CONTINUED SAFETY PLAN HEARING (CSPH)

La. Ch. C. arts. 624-627



LOUISIANA CHILD IN NEED OF CARE BENCHBOOK SECTION

(4)

INTRODUCTION

A. GENERAL CONSIDERATIONS

Families are the cornerstone of our society, and judges should avoid unnecessary separation of the child and family if the child can remain safely in the home. There is growing evidence that removal and placement in foster care may be more harmful to the child's psychological well-being than remaining in a troubled home environment, at least when the child could remain safely with his/her parents¹ if a safety plan was instituted, a Protective Order (PO) was issued, and/or services were provided to the family to eliminate the threat of danger to the child.²

A CSPH follows the issuance of an Instanter Safety Plan Order (ISPO), providing an opportunity to revisit the findings in the ISPO. The ISPO is an important option for keeping children in their homes. This court-ordered safety plan is used to manage safety when custody of the child remains with the child's parents. It is sought when a threat of danger to the child is identified that he/she is vulnerable to, and the parents do not have sufficient protective capacities to manage the threat. One of the purposes of the CSPH is to determine if maintaining the safety plan ordered by the ISPO is necessary or sufficient to manage any threats of danger to the child. At this hearing, the State has the burden of proof.

Both the ISPO and the Continued Safety Plan Order (CSPO) require the parents and safety monitor³ to comply with the conditions of the safety plan. Safety monitors are individuals identified by the Department of Children and Family Services (DCFS) to provide oversight of the safety plan to ensure the plan's provisions are followed and safety threats to the child are controlled. A safety monitor may be a professional, paraprofessional, volunteer, or individual who is part of the family's network, such as extended family, church members, friends, etc.

The parents and safety monitor are asked by DCFS to sign a safety plan form to indicate their agreement to its conditions. If the parents agree with the safety plan (for example, evidenced by their signature on the safety plan form), a CSPH is not required to be held. Yet, best practice is to hold the CSPH, whether the parents agree to the safety plan or not, for several important reasons.

One of the primary purposes of the CSPO is to prevent a child from being removed from his/her home. Holding the CSPH allows the court to spend time determining if the ISPO is sufficient to prevent a future removal. The ISPO can be sought by DCFS, for example, when an in-home DCFS safety plan was not sufficient to manage the safety threats and court intervention is needed. Thus, having parties in court and hearing directly from a judge is essential to ensure that everyone involved understands the conditions of the safety plan and seriousness of the ISPO. Holding the CSPH allows the court, as well as DCFS and attorneys, to make sure the parents understand what they are agreeing to, the expectations, and the consequences of not following the safety plan. If the safety monitor is present at the CSPH, the court can also make sure the safety monitor understands what he/she is agreeing to, the role and expectations, and the consequences of the parents not complying with the safety plan. The court can assess the safety monitors' capacity to balance the relationship he/she may have with the parents and his/her role as a safety monitor (i.e., grandmother is a safety monitor for her daughter). Even though the safety monitor is not required to be present, he/she may also have questions or wish to be heard at the CSPH.

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 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. 14 [hereinafter Gatowski].

³ The singular form of "safety monitor" is used throughout this section, even though at times there may be more than one safety monitor.

Some courts hold the CSPH, even when parents have agreed to the safety plan, because of the due process implications of not having the hearing. Parents who sign a safety plan before a hearing are usually doing so without the benefit of counsel; children also have no benefit of counsel at the time the safety plan is signed. Holding a CSPH allows parents and children the opportunity to meet with counsel to make sure they understand what they are agreeing to and the requirements. It gives the child, who is also a party to the Child in Need of Care (CINC) case, a chance to speak or object to the safety plan. There is reason to believe that consultation with an attorney at this stage may lead to increased compliance with the safety plan.

If no CSPH is held, some of the critical matters that prepare a case for the CINC Petition and Answer Hearing will not occur. Significantly, neither parents nor children will receive the important advisements set forth in Children's Code Article 625. Courts should include the Article 625 advisements in the ISPO. To reinforce these advisements, it is also recommended that DCFS include them in the safety plan form that the parent signs.

B. TIMING, NOTICE, AND PRESENCE

If held, the CSPH shall occur within 3 days of the issuance of the ISPO.⁴ With notice and good cause, a continuance may be granted for up to 3 days if it is in the best interest of the child. Examples of good cause for a continuance include, for instance, a child not being present, notice not being given to a safety monitor, etc.

All parties to the CINC case should be present at the hearing. A CSPH should involve all parents—even if all parents are not subject to the safety plan. DCFS has a duty to make diligent efforts to find all parents of the child. A separate attorney or curator for each parent should be present at every hearing and protect their interests.

In addition to a parent, a child can be removed from a caretaker, whether the caretaker has legal custody of the child or not. In such cases, the caretaker does not become a party to the CINC case and is not entitled to the appointment of an attorney; the law only provides the right to an appointed attorney for parents. While DCFS has the authority to investigate a caretaker, an ISPO cannot be used with a caretaker. A TRO and/or PO may be a more appropriate court intervention to use with a caretaker to manage safety threats to the child. See <u>Temporary Restraining Order (TRO) and Protective Order (PO) Benchbook Section 2</u>.

The safety monitor is also not a party to the CINC case. However, it is advisable for the safety monitor to be present at the hearing for the reasons stated above.

Having all parties and the safety monitor present and participating in the hearings is critical for moving the case forward and having a more meaningful hearing. Children are parties to the hearing, and their voice is invaluable to decision-making. The child's attorney has an obligation to inform the child of the right to be present at the hearing and facilitate such presence if appropriate. The Children's Code mandates that children who are 12 and older be present at this hearing unless the children's attorney moves to waive their presence. Children younger than 12 shall be present if the children's attorney or court so requests. The court does not have discretion in this decision. The presence of children at court is not up to DCFS; however, DCFS is to help facilitate the children's presence at court.

The judge should engage in an inquiry related to the child's presence at court. For example, if an attorney moves to waive the child's presence, the judge should inquire as to the reason for the request. If the child is present, does the child wish to be heard? The court has an oversight role in CINC cases and, as such, should make every effort to ensure that the child has been given enough information about the court process and an opportunity to be engaged.

While some may argue that attending court hearings is traumatic to children, it is important to remember that they have already lived through the trauma that brought their family into contact with DCFS and engaging them in planning their future and protecting their safety can actually be empowering.⁵ The CASA volunteer, if appointed, may be a support to the child in court.

⁴ 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.

⁵ Gatowski, supra note 2, at 72.

Nationally, there is a growing acceptance and understanding of the importance of involving children and youth in child welfare decision-making. Child welfare experts recognize the benefits of child and youth participation and the importance of the rights of children and youth. Federal law asserts that the views of children and youth should be considered when decisions relating to them are made, and their views must be considered when determining what is in their best interests.⁶

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.

C. APPOINTMENTS, INITIAL ADVISEMENTS, AND INQUIRIES

Parents and children have a right to counsel at all stages of the CINC proceedings⁷ The program representing children should have been appointed in the ISPO, and best practice is for parents to be referred to the Indigent Parent Representation Program (or local Public Defender Office in the ISPO. Parents' attorneys should have received a copy of the Instanter Order and Affidavit prior to the CSPH. A finding of indigency for parents may need to be made at the CSPH (See Article 608). The court can also appoint CASA if they were not appointed in the ISPO. The court should make these appointments and findings at the CSPH if not yet made, including ordering notice of appointments and service of copy of pleadings.

One of the judge's critical functions is to safeguard due process at every stage of a CINC case. For this reason, the judge should inquire whether counsel had sufficient opportunity to consult with the child and the parents prior to the presentation of evidence at the CSPH. At the beginning of the CSPH, the court should give initial advisements to the parents and may also do so for the child. It is also the judge's duty, pursuant to the Children's Code and Federal law, to make sufficient inquiries and findings regarding the Indian Child Welfare Act (ICWA) at this hearing.

D. EVIDENCE AND TESTIMONY

The State has the burden of proving that there are reasonable grounds to believe the child is in need of care and that the continued implementation of the safety plan is necessary for the child's safety and protection. Hearsay evidence is admissible at the CSPH.

Judges and all legal stakeholders should be familiar with the Child Welfare Assessment and Decision Making Model (CWADM). The CWADM is a framework DCFS uses to assess safety and risk and the needs and strengths of children and families throughout the life of a case, so that courts and DCFS have the best possible information upon which to make decisions with and for families. A formal safety assessment is required either when a threat of danger is identified or at specific intervals during the life of a case. Three variables are considered to determine whether a child is safe or unsafe: (1) threats of danger to the child; (2) the child's vulnerability to the identified threats of danger; and (3) the caretaker's protective capacities. The threat of danger considers whether the caretaker's behavior or family situation is likely to result in imminent harm to the child. The child's vulnerability looks at the extent to which a child can protect himself/herself from the identified threats of danger. The caretaker's protective capacities consider the way a caretaker thinks, feels, and/or acts and whether those capacities can prevent or control the threats of danger. DCFS must articulate how the child is unsafe without a CSPO based on an assessment of threats of danger, child vulnerability, and parent/caretaker protective capacities. See the <u>Child Welfare Assessment and Decision Making Benchbook Section 11</u> for more information.

⁶ Authors' Introductory Notes to Title VI of the Louisiana Children's Code; Gatowski, supra note 2, at 109-110.

⁷ La. Ch. C. art. 608 references parents' right to counsel at the CCH and all stages of the proceedings thereafter. However, due process also attaches with the issuance of an ISPO, and arguably extends the same right to counsel to parents and children in these earlier proceedings due to the introduction of DCFS and the courts in the family as well as the parents' loss of authority to place the child with any individual or institution except DCFS until the safety plan is terminated. See La. Ch. C. art. 619.

The court's role at the CSPH is to be a check and balance on the actions of DCFS; these actions have profound consequences for children and families. Without sufficient inquiry into the circumstances underlying the information stated in the Affidavit, the court does not ensure that the fundamental liberty interest of families to remain intact is upheld. Sometimes there are reasonable grounds as to one child but not as to another child within the same family. Thus, the findings must be individualized.

If the child is present in court, the child may choose to testify as to his/her wishes, and the court shall consider this testimony in its rulings. If the child is not present or does not want to testify, it is the child attorney's role to make the child's wishes clear.

E. ORDERS

There are several possible rulings the court can make at the CSPH. First, if the court determines that the safety plan is not necessary for the child's safety and protection, the court can order that the case be dismissed and the safety plan be revoked; if the court dismisses the case, the court can still issue a PO (See Article 618). Second, if the court determines that the safety plan is necessary, the court shall order that the parents and safety monitor comply with the conditions of the safety plan. Finally, if the court determines that a safety plan will not adequately protect the child and keep him/her safe, the court can remove the child from his/her parents. In this situation, the court must follow the Continued Custody Hearing (CCH) articles in the Children's Code and should use the <u>Continued Custody</u> <u>Order Template</u>. There are critical Federal and State law findings, including reasonable efforts and contrary to welfare findings, that must be determined in the first court order removing a child from his/her home. See <u>Continued Custody Hearing (CCH) Benchbook</u> <u>Section 5</u> for more information before ordering a removal.

In keeping with the court's inherent authority and to meet the child's needs for continuity and stability, the court may make additional orders at the CSPH that are in the best interest of the child pending the timely filing of the CINC Petition and Adjudication. Court orders may address family time/visitation, such as when one parent is not part of the safety plan but has a relationship with the child and visitation with that parent is appropriate. The court can also order that the child be provided family time with other relatives or siblings or half-siblings who are not in his/her home. Family connections are critical to many children in CINC cases. The court plays an important role in making sure children maintain familial and fictive kin connections even though DCFS is involved in the family's life.

An attorney or the court is responsible for completion of the CSPO. 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.

F. MODIFICATION

If the court grants the CSPO, the court retains the authority to modify it. While the Children's Code does not provide a specific modification provision for a court-ordered safety plan, some courts will grant a joint motion to modify the CSPO if agreed upon by all parties. Best practice is for the safety monitor to also sign the modified safety plan.

G. NEXT STEPS

The court shall make further advisements per Article 626 to the parents if the case is not dismissed at the CSPH. It is important to ascertain if the parents and child understood what occurred at the hearing. As role models, judges can exemplify the importance of engaging parents and children in the case. The process is more successful for all involved when the approach is collaborative (rather than punitive).

If the State decides to file a CINC Petition requesting that the child be adjudicated in need of care, the Petition shall be filed within 45 days of the issuance of the ISPO (unless the court has granted an extension for good cause). Otherwise, the CSPO will automatically terminate if the Petition is not timely filed.

If a CINC Petition has been filed by the time of the CSPH, the court can order the parents to answer the Petition at that time. Or the court can set the date and time for the Answer Hearing. Additionally, the court can set dates for the discovery deadline, Pre-Hearing Conference, and Adjudication or Adjudication and Disposition. The court may want to identify tasks to be accomplished by the various parties for the next hearing.

The court or the district attorney (DA) may want to consider proceeding with an Informal Adjustment Agreement (IAA) if appropriate and all parties agree. Some parishes routinely use IAAs after a CSPO is issued. An IAA can be implemented before or after a CINC Petition is filed. If an IAA is initiated after a CSPO, for example, DCFS has more time to work with the family before a CINC Petition is filed and/or Adjudication. The IAA requires fewer court appearances and, if successful, obviates the need for Adjudication. See <u>Informal</u> <u>Adjustment Agreement (IAA) Benchbook Section 1</u>. Alternatively, if appropriate, it may be helpful to refer the family to Family in Need of Services (FINS) before a CINC Petition is filed. See Articles 743 et seq.

OUTLINE

- A. TIMING AND CONTINUANCES
- **B. APPEARANCES AND APPOINTMENTS**
- C. NOTICE
- **D. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS**
- **E. INITIAL ADVISEMENTS**
- F. INDIAN CHILD WELFARE ACT (ICWA)
- **G. EVIDENCE AND TESTIMONY**
- **H. FINDINGS**
- I. RULING OPTIONS
- **J. FURTHER ADVISEMENTS**
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- L. FURTHER ORDERS
- M. ORDER OF NOTICES AND FUTURE HEARINGS
- **N. CASE MANAGEMENT**
- **O. MODIFICATION**
- P. POSSIBLE NEXT STEPS
- **Q. APPENDIX**
 - (1) CONTINUED SAFETY PLAN HEARING BENCH CARD
 - (2) CONTINUED SAFETY PLAN ORDER TEMPLATE



OVERVIEW

A. TIMING AND CONTINUANCES

ARTICLE 624, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2

(1) TIMING:

- Within 3 Days of Issuance of ISPO: CSPH shall be held within 3 days from the issuance of the ISPO (See Article 114).8
- **Unless Agree with Safety Plan:** However, if the parents previously agreed with the safety plan, a CSPH is not required to be held. A parent's signature on the safety plan shall constitute evidence of his/her agreement with the plan.

PRACTICE TIP:

Best Practice is to Hold CSPH: Some courts hold the CSPH, even when parents have agreed to the safety plan, because of the due process implications of not having the hearing. Parents who sign a safety plan before a hearing are usually doing so without the benefit of counsel; children also have no benefit of counsel at the time the safety plan is signed. Holding a CSPH allows parents and children the opportunity to meet with counsel to make sure they understand what they are agreeing to and the requirements. It gives the child, who is also a party to the Child in Need of Care (CINC) case, a chance to speak or object to the safety plan. There is reason to believe that consultation with an attorney at this stage may lead to increased compliance with the safety plan. If no CSPH is held, some of the critical matters that prepare a case for the CINC Petition and Answer Hearing will not occur. Significantly, neither parents nor children will receive the important advisements set forth in Children's Code Article 625. If the CPSH will not be held, courts are recommended to include the Article 625 advisements in the ISPO and DCFS in the safety plan form that the parents sign.

(2) CONTINUANCES:

- **Conditions:** The court may grant a requested continuance for up to an additional 3 days only:
 - After notice to all parties;
 - Upon finding of good cause; AND
 - Upon determining the continuance is in the best interest of the child.
- 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.

B. APPEARANCES AND APPOINTMENTS

ARTICLES 575, 607-8, 623-4, 627

(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.

⁸ 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.

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, and the court may want to consider having one or more represented at the CSPH. This multi-disciplinary approach could be 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:** 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.⁹ The court should consider these obligations in preparation for the CSPH. There must be ample time for legal interpreters to review pertinent legal documents with the party prior to the court proceeding.¹⁰ Interpreters must be familiar with the case-related details to provide accurate, meaningful, and effective interpretation.¹¹

(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, 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.

HELPFUL GUIDANCE:

Waiving Presence at the Hearing: The child's attorney has an obligation to inform the child of the right to be present at the hearing and facilitate such presence, if appropriate. The judge should engage in an inquiry related to the child's presence at court. If the child's attorney moves to waive the child's presence, for example, the court should ascertain the reason underlying the request. If the child is present, does the child wish to be heard? The court has an oversight role in CINC cases and, as such, should make every effort to ensure that the child has been given enough information about the court process and an opportunity to be engaged in the process.

⁹ 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=Titlel.

¹⁰ 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

¹¹ Id.

- Importance of Presence at the Hearing: Having all parties present and participating in the hearing is critical for moving the case forward and having a more meaningful hearing. Children are parties to the CINC Proceedings, and their voice is invaluable to decision-making. Having children present can also assist the court in making decisions about a case. Interacting with the child and observing potential medical issues, delays, etc., provides needed information to the court. Although challenging, courts should try to schedule hearings so that children can be present and participate as much as possible. Scheduling to allow the child to attend hearings necessitates knowing about the child's school schedule and other activities. There are different ways to hold hearings given some of the issues that arise with having children in court. For example, some judges hold their hearings in conference rooms instead of courtrooms to be less intimidating to children and parents. Other judges develop creative solutions, such as holding the hearing at a group home or scheduling the hearing after school.
- Remaining in the Courtroom: 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. If the court has concerns about the child's presence in the courtroom, an option could be that the child be brought outside of the courtroom with someone they trust. While some may argue that attending court hearings is traumatic to children, it is important to remember that they have already lived through the trauma that brought them into the courtroom. Engaging them in planning their future and protecting their safety can actually be empowering.¹² Some courts in Louisiana have created sensory rooms for children at the courthouse to address the potential trauma of attending court, such as the Calming Studio located in Caddo Parish Juvenile Court.¹³ Some courts provide a therapy dog to help emotionally support children in court.¹⁴ The CASA volunteer (if appointed) may also be a support to the child in court.

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

PRACTICE TIPS:

- Effect of Nonappearance by a Parent: If the parent is absent, the hearing may proceed if he/she cannot be found, was served a summons, or was notified by DCFS.
- o Absentee: The court shall order the appointment of a curator for any parent who is an absentee.¹⁵
- Incarcerated: To ensure the attendance of any parent who is incarcerated at the CSPH, 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 CSPH. 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).
- **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.).

¹² Gatowski, supra note 2, at.72.

¹³ This article provides more information about the Calming Studio: <u>https://www.shreveporttimes.com/story/news/2019/07/24/caddo-parish-juvenile-court-calm-room-studio/1804662001/</u> as does this video: <u>https://www.youtube.com/watch?v=URA4WtXqu1M</u>.

¹⁴ These articles provide more information about how therapy dogs have been used in courts: https://www.americanpress.com/news/local/juvenile-court-introduces-therapy-dog-program/article%20 <a href="https://www.americanpress.com/news/local/juven

¹⁵ La. Ch. C. art. 575; La. Ch. C. art. 608; La. Ch. C. art. 627(G); La. C.C. 47 626(G) (An absent person in Louisiana is "one who has no representative in this state and whose whereabouts are not known and cannot be ascertained by diligent effort.").

• **Order DNA Testing:** The court can order that DCFS make arrangements for DNA testing immediately and that the alleged parent complies with the DNA testing.

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, APPOINTMENTS, AND WAIVERS:

- 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 and 608).
 - **Right to Counsel:** The parents of a child who is the subject of a CINC proceeding shall be entitled to qualified, independent counsel at all stages of the proceedings thereafter.¹⁶
 - Found to Be Indigent: The court should determine whether it needs to make a finding of indigency for one or both parents. If a parent is found to be indigent (financially unable to afford counsel) and the parent has not previously been appointed counsel, the court shall order that the parent be referred to the Indigent Parents' Representation Program (best practice is to refer the parents to the local Public Defender Office, see Article 575) and that the program or office shall provide representation and be given notice of appointment and served with notice and a copy of the pleadings. Best practice is for parents to be referred to the local Public Defender Office in the ISPO so counsel for parents are present at the CSPH and hearings thereafter, and for the court to make an indigency finding at the CSPH, if necessary.
 - Waiver of Right to Counsel: A parent may waive his/her right to qualified, independent counsel. However, before accepting a waiver of counsel, the court shall ensure that the parent was informed of his/her rights enumerated under Article 608 and the possible consequences.

PRACTICE TIPS:

- **Appointment in CSPO:** Appointment of counsel for parents at this juncture depends on the language in the ISPO. If the ISPO appointed the program or office for the CINC proceedings, then no further action is needed. However, if the ISPO appointed the program or office only for the CSPH, then the language above needs to be written in the CSPO.
- **Prior to Hearing:** The judge should inquire as to whether counsel had sufficient opportunity to consult with the parents prior to the hearing and that they received a copy of the Affidavit and Instanter Order.

¹⁶ La. Ch. C. art. 608 references parents' right to counsel at the CCH and all stages of the proceedings thereafter. However, due process also attaches with the issuance of an ISPO, and arguably extends the same right to counsel to parents and children in these earlier proceedings due to the introduction of DCFS and the courts in the family as well as the parents' loss of authority to place the child with any individual or institution except DCFS until the safety plan is terminated. See La. Ch. C. art. 619.

HELPFUL GUIDANCE:

- **Due Process:** Protecting the interest of the parent is an important role of the parent's attorney and ensures due process for the parent. The parent's attorney should zealously advocate for the parent whether the parent is present or not.
- **Conflicts of Interest:** Judges must be cognizant of possible conflicts with related and previous cases both at the CSPH and at later junctures in the case. For example, parents who are married or living together may have or may develop divergent legal positions in the CINC case. It may also be a conflict for one attorney to represent multiple fathers or mothers in a case. When there is a curator ad hoc for an absent parent, the curator may not be able to represent a parent who is located due to a conflict.
- 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).¹⁷
 - Appointment: The program for child representation should have been appointed in the ISPO. If not, the court shall
 order that the program approved to represent children in that jurisdiction be appointed to represent the child in all CINC
 proceedings and given notice of appointment and served with notice and a copy of the pleadings.

PRACTICE TIP:

• **Prior to Hearing:** The judge should inquire as to whether counsel had sufficient opportunity to consult with the child prior to the hearing and that they received copies of the Instanter Order and Affidavit.

HELPFUL GUIDANCE:

- **Due Process:** Protecting the interest of the child is an important role of the child's attorney and ensures due process for the child. The child's attorney should zealously advocate for the child whether the child is present or not.
- **Conflicts of Interest:** Judges must be cognizant of possible conflicts of interest that may arise in the representation of children in CINC cases, both at the beginning of the case and as the case progresses. With regard to current clients, for example, there could be a conflict representing two siblings if one has sexually perpetrated on the other. It would also be a conflict for a child's attorney to represent both a teenage mother and her baby if the baby is in care. Further, a conflict may be present if siblings' wishes are divergent, and the attorney cannot make a colorable argument for the differing positions.
- c. **State:** An assistant district attorney (ADA), an attorney the ADA designates, or a DCFS attorney (Bureau of General Counsel/ BGC) should be present at the hearing.
- (6) **DCFS:** A DCFS staff member or representative(s) should be present at the hearing.
- (7) CASA: For confidentiality reasons, CASA should only be present at hearings if the court appointed them.
 - **Appointments:** If CASA was not previously appointed, the court can order that the local CASA program be appointed, subject to the assignment of a qualified CASA volunteer, to advocate for the best interest of the child in these proceedings and that the program be notified of appointment and served with a copy of the pleadings (Article 424.1).

¹⁷ LA. SUP. CT. RULE XXXIII, PART III, SUBPART II.

HELPFUL GUIDANCE:

Role: CASA volunteers are sworn officers of the court appointed by judges to advocate for the best interests of children in CINC cases. CASA volunteers visit with children to get to know them and find out important information, such as how they are doing in the placement, what kind of services are needed, and how school is going. The CASA volunteer may also talk to professionals working on the case, to the child's family, teachers, and others. They can review important documents relating to the case, such as summaries on the parent and/or child's progress. The CASA volunteer prepares reports for the court about what they have learned about the child. In the report, they make independent recommendations to the court about what should happen in the case to have the best outcome for the child—to keep the child safe and promote the child's well-being. Unlike the children's attorney, the CASA volunteer can also monitor the case plan and advocate to make sure the plan is followed and serves the best interests of the child. The court appoints the local CASA program, subject to the assignment of a qualified volunteer. If available, then a CASA volunteer will be assigned to the case. The Children's Code requires the CASA program to be established in compliance with the National CASA Association standards and the volunteer to be trained in accordance with those standards.¹⁸

(8) SAFETY MONITOR: The individual who agreed to be the safety monitor should be present at the CSPH but is not required to be.

PRACTICE TIP:

• **Purpose:** Safety monitors are individuals identified by DCFS to provide oversight of the safety plan and ensure the plan's provisions are followed and the safety threats to the child are being controlled. A safety monitor may be a professional, paraprofessional, volunteer, or individual who is part of the family's network such as extended family, church members, friends, etc. If the safety monitor is present at the hearing, the court should make sure the safety monitor understands what he/she is agreeing to, the role and expectations, and the consequences of the parents not complying with the safety plan. The court can assess the safety monitor's capacity to balance his/her relationship with the parents and his/ her role as a safety monitor (i.e., grandmother is a safety monitor for her daughter). The safety monitor may also have questions or wish to be heard at the CSPH.

(9) AUTHORIZIED OFFICERS OF THE COURT AND WITNESSES:

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

C. NOTICE

ARTICLES 623-4

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

PRACTICE TIP:

• **DCFS Duty to Notify:** DCFS shall notify the court of each party's address and shall have a continuing duty to provide current information to the court about each party's whereabouts.

¹⁸ La. Ch.C. art. 116(2.1) and (2.2).

D. 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); (OR)
- Interstate Compact on the Placement of Children (ICPC). See <u>Disposition Hearing Benchbook Section 8 D</u> for more information on ICPC.

E. INITIAL ADVISEMENTS

ARTICLEs 575, 625

The court shall advise the parents and may advise the child, insofar as practicable, of the:

- Nature of the proceedings and allegations in terms understandable to the parent and child;
- Right to an Adjudication Hearing, including the rights to call and cross-examine witnesses and the right to appeal; AND
- Right to be represented by counsel and the right of indigent parents to representation by the Indigent Parents' Representation Program in accordance with Article 608.

HELPFUL GUIDANCE:

- **Acknowledgment from Parents:** It is recommended that the judge have the parents acknowledge on the record and/or execute a written acknowledgment of advisement and understanding of these rights.
- **Understand:** It is important to make sure the parents, children, safety monitor, and others present understand what is happening. Judges are encouraged to ask:
 - Do you understand what this hearing is about? (Explain the purpose of the hearing).
 - Do you understand the Instanter Order? (Review the Instanter Order with parties).
 - Were you involved in any mediation process used before this hearing? If yes, what was the outcome?
 - What family members and/or other important people should be involved in this process?
- **CSPH Not Held:** If the CSPH is not held because the parents agreed to the safety plan, these Article 625 advisements will not be made until the Answer Hearing, which may have due process implications. If the CSPH is not held, courts should include the Article 625 advisements in the ISPO. To reinforce the advisements, it is also recommended that DCFS include them in the safety plan form that the parent signs.

F. ESSENTIAL JUDICIAL FINDING: INDIAN CHILD WELFARE ACT (ICWA)

ARTICLES 624-624.1, 25 U.S.C. § 1902

(1) INQUIRY: The court shall ask each person before the court and make a record of the answer in the CSPH Order for each child:

- As to whether they know or have reason to know that the child is a member of a Federally recognized Indian Tribe or eligible for membership in a Federally recognized Indian Tribe and is the biological child of a member of a Federally recognized Indian Tribe; AND
- To inform the court if they subsequently discover information indicating that the child is a member of a Federally recognized Indian Tribe or eligible for membership in a Federally recognized Indian Tribe and is the biological child of a member of a Federally recognized Indian Tribe.
- (2) **REASON TO KNOW:** If the court has reason to know that a child in the CINC case is an Indian child or is eligible for membership in a Federally recognized Indian Tribe, the court:

- May enter any order for placement in accordance with Article 627, but the court shall thereafter proceed as if the child is an Indian child; AND
- Shall follow Article 624 and 624.1. See Indian Child Welfare Act (ICWA) Bench Card in Appendices Benchbook Section 12.

(3) **INVALIDATION OF PROCEEDINGS:** Noncompliance with the provisions of ICWA may result in invalidation of the proceedings, including any subsequent adoption.

PRACTICE TIP:

• **CSPH Not Held:** If the CSPH is not held because the parents agreed to the safety plan, an ICWA finding cannot be made until the Answer Hearing, which may have repercussions.

HELPFUL GUIDANCE:

- **Federally Recognized Tribes:** Not all Indian Tribes are Federally recognized. For example, only four of Louisiana's Indian Tribes are currently Federally recognized tribes: the Chitimacha Tribe of Louisiana, the Coushatta Tribe of Louisiana, the Jena Band of Choctaw Indians, and the Tunica-Biloxi Indian Tribe of Louisiana. But ICWA will apply if the child belongs to any "Federally recognized" tribe (even outside of Louisiana).
- **Eligibility:** Be cognizant that there are specific membership qualifications that make one a member or eligible to be a member of a Federally recognized Indian Tribe. For example, sometimes, a parent may not realize that a marriage in their family made their child eligible for such membership. Self-identification as an Indian, race, and/or the child's features are not sufficient to meet the membership criteria to consider.

(4) ACTIVE EFFORTS: Efforts involved in ICWA are very different from the reasonable efforts required by the Adoption and Safe Families Act (ASFA). Active efforts are required, and they are affirmative, active, thorough, and timely efforts intended to maintain or reunite an Indian child with his/her family. This is why it is critical for courts to proceed pursuant to the Federal ICWA and the regulations promulgated thereunder if the court finds that there is reason to know that the child is an Indian child ¹⁹

G. EVIDENCE AND TESTIMONY

Articles 607-8, 623-4, LA. SUP. CT. RULE XXXIII, PART III

(1) GENERAL:

- **Burden of Proof:** The State has the burden of proving that there are reasonable grounds to believe that the child is in need of care and that the continued implementation of the safety plan prior to the timely filing of the CINC Petition and Adjudication is necessary for the child's safety and protection.
- **Order:** The order of presenting evidence at the hearing is set by the court.
- Hearsay: Hearsay evidence is admissible at the CSPH.
- Parties: Any party may offer evidence.

¹⁹ For more information on ICWA, please see https://clarola.org/index.php?option=com_k2&view=item&id=1284:la-icwa-quick-reference-guide&Itemid=116; see also Murphy, Bob. (2020) McGirt Injects Steroids into the Indian Child Welfare Act. American Bar Association, Children's Rights Litigation, https://www.americanbar.org/groups/litigation/committees/ childrens-rights/articles/2020/winter2021-mcgirt-injects-steroids-into-the-indian-child-welfare-act/?utm_medium=email&utm_source=salesforce_353772&sc_sid=00265681&utm_ campaign=MK20CNTT&promo=MKCONTENT1&utm_content=&additional4=&additional5=&sfmc_j=353772&sfmc_s=52961351&sfmc_l=2198&sfmc_jb=4007&sfmc_mid=100027443&sfmc_ u=10232975.

(2) PARENTS:

- Rights: Parents may testify, confront and cross-examine adverse witnesses, and present evidence and witnesses.
- **CINC Petition:** If a CINC Petition has been filed at the time of the hearing, the court may also call upon the parent to answer its allegations. See <u>Answer Hearing Benchbook Section 6</u>.

PRACTICE TIP:

o Stipulation: While the judge may consider stipulations, they do not substitute for court's required findings.

(3) CHILDREN:

- Rights: 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.
- Methods: 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."²⁰
- **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 safety plan, services, etc.).²¹
- **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.
- **Well-Being:** The court should inquire about the child's physical, emotional, and mental health and educational needs and identify any gaps in services needed by the child.

(4) DCFS:

- **Instanter:** Testimony of the DCFS representative should be provided as to the circumstances underlying the request for the Instanter.
- **Safe or Unsafe:** Testimony should be provided regarding the individualized reasons that each child in the case will be unsafe unless the safety plan is continued.

²⁰ Watermeier v. Watermeier, 462 So. 2d 1272, 1275 (La. App. 5th Cir.), cert. denied, 464 2d 301 (La. 1985).

²¹ LA. SUP. CT. RULE XXXIII, PART III, SUBPART II.

PRACTICE TIPS:

- **DCFS Testimony:** The DCFS worker very well may have witnessed events that prompted the request for the Instanter Order, observed the family dynamics, and/or interacted with the child. Hence, DCFS testimony should be considered in the court's ruling.
- **Child Welfare Assessment and Decision Making Model (CWADM):** Is a framework DCFS uses to assess safety and risk, so that courts and DCFS have the best possible information upon which to make decisions with and for families involved with DCFS. Three core principles are used to determine whether a child is safe or unsafe: (1) threats of danger to the child; (2) the child's vulnerability to the identified threats of danger; and (3) the caretaker's protective capacities. 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. The threat of danger considers whether the caretaker's behavior or family situation is likely to result in imminent harm to the child. The child's vulnerability considers the extent to which a child can protect himself/herself from the identified threats of danger. The caretaker's protective capacities consider the way a caretaker thinks, feels, and/or acts and whether those capacities can prevent or control the threats of danger. Court should insist on clear articulation from DCFS as to how child is unsafe as it relates to threats of danger, child vulnerability, and caregiver protective capacities and why CSPO is necessary and sufficient to keep the child safe. See <u>Child Welfare Assessment and Decision Making Model (CWADM) Benchbook Section 11</u>.
- Check and Balance: Courts provide a check and balance on the actions of DCFS to ensure due process for families and sound legal findings. Courts should make diligent inquiry into the circumstances underlying the information in the Affidavit.

(5) **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 exclusion.

PRACTICE TIPS:

- **Cannot Exclude Parties:** Parties to a proceeding cannot be excluded from the courtroom. Only children can be taken out of the courtroom during testimony that may not be in their best interest to hear.
- DCFS and CASA are Not Parties: Neither DCFS nor CASA are parties to CINC proceedings. DCFS staff member 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).
- o **Exemption:** In the interest of justice, the court may exempt any witness from its order.

• OVERALL GUIDANCE:

• **Engagement:** The court should do all that it can to support and encourage the meaningful engagement of families in CINC proceedings.²² 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.²³ Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.²⁴

²² Gatowski, supra note 2, at 68.

²³ Id.

²⁴ Gatowski, supra note 2, at 16.

H. FINDINGS

ARTICLES 626-7

- **ESSENTIAL JUDICIAL FINDING REASONABLE GROUNDS AND SAFETY PLAN:** The court shall make the following written, separate, and individualized findings of fact *for each child* and explicitly document them in the CSPH Order signed and dated by the judge. The court shall determine whether:
 - There are or are not reasonable grounds, pursuant to Article 606(A), to believe that the child is in need of care; AND
 - The continued implementation of the safety plan is or is not necessary for the child's safety and protection while remaining in his/her home pending the timely filing of the CINC Petition and Adjudication.

HELPFUL GUIDANCE:

• **Specific Grounds:** Best practice is to include specific ground(s) codified in Article 606(A) in the CSPO. Reference to specific grounds gives parents notice of the basis of the court's finding, consistent with due process, and guides the formation and implementation of the safety plan and/or case plan.

I. RULING OPTIONS

ARTICLES 622, 627

The court shall issue one of the following orders for each child with regard to the safety plan:

(1) CONTINUED IMPLEMENTATION IS NECESSARY:

- **NECESSARY:** If the court determines that the continued implementation of the safety plan is necessary for the child's safety and protection, the court shall:
 - Order that the safety plan conditions are necessary for the safety and protection of the child's health and safety, while remaining in his/her home, pending the timely filing of the CINC Petition and Adjudication;
 - · Order that the parents and safety monitor comply with the conditions of the safety plan; AND
 - List the conditions of the safety plan that the parents and safety monitor shall comply with in the CSPO.

PRACTICE TIP:

• **Persons Subject to Safety Plan:** The court should include the name of the parents and safety monitor subject to the safety plan so that everyone understands who is involved in the safety plan. The Order should also include the safety monitor's relationship to the family.

(2) SAFETY PLAN IS NOT NECESSARY OR NOT SUFFICIENT:

- **NOT NECESSARY:** If the court determines that the safety plan is not necessary for the child's safety and protection, the court can order that the:
 - Safety plan is not necessary; AND
 - Child be removed from his/her home.
- NOT SUFFICIENT: If the court determines that the safety plan is not sufficient for the child's safety and protection, the court can
 order the:
 - Safety plan is not sufficient; AND
 - That the child be removed from the home.

PRACTICE TIP:

Not Sufficient: Alternatively, the court may find that the safety plan is not sufficient, but there are reasonable grounds to believe the child is in need of care and that a removal is necessary for the child's safety and protection. In this situation, the court should follow the CCH articles in the Children's Code and use the <u>Continued Custody Order Template</u> instead of the <u>Continued Safety Plan Order Template</u>. There are critical Federal and State law findings, including reasonable efforts and contrary to welfare findings that must be determined in the <u>first court order</u> removing child.

J. FURTHER ADVISEMENTS

ARTICLE 625

- If the safety plan is continued, the court shall advise all persons before the court:
 - **Electronic Mail Address:** If a parent provides an electronic mail address at which the parent is willing to receive service and notice of future proceedings, then all service or notice of future proceedings may be sent electronically until such time as the parent provides notice to the court and all parties in writing or open court that he/she is no longer able to receive service or notice at such address;
 - **Current Whereabouts:** Advise the parents of their responsibility to notify DCFS and their counsel in writing of their current whereabouts, including their address, cellular number, telephone number, and any other contact information, and that if they fail to do so, the law authorizes hearings to be held in their absence;
 - **Contact Information:** To identify on record the name, address, and whereabouts of each parent and any relative or other individual willing and able to offer a wholesome and stable home for the child; all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child; AND
 - Achieve Permanency: Of their responsibility in achieving timely permanency for the child.

PRACTICE TIP:

Electronic Mail Address: If a parent has not provided an electronic mail email at which they can be served, judges should encourage parents to do so. Having an email address to send notice helps ensure the parents receive the notice. For example, when a parent does not have a stable home to live in, and their address continues to change, it is helpful to have an email address to send them notice.

K. CINC PETITION FILED

ARTICLES 646, 649

- If at the time of the CSPH, a CINC Petition has been filed, the court may:
 - Call upon the parents to answer the allegations in accordance with Articles 646 and 649. See <u>Answer Hearing Benchbook</u> <u>Section 6</u>.

L. FURTHER ORDERS

ARTICLES 102, 301, 318, 601, 627

The court may make additional orders in the best interest of the child pending the timely filing of CINC Petition and Adjudication, such as:

- (1) VISITATION/FAMILY TIME: Even though the child remains in his/her home when a safety plan is continued, the court has authority to specify visitation between the child and one of his/her parents as well as between the child's caretakers, siblings, or other family members pending the timely filing of the CINC Petition and Adjudication. For example, the child may have been removed from one parent and not the other parent. Also, the child may have a sibling who was removed even though the child remained in the home. For more information, see the visitation/family time section in <u>Continued Custody Hearing (CCH) Benchbook Section 5.</u>²⁵
- (2) **PATERNITY OR MATERNITY:** 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.
- (3) FAMILY TEAM MEETING (FTM): If there is 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, CASA workers, and attorneys for children and parents as applicable.

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 the tentative date in the Order, helps ensure FTMs are timely held. 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. It is also where parents, children, and other stakeholders and supports give needed input on the services and assistance needed and to be provided.
- **Name Change:** FTMs were previously called Family Team Conferences (FTC) in DCFS Family Services cases involving inhome safety plans.
- (4) **PROTECTIVE ORDER (PO):** The court can issue or modify a PO in compliance with Article 627(D).

²⁵ See also https://www.childwelfare.gov/topics/systemwide/assessment/family-assess/progress/visitation/ for more resources.

PRACTICE TIP:

• **Examples:** PO can be used instead of or with the CSPO to help keep the child safely in the home and/or manage the safety and risk concerns or threats. For example, a PO may be helpful to use when the child was removed from a caretaker other than the parent. The court may want to consider a PO when, for example, there is a need to prevent a parent or other individual's contact with the children or when eviction of the perpetrator from the residence is needed. See Temporary Restraining Order (TRO) and Protective Order (PO) Benchbook Section 2.

M. ORDER OF NOTICES AND FUTURE HEARINGS

ARTICLES 623, 625, 627-30, 632, 638, 646, 648

Unless dismissing the case, the court shall also make the following orders:

- (1) CINC PETITION NOT FILED: If the CINC Petition is not filed within 45 days of the issuance of the ISPO, the CSPO shall automatically terminate unless an extension is granted by the court based upon a showing of good cause and notice to all parties;
- (2) FUTURE HEARINGS: The parents of the child, all attorneys of record, a DCFS representative, and CASA (if appointed) be present at all future hearings.

(3) SET MATTER FOR ANSWER HEARING IF CINC PETITION HAS BEEN OR WILL BE FILED:

- If the CINC Petition has been or will be filed, the court shall order:
 - Clerk to notify all parties of the date, time, and location of the Answer Hearing and that all parties of interest appear, which shall be set within 15 days of the date of filing of the CINC Petition;
 - Sheriff's Office to serve parents with a summons commanding him/her to appear at court for the Answer Hearing;
 - DCFS shall provide notice to the parents of the date, time, and location of the Answer Hearing as well as the nature of the allegations;
 - Notice of the Answer Hearing shall be made on counsel of record and CASA (if appointed); AND
 - Arrangements for any parent, who is incarcerated, be made to attend the Answer Hearing, either in person or remotely.

N. CASE MANAGEMENT

(1) ENGAGEMENT:

- Specifically, ask parents, the safety monitor, and child if they understand what occurred at the hearing and engage them in a conversation about the next steps.
- 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 caseworkers 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 very briefly with their attorneys after the hearing so that the attorneys can address immediate issues.

(2) PREPARATION FOR THE 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.

- Consider the appropriateness of mediation, and order if applicable (Article 435 et seq.).
- An attorney or the court is responsible for the completion of the Order. See <u>Continued Safety Plan Order Template</u>.
- 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.
- 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.

O. MODIFICATION

• The court retains the authority to modify the CSPO. While the Children's Code does not provide a specific modification provision for court-ordered safety plans, some courts will grant a joint motion to modify the CSPO if agreed upon by all parties. Best practice is for the safety monitor to also sign the modified safety plan.

P. POSSIBLE NEXT STEPS

Articles 628-30, 631-2, 646

(1) FILING OF CINC PETITION: The CINC Petition shall be filed within 45 days of the issuance of the ISPO and answered at the Answer Hearing within 15 days after the Petition is filed.

(2) TERMINATION OF SAFETY PLAN ORDER:.

- Automatically Terminated: If the CINC Petition is not timely filed, the ISPO shall automatically terminate.
- **Extension:** Upon showing of good cause and notice to all parties, the court may grant, deny, or restrict a requested extension of the time for filing the CINC Petition in accordance with the best interests of the child. If an extension is granted, the court shall issue a written Order reciting the particular facts justifying the extension.

(3) INFORMAL ADJUSTMENT AGREEMENT (IAA):.

- Before CINC Petition: Before filing a CINC Petition, the court or DA may authorize an IAA.
- After CINC Petition: After filing a CINC Petition, the court may authorize the DA to effect an IAA and either dismiss the CINC Petition or allow it to remain pending during the period of informal adjustment.

PRACTICE TIP:

- Alternatives for Families: The court or DA may want to consider proceeding with an IAA if appropriate and all parties agree. Some parishes routinely use IAAs after an ISPO and/or CSPO is issued. An IAA can be implemented before or after a CINC Petition is filed. If an IAA is initiated after a CSPO, for example, DCFS has more time to work with the family before a CINC Petition is filed and/or Adjudication. The IAA requires fewer court appearances and, if successful, obviates the need for Adjudication. See Informal Adjustment Agreement Benchbook Section 1.
- (4) **REFER MATTER TO FAMILY IN NEED OF SERVICES (FINS) OFFICER:** Before filing a CINC Petition, the court or DA may refer the matter to a FINS intake officer. See Articles 743 et seq.
- (5) **PETITION FOR PROVISIONAL OR PERMANENT CUSTODY:** At any time prior to Adjudication, any person, including a relative of the child, may petition the court for the provisional or permanent legal custody of the child.

HELPFUL GUIDANCE:

• If Foster Care is Potential Disposition: This Article aligns with Articles 681(A)(1), 683, and 622(D) and gives any person or relative the authority to seek court review (prior to Adjudication) of their claim to custody of a child in which foster care is a potential Disposition.



CONTINUED SAFETY PLAN HEARING (CSPH)

🗉 La. Ch. C. arts. 624-627

PURPOSE

Revisit findings of the Instanter Safety Plan Order (ISPO), an alternative to removal; ensure counsel appointed, advisements given, and parties and safety monitor understand safety plan; parties challenge State and present evidence. Not required if parents agree to safety plan, yet recommended.

Timing and Continuances

- ARTICLES 624, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2
- TIMING: Shall be held within 3 days of issuance of ISPO (See Article 114); not required if parents previously agreed to safety plan (parents' signature on safety plan is evidence of agreement).
- (2) CONTINUANCES: May be continued in compliance with Article 624(B); court shall report continuance exceeding maximum allowed within 10 days to Louisiana Supreme Court, with reasons and copy of Order.

PRACTICE TIP | Hold CSPH: Although not required if parents agree with safety plan, best practice is to hold CSPH to protect child's safety and parents' due process rights and ensure parties and safety monitor understand terms and conditions of safety plan.

Appearances and Appointments

ARTICLES 575, 607-8, 623-4, 627

- ONLY ADMIT PERSONS WITH PROPER INTEREST/NECESSARY: Including parents, child, attorneys for child and parents, DA/ADA/ DCFS attorney (BGC), DCFS representatives, CASA (if appointed), and safety monitor.
- (2) CHILDREN ARE PARTIES: 12 years or older, shall be present unless waived upon motion of child's attorney; include in Order if waived or not. Under age 12, shall be present upon request of child's attorney/court.
- (3) PARENTS ARE PARTIES: If absent, hearing may only proceed if cannot be found, served summons, or notified by DCFS. If absentee, court shall order appointment of curator ad hoc (Articles 575 and 627(G)). If incarcerated, verify writ/motion to guarantee parent's attendance filed and Order issued/served on facility before CSPH.
- (4) ATTORNEYS: Child shall have attorney appointed and present (Article 607); indigent and absent parents shall be provided representation (Articles 575, 608, and 627(G)) unless right waived by parent per Article 608; should have received copies of Instanter Order and Affidavit before CSPH; critical to protect due process rights of child and parents.

ESSENTIAL JUDICIAL FUNCTION Assistance and Accommodations: Court responsible for providing interpretation, translation, language assistance services, and/or reasonable accommodations for parties. Interpreters must be familiar with case-related details to provide accurate, meaningful, and effective interpretation. **PRACTICE TIP** | Appointments: If not made in ISPO: order program approved to represent child be appointed and refer parents to local Public Defender Office to represent parents; order notice of appointments and service of copy of pleadings. Finding of indigency may be needed for parents. Court can also appoint CASA if not appointed.

BENCH

CARD

PRACTICE TIP | Determine Paternity/Maternity: Ensure all biological, legal, and putative parents are legally determined as soon as possible. Decisions made in CINC hearings can affect child's entire life. When child does not know one of his/her parents, child may not know his/her race, ethnicity, medical background, culture, relatives, religious ties, and more. Timely resolution of paternity/maternity is in best interest of child and essential to due process and avoiding permanency delays.

PRACTICE TIP | Identify Parents: If a parent has not been located, direct parent present under oath to provide name, address, and whereabouts for that parent. If identity and whereabouts of an alleged parent is known but filiation has not been legally determined, court can order that DCFS acquire information needed to determine filiation.

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 | Confidentiality: If allow other persons to be present, stress confidentiality of case information.

Notice

ARTICLES 623-4

• Court shall determine if proper notices were made to all parties and counsel; enter required findings in the Order.

Initial Advisements

ARTICLES 575, 625

Court shall advise parents and may advise child of:

- Nature of proceedings and allegations in terms understandable to parents and children;
- Right to Adjudication Hearing, including rights to call and crossexamine witnesses and appeal; AND
- Right to be represented by counsel and Public Defender Office if indigent.

PRACTICE TIP | If CSPH Not Held: Advisements will not be made until Answer Hearing, which may have due process implications. If not held, best practice is to include advisements in ISPO.

Indian Child Welfare Act (ICWA)

ARTICLES 624-624.1, 25 U.S.C. § 1902

Court shall ask each person before the court whether they know or have reason to know child is:

- Member of or eligible for membership in Federally recognized Indian Tribe; AND
- Biological child of member of Federally recognized Indian Tribe.
- » Make record of answer in Order for each child; advise all to inform court if subsequently discovered.
- » If know or have to reason to know, see Articles 624 and 624.1 and Indian Child Welfare Act (ICWA) Bench Card.

ESSENTIAL JUDICIAL FINDING | Noncompliance with ICWA: May result in invalidation of proceedings. Specific membership qualifications make one a member/eligible to be member of Federally recognized Indian Tribe. For example, parents may not realize a marriage in their family made child eligible. Self-identification as Indian, race, and/or child's features are insufficient to meet membership criteria.

Evidence and Testimony

- ARTICLES 607-8, 623-4, LA. SUP. CT. RULE XXXIII, PART III, SUBPART II
- (1) **GENERAL:** State has burden of proof. Hearsay is admissible. Any party may offer evidence.
- (2) **PARENTS/CHILDREN:** Right to testify, confront and cross-examine adverse witnesses, present evidence and witnesses.
- (3) DCFS: Testimony should be taken as to whether there are reasonable grounds to believe child is in need of care and continued implementation of safety plan is necessary for child's safety and protection.

PRACTICE TIP | Engagement: Court should do all it can to support and encourage meaningful engagement of families. Court is intimidating for most individuals, and stakes could not be higher for parents and children. Be mindful that both parents and children likely have their own history of trauma.

PRACTICE TIP | Child's Wishes: Whether present or not, child's attorney shall ensure court hears child's wishes (i.e., safety plan, services, etc.).

PRACTICE TIP | Stipulations: May be considered, but do not substitute for required findings. Courts must be a check and balance to actions of DCFS to ensure due process and sound legal findings. Must be sufficient inquiry into circumstances underlying information in Affidavit.

PRACTICE TIP | Child Welfare Assessment and Decision Making Model (CWADM): Court should insist on clear articulation from DCFS as to how child is unsafe as it relates to threats of danger, child vulnerability, and caregiver protective capacities and why in-home safety plan is necessary/sufficient to keep child safe. Child considered safe: (1) when there are no threats of danger; (2) if there is a threat of danger, child is not vulnerable to the threat of danger; or (3) if there is a threat of danger, parents/caretakers possess sufficient protective capacities to manage threat of danger and keep child safe. See <u>Child Welfare</u> Assessment and Decision Making Model (CWADM) Benchbook Section 11.

Findings

ARTICLES 626-7

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

- (1) REASONABLE GROUNDS AND SAFETY PLAN NECESSARY/ SUFFICIENT:
 - There <u>are</u> or <u>are not</u> reasonable grounds to believe child is in need of care per Article 606(A); AND
 - Continued implementation of safety plan is or is not necessary for child's safety and protection while remaining in his/her home.

ESSENTIAL JUDICIAL FINDING Reasonable Grounds: Court shall determine whether there are reasonable grounds to believe child is in need of care and that continuance of in-home safety plan is necessary/ sufficient for safety and protection of child's health and safety pending timely filing of CINC Petition and Adjudication.

PRACTICE TIP | Specific Ground(s): Codified in Article 606(A) should be in Order. Gives parents notice of the basis of court's finding, consistent with due process, and guides formation and implementation of case plan (if required).

Ruling Options

ARTICLES 622, 627

Court shall issue one of the following orders for each child with regard to safety plan:

- (1) CONTINUED IMPLEMENTATION IS NECESSARY: » List conditions of safety plan for parents and safety monitor (including safety monitor's name and relationship to parents and order they comply).
- (2) NOT NECESSARY OR NOT SUFFICIENT: » If not necessary, order case be dismissed and ISPO be revoked and/or Protective Order (PO) be issued. » If not sufficient for child's safety and protection, court can order child's removal from his/her home.

PRACTICE TIP | Safety Monitor: Individual identified by DCFS to provide oversight of safety plan to ensure followed and safety threats to child are controlled (i.e., professional, paraprofessional, volunteer, or individual who is part of family's network, such as extended family, church members, friends, etc.). Make sure safety monitor understands what he/she is agreeing to, role and expectations, and consequences of parents not complying with safety plan. Assess capacity of safety monitor to balance the relationship he/she may have with parents with his/her role as safety monitor (i.e., grandmother is safety monitor for her daughter). While presence at CSPH not required, he/she may have questions or wish to be heard if present.

PRACTICE TIP | Removal: If court orders removal, follow Continued Custody Hearing (CCH) articles in Children's Code and use <u>Continued</u> <u>Custody Order Template</u>. There are critical Federal and State law findings, including reasonable efforts and contrary to welfare findings that must be determined in <u>first court order</u> removing a child from his/her home.

Further Advisements

ARTICLE 625

If safety plan is continued, court shall advise all persons before court:

- If electronic mail address provided, all service/notice of future proceedings may be sent electronically until notice to court and all parties in writing/open court provided that no longer able to receive service/notice at address;
- Upon receipt of information regarding parent's change of address, DCFS and parent's counsel shall promptly inform court of new address;
- To identify name address, and whereabouts of each parent and any relative/individual willing to offer stable home and all grandparents, parents of sibling with custody and all other adult relatives; AND
- Of their responsibility in achieving timely permanency for child.

CINC Petition Filed

- ARTICLES 646, 649
- If CINC Petition has been filed, court may call upon parents to answer allegations; see <u>Answer Hearing Bench Card</u>.

Further Orders

ARTICLES 102, 301, 318, 601, 627

Court may make additional orders in best interest of child pending timely filing of CINC Petition and Adjudication, such as:

- (1) **VISITATION/FAMILY TIME:** With another parent, sibling not in care, relatives, for example.
- (2) **PATERNITY/MATERNITY:** DCFS make arrangements for DNA testing on known potential parents; order person complies.
- (3) FAMILY TEAM MEETINGS (FTM): DCFS should propose tentative date for next FTM, and court can provide notice and encourage participation.
- (4) PROTECTIVE ORDER (PO): Per Article 627(D); can be used instead of or with Continued Safety Plan Order (CSPO) to help keep child safely in home and/or manage safety and risk concerns/threats. See <u>Temporary Restraining Order (TRO) and Protective Order (PO)</u> <u>Benchbook Section 2</u>.

PRACTICE TIP | Visitation: Even though child remains in their home when ISPO is continued, court may still want to specify visitation between child and one of their parents as well as between child's caretakers, siblings, or other family members pending timely filing of CINC Petition and Adjudication. For example, child may have been removed from one parent and not the other parent. Also, child may have sibling that was removed even though child remained in the home.

PRACTICE TIP | **Protective Order** (PO): May want to consider PO when, for example, there is need to prevent contact between a parent/other individual and the child or when an eviction of a perpetrator from residence is needed. Can be used with safety plan to help manage safety threats and keep child in his/her home.

Order Of Notices and Future Hearings

ARTICLE 623, 625, 627-30, 632, 638, 646, 648

Unless dismiss case, court shall also make the following orders:

- CINC PETITION NOT FILED: Within 45 days of issuance of ISPO, CSPO shall automatically terminate unless extension granted by court based upon showing of good cause and notice to all parties;
- (2) PARTIES, COUNSEL, DCFS, AND CASA: Be present at all future hearings;
- (3) SET MATTER FOR ANSWER HEARING: If CINC Petition has been/ will be filed;
- (4) SERVICE/NOTICE OF HEARINGS: Be made on parties, counsel, and CASA (if appointed); AND
- (5) **ARRANGEMENTS FOR ANY INCARERATED PARENT:** Be made to attend hearing, either in person or remotely.

Case Management

- Ask parents and children if they understand what occurred at hearing; engage conversation about next steps.
- An attorney or court is responsible for completion of Order.
- All attorneys and unrepresented parties should review Order before judge signs it to ensure it accurately reflects proceeding. See <u>Continued Safety Plan Order Template</u>.
- Time permitting, best practice is to sign Order on the same day as the hearing.
- Consider giving attorneys time to meet with clients after hearing to discuss questions/concerns.
- Provide parents with copy of Order immediately following hearing.
- Consider appropriateness of mediation and order if applicable (Article 435 et seq.).

Possible Next Steps

- Articles 628-30, 631-2, 646
- (1) **FILING OF CINC PETITION:** Shall be filed within 45 days of issuance of ISPO and answered at Answer Hearing within 15 days after filed. If not timely filed, Order/safety plan terminates.
- (2) INFORMAL ADJUSTMENT AGREEMENT (IAA): Before filing CINC Petition, court or DA may authorize IAA. After filing CINC Petition, court may authorize DA to effect IAA and either dismiss CINC Petition or allow to remain pending.
- (3) REFER MATTER TO FAMILY IN NEED OF SERVICES (FINS) OFFICER: Before filing CINC Petition, court or DA may refer matter to FINS intake officer. See Articles 743 et seq.
- (4) **PETITION FOR PROVISIONAL/PERMANENT CUSTODY:** Before Adjudication, any person, including relative of child, may petition court for provisional/permanent legal custody of child.

PRACTICE TIP | Alternatives for Families: IAA may be used whether child remains in his/her home or DCFS custody and are routinely used in some parishes when CINC case has been initiated by ISPO. Is a viable alternative to keeping child out of foster care. For example, if IAA initiated after CSPO, DCFS has more time to work with the family before CINC Petition is filed and/or Adjudication. See <u>Informal Adjustment</u> <u>Agreement (IAA) Benchbook Section 1</u> for more information. Alternatively, if appropriate, may be helpful to refer family to FINS before CINC Petition is filed.

STATE OF LOUISIANA		DOCKET NUMBER:
IN THE INTEREST OF		SECTION:
	DOB:	COURT:
	DOB:	PARISH OF
	DOB:	STATE OF LOUISIANA
Filed:		DEPUTY CLERK:
	CONTIN	IUED SAFETY PLAN ORDER
THIS CAUSE came for	or hearing on the	day of, 20, pursuant to an Instanter Safety Plan
Order dated the d	lay of, 20	, concerning the following child(ren),
		s),
		······································
		I. APPEARANCES
The child(ren),		, is/are present.
		, is not present and:
(Please check the applicable box		
🗆 the child,		, is age 12 or older, counsel moved to
waive the child's ap	pearance, and the cour	t grants the waiver.
□ the child,		, is younger than 12 years of age, and
	uest the child's appeara	
		·
Parent		Department of Children and Family Services
Parent's Attorney		
Parent		
Parent's Attorney		Providing Care for Child(ren)
Caretaker(s)		
Child(ren) Attorney(s)		
		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 <u>was given</u> by the Department.

□ the parent(s), ______, is absent and that notice of the date, time, and place of the hearing and right to attend and be heard <u>was not given</u> by the Department for the following reason:

III. INITIAL ADVISEMENTS

The Court advised the parent(s) of the nature of the proceedings; the allegations; the right to an Adjudication hearing including the right to call and cross-examine witnesses and the right to appeal; the right to be represented by counsel; and, the right to representation by the Indigent Parents' Representation Program if indigent.

The Court advised the child(ren) in terms understandable to the child(ren) of the nature of the proceedings and the allegations.

IV. INDIAN CHILD WELFARE ACT (ICWA)

The Court asked each person whether he or she knows or has reason to know that the child(ren) is a member of a federally recognized Indian Tribe or is eligible for membership in a federally recognized Indian Tribe and is the biological child of a member of a federally recognized Indian Tribe, pursuant to 25 U.S.C. § 1903. The Court has instructed each person before the Court to inform the Court if he or she subsequently discovers information indicating that the child(ren) is a member of a federally recognized Indian Tribe or eligible for membership in a federally recognized Indian tribe and is the biological child of a member of a federally recognized Indian Tribe, pursuant to 25 U.S.C. § 1903.

THEREFORE, the Court finds there is \Box reason to know child(ren), ______, is a member of a federally recognized Indian Tribe or eligible for membership in a federally recognized Indian Tribe and is the biological child of a member of a federally recognized Indian Tribe, pursuant to 25 U.S.C. § 1903, at this time.

V. FINDINGS

THE COURT FINDS that there are: (Please check the applicable box for each child)

reasonable grounds to believe the child(ren), ______

is in need of care in accordance with Article 606(A) _____ (1-8) and that the continuation of the safety plan is necessary for the safety and protection of the child(ren) while remaining in their home;

The persons subject to the safety plan include:

The parent(s), ______

The safety monitor(s) and their relationship to the family is: ______

is in need of care and that the continuation of the safety plan is not necessary or sufficient for the safety and protection of the child(ren).

VI. RULINGS

Based upon the findings above and the evidence presented:

IT IS ORDERED BY THE COURT that: (Please check one of following for each child)

□ the following safety plan conditions are necessary for the safety and protection of the child(ren), _____

_____, health and safety, while remaining in their home, pending the timely filing

of the Child in Need of Care Petition and Adjudication and that the parent(s) and safety monitor(s) comply with these conditions:

(1)	;
(2)	;
(3)	;
(4)	;
(5)	
🗆 the sa	fety plan is not necessary or sufficient to secure the protection of the child(ren),
	, and that (the case be dismissed/safety plan be revoked, Protective Order be

issued, etc.): _____

VII. APPOINTMENTS

IT IS ORDERED BY THE COURT that if not previously ordered: (Please check the applicable boxes)

□ ______ be and is hereby appointed to represent the child(ren) in these proceedings and that said program be given notice of appointment and served with a signed copy of the pleadings filed herein.

I that the parent(s), ______, is/are found to be indigent and is/are referred to the District ______ Public Defender Office who shall provide for representation and that said program be given notice of appointment and served with a signed copy of the pleadings filed herein.

L that the District ______ Public Defender Office shall provide for a curator ad hoc to locate absent parent(s), ______, and that said program be served with a signed copy of the pleadings filed herein.

□ that the local CASA program be and is hereby appointed, subject to the assignment of a qualified volunteer to advocate for the best interest of the child(ren) in these proceedings. CASA must be provided notice of appointment and served with a copy of the pleadings filed herein.

VIII. FURTHER ADVISEMENTS

The Court advised the parent(s) that once an electronic mail address is provided all service and notice of future proceedings may be sent electronically until such time, they provide notice to the Court and all parties in writing or in open Court that they are no longer able to receive service or notice at such address.

The Court advised the Department and the parent's counsel of their responsibility to promptly inform the Court of a new mailing address or electronic mail address, upon receipt of information regarding a parent's change of address.

The Court directed all persons before the Court to identify the name, address, and whereabouts of each parent and any relative or other individual willing and able to offer a wholesome and stable home for the child(ren). The Court advised all persons before the Court of their responsibility in achieving timely permanence for the child(ren).

The Court advised all persons before the Court of their responsibility to identify the name, address, and whereabouts of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, all other adult relatives of the child(ren) and any other individual willing and able to offer a wholesome and stable home for the child(ren).

IX. FURTHER ORDERS

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

□ **IT IS FURTHER ORDERED** that pending the filing of a Child in Need of Care Petition and Adjudication and/or establishment of a case plan, visitation/family time between the child(ren) and parent(s) and shall occur as follows:

and at all other times agreed by the parties.

□ IT IS FURTHER ORDERED that pending the filing of a Child in Need of Care Petition and Adjudication and/or establishment of a case plan, visits between separated siblings and/or with significant family members or other individuals shall occur as follows: ______

and at all other times agreed by the parties.

□ **IT IS FURTHER ORDERED** that the Department make arrangements to motion for DNA tests to determine the paternity/maternity of any alleged parents and that alleged parents comply.

□ **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), caretaker(s), children, CASA workers, and attorneys for child(ren) and attorneys for parent(s).

The initial FTM is tentatively on the _____ day of _____, 20___, at _____ am/__pm.

□ IT IS FURTHER ORDERED that the following Protective Order be issued and/or modified in compliance with Article 627: ______

IT IS FURTHER ORDERED that ______

X. ORDER OF NOTICES AND FUTURE HEARINGS

IT IS FURTHER ORDERED BY THE COURT that if the Child in Need of Care Petition is not filed within 45 days of the issuance of the Instanter Safety Plan Order this order will automatically terminate unless an extension is granted by the Court based upon a showing of good cause and notice to all parties.

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

□ IT IS FURTHER ORDERED that: (check if CINC Petition has been or will be filed)

This matter be set for Answer Hearing, the clerk shall notify all parties of the date, time, and location of the hearing 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; the Department provide notice to the parent(s) of the date, time, and location of the hearing as well as the nature of the allegations; notice of the hearing be made on counsel of record and CASA (if appointed); and for any parent(s) incarcerated, ______ arrange for the parent(s) to attend the hearing, either in person or remotely.

□ This matter has been set for **ANSWER** on the _____ 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:	
Email Address:	
Parent's Attorne	ey:
Street:	
City, State, Zip: _	
Fax Number: ()
Email Address: _	
Parent:	
Street:	
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Parent's Attorne	ey:
Street:	
City, State, Zip: _	
Fax Number: ()
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Email Address:	
Assistant District Attor	ney/Bureau of General Counsel:
Street:	
City, State, Zip:	
Fax Number: ()	

Department of Children and Family Services Staff/Representative:

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