the applicable boxes)*

☐ the foster parent(s), pre-adoptive parent(s), or relative(s), _____, providing care for the child(ren), _____, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard was given by the Department; and, that diligent efforts were made by the Department to locate and notify the absent caregiver.

☐ the foster parent(s), pre-adoptive parent(s), or relative(s), _____, providing care for the child(ren), _____, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard was not given by the Department; and, that diligent efforts ☐ were not made or ☐ were made by the Department to locate and notify the absent caregiver.

III. PERMANENT PLAN RULINGS AND FINDINGS

(Please provide the permanent plan, including the time period and/or terms or conditions, for each child)

THE COURT FINDS AND ORDERS that the permanent plan for the child(ren), _____, _____, that is the most appropriate and in the best interest of the child(ren) in accordance with the priorities of placement in Article 702(C) is the following: _____;

The time period and/or terms or conditions for the achievement of the permanent plan are as follows:

_____.

THE COURT HEREBY FINDS: *(Please check the applicable boxes for each child)*

☐ If the permanent plan for child(ren), _____, is placement in the least restrictive, most family-like alternative permanent living arrangement, the compelling reasons as to why it continues to not be in the best interest of the child(ren) to return home, be placed for adoption, be placed with a legal guardian, or be placed in the custody of a fit and willing relative are as follows: _____.

☐ If the placement is out-of-state, the placement is safe, appropriate, and in the best interest of the child(ren), _____, for the following reasons: _____.

IV. REASONABLE EFFORTS FINDINGS

THE COURT FINDS that the Department: *(Please check one of the following for each child removed from their home)*

☐ made the following reasonable efforts to reunify the parent and child(ren), _____, or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan: _____.

☐ was not required to make reasonable efforts to prevent or eliminate the need for removal of the child(ren) and/or reunify the child(ren), _____, with his or her parent(s) based on the following reasons (i.e., judicial determination according to Article 672.1): _____.

☐ failed to make reasonable efforts to reunify the parent and child(ren), _____, or to finalize the child(ren)'s, _____, placement in an alternative safe and permanent home in accordance with the child's permanent plan.

V. ADVISEMENTS

If Court determined that the permanent plan is: *(Please check the applicable boxes)*

☐ reunification, the Court advised the parent(s) that it is their obligation to achieve the case plan goals and correct the conditions that require the child to be in care within the time period specified by the court. Otherwise, an alternative permanent plan for the child will be selected and a petition to terminate parental rights will be filed.

☐ adoption, the Court advised the parent(s) of their authority to voluntarily surrender the child and consent to the adoption prior to the filing of a petition to terminate parental rights.

VI. (IF APPLICABLE) CUSTODY RULINGS AND FINDINGS

IT IS ORDERED BY THE COURT *(Please check the applicable boxes)*

☐ current disposition for children, _____, be maintained with:
_____;

☐ child(ren), _____, be returned to custody of parent(s),
_____, with the following terms and conditions (i.e. Protective
Order, continuing supervision): _____
_____;

☐ child(ren), _____, be placed in custody of parent(s),
_____, with the following terms and conditions (i.e. Protective
Order, continuing supervision): _____
_____;

☐ custody of child(ren), _____, be granted to:
_____;

☐ guardianship of child(ren), _____, be granted to:
_____.

VII. (IF APPLICABLE) CASE PLAN RULINGS AND FINDINGS

THE COURT FINDS AND ORDERS: *(Please check one of following only upon motion of court or court granting motion of any party to consider content or implementation of the case plan)*

☐ That the case plan submitted by the Department and dated _____, is approved as it is consistent with the health and safety of the child(ren) and in the best interest of the child(ren), and all parties are ordered to comply therewith.

☐ That the case plan submitted by the Department and dated _____, is not approved as it is not consistent with the health and safety of the child(ren) or is otherwise not in the best interest of the child(ren) for the following reason(s): _____.

AND ORDERS THE DEPARTMENT TO REVISE THE PLAN ACCORDINGLY.

IX. FURTHER ORDERS AND FINDINGS

THE COURT FURTHER ORDERS the following as necessary and appropriate: *(Please check applicable boxes)*

☐ **HAVING FOUND**, pursuant to Article 684(A)(3) that _____ (agency, institution, or person) has legal responsibility to secure or provide the following services to the child which the court has determined are needed and hereby orders the following: _____.

☐ **IT IS FURTHER ORDERED** that the following terms and conditions apply to the legal custodian of the following child(ren): _____.

☐ **IT IS FURTHER ORDERED** that the Department immediately assess all possible permanent placements with the results and/or updates to be presented at the _____ Hearing.

☐ **IT IS FURTHER ORDERED** that the Department initiate child welfare background clearance, criminal background check, and/or assessment of the home or home study on the following relative(s) or individual(s), _____.

☐ **IT IS FURTHER ORDERED** that the Department ☐ initiate an or ☐ provide an update on Interstate Compact for Placement of Children (ICPC) process for the following out-of-state relative(s) and/or individual(s),

_____.

☐ **IT IS FURTHER ORDERED** that prior to every family team meeting (FTM) hereafter conducted in this case, the Department shall provide reasonable notice of said FTM to all parent(s), attorneys for child(ren) and attorneys for parent(s), foster caregivers, and CASA (if appointed).

☐ A **Family Team Meeting** is tentatively set for _____ day of _____, 20____, at _____
__am/__pm.

☐ **IT IS FURTHER ORDERED** that _____.

X. ORDER OF NOTICES AND FUTURE HEARINGS

IT IS FURTHER ORDERED that the parent(s) of the child(ren), all attorneys of record, DCFS representative(s), and CASA (if appointed) be present at all future hearings.

IT IS FURTHER ORDERED that the case plan shall be filed with the Court at least 10 days prior to the _____ Hearing(s) and that, upon filing, copies shall be provided by mail or email to counsel and unrepresented parties by certified mail or electronic mail in accordance with Article 674.

IT IS FURTHER ORDERED that the Department file its court report with the Court at least 10 days prior to the _____ Hearing(s) and that copies be provided to CASA, counsel, and unrepresented parties.

IT IS FURTHER ORDERED that CASA shall file its court report with the Court at least 10 days prior to the _____ Hearing(s) and copies be distributed to counsel, unrepresented parties, and DCFS prior to at the same time submitted to the Court.

IT IS FURTHER ORDERED that:

☐ Upon ordering the matter be set for _____ Hearing(s), the clerk shall notify all parties of the date, time, and location of the hearing(s) and that all parties of interest appear; the Sheriff's Office serve the parent(s) with a summons commanding him or her to appear at Court for the hearing(s); the Department shall provide notice to the parent(s) of the date, time, and location of the hearing(s); notice of the hearing(s) be made on the child and parent representation programs and CASA (if appointed); the Department provide notice to any foster parent, pre-adoptive

parent, or relative providing care for the child(ren) of the date, time, and location of the hearing(s) and recipients right to attend and be heard; and for any parent(s) incarcerated, _____ arrange for the parent(s) to attend the hearing, either in person or remotely.

☐ A Hearing to **REVIEW/APPROVE REVISED CASE PLAN** is set for _____ day of _____, 20____ at _____ am/____pm.

☐ A **STATUS** Hearing is set for _____ day of _____, 20____, at _____ am/____pm.

☐ A **CASE REVIEW** Hearing is set for _____ day of _____, 20____, at _____ am/____pm.

☐ A **Permanency Hearing** is set for _____ day of _____, 20____, at _____ am/____pm.

THUS DONE AND SIGNED ON THIS _____ day of _____, 20____, in _____, Louisiana.

JUDGE

DISTRIBUTION OF NOTICE

Please serve all parties and counsel of record as follows:

Parent: _____
Street: _____
City, State, Zip: _____
Email Address: _____

Parent's Attorney: _____
Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

Parent: _____
Street: _____
City, State, Zip: _____
Email Address: _____

Parent's Attorney: _____
Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

Child(ren) Attorney(s): _____

Street: _____

City, State, Zip: _____

Fax Number: (____) _____

Email Address: _____

Assistant District Attorney/Bureau of General Counsel:

Street: _____

City, State, Zip: _____

Fax Number: (____) _____

Email Address: _____

Please send notice and copy of order as follows:

Department of Children and Family Services Staff/Representative:

Street: _____

City, State, Zip: _____

Fax Number: (____) _____

Email Address: _____

CASA: _____

Street: _____

City, State, Zip: _____

Fax Number: (____) _____

Email Address: _____

Other: _____

Role: _____

Street: _____

City, State, Zip: _____

Fax Number: (____) _____

Email Address: _____

PERMANENCY COURT REPORT

Department of Children and Family Services

. . .

****IMPORTANT:** Use of the DCFS Court Report templates provided in this Benchbook for Disposition Hearings, Case Review Hearings, and Permanency Hearings are being implemented in a phased-in approach across the State.

Date ____ / ____ / ____

Judge's Name _____

Court _____

Court Address _____

Docket Number	
Hearing Type and Date	PERMANENCY / / Initial? <input type="checkbox"/> Yes <input type="checkbox"/> No
Child(ren)'s Information	Name: _____ DOB: ____ / ____ / ____ Age: ____ Date Entered Care/DCFS Involvement: ____ / ____ / ____ Date Freed for Adoption: ____ / ____ / ____ Current Custody Status: <input type="checkbox"/> Custody of Parent/Legal Guardian <input type="checkbox"/> Custody of Relative/Suitable Individual <input type="checkbox"/> DCFS Custody <input type="checkbox"/> Other _____
Parent's Information	Name: _____ Legal/Biological/Alleged/Deceased: _____ Child(ren): _____ Address: _____
Parent's Information	Name: _____ Legal/Biological/Alleged/Deceased: _____ Child(ren): _____ Address: _____

SALUTATION

This letter is to provide the court with information for the Permanency Hearing.

PRELIMINARY INFORMATION

Date Adjudicated Child in Need of Care:

If known, grounds from Adjudication Order Article 606(A) (please check all applicable):

- ☐ (1) Abuse ☐ (2) Neglect ☐ (3) Absence of Parent ☐ (4) Criminal Prosecution
☐ (5) Crime Against Child ☐ (6) Trafficking ☐ (7) Commercial Trafficking ☐ (8) Genital Mutilation

Brief summary of reason child(ren) entered care/DCFS involved: *See attached Case Plan: Federal Compliance Section "Reason Child(ren) entered Foster Care."*

Date of Current Case Plan: ____ / ____ / ____

Date Next Case Plan is Due: ____ / ____ / ____

Tentative Date of Next FTM: ____ / ____ / ____

Please summarize any significant changes since the last hearing: _____

NOTICE OF DATE, TIME, AND LOCATION OF PERMANENCY HEARING

Notice to Parents: Documentation attached? ☐ Yes ☐ No ☐ N/A if rights terminated

If no, give explanation of notice provided/reason: _____

Notice to Foster Caregivers: Documentation attached? ☐ Yes ☐ No ☐ N/A

If no, give explanation of notice provided/reason: _____

ICWA

Do you know, or do you have reason to know, that any of the child(ren) are members of a federally recognized Indian Tribe or eligible for membership in a federally recognized Indian Tribe?

☐ Yes ☐ No If yes, list child(ren) and tribal affiliation. _____

Since the last hearing, is there additional information that the agency has learned about any of the parents' or child(ren)'s Indian tribe membership/eligibility? ☐ Yes ☐ No

If yes, what additional information has the agency received? _____

If applicable, what steps has the agency taken since the last hearing to determine child(ren)'s eligibility for membership in a federally recognized Indian Tribe? _____

If applicable, has the tribal entity responded? ☐ Yes ☐ No If yes, please attach documentation.

LEGAL RELATIONSHIPS/TESTING RESULTS

(Please do not complete this section if parents' rights have been terminated.).

Since the last hearing, have any parents been identified or located? ☐ Yes ☐ No

If yes, please explain: _____

Since the last hearing, have DNA results been received by the agency for any of the parents?

☐ Yes ☐ No If yes, please attach results and state parent name(s): _____

Please complete this section for any parent who has been newly located or identified or if the information for any of the parents has changed since the last hearing:

	Parent: Of:	Parent: Of:
Has the Birth Certificate been obtained? Is the parent's name on the Birth Certificate?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
Was an acknowledgment filed in the parish of the child's birth? Did you obtain the Certificate of Results from the Clerk of Court?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please attach.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please attach.</i>
If no acknowledgment has been filed, did you check the Putative Father Registry? Did you obtain the Certificate regarding the Putative Father Registry?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please attach.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please attach.</i>

If there is an absent parent who has not been located, what efforts have been made since the last hearing to locate this parent? _____

OTHER ORDERS

(Please do not complete this section if parents' rights have been terminated.).

Since the last hearing, has information regarding the family been sent to Child Support Enforcement?

☐ Yes ☐ No

Since the last hearing, has a Child Support Order been established?

☐ Yes ☐ No

If yes, please attach a copy of the order or list case number, parish, parties involved, amount, and date order signed.

Since the last hearing has there been a Temporary Restraining Order and/or Protective Order?

☐ Yes ☐ No

If yes, please attach a copy of the order or list case number, parish, parties involved, and date order signed.

CURRENT STATUS OF THE PARENTS

Describe the current situation with each parent (Exp. Housing, Substance Use Concerns, etc.): _____

SAFETY AND RISK ASSESSMENT

Threats of danger at the time of initial safety assessment:

Describe current threats of danger, if any, as it relates to all parents and each child's vulnerability to the identified threats: _____

Based on the most recent CWADM assessment and case plan progress, describe the caretaker protective capacities that still need to be enhanced, if any, to keep the child(ren) safe: _____

What is the current Structured Decision Making (SDM) level/recommendation for each household? _____

Date(s) of SDM: _____ / _____ / _____

Conditions for Return to Parents' Care/Custody, if applicable (i.e., Why can't child go home today?): _____

Conditions for Closure (DCFS no longer involved): _____

DCFS PROGRESS TOWARDS CONCURRENT GOAL

	Child:	Child:
Goal		
Progress Taken by the Agency		
Progress Remaining by Agency		
Barriers to Achieving		

Please state overall progress towards permanency for the child(ren): _____

DCFS EFFORTS

Please check applicable boxes and explain efforts by DCFS:

- ☐ Services Provided: _____
- ☐ Other Assistance: _____
- ☐ Court Interventions Requested: _____
- ☐ Assessment of Relatives/Individuals: _____
- ☐ Visitation: _____
- ☐ TPR: _____
- ☐ Implementation of Youth Transition Plan (YTP): _____
- ☐ Barriers: _____

CASE PLAN UPDATE

****This section is to be completed only if a Case Review Hearing is held in conjunction with a Permanency Hearing.**
For more detail, please see attached Case Plan.

Was the case plan developed with the parents and child(ren)? ☐ Yes ☐ No

If no, please explain why not: _____

Were the attorneys invited to the FTM? ☐ Yes ☐ No

Did they participate? ☐ Yes ☐ No

Please list any referrals made by the agency to date for parents and child(ren), describe the reason for referral, and progress thus far: _____

PLACEMENT

Are all children in this case placed together?

☐ Yes, children are placed together ☐ Not placed together ☐ N/A (no siblings in care)

In Home Placement: Please complete if any of the child(ren) are in the custody of or placed with the parent(s).

	Child:	Child:
Parent Name(s)		
Date of Placement	/ /	/ /
Child's Adjustment		
Parent's Adjustment		

Out of Home Placement: Please complete if any of the child(ren) are not in the custody of or placed with the parent(s).

	Child:	Child:
Caregiver Name(s) Date of Placement		
Type of Placement	<input type="checkbox"/> Relative <input type="checkbox"/> Other Individual <input type="checkbox"/> Certified Foster Home <input type="checkbox"/> Therapeutic Foster Home <input type="checkbox"/> Group Home <input type="checkbox"/> Psychiatric Residential Treatment Facility <input type="checkbox"/> Other: Reason(s) if not placed with relative:	<input type="checkbox"/> Relative <input type="checkbox"/> Other Individual <input type="checkbox"/> Certified Foster Home <input type="checkbox"/> Therapeutic Foster Home <input type="checkbox"/> Group Home <input type="checkbox"/> Psychiatric Residential Treatment Facility <input type="checkbox"/> Other: Reason(s) if not placed with relative:
History of Previous Placements: <i>Include name, type, and dates of each</i>		
Child's Adjustment to Current Placement		
QPI <i>(co-parenting between foster caregivers and parents)</i>		
Certification Update for Relatives/Individuals Not Yet Certified; <i>Include Date Referral Made to Home Development and Current Status</i>		
If reunification is not the primary goal, has the current caregiver committed to permanency for the child?		
Foster Caregiver Progress Form completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

If siblings in this case are not placed together, state

- ☐ **Barriers to placement together:**
- ☐ **Efforts to place siblings together:**
- ☐ **Contrary to safety or well-being (please explain):**

If not placed together, what is the plan for sibling visitation (unless contrary to safety or well-being)? _____

Please give current status of sibling visitation, including siblings not in foster care (# of visits to date, quality of visits, barriers, etc.): _____

Describe any additional information pertinent to each child regarding placement changes or achievement of permanency: _____

CURRENT STATUS OF CHILD(REN)

Please provide updates since the last hearing:

	Child:	Child:
Current Medical and Dental Information and Significant Findings		
Current Developmental Information		
Current Trauma and Behavioral Health Assessment Date assessment completed: _____ Are referrals indicated? <input type="checkbox"/> Yes <input type="checkbox"/> No	_____ / _____ / _____ <input type="checkbox"/> Yes <input type="checkbox"/> No	_____ / _____ / _____ <input type="checkbox"/> Yes <input type="checkbox"/> No
Describe any behavioral or mental health needs/concerns and how being addressed		
Religion/Culture/Traditions important to child? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
Any known needs about the child's sexual orientation and/or gender identity? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
Changed schools since the last hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
Name of School/Grade		
Current strengths and challenges re: education		
Participate in extracurricular activities or want to? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list:

Describe any educational needs/interventions and how they are being addressed: _____

As a precursor to classification of 504/IEP/IAP/"gifted," are any of the children involved with a Response to Intervention ("RTI")(also called "Targeted Teaching") since the last hearing? ☐ Yes ☐ No

If yes, state each child's name and what date the RTI began and the interventions being utilized:

For more information about the child(ren), please see attached Case Plan: Federal Compliance Section "Educational Stability," Child Functioning, Cumulative Medical Record, and Cumulative School/Educational Record.

YOUTH 14 AND OLDER

Identify the youth's permanent connections. _____

Since the last hearing, describe the relationship between the youth and each identified permanent connection, including visitation and other forms of consistent contact: _____

Is the youth receiving independent living classes? ☐ Yes ☐ No

What has the youth learned from these classes? _____

Describe progress with the youth preparing to live independently: _____

Is the youth currently living independently? ☐ Yes ☐ No If yes, please describe adjustment: _____

For more information, please see attached Youth Transition Plan (YTP).

VISITATION

Have there been any changes to the visitation plan since the last court hearing?

☐ Yes ☐ No If yes, please explain: _____

Are there any relatives and/or other individuals who are visiting since the last court hearing?

☐ Yes ☐ No If yes, please explain: _____

In addition to in-person visits, please state plan for amount and frequency of contact as follows:

Name	Telephone	FaceTime, Duo, Zoom, Skype
Parent(s):		
Sibling(s):		
Grandparent(s):		
Other relatives:		
Other individuals:		

For more information, please see attached Case Plan "Visitation" Section (before Basic Obligations and after Federal Compliance) for visitation schedule.

SIGNIFICANT RELATIONSHIPS AND RELATIVES/OTHER SUITABLE INDIVIDUALS

Are there newly identified significant relationships with parents, grandparents and other relatives, siblings (those in care and those not in care), and other individuals? ☐ Yes ☐ No

If yes, please describe and attach updated Family Connections Form and Circle of Influence Form. _____

Please list steps taken to contact the individuals who matter to each child since the last hearing and describe the outcome of the steps for each: _____

Please complete if any of the children are not currently placed with a relative/parent and one or more of the individuals listed above has been/is being assessed for placement:

Child	Prospective Placement	Has an Agency Background Clearance been completed?	Have criminal records checks been completed? If yes, indicate results.	Is home study complete? If yes, what is recommendation? If no, what is status?	If residing out of state, describe status of ICPC request.
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

DCFS RECOMMENDED PERMANENT PLAN AND REASONS

Child:	Child:
<input type="checkbox"/> Reunification <input type="checkbox"/> Custody to Another Parent <input type="checkbox"/> Adoption <input type="checkbox"/> Custody to a Relative <input type="checkbox"/> Legal Guardianship <input type="checkbox"/> APLA (if 16 or 17 years old) <input type="checkbox"/> Concurrent Plan:	<input type="checkbox"/> Reunification <input type="checkbox"/> Custody to Another Parent <input type="checkbox"/> Adoption <input type="checkbox"/> Custody to a Relative <input type="checkbox"/> Legal Guardianship <input type="checkbox"/> APLA (if 16 or 17 years old) <input type="checkbox"/> Concurrent Plan:
Is this recommendation a change? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this recommendation a change? <input type="checkbox"/> Yes <input type="checkbox"/> No
Reasons underlying recommendation:	Reasons underlying recommendation:
<p>If APLA, please explain the compelling reasons why not in child's best interest to return home, be placed for adoption, be placed with a legal guardian, or be placed in the custody of a fit and willing relative:</p>	<p>If APLA, please explain the compelling reasons why not in child's best interest to return home, be placed for adoption, be placed with a legal guardian, or be placed in the custody of a fit and willing relative:</p>

OTHER RECOMMENDATIONS

- ☐ Approve the permanent plan as presented by DCFS.
- ☐ Approve the Youth Transition Plan as presented by DCFS.
- ☐ Find that the child's placement is approved as the most appropriate, least restrictive setting.
- ☐ Find that the agency has made reasonable efforts to reunify the parent and child(ren) and/or finalize the child(ren)'s placement in an alternative safe and permanent home in accordance with the child(ren)'s permanent plan.

That a _____ hearing be set for: _____.

ADDITIONAL RECOMMENDATIONS IF CASE REVIEW HEARING HELD IN CONJUNCTION WITH PERMANENCY HEARING

*****This section is to be completed only if a Case Review Hearing is held in conjunction with a Permanency Hearing.***

- ☐ Approve the case plan as presented by DCFS.
- ☐ Find that the child's placement is approved as the most appropriate, least restrictive setting.
- ☐ That the following services are needed for the child(ren) and/or parents: _____.

Based on the extent of progress made toward mitigating the causes necessitating placement in foster care, a likely date by which

☐ child(ren) _____ may be returned to the home is: ____ / ____ / _____

☐ child(ren) _____ may be placed for adoption is: ____ / ____ / _____;

☐ child(ren) _____ may be placed for guardianship is: ____ / ____ / _____.

Sincerely,

Case Worker

Supervisor

ATTACHMENTS

	Attached?
Case Plan and attachments	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Youth Transition Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Documentation of Court Notices	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
ICWA Letter(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Certificate of Results (Paternity Acknowledgment)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Putative Father Registry Certificate of Results	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
DNA Testing Results	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Other Orders	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Updated Family Connections Form	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Updated Circle of Influence Form	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
ICPC Documents	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Foster Caregiver Progress Form(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Assessments/Evaluations for Child(ren)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Assessments/Evaluations for Parent(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Treatment Provider Progress Notes	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
School 1 Form	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Child(ren)'s Report Card	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Other:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

cc (with attachments): ADA/BGC, Parent Attorneys, Children's Attorney(s), Unrepresented Parties, CASA