

CASE REVIEW HEARINGS

La. Ch. C. arts. 687-700

LOUISIANA
CHILD IN NEED OF CARE BENCHBOOK
FOR JUVENILE JUDGES

SECTION

9

INTRODUCTION

A. BACKGROUND

If the custody of a child was granted or continued with the Department of Children and Family Services (DCFS) at the Disposition Hearing, then Federal and State statutes and regulations impose permanency planning requirements. The law ensures periodic judicial review of the status of children placed in foster care to help secure a permanent placement for them as soon as possible. Foster care is, and should always be, the safety plan of last resort. It is designed to offer temporary care in times of family crisis and is not meant to be a substitute for family. There are two separate components of permanency planning:

- (1)** The initial case plan (Articles 671-677) and its review hearing process (Articles 687-700); and,
- (2)** The identification of a permanent plan for the child and its review hearing process. If the child remains in foster care for a year and the identification of a permanent plan is required, then a Permanency Hearing¹ is mandated pursuant to Articles 701-711.

While not a strict requirement of the law, if there is a DCFS Family Services case (i.e., court-ordered safety plan, etc.) where the child is not in DCFS custody, some courts provide oversight by holding Case Review Hearings.

B. GENERAL CONSIDERATIONS

The Children's Code requires the court to determine the following at the Case Review Hearing:

- (1)** The continuing necessity for and appropriateness of the child's placement;²
- (2)** The extent of compliance with the case plan by the parents³ and DCFS;
- (3)** The extent of progress which has been made toward alleviating or mitigating the causes necessitating placement; and,
- (4)** A likely date by which the child may be permanently placed,⁴ including whether the child could return home safely to the custody of his/her parents.

In addition, the Federal Adoption and Safe Families Act (ASFA) requires that the Case Review Hearing address the ongoing safety of the child.⁵ Case Review Hearings provide an opportunity to monitor progress and revise the case plan to ensure that it is tailored (and continues to be tailored) to achieve reunification and/or another permanent plan if reunification is no longer viable. Case reviews provide time to determine what progress has been made on the plan since the last hearing – both by the parents and by DCFS. DCFS and the court bear joint responsibility for the case plan. DCFS proposes the case plan but after hearing arguments from parties and considering all the evidence presented, the court reviews the plan and either approves or disapproves it and has the authority to order DCFS to revise it accordingly.

The case plan process must involve parents and children and their supports. Judges can help to assure meaningful parent and child participation in the process. When the goal for the family is reunification, the case plan should focus on services and supports designed to enhance the parental protective capacities needed for the child to return home safely. The requirements must be feasible within

¹ "Permanency Hearing" and "Permanency Review Hearing" are used interchangeably in the Children's Code. The Children's Code also uses "Dispositional Review Hearing" instead of "Permanency Hearing" and "Permanency Review Hearing." For purposes of this Benchbook, "Permanency Hearing" will be used.

² See Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>.

³ 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.

⁴ See La. Ch. C. art. 603(22).

⁵ 42 U.S.C. § 629.

the stated time limitations.⁶ The case plan should not be a one-size-fits-all document or a checklist but rather an evolving document that effectuates long-term change. If one of the requirements specified in the case plan is not geared towards enhancing protective capacities, modifications to the plan should be made. If the parent is participating in a required service, but the behavior of the parent is not changing in a way that increases protective capacity, perhaps the service is not appropriate, not needed, or not the right service. On the other hand, if a parent has demonstrated a change to his/her behavior and the service has not yet been completed, perhaps that service can be moved off of the case plan.

No matter how carefully initial case planning is examined at the Disposition Hearing, periodic, thorough judicial review is needed to keep cases moving toward successful completion.⁷ Thus, the Children’s Code requires DCFS to provide a likely date for the child to be reunified with the parent or placed for adoption or guardianship at the Case Review Hearing. If reunification is not the permanent plan, the court should study the steps taken by DCFS since the last hearing to achieve the permanent plan. For example, if the child is 14 years of age or older, the Case Review Hearing is a time to look closely at the Youth Transition Plan (YTP) and confirm DCFS is taking reasonable steps to implement it.

Reviews should not be a rubber stamp of agency recommendations. Effective Case Review Hearings require adequate court time and properly trained and prepared lawyers. Lawyers must be expected to do their job and come to court with a clear position on the case after consulting with their client.⁸

C. PRIOR TO THE HEARING AND TIMING OF THE HEARING

Case Review Court Reports (some jurisdictions call these “court letters”) shall be filed at least 10 days in advance of the Case Review Hearing. This provision is not followed in some jurisdictions, but it is required and helps move the case forward to achieve timely permanency. For example, if the report references a particular service and the attorney wants to follow up or subpoena the service provider, the attorney will need sufficient time to do so before the hearing.

Similarly, DCFS shall file a copy of the case plan with the court at least 10 days before any scheduled Case Review Hearing. Upon filing, DCFS shall provide a copy to counsel of record and any unrepresented party. Court Appointed Special Advocates (CASA), if appointed, are also entitled to a copy of the case plan upon request. The 10-day requirement allows time for counsel to file a response to the case plan, which can help identify issues for the hearing. Strict adherence to the 10-day mandate is critical for counsel to consult with their clients and effectively advocate for parents and children in these court proceedings. A court report is also generally filed by CASA (if appointed) prior to the hearing. Judges should consider CASA’s “best interest” recommendations for permanency and services needed by the child.

The initial Case Review Hearing is to occur within 3 months after the Disposition Hearing if the child was removed prior to Disposition (i.e., removed on an Instanter Order and removal continued after Continued Custody Hearing (CCH)) or within 6 months after the Disposition Hearing if the child was removed at Disposition. The Children’s Code does not allow for continuances at the Case Review Hearing.

After the initial one, Case Review Hearings are to be held at least every 6 months or upon motion of a party for good cause or the court’s own motion. However, the circumstances of the case should drive the timing of the next hearing. At certain stages of the case, it may be critical to set the next hearing much sooner than 6 months.

Per DCFS policy, the case plan is updated every 6 months from entry into foster care and/or the opening of a DCFS Family Services case. The case plan update may or may not coincide with ongoing judicial reviews, depending on when the child entered DCFS custody or when the DCFS Family Services case was opened. DCFS should submit the most current case plan with each Case Review Court Report and advise the court whether the plan has been updated since the last hearing. The Youth Transition Plan (YTP) is a mandatory part of the case plan for youth 14 years of age and older.⁹

⁶ La. Ch. C. art. 684, Authors’ Notes.

⁷ Gatowski, S., Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: Improving court practice in child abuse and neglect cases. Reno, NV: National Council of Juvenile and Family Court Judges, p. 257 [hereinafter Gatowski].

⁸ Id. at 259.

⁹ For more information about Federal laws supporting youth in foster care transitioning to adulthood, please see: https://www.americanbar.org/content/dam/aba/administrative/child_law/youthengagement/quick-reference-guide-laws.pdf.

D. NOTICE AND APPEARANCES

At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. The court shall not admit any person who does not have a proper interest in or is not necessary to the proceeding. As in all CINC hearings, the parents and children have a right to be present, as do foster caregivers (i.e., foster parents, pre-adoptive parents, and relatives) caring for the child¹⁰ and CASA (if appointed). The court must confirm that proper notice was given to parties and counsel. Fifteen days prior to the hearing, notice to the parties and counsel shall be served and a return made in the same manner as a Petition unless the parties have previously been notified in open court. In addition, DCFS has a duty to provide notice to the parents and foster caregivers, and the court must confirm that notice was properly given.

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

Before the case is called, the judge should inquire whether counsel for the parent and counsel for the child had sufficient opportunity to consult with their clients, thereby safeguarding due process for the family.

E. INTERVENTION

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

F. EVIDENCE AND TESTIMONY

Parties have the right to call witnesses and present evidence at the Case Review Hearing. Witnesses may be sequestered at the hearing. DCFS staff members and CASA volunteers are not parties to the case and, too, may be sequestered. However, a DCFS representative would likely need to remain in the courtroom to assist the assistant district attorney (ADA). Of course, sequestration is different from closing a hearing upon motion of a party since a closed hearing is one in which only the parties are present.

Testifying in court is stressful for many parents and children. Court is intimidating for most individuals (including non-party witnesses), and the stakes could not be higher for parents and children in these cases. Many parents and children are coming to court with a history of trauma. Nevertheless, some parents and children may benefit from having their voice heard. It is critical for the judge to consider information provided by the parents and children, and to convey that their testimony is being taken into account in the court's ruling. Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.¹¹

The child can testify if present or appearing by audiovisual conferencing. Whether the child is present or not, the child's attorney should make sure the court hears the child's wishes regarding custody, placement, the case plan, services, etc. Foster caregivers also have a right to be heard at the Case Review Hearing and, as the day-to-day caregivers of the child, likely have valuable information for the court.

¹⁰ See La. Ch. C. arts. 623 and 696; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

¹¹ Gatowski, *supra* note 7, at 16.

It can also be helpful to hear testimony of therapists, teachers, domestic violence advocates, parenting instructors, and other service providers at review hearings. These witnesses can provide useful information to the court concerning the family’s progress and their recommendations. If a provider is not available to attend the hearing, a written report from the provider should be attached to DCFS’s court report. The court should also be clear about DCFS efforts to obtain needed services and supports for the family.

G. CASE: CONTENT HIGHLIGHTS

Central to the case plan is the placement of the child (referred to as the “child care setting” in the case plan). The judge cannot order a specific individual placement when a child is in DCFS custody. However, the judge is given the authority and responsibility to review the case plan, listen to evidence and arguments with respect to the case plan, and either accept the case plan or disapprove it in whole or part.

The elements of the case plan related to the child are often contingent on the placement. Thus, if the court disapproves the placement chosen by DCFS, then the court should carefully review the case plan to see if other parts of the plan need to be revised accordingly. Separate law (Art. 672(A)(2)) also gives the court the authority to disapprove a placement chosen by DCFS after a contradictory hearing.

DCFS must make diligent efforts to assess any relatives and/or fictive kin identified as possible placements by parents, children, attorneys, CASA, relatives, therapists, foster caregivers, and others. In addition, Federal law requires DCFS to make reasonable efforts to place siblings together unless DCFS documents that such a joint placement would be contrary to the safety or well-being of any of the siblings. Although these reasonable efforts findings need not be reflected in the Case Review Order, they are nevertheless critical to the well-being of the child in the case. In the case of siblings removed from their home who are not so jointly placed, Federal law requires that DCFS provide for frequent visitation or other ongoing interaction between the siblings unless DCFS documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.¹² Judges should also be cognizant that a child may have a sibling-like relationship and bond with another child that is not a biological sibling but just as significant to the child.¹³ Thus, courts should require DCFS to show evidence that such efforts continue through other relevant stages of the CINC proceedings.

Effective October 1, 2021, Louisiana will have to comply with the Family First Prevention Services Act (H.R. 5456 (P.L. 115-123)), signed into law as part of the Bipartisan Budget Act on February 9, 2018, which will make significant changes to the placement of children in congregate care (i.e., group homes, qualified residential treatment programs, etc.).¹⁴

Another critical part of the case plan is visitation—with parents, siblings, relatives, and other important persons in the child’s life. Visitation should not be used as a mechanism to reward or punish parents or children. The court’s role is to help safeguard valuable relationships and connections by considering the frequency and type of visitation. In the case of separated siblings, DCFS must make reasonable efforts to provide frequent visits or other interaction (again, unless contrary to the safety or well-being of any of the siblings). The Authors’ Notes to Article 309 clarify that the court has continuing jurisdiction over visitation and custody. This indicates that the court can make its own orders with regard to visitation.

The case plan should incorporate the recommendations of professionals, including but not limited to psychologists, psychiatrists, therapists, and addictive disorder specialists. If available, these recommendations should be specifically stated in the case plan; in that way, there is no confusion by any party regarding what is expected of the parents.

The case plan must address education for school-aged children. The judge can reject the case plan if the action items for the child’s education are not sufficient. The Every Student Succeeds Act (ESSA) allows a child placed in foster care to remain in his/her school of origin and for transportation to be provided for the child to the school of origin, even if the child moves out of that school district. DCFS and the school district must partner to ensure this transportation is provided. In addition, the case plan should state whether the child has an Individualized Education Program (IEP) or 504 Accommodation Plan and is receiving the services outlined in the educational plan.

¹² See 42 U.S.C. § 671(a)(31)(A) and 42 U.S.C. § 671(a)(31)(B).

¹³ 42 U.S.C. § 671(a)(31)(A) and 42 U.S.C. § 671(a)(31)(B); see also <https://www.ncsl.org/print/cyf/FosteringConnectionsSummary.pdf>.

¹⁴ See <https://familyfirstact.org/about-law>.

An aspect of case planning that is often overlooked includes the need for cultural and/or religious connection and/or activities for children. The presence or absence of such activities may depend on the practices of the placement rather than based on the needs of the child. The court can make inquiries into this important part of some children's lives and determine whether the case plan adequately addresses these needs. For example, consider a child who has been raised as a member of a particular church, but the foster care placement does not practice any religion. The child may suffer by not continuing to attend church in this placement. How will the case plan address the need for the child to continue in this activity? Or, if a child has been raised without any religious practice and is placed in a home where the foster parents expect the child to attend church frequently, this could be very uncomfortable for the child. Thus, the court should assess the DCFS proposed plan to address the child's cultural and/or religious background.

The Children's Code requires the case plan to afford the child the greatest opportunity for normalcy. See Article 675(B)(3). Children in foster care should be able to engage in age- or developmentally-appropriate activities, such as spending the night at a friend's house. The greatest opportunity for normalcy lies in the day-to-day decisions affecting the child's activities. However, at times, there may be tension between this concept of "normalcy" set forth in the Children's Code and the reasonableness of the child's wishes, tempered by the oversight that foster caregivers provide to children.¹⁵

For youth 14 years of age and older, the YTP must be reviewed by the court when reviewing the case plan. DCFS must provide the youth with assistance and support in developing a transition plan that is personalized at the direction of the youth, includes specific options for housing, health insurance, education, local opportunities for mentors, continuing support services, workforce supports and employment services, and is as detailed as the youth may elect. Federal law requires that youth play an active role in the planning for their present and future, and courts should make sure youth feel involved in this process. DCFS is responsible for implementing the YTP, and courts should regularly review the progress of the implementation of the YTP.

H. REASONABLE EFFORTS

The court is not required by State law to make reasonable efforts findings at Case Review Hearings. But courts have an ongoing obligation to hold DCFS accountable for making reasonable efforts to prevent or eliminate the need for removal, reunify the family, and/or achieve a permanency. The only exception to the reasonable efforts to reunify mandate occurs when the court finds that reasonable efforts to reunify the family is not required per Article 672.1. In sum, even if a reasonable efforts finding is not required by law at a particular hearing, the court should make ongoing inquiries as to the reasonable efforts being made by DCFS.¹⁶ See [Disposition Hearing Benchbook Section 8 H](#) for more information on reasonable efforts findings.¹⁷

I. ORDERS

The court continues to have jurisdiction to make rulings about custody in CINC cases. The court may maintain or modify the current Disposition as provided in Articles 681 to 683. For example, if a relative has been recently identified and assessed, the court could decide to grant custody or guardianship to the relative with or without ongoing supervision (i.e., DCFS supervision, safety plan, etc.) and/or issuing a PO. Or, if a non-custodial parent has been located, the court could decide to grant custody of the child to that parent with or without ongoing supervision (i.e., DCFS supervision, a safety plan, etc.) and/or issuing a PO.

The court should determine the continuing necessity of the removal of the child from his/her parents at each hearing. Indeed, ASFA requires that the ongoing safety of the child be assessed at the Case Review Hearing. The DCFS Case Review Court Report should provide information about whether safety concerns remain that prevent the child's return home. Children should be returned home

¹⁵ See Preventing Sex Trafficking and Strengthening Act (2014), which established a normalcy provision for foster youth under the "reasonable prudent parent standard." Act, H.R. 4980; see also <https://www.ncsl.org/research/human-services/preventing-sex-trafficking-and-strengthening-families-act-of-2014.aspx> and https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/october-2016/the-reasonable-and-prudent-parent-standard/.

¹⁶ See Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>.

¹⁷ See La. Ch. C. arts. 672.1 and 702; 42 U.S.C. § 671(a)(15)(E); 42 U.S.C. § 675(5); and 45 C.F.R. § 1356.21(b)-(h); see also Child Welfare Policy Manual, Section 8.3A.6, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?citID=37

immediately once they can safely be returned, regardless of whether the case plan has been completed. The child's return home can be accomplished with a period of supervision by DCFS, although such supervision by DCFS is not a requirement.

The Child Welfare Assessment and Decision Making Model (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 involved with DCFS. A formal safety assessment is required at specific intervals during the life of a case, including at Case Review Hearings. If a child has been previously removed from his/her parents, the court should determine if the child can be returned home or whether an out-of-home placement is still necessary. To make this determination, the court will have to inquire about the current status of: (1) any threats of danger to the child; (2) the child's vulnerability to the threats of danger; and (3) the parent's protective capacities to manage the threats of danger and keep the child safe. The essential inquiries at every CINC hearing should include: Can the child safely go home today (if reunification is still possible)? If not, what needs to happen to make return possible? Who is responsible? What is the timeframe? See the [Child Welfare Assessment and Decision Making Model \(CWADM\) Benchbook Section 11](#) for more information.

If the child cannot be safely returned home, the court should continually consider whether a transfer of custody or guardianship is in the child's best interest as opposed to maintaining the child in DCFS custody. The goal of this process is for a child's stay in foster care to be shortened whenever feasible and safe to do so.

At Case Review Hearings, the court will either approve or disapprove the case plan in whole or part. If the court disapproves any part of the case plan, best practice is to order DCFS to make revisions and schedule a hearing to review the revisions as soon as possible. Sometimes all parties can come to an agreement at the hearing, so that another hearing is not necessary. Still, the Case Review Order should clearly reflect specific amendments made and that all parties agree to the amended case plan.

Upon determination by the court that DCFS has failed to comply with the requirements in the Case Review Hearing articles, the court has several sanctions at its disposal. Article 712 sets forth these options.

An attorney or the court is responsible for completing the Order. All the attorneys and unrepresented parties should review the order before the judge signs it to ensure it accurately reflects the proceeding. Time permitting, best practice is to sign the Order on the same day as the hearing.

J. ENGAGING AND ADVISING THE PARTIES

It is important to make sure the parents and children present are engaged and understand both what is happening at the Case Review Hearing and in the case as a whole. The CINC process is complicated and can be confusing to all who have never been involved before. Judges are encouraged to ask if the parties understand what the hearing is about and what the different parts of the case plan entail. While judges are sometimes concerned about engaging with parties, the truth is that families who are engaged in the CINC process fare much better than those who are not.¹⁸ Engaging parties can be hard to do and requires patience. But parents and children are more likely to respond better to encouragement, positive feedback, and being heard.¹⁹ Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.²⁰

The court must continue to advise parents of their responsibilities at each hearing, including Case Review Hearings. The parents are to cooperate with DCFS, comply with the requirements of the case plan, and correct the conditions requiring the child to be in care. As the case goes on, parents may have new information about adults (relatives or other individuals) who are possible short-term and long-term placements for the child. The court must remind parents of their responsibility to support the achievement of timely permanency

¹⁸ Parent advocates (sometimes called "parent mentors" or "parent partners") are parents who have successfully gone through the CINC process and regained custody of their children and can also help engage parents who have an open CINC case. There is credibility and an understanding that comes with having personal experience with a CINC case. This is one reason why a multidisciplinary representation model, a model that provides peer support to parents and children (i.e., parent advocate or former foster youth) in addition to an attorney and/or social worker, has proved to be beneficial in Orleans Parish and in other States. For more information about the multidisciplinary representation model, please see https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january--december-2019/providing-parents-multidisciplinary-legal-representation-signifi/. The Extra Mile in Lafayette has a stand-alone Parent Partner program: <https://theextramileregioniv.com/frc/>.

¹⁹ See Sankaran, Vivek. "My Name Is Not 'Respondent Mother': The Need for Procedural Justice in Child Welfare Cases." ABA Child L. Prac. Today. 2018, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2992&context=articles>; see also <https://www.ncjfcj.org/child-welfare-and-juvenile-law/trauma-informed-courts/>.

²⁰ Gatowski, supra note 7, at 16.

for the child and advise, or update DCFS and the court of the whereabouts of grandparents, parents of a sibling (who has legal custody of that sibling), and all other adult relatives of the child.

While the focus is often on the parents' responsibilities in CINC cases, parents have rights as well as important information to share about their children. When DCFS has custody of the child, the rights retained by parents are set forth in Article 116(24). Visitation is a right outlined in this article, as is the right to determine religious affiliation. If the child has been removed from the parent's custody, parents should still be invited to attend all medical appointments, school conferences and activities (including eating lunch with the child at school), sports and extracurriculars, and other important events involving the child (unless there is an order otherwise preventing this, such as a criminal no contact order). The court can use the hearing to remind the parties of the rights that parents retain in CINC cases.²¹

In addition to the importance of the court's role in advising the parties, the attorneys, of course, have a duty to do so. Part of the attorney's duties includes answering questions and explaining orders to parents and children. It is often advisable to allow attorneys a little time after the hearing concludes to relay information, reassure clients, and address immediate issues.

K. NEXT STEPS

When reunification is expected, the court should ask questions about transition planning at the hearing. Depending on the age of the child, best practice may be to transition the child to the parent's home rather than suddenly moving. In some jurisdictions, DCFS promulgates a transition calendar with the input of all involved. The court can order a transition period with a goal date for reunification.

When a change of any kind occurs for the child (i.e., change in placement or custody), it is critical to the child's well-being for judges to collaboratively strategize with all involved to reduce the trauma experienced by the child in the move. DCFS has developed tools to try to minimize this trauma, including a guide for planful transitions. Transition plans can include multiple, extended visits, such as overnight visits as well as other additional contacts including Zoom, FaceTime, etc., to ensure the most positive experience possible for the child.²² These activities should occur both prior to the move and after the move to provide the child a less traumatic separation from previous caregivers and greater prospect of connecting to the new caregivers.

The court should schedule the next Case Review Hearing and/or Permanency Hearing. The initial Permanency Hearing shall be held at least within 9 months if the child was removed prior to Disposition or within 12 months if the child was removed at Disposition. If a judicial determination that reasonable efforts to reunify the family were found to not be required per Article 672.1, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.

The Permanency Hearing shall be held at least every 12 months thereafter (or earlier upon motion per Article 702(B)). The Case Review and Permanency Hearings may certainly occur simultaneously if the findings and orders are separated for each type of hearing. Regardless of the frequency of mandatory review, the court can conduct hearings more frequently than the minimum intervals. While review hearings are mandated at least every 6 months after the initial one, it is advisable to hold reviews at 2- or 3-month intervals at particularly critical stages of a case. In certain circumstances, parties should also be able to bring matters back to court on short notice.²³

Depending on the timing of the review hearing and the permanent plan in the case, the court should also inquire as to the status of the filing of the Petition to Terminate Parental Rights (TPR). The Children's Code requires the TPR Petition be filed if the child has been in DCFS custody for 17 of the last 22 months unless DCFS has documented in the case plan a compelling reason why filing it is not in the child's best interest. The timely filing of the TPR Petition goes towards reasonable efforts on the part of DCFS to achieve the permanent plan for the child.

²¹ See <http://www.dcf.louisiana.gov/page/471> and <https://www.qpi4kids.org/what-is-qpi/>, for more information on Quality Parenting Initiative (QPI).

²² DCFS Policy 6-305 "Guidelines for Care Setting Decision Making for Children Under Age Six" (March 15, 2019).

²³ Gatowski, *supra* note 7, at 260.

L. APPEAL

Any party may appeal the orders of the Case Review Hearing.

OUTLINE

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-  **B. TIMING AND CONTINUANCES**
-  **C. APPEARANCES**
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-  **F. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS**
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-  **O. APPENDIX**

(1) CASE REVIEW HEARINGS BENCH CARD

(2) CASE REVIEW ORDER TEMPLATE

(3) DEPARTMENT OF CHILDREN AND FAMILY SERVICES CASE REVIEW REPORT TEMPLATE

OVERVIEW

A. PRIOR TO THE HEARING

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

(1) CASE PLAN FILED BY DCFS

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

PRACTICE TIPS:

- **Timing for Development of Case Plan:** Federal and State law require that the case plan be updated every 6 months after it is initially developed and until the case is closed.²⁴ If the Case Review Hearing is held less than 6 months since the previous hearing, the case plan may not have changed.
- **CASA Can Request Copy:** CASA can request a copy of the case plan (Article 424.6).
- **Transmission by Email:** Service by electronic mail is complete upon transmission but is not effective if the serving party learns the transmission did not reach the party to be served.
- **Purpose of Response:** Filing a response puts the parties on notice of potential issues relevant to the case plan. However, the Children's Code does not require a written response.

HELPFUL GUIDANCE:

- **Signed by Family Members:** Per DCFS policy, case plans should be signed by the family members who participated in developing it.
- **Family Team Meetings (FTM):** FTMs are facilitated by DCFS and are important because FTMs are where case planning occurs for the family. It is also where parents and children and other stakeholders and supports give valuable input on the case plan, including the services and assistance to be provided or needed. FTMs should include all parents, foster caregivers, CASA, children, and attorneys for the children and attorneys for the parents. Parents and children may permit others to participate in FTMs. Courts should ensure that an FTM was held prior to the Case Review Hearing and that the court has the most current case plan. It is recommended that the FTM be held as closely in time to the hearing as possible (but with enough time for filing the case plan 10 days in advance of the hearing) so that the court can review the case plan before it is acted upon. Efforts to hold timely and meaningful FTMs support reasonable efforts findings to achieve reunification and/or permanency.

²⁴ DCFS Policy 6-810 "Legally Mandated Case Plan" (August 17, 2020).

(2) CASE REVIEW COURT REPORT FILED BY DCFS:

- **FILING:** DCFS²⁵ shall file a copy of the Case Review Court Report with the court at least 10 days prior to every scheduled Case Review Hearing.²⁶
- **PROVIDE COPIES:** DCFS shall serve a copy of the Case Review Court Report upon:
 - Counsel of record either by mail or electronic mail; AND
 - Any unrepresented party either by certified mail at his/her last known address or by DCFS by electronic mail at the address expressly designated by the party in a pleading, at the CCH or CSPH, or at any other hearing at which the party personally appeared before the court prior to or at the same time it is filed with the court.
- **CONTENT:** The Case Review Court Report shall review the status of the child and address the following (but is not limited to):
 - The continuing necessity for and appropriateness of the placement;
 - The extent of compliance with the case plan;
 - The extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; AND
 - A likely date by which the child may be returned home or placed for adoption or guardianship granted. See [Department of Children and Family Services Case Review Court Report Template](#) in the [Appendix](#). **IMPORTANT:** Use of the DCFS Court Report templates provided in this Benchbook for Disposition Hearings, Case Review Hearings, and Permanency Hearings are being implemented in a phased-in approach across the State.
- **RESPONSE:** Parties may file a written response to the Case Review Court Report:
 - As long as the response is submitted to counsel of record and any unrepresented party at least 5 days prior to the Case Review Hearing.

☰ PRACTICE TIPS:

- **Court Report or Letter:** Some jurisdictions call these court reports “court letters,” while others call them according to the hearing name (i.e., Case Review Report, Permanency Report, etc.).
- **Transmission by Email:** Service by electronic mail is complete upon transmission but is not effective if the serving party learns the transmission did not reach the party to be served.
- **Foster Caregiver Progress Form:** The Foster Caregiver Progress Form may be attached to the court report if the foster caregivers providing care for the child chose to submit the form to DCFS prior to the Case Review Hearing. See the [Foster Caregiver Progress Form Template](#) in the [Appendices Benchbook Section 12](#).
- **Assessment of Child’s Relationships:** The report should include an assessment of the current status of the child’s established and significant relationships with others.²⁷ This is critical for courts to know in determining whether changes need to be made to visitation, placement, custody, etc., and whether reasonable efforts requirements are being met.
- **Purpose of Response:** This provision puts the parties on notice of potential issues relevant to the court report. However, the Children’s Code does not require a written response.
- **Timing of Response:** Court reports are not always timely filed. The court has discretion to allow a response later than 5 days prior to the hearing when the filing of the court report is delayed and/or when it is in the best interest of the child.
- **Case Review and Permanency Hearings Held Simultaneously:** When Case Review and Permanency Hearings are held at the same time the DCFS Court Report should address the information required for both types of hearings.

(3) COURT REPORT FILED BY CASA:

- **FILING:** If the court has appointed CASA, the CASA program shall submit reports to the court. See [CASA Court Report Template](#) in the [Appendices Benchbook Section 12](#).

²⁵ La. Ch. C. art. 688 states the “custodial agency” instead of DCFS, but in most cases in Louisiana the custodial agency will be DCFS.

²⁶ The option for an administrative review body to review the case is preserved by La. Ch. C. art. 688, although currently all case review is conducted by courts. Case reviews by an administrative review body is allowed by Federal law.

²⁷ La. Ch. C. art. 690, Comment 2001.

- **DISTRIBUTE COPIES:** CASA shall distribute a copy of such reports prior to or at the time it is submitted to the court to:
 - All counsel of record;
 - Any unrepresented party; AND
 - DCFS.

 **PRACTICE TIPS:**

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

▼

OVERALL GUIDANCE:

- **Importance of Timing:** Timelines for submitting case plans and court reports are not followed in some jurisdictions, but they should be. Filing the case plan and court report at least 10 days in advance of the hearing is important for moving the case forward and achieving timely permanency. Parties have the right to review the case plan and report and respond to them (see above); however, they will not be able to respond if DCFS does not timely file these documents and provide copies to counsel of record, unrepresented parties, and CASA (if appointed). Adequate representation is harder to achieve when reports or amendments are delayed since that can make it impossible for counsel to follow up on the information provided.
- **Local Court Rules and Orders:** While the Children’s Code does not provide a specific procedure on timing or mode of service, such as for court reports, CASA reports, or physical examinations, courts may want to consider setting those requirements by local court rule. Additionally, the court can include such in its written Orders.
- **Contempt:** The contempt articles (Articles 1503 et seq.) are always available to the court, if appropriate, when investigations and/or evaluations previously ordered to be completed prior to this hearing have not been completed on time, or the case plan or Case Review Court Report is unnecessarily delayed.

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B. TIMING AND CONTINUANCES

ARTICLES 603(22), 687, 692, 711, LA. SUP. CT. RULE XXXIII, SEC 1-2

(1) TIMING:²⁸

- **Initial Case Review Hearing:**
 - The court may grant or restrict a requested continuance of the Disposition Hearing:
 - **If Removed Prior to Disposition Hearing:** A Case Review Hearing shall be conducted by the court 3 months after the Disposition Hearing if the child was removed prior to Disposition (i.e., removed on an Instanter Order or at a CCH); OR
 - **If Removed at Disposition Hearing:** A Case Review Hearing shall be conducted by the court within 6 months after the Disposition Hearing if the child was removed at Disposition, but in no case more than 6 months after removal of the child from his/her parents.

²⁸ 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.

- **On-Going Case Review Hearings:**

- **Every 6 Months Thereafter:** A Case Review Hearing shall be conducted at least once every 6 months after the initial Case Review Hearing and until:
 - The child is permanently placed;²⁹ OR
 - The motion of a party for good cause shown or upon the court's own motion.

(2) CONTINUANCES:

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

PRACTICE TIPS:

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

C. APPEARANCES

ARTICLES 575, 607-8, 643, 694-8

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

PRACTICE TIPS:

- **Service Providers:** Persons who provide services to the parents and children, such as therapists, teachers, domestic violence advocates, and parenting instructors, can often provide valuable information to the court concerning the family's progress and recommendations for additional services. If a particular service provider is not available to attend the hearing, the court should make certain that DCFS staff members have obtained detailed information on the participation and progress of the parents in that service. Ideally, written reports from all service providers should be provided to the court and parties in advance of the hearing. The involvement of service and treatment providers at reviews help coordinate services with court-approved treatment goals.³⁰
- **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 Case Review Hearing. This multi-disciplinary approach is especially critical for youth

²⁹ See La. Ch. C. art. 603(22).

³⁰ Gatowski, *supra* note 7, at 263.

who may have mental health concerns, delinquency matters, and/or disabilities and may benefit from coordinated services and supports.

HELPFUL GUIDANCE:

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

(2) ESSENTIAL JUDICIAL FUNCTION - ASSISTANCE SERVICES AND SPECIAL ACCOMMODATIONS: Under State and Federal law, the court is responsible for providing interpretation, translation, and/or language assistance services for parties to CINC hearings and/or reasonable accommodations for parties to CINC hearings with disabilities. When the court appoints counsel for indigent persons, it is also responsible for appointing and paying for a qualified interpreter or translator for indigent persons with these needs to assist in communication with counsel in all phases of the preparation and presentation of the case.³¹ There must be ample time for legal interpreters to review pertinent legal documents with the party prior to the court proceeding.³² Interpreters must be familiar with the case-related details to provide accurate, meaningful, and effective interpretation.³³

(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. See Disposition Hearing Benchbook Section 8 C(3) for more on the importance of children’s presence at hearings.

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

PRACTICE TIPS:

- **Effect of Nonappearance of Parent:** If a parent is absent, the hearing may only proceed if it is established on the record that the parent was served but is not in attendance or that efforts to serve the parent have been unsuccessful.
- **Reunification Case Plan Goal:** If reunification with the absent parent is the case plan goal, DCFS shall:
 - Make continuing diligent efforts to locate the absent parent;
 - Notify him/her of the nature and outcome of the hearing;
 - Promptly inform the court of known or discovered address; AND
 - Promptly inform the court of any new address that becomes known through the case planning process.
- **Unidentified Father:** If a father is unidentified, it is not necessary to appoint a curator ad hoc for that parent. The father shall be considered unidentified if:

³¹ See C.C.P. Art. 192.2; La. R.S. § 46:2364; 42 U.S.C. § 3711; 28 U.S.C. § 604(a)(14), (15), and (16), § 1827, and § 1828; see also https://www.lasc.org/language_access and https://www.lasc.org/District_Court_Rules?p=TitleI.

³² 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>

³³ Id.

- The biological father's name is not provided on the birth certificate;
 - There is no presumed father; AND
 - No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.
- **Incarcerated:** To ensure the attendance of any parent who is incarcerated at the Case Review Hearing, a writ or motion should have been filed and an order issued by the court and served on the warden or administrator of the facility prior to the Case Review Hearing. Service should be made sufficiently in advance of the hearing to afford time for the facility to arrange for transportation of the parent to court (or video conferencing where the parent's physical attendance at the hearing is not possible).
 - **Direct Parent Present to Identify Other Parents:** If a parent has still has not been located, the judge should direct the parent who is present under oath to provide name, address, and whereabouts for any parent who has not been located and emphasize the importance of identifying and locating any absent parents.
 - **Determining Paternity/Maternity:** The court must ensure that efforts by DCFS are thorough and diligent in locating and involving all legal and putative parents and that paternity or maternity of all children is legally determined. If the identity and whereabouts of an alleged parent is known but filiation has still not been legally determined, the court can order that DCFS acquire information needed to determine filiation (i.e., obtain DNA testing, copy of birth certificate, certificate regarding Putative Father Registry, certificate of results from Clerk of Court showing whether an acknowledgement was filed in the parish of the child's birth, etc.), including ordering that DCFS make arrangements for DNA tests to determine the paternity/maternity of any alleged parents and that the alleged parents comply.
 - **Direct Parent Present to Identify Potential Relative Caregivers:** Establishing paternity or maternity is also critical for finding potential relative caregivers for the child; thus, the court may also want to direct the parents under oath to identify relatives of the child.

 **HELPFUL GUIDANCE:**

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

(5) ATTORNEYS:

- a. **Parents:** The Indigent Parents' Representation Program shall provide qualified legal counsel, including curatorship appointments, to indigent or absent parents in CINC cases unless a parent waives his/her right to counsel (See Articles 575, 608, and 643).
- b. **Children:** An attorney for the child shall be present at every hearing, assert the child's wishes, and protect the legal interests of the child even if the child is not present (Article 607).³⁴
- c. **State:** An ADA, an attorney (ADA), an attorney the ADA designates, or a DCFS attorney (Bureau of General Counsel/BGC) representing the State should be present at the hearing.

³⁴ LA. SUP. CT. RULE XXXIII, PART III.

PRACTICE TIPS:

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

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

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

(8) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD: Foster caregivers (i.e., foster parents, relatives, or pre-adoptive parents) providing care for the child have a legal right to receive notice of and be present at the Case Review Hearing. The court may permit the hearing to be held in the person's absence even if they were not properly notified. See [Continued Custody Hearing \(CCH\) Benchbook Section 5 B\(8\)](#) for more information.³⁵

(9) AUTHORIZED OFFICERS OF THE COURT AND WITNESSES:

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

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

D. INTERVENTION

ARTICLE 697

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

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

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

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

(3) HELPFUL GUIDANCE:

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

E. NOTICE

ARTICLES 623, 640-1, 643, 693, 696, 42 U.S.C. § 675(5)(G), 45 C.F.R. § 1356.21(o)

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

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

³⁵ See La. Ch. C. arts. 623 and 695; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

(2) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD:

- **Notice and Right to Be Heard:** The court shall determine whether DCFS:
 - Gave notice of the date, time, and place of the Case Review Hearing to any foster caregiver providing care for the child; AND
 - Informed the recipient of his/her right to attend and be heard at the hearing.
- **Fails to Appear:** If a foster caregiver fails to appear at a hearing, DCFS shall report to the court whether notice was given or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing to be held in the person's absence.³⁶

F. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS

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

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

G. EVIDENCE AND TESTIMONY

ARTICLES 424.5, 424.7, 696, 699, LA. SUP. CT. RULE XXXIII, PART III, SUBPART II

- (1) EVIDENCE:** The court shall consider all relevant evidence offered by the parties. The court may limit the admissibility or weight of any evidence which it deems unreliable, cumulative, or unduly dilatory.
- (2) PARENTS:** Parents may testify, confront and cross-examine adverse witnesses, and present evidence and witnesses.
- (3) CHILDREN:** Children may testify, confront and cross-examine adverse witnesses, and present evidence and witnesses.
- **Wishes:** If the child is present in court the child may choose to testify as to his/her wishes, and the court shall consider the child's testimony in the matter.³⁷
 - **Methods of Testimony:** Any testimony given by a child may be taken by:
 - A videotaped interview or by closed-circuit television, as authorized by Chapter 8 of Title III of the Louisiana Children's Code;
 - An in-chambers conference attended only by the judge and court reporter and by counsel for the child, the petitioner, and the parents; OR
 - If no party objects and the parties agree as to the procedure, the child may be examined "in chambers, on or off the record, and with or without parents and/or counsel being present."³⁸
 - **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.

³⁶ See La. Ch. C. arts. 623 and 695; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

³⁷ LA. SUP. CT. RULE XXXIII, PART II, SUBPART II

³⁸ *Watermeier v. Watermeier*, 462 So. 2d 1272, 1275 (La. App. 5th Cir.), cert. denied, 464 2d 301 (La. 1985).

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 custody, placement, services, case plan, etc.).³⁹
- **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, mental health and educational needs and identify any gaps in services needed by the child.

(4) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD: The court shall solicit and consider information regarding the care and treatment⁴⁰ of the child from any foster caregiver providing care for the child who appears for the Case Review Hearing.⁴¹

PRACTICE TIPS:

- **Valuable Information to Consider:** The court should value the role of the child’s daily caregivers and the insight they can provide to the court about how the child is doing and what he/she needs. Because of their day-to-day care of the child, foster caregivers have useful information that the court, DCFS, CASA, and parties to the CINC case need to make crucial decisions regarding the child’s well-being. Thus, their role in the court process is to provide current and accurate oral and/or written information about their observations of how the child is doing so that judges can make informed decisions in the best interest of the child.
- **Solicit Information:** While foster caregivers are not parties, they have a legal right to be heard at any CINC hearing regarding a child in their care. There are at least 2 ways the court can solicit and consider information from caregivers. The caregiver can: (1) submit a Foster Caregiver Progress Form to DCFS prior to the hearing and/or (2) attend and speak at the hearing, or both.
- **Submit a Foster Caregiver Progress Form:** The Foster Caregiver Progress Form is one of the ways foster caregivers can exercise their right to be heard but is not required. If the caregiver chooses to complete the form, they will submit it to DCFS, who will bring copies of the form to the hearing. The form can be submitted to DCFS even though the caregiver may not attend the hearing. These forms contain hearsay information and should be treated as information about the child in the same way DCFS provides other information to the court. Even if the caregiver submits the form, they still have the right to attend and be heard at any CINC hearing regarding the child in their care. See the [Foster Caregiver Progress Form Template](#) in the [Appendices Benchbook Section 12](#).
- **Speak at Hearing:** In accordance with State and Federal law, if the foster caregiver attends the hearing, the court shall solicit information from the caregiver about the care and treatment of the child (even if they submitted a Foster Caregiver Progress Form). At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. This includes foster caregivers. After the court hears from parties and evidence is presented, if another party has not called on the caregiver to speak, the judge should call on them to see if they would like to speak. Some caregivers may wish only to attend and not speak. Judges may allow the caregiver to use the form to guide them when they speak and/or may want to utilize the form to ask the caregiver questions.⁴²

³⁹ LA. SUP. CT. RULE XXXIII, PART III.

⁴⁰ Neither State nor Federal law provides a definition for “care and treatment,” but DCFS policy states that it “includes information that the foster parent, relative, or pre-adoptive parent feels is critical to the safety and well-being of the child, such as how the child is doing physically, developmentally, emotionally, behaviorally, mentally, socially, and academically and what supports or services are needed for the child or caregiver to properly care for the child.”

⁴¹ See La. Ch. C. arts. 623 and 695; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

⁴² Id.

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

PRACTICE TIP:

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

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

PRACTICE TIPS:

- **Cannot Exclude Parties:** Parties to a proceeding cannot be excluded from the courtroom. Only the child can be taken out of the courtroom during testimony that may not be in their best interest to hear. See Article 661(E).
- **DCFS and CASA are Not Parties:** Neither DCFS nor CASA are parties to CINC proceedings. DCFS staff or a CASA volunteer may be excluded if any party plans to call them as a witness. However, a DCFS representative would likely need to remain in court to assist the ADA. See La. Code Evid. Art. 615(B)(2).
- **Foster Caregivers Are Not Parties:** Foster caregivers are not parties. While they have a right to be heard at any CINC hearing regarding a child in their care, they may be excluded and asked to be present only when they speak. However, it is encouraged that they are allowed to remain during the duration of the hearing. Allowing them to be present at the hearing communicates that they are a valued partner in ensuring the child's well-being. Because they provide day-to-day care to the child, it is also important for them to stay abreast of developments in the case and have the opportunity to meet and communicate with those involved in the case (i.e., the child's attorney, parents and relatives of the child, the CASA volunteer, etc.). The caregiver's presence at the hearing may better situate them to support the child during and after the hearing.⁴³
- **Exemption of Witnesses:** In the interest of justice, the court may exempt any witness from its order.
- **Closing a Hearing:** Sequestration is different from closing a hearing upon motion of a party. Closing a hearing means that no one is present except for the parties.

OVERALL GUIDANCE:

- **Engagement:** The court should do all that it can to support and encourage the meaningful engagement of families in CINC proceedings.⁴⁴ 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.⁴⁵ Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.⁴⁶

⁴³ Id.

⁴⁴ Gatowski, *supra* note 7, at 68.

⁴⁵ Id.

⁴⁶ Gatowski, *supra* note 7, at 16.

H. CASE PLAN CONTENT

ARTICLES 673, 675, 677, 685, 42 U.S.C. § 671(16), 42 U.S.C. § 675(1)

The case plan shall be designed to achieve placement in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' homes, consistent with the best interest and special needs of the child. See the [Department of Children and Families Case Plan Template](#) in the [Appendices Benchbook Section 12](#). The health and safety of the child shall be the paramount concern in the development of the case plan. The case plan shall at least include:

(1) PLACEMENT:

- A description of the type of home or institution in which the child is placed, including a discussion of the child's health and safety and the appropriateness of the placement; AND
- If the placement is a substantial distance from the home of the parents or in a different State, the reasons why it is in the best interests of the child.

PRACTICE TIPS:

- **Court's Authority Concerning Placement:** While the court has the authority to change custody, if the child is in DCFS custody, the court has no authority to order a specific placement for the child. However, the court has authority after contradictory hearing and best interest finding to disapprove the placement chosen by DCFS per Article 672(A)(2).
- **Shortage of Placements:** The fact that there may be a shortage of placements in Louisiana does not justify an assertion that it is in the best interest of the child to be placed a substantial distance from his/her parents' home or placed out-of-State.
- **Long-Term Permanency:** Per DCFS policy, placement with a family willing to provide long-term permanency to the child should the child be unable to return to the parents must be a priority. Additionally, except in unusual situations, all children ages 5 and under should be placed in care settings capable of providing long-term permanency due to the young age and critical developmental needs of the child. This can be achieved when children are placed with relatives or when unrelated families are selected based on their willingness and ability to provide safe and long-term permanency.

(2) CARE, SERVICES, AND ACTIVITIES:

- A plan for assuring that the child receives safe and proper care;
- That services are provided to the parents, child, and foster parents to improve the conditions in the parents' home, facilitate the safe return of the child to his own home or other permanent placement of the child, or both;
- Discussion of the appropriateness of the services that have been provided to the child under the plan; AND
- A plan for assuring that the child is afforded the greatest opportunity for normalcy through engagement in age or developmentally appropriate activities on a regular basis.⁴⁷

HELPFUL GUIDANCE:

- **Safety and Risk Assessment:** If a child is placed outside a parent's home, the court should determine the continuing necessity of an out-of-home placement at the hearing. At each hearing, the court should insist on a clear articulation of the current safety concerns that necessitate keeping the child in care. The child should be returned home immediately once it is safe to do so regardless of whether the case plan is complete. Foster care is the safety plan of last resort. See [Child Welfare Assessment and Decision Making \(CWADM\) Benchbook Section 11](#) for more information.
- **Assessing Services for Parents:** The following are important questions to ask when assessing services for the parents:
 - **Safety:** Does the case plan include tasks addressing changes in behaviors, commitments, and attitudes related to safety?

⁴⁷ See Preventing Sex Trafficking and Strengthening Act (2014), which established a normalcy provision for foster youth under the "reasonable prudent parent standard." Act, H.R. 4980.

- ▶ The case plan should be precise when detailing the expected outcomes and what parental behaviors must change.
- ▶ Listing services people must attend, directing them to “follow all treatment recommendations,” does not allow the court to measure progress, only to measure attendance or participation. An example of how to measure progress would be: “Alan will demonstrate an ability and willingness to delay his own needs to provide food, supervision, and attention for his daughter Kayla.”
- **Threats of Danger and Protective Capacities:** Does the case plan follow logically from the identified threats of danger and deficits in protective capacities in the home?
 - ▶ The case plan should lay out an effective and expedient strategy to equip parents to ensure the child’s safety. The case plan should reduce threats of danger over time and increase protective capacity. For example, a case plan calling for the parent to “learn about child development” may fail if it does not address the specific threats of danger the child is facing and/or the protective capacities the parent is lacking.
 - ▶ Some parents must deal with their own experiences of being victimized to develop protective capacities.
 - ▶ Specific mental health issues may make a parent so ill-prepared for being protective that those issues must be addressed first.
- **Foster Parents and Services:** While services are not necessarily directly provided to foster parents in the case plan, support is provided to foster parents to facilitate the provision of some services.
- **Age-Appropriate Activities:** The child shall be consulted in an age-appropriate manner about his/her interests and the opportunities available to him/her.
- **Normalcy:** Recognizing the greatest opportunity for normalcy lies in the day-to-day decisions affecting the child’s activities, the child’s caretaker should be supported in making those decisions through the use of the reasonable and prudent parent standard as set forth in La. R.S. § 46:283.⁴⁸
- **Cultural/Religious Connection:** An aspect of case planning that is often overlooked includes the need for cultural and/or religious connection and/or activities for children. The presence or absence of such activities may depend on the practices of the placement rather than based on the needs of the child. The court can make inquiries into this important part of some children’s lives and determine whether the case plan adequately addresses these needs. For example, consider a child who has been raised as a member of a particular church, but the foster care placement does not practice any religion. The child may suffer by not continuing to attend church in this placement. How will the case plan address the need for the child to continue in this activity? Or, if a child has been raised without any religious practice and is placed in a home where the foster parents expect the child to attend church frequently, this could be very uncomfortable for the child. Thus, the court should assess DCFS’s proposed plan to address the child’s cultural and/or religious background.
- **Educational Stability:** Children and youth in foster care represent one of the most vulnerable student subgroups in the country.⁴⁹ Studies find that children in foster care are much more likely to struggle academically and fall behind in school than their peers.⁵⁰ The ESSA sets forth provisions protecting children in foster care as it relates to their education and schooling. Specifically, it allows a child placed in foster care to remain in their school of origin or be enrolled in a school without delay. Some reasons that a child should stay in the school of origin include close peer connections, established teacher and/or staff relationships, comfort with and/or success at the school, provision of tutoring (many schools no longer provide tutoring) and other accommodations, better opportunities to join sports teams and other desired activities, and previous school changes and disruptions. The ESSA also requires transportation to be provided for the child to the school of origin, even if the child moves out of that school district. The child welfare agency and the local educational agency (LEA) must ensure this transportation is provided and appropriate. Some of these provisions of the

⁴⁸ See also https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/october-2016/the-reasonable-and-prudent-parent-standard/.

⁴⁹ For more information on Educational Stability for Children and Youth in Foster Care see: <https://www.childwelfare.gov/topics/systemwide/service-array/education-services/meeting-needs/educational-stability/>; U.S. Department of Education and U.S. Department of Health and Human Services. (2016) Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, <https://resources.finalsite.net/images/v1535746984/tulsaschoolsorg/h07q5pxet7fifpizh2lm/FosterCareGuidance.pdf>.

⁵⁰ Id.; Heimpal, Daniel. “The Chronicle of Social Change, “The Case of ‘V. Doe’ Could Have Major Implications for the Education of Foster Youth Nationwide.” Youth & Family News, The Imprint. January 18, 2018, <https://chronicleofsocialchange.org/education/case-v-doe-major-implications-education-foster-youth-nationwide/29467/> (“Greater than 1/3 of all youth in foster care will have 5 or more school changes by the time they turn 18, and each change can cost 4 to 6 months of academic progress.”).

ESSA are codified in the Louisiana Revised Statutes.⁵¹ Although the child has the right to educational stability, the judge may want to make specific orders to help move the process along more expeditiously. The judge can also disapprove the case plan if the plan for the child’s education is not sufficient.

- **Special Education:** Many of the children who come through the child welfare system either need or are already receiving special education services. The Federal Individuals with Disabilities Education Act (IDEA), along with its State counterparts, ensure that children with disabilities receive a free appropriate public education designed to meet their unique learning needs. The Act addresses which children will receive full and individualized evaluations for eligibility, what special education and other related services are deemed necessary and where and when these services will be provided. IDEA also covers who is allowed to make these decisions for each child, a responsibility made more complicated when a child is involved in the foster care system. The birth or legal parent usually possesses the right to act as their child’s IDEA parent unless limited by the court or when parental rights are terminated. A foster caregiver may also act as the IDEA parent. However, if a foster child is in a congregate care setting—a group home, Psychiatric Residential Treatment Facility (PRTF), hospital, etc.—or the IDEA parent available is not deemed appropriate or eligible, either the Local Educational Agency (LEA) or the CINC judge have the authority to appoint a “surrogate parent” to make education decisions for the child. Pursuant to the IDEA, a DCFS staff member cannot act as the surrogate parent.
- **Response to Intervention (RTI) and Multi-tiered Systems (MTTS):** Under ESSA, the MTTS and RTI were created to avoid the overidentification of learning disabilities before implementing interventions to meet the students’ needs. MTTS or RTI requires school systems to implement academic interventions over 16-18 weeks driven by students and their individual performance. Interventions can be difficult for children in foster care because of their mobility. Judges can help by directing DCFS to sign a release so that schools will include intervention data, MTTS or RTI status with all educational records of foster youth as they transfer schools.
- **Trauma and Behavioral Health Screen (TBH):** Trauma and Behavioral Health Screen (TBH): It is DCFS policy for children in foster care and DCFS Family Services from birth to age 18 to receive trauma and behavioral health screening initially and every 6 months. DCFS utilizes the Trauma and Behavioral Health Screen (TBH) and when indicated by the TBH score, the agency will refer the child for treatment. DCFS should provide updates in its court reports. The court may want to consider the appropriateness of and/or need for services in light of the results of the screening.

(3) VISITATION/FAMILY TIME:

- A plan for visitation (also called “family time”).

PRACTICE TIPS:

- **Court’s Authority Over Visitation:** The Children’s Code articles regarding the Case Review Hearing provide that the court can either approve or disapprove the case plan. It does not state the court has the authority to change anything in the case plan. Although the plan for visitation between the child and his/her parents, siblings, and others is included in the case plan, Article 309 does give the court continued jurisdiction over visitation in all CINC proceedings.
- **DCFS Requirements for Visitation:** The case plan should set out the visitation plan for the child with his/her parents, siblings (if not placed together or not in care), and others with whom the child has significant relationships (see below). DCFS policy sets minimum requirements for visitation/family time, which states:⁵²

51 La. R.S. § 17:238C (“The governing authority of each public and secondary school shall establish a policy to ensure that a child who is in foster care pursuant to placement through the Department of Children and Family Services shall be allowed to remain enrolled in the public school in which the child was enrolled at the time he entered foster care for the duration of the child’s stay in the custody of the State or until he completes the highest grade offered at the school if the Department of Children and Family Services determines that remaining in that school is in the best interest of the child. If the foster care placement is outside the jurisdictional boundaries of the public school in which the child is enrolled, the governing authority of such school shall be responsible for providing free transportation for the child to and from a designated location which is within that school district and is located nearest to the child’s residence and is determined to be appropriate by such governing authority and the Department of Children and Family Services. The Department of Children and Family Services shall be responsible for providing the child’s transportation between that location and the child’s residence.”).

52 DCFS Policy 6-915 “Visitation and Continuing Contact with Biological Family” (September 3, 2020).

- “The minimum requirements for visits between foster children and biological family are as follows, as long as such visitation is in the best interest of the child: Visits between parents and children shall occur at least every 2 weeks unless case circumstances prevent visiting or indicate otherwise. In the first 6 months of placement and the two months preceding an anticipated reunification date, every effort shall be made to hold visits more often and increase the length of visits...Documentation in the case record should include frequency and quality of parent and child visitation.
- Visits between siblings should be offered at least monthly, and preferably more often, if appropriate for case circumstances.
- When parents are incarcerated, and the reason for incarceration is not related to the child’s abuse or neglect, then DCFS shall make exhaustive efforts to facilitate visitation between parents and their children in foster care.
- If the child has established significant relationships with other relatives, such as grandparents, and it is in the child's best interest, these relationships should be preserved to the extent possible through continued contacts during foster care placement. These contacts should include visitation as well as other arrangements, such as email, telephone calls, letters, and the exchange of personal information, cards, or pictures.
- If the child has established significant relationships with other individuals such as friends, teachers, church members, godparents, or others, every effort should be made to allow the child to have ongoing contact with these individuals as well.”
- **Visitation and Rights of Parents:** If a child has been removed from his/her parents’ custody and reunification is still the case plan goal, the parents should still be invited to attend all medical appointments, school conferences and activities (including eating lunch with the child at school), sports and extracurriculars, and other important events involving the child (unless there is an order otherwise preventing this, such as a criminal no contact order).
- **Court’s Role in Visitation and Ongoing Obligation:** At the Case Review Hearing, one of the court’s roles is to ensure the adequacy of the case plan, which includes preserving valuable relationships and connections that are in the best interest of the child by considering the frequency and type of visitation and if other visitation or contact is needed. Visitation planning and scheduling should be an ongoing assessment of the child’s established and significant relationships with parents, grandparents, siblings, relatives, and other important individuals in the child’s life. The safety and well-being of children should always be paramount in considerations of family time. Judges should ensure the plan for family time is in the best interest of the child, individualized, and age and developmentally appropriate for the child.
 - **Reunification:** As long as the case plan goal remains reunification, preserving and enhancing the parent-child relationship while providing for the safety and well-being of the child is crucial for many reasons (i.e., maintaining attachment, reducing trauma, providing ability to put parenting skills into practice, etc.), including the child’s future transition back into the custody of his/her parents. Initiating or continuing visitation and/or contact with relatives or individuals is critical for the child’s well-being.
 - **Permanency:** It is also important if reunification becomes no longer viable (i.e., if a child is placed with foster parents by DCFS) that visitation with relatives or other individuals who are being considered as a permanent placement for the child are included in the visitation schedule. For example, there may be a relative living out-of-State that could be a permanent placement for the child. Establishing and/or maintaining contact with that relative early on would be critical in lessening the child’s difficulties adjusting if later moved to live with that relative.
 - **Frequency:** Although DCFS policy provides a minimum requirement for visitation, the court should consider ordering more frequent visitation than the minimum based on the best interest of the child.
 - **Unsupervised Visits:** Family time should be frequent, liberal, and presumed unsupervised unless there is a demonstrated safety risk to the child.
 - **Change in Circumstances:** Anytime there is a change in the child’s circumstances, placement, custody, and/or permanent plan, the court should consider if changes need to be made to the visitation schedule to better serve the best interest of the child. This may include increasing or decreasing frequency or lengths of visits, moving to less or more supervision, and adding or removing visits and/or contact with siblings, other family members, or significant individuals.

- **Methods of Contact:** The court should consider increasing contact through virtual and other means. Contact may include in-person visitation as well as more limited arrangements such as phone calls, Zoom or FaceTime, texts, letters, emails, or simply the exchange of personal information. For a considered discussion of visitation/family time, please see [Continued Custody Hearing \(CCH\) Benchbook Section 5 N\(1\)](#).⁵³
- **Visitation Not to be Used as Incentive or Disincentive:** Visitation is a right of both parents and children in CINC cases. The fashioning of visitation should be based on promoting the important connection between the parents and child. Visitation between parents and children should not be used as an incentive or disincentive for parents with regard to mitigating the reasons for State intervention.

(4) EFFORTS TO RETURN CHILD OR FINALIZE PLACEMENT:

- Documentation of the efforts DCFS is making to safely return the child home; OR
- Documentation of the efforts DCFS is making to finalize the child’s placement in an alternative safe and permanent home in accordance with the child’s permanent plan.
 - **Adoption or Placement in Another Permanent Home:** For children whose permanent plan is adoption or placement in another permanent home, this documentation shall include child-specific recruitment efforts such as the use of State, regional, and national adoption exchanges, including electronic exchange systems, to facilitate orderly and timely in-State and interstate placements.
 - **Guardianship:** For children whose permanent plan is guardianship, the documentation shall include the facts and circumstances supporting guardianship, including the reasons that the plan is in the best interest of the child and that reunification with a parent and adoption are not appropriate permanent plans. The documentation shall also address the suitability and commitment of the proposed guardian to offer a wholesome, stable home for the child throughout minority.
 - **Alternative Permanent Living Arrangement:** For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the documentation shall include the intensive, ongoing, and as of the date of the hearing, efforts made by DCFS to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent.

(5) ASSESSMENT OF RELATIONSHIPS:

- Assessment of the child’s relationships with his/her parents, grandparents, and siblings, including a plan for assuring that continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship is preserved while the child is in foster care.⁵⁴
- **Preservation:** The preservation of such relationships shall be considered when the child’s permanent plan is determined.

HELPFUL GUIDANCE:

- **Maintaining Relationships:** This part of the case plan should be different from the visitation schedule. DCFS should be assessing the child’s relationships with his/her parents, grandparents, siblings, and other individuals with whom the child has a significant relationship. This assessment is important for DCFS to conduct to support its recommendation to the court regarding the child’s permanent plan. It is also critical in showing the “reasonable efforts” taken to preserve the quality of these relationships for the child, which goes towards reasonable efforts findings to achieve permanency. Courts should utilize this assessment to modify the visitation schedule (as stated above) and/or the Disposition.

⁵³ For more resources on visitation/family time, see: <https://www.childwelfare.gov/topics/systemwide/assessment/family-assess/progress/visitation/>.

⁵⁴ La. Ch. C. art. 675, 2001 Comment (“Maintaining these relationships is an important case work goal, especially during a time of insecurity while the permanent plans have not yet been finalized.”).

(6) YOUTH 14 YEARS OF AGE AND OLDER:

- When appropriate, the case plan shall include a written description of the programs and services that will help the child prepare to transition from foster care to independent living, i.e., “Youth Transition Plan” (YTP). See the [Department of Children and Family Services Youth Transition Plan \(YTP\) Template](#) in the [Appendices Benchbook Section 12](#).

☰ PRACTICE TIPS:

- **Federal Law Regarding Youth Transition Plan (YTP):** Pursuant to Preventing Sex Trafficking and Strengthening Families Act of 2014, the YTP shall be updated every 6 months. The development of the YTP, including its implementation, should be considered in reasonable efforts to achieve permanency for youth. Every child in foster care, age 14 and older, should be actively involved in the case planning. In addition, the child may select up to 2 individuals (excluding those normally on his/her case planning team, his/her foster parent, and case worker) to be involved in developing the case plan. See 42 U.S.C. § 673(b) and 675.
- **DCFS Policy Regarding Youth Transition Plan (YTP):** According to DCFS policy, this plan is to be written, individualized, thorough, and developed in collaboration with the youth and any individual, department, or agency assuming his/her custody, care, or responsibility.⁵⁵ The plan must “identify the programs, services, and facilities to be used to assist the child in achieving a successful transition and address the needs of the child including, but not limited to, education, health, permanent connections, living arrangements, independent living skills, and employment; for LGBTQ youth, LGBTQ programs and services should be identified.”⁵⁶ DCFS shall ensure that all records in its files relevant to securing needed services in the community in which the youth will live shall be immediately transmitted to the appropriate service provider.

☰ HELPFUL GUIDANCE:

- **Reasonable Efforts Implications:** The development of the YTP, including the efforts to involve the youth in its development, and its implementation should be considered in reasonable efforts to achieve a permanent placement for the youth.
- **Youth Engagement:** DCFS must provide the youth with assistance and support in developing a YTP that is personalized at the direction of the youth, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, workforce supports and employment services, and is as detailed as the child may elect. Courts should engage youth in court proceedings and encourage their participation.
- **DCFS Case Review Court Report:** The court report should provide more information about youth who are 14 and older, such as the youth’s permanent connections and relationships to siblings not in care, and what the youth has learned from independent living classes.

(7) OBLIGATION TO CONTRIBUTE:

- If the child has been committed to the custody of a person other than the parents, the case plan shall *recommend* an amount the parents are obligated to contribute for the cost of care and treatment of their child in accordance with Article 685.⁵⁷

(8) TERMINATION OF PARENTAL RIGHTS:

- DCFS must provide documentation of the compelling reasons for determining that filing a petition for termination of parental rights would not be in the best interest of the child, when appropriate.

⁵⁵ DCFS Policy 6-810 “Legally Mandated Case Plan” (August 17, 2020).

⁵⁶ *Id.*

⁵⁷ La. Admin Code. tit. 67, Pt V, § 3501.

HELPFUL GUIDANCE:

- **Authority to File TPR Petition:** See Articles 1004 and 1004.1 for the persons and agencies who have a legal right to file a petition to terminate parental rights (TPR), including the timing and grounds for which a TPR may or must be filed.

I. CASE PLAN FINDING AND ORDER

ARTICLE 700, 42 U.S.C. § 671(16), 42 U.S.C. § 675(1)

- **ESSENTIAL JUDICIAL FINDING AND ORDER– APPROVE OR DISAPPROVE CASE PLAN:** The court shall approve or disapprove the case plan per Article 700, based on the arguments of the parties and evidence presented and should enter written findings into the Order.
 - (1) APPROVE:** The court shall approve the case plan and order parties comply therewith, if it finds the plan is:
 - Consistent with the health and safety of the child.
 - (2) NOT APPROVE:** The court can disapprove the case plan and order DCFS to revise if it finds the plan is:
 - Not appropriate, in whole or part.

PRACTICE TIPS:

- **Specific Grounds:** The specific grounds upon which the child was adjudicated should guide the ongoing implementation and review of the case plan.
- **Joint Responsibility of Case Plan:** DCFS proposes the case plan but the court's role is to review and either approve or disapprove the case plan and order DCFS to revise it if needed. Court review should ensure the case plan includes elements designed to support increased protective capacities that are feasible within stated time limitations.
- **Safety and Risk Issues and Conditions of Return:** The case plan should identify the safety and risk issues and conditions of the child's return before the court's involvement ends, including helping to enhance the parent's protective capacities to the identified threats of danger. It is paramount for the court to ensure the parents and child's involvement in the case planning process. The judge should carefully review the case plan and consider the arguments of the parties and evidence presented to determine whether the proposed services and other case plan activities address specific issues, are accessible, and are culturally and linguistically appropriate.
- **Permanent Plan:** All case plan goals should include the action steps necessary to achieve the most appropriate permanent plan for the child.
- **Court Does Not Approve:** The court is not authorized to revise the case plan itself. If the court does not approve the case plan, it should so find in the Judgment and direct DCFS to make the necessary revisions. Another court hearing should be scheduled for the court to approve or disapprove the revised case plan (sometimes referred to as a "Case Plan Review Hearing"). Best practice is not to wait until the next Case Review Hearing to review the revised case plan. Otherwise, DCFS will not be able to implement the changes timely. Some courts return within 30 or less days of the hearing to consider the revision. Per DCFS policy, DCFS will revise the plan and submit it to the court until it is approved. See also Article 700(A)(2). The court should set a deadline for DCFS to submit the revision.
- **Set Deadline for Revising:** It is helpful to set a deadline for revising the case plan in the Order to ensure that the children and parents receive supports and services in a timely manner.
- **Resolve During Hearing if Possible:** However, best practice is to resolve any parts of the case plan not approved while still at court. This can be accomplished if a party moves to have the case plan amended during the hearing. If, after reviewing it, all parties agree to the amendments proposed, the judge can approve the amended case plan. If the case plan is amended and approved at the Case Review Hearing, the Order should clearly delineate the specific changes made and that the court approved the "amended" case plan.

- **Child Not in DCFS Custody:** Even if the child is not in DCFS custody, there still may be a case plan developed that the judge needs to review (i.e., child is in custody of a parent, child is in custody of a relative, DCFS is supervising the family, etc.).

HELPFUL GUIDANCE:

- **Federal Law and Reasonable Efforts:** Per Federal law, if a child is placed in DCFS custody, DCFS must initially develop and continue to revise a case plan that ensures the child's placement is in the least restrictive, most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the child. The case plan is an integral element of the reasonable efforts requirement. Each case plan must specifically include a description of the services and supports offered and provided and the progress that has been made since the previous hearing to prevent removal of the child from his/her parents' custody, reunify the family if the child has been removed, or achieve permanency.⁵⁸
- **Reasonableness of Case Plan:** The reasonableness of the case plan is critical to an accurate determination of the parents' willingness and ability to make the adjustments found necessary for the safe return of their child.⁵⁹ The case plan should be geared towards enhancing parental protective capacities, including but not limited to: changes in parental behavior that must be achieved; services to be provided to help achieve these changes; and the deadlines and respective responsibilities of each party, including DCFS, in providing services and achieving the case plan goal. The case plan should also identify any needs of the child and the services to be provided to meet those needs. Finally, the case plan should set forth the terms and conditions of visitation/family time with parents and siblings. The visitation schedule should also include in-person visits and other contact with relatives and important individuals to the child. The case plan must help the child maintain all these significant connections. In addition, if there are potential relative or fictive kin placements, visits would be critical to establishing or re-establishing relationships prior to placement. The court should take time to review the case plan to ensure that all parties understand it and what is expected of them.
- **Concurrent Planning-Case Plan Goals:** The case plan will include a case plan goal (also referred to as permanency goal in DCFS policy). At the Case Review Hearing, the court should inquire as to the case plan goal DCFS is recommending. If the court does not approve the case plan goal, it may disapprove the case plan and order DCFS to revise the case plan. DCFS case plan goals may include reunification (including custody to one parent), adoption, custody to a relative, guardianship, and APLA (only for a child who is 16 or 17 years old) and a concurrent goal that includes any two of these options. Most case plans start with a concurrent goal of reunification and adoption. All case plan goals should include the action steps necessary to achieve the most appropriate permanent plan for the child.⁶⁰
- **Distinguishing Case Plan Goal and Permanent Plan:** While DCFS will set a case plan goal for the child when he/she enters foster care, the court will determine the permanent plan at the Permanency Hearing. See [Disposition Hearing Benchbook Section 8](#) for more information on case plan goals and concurrent planning.

J. ADVISEMENTS

ARTICLE 700

At the conclusion of the Case Review Hearing, the court shall inform the parents of the following:

- **Obligation to Cooperate:** It is their obligation to cooperate with DCFS, comply with the requirements of the case plan, including their duty to keep DCFS apprised of their current address, and to correct the conditions requiring the child to be in care;

⁵⁸ See 42 U.S.C. § 1356.1; 42 U.S.C. § 675; Edwards, Leonard. (2014). Reasonable Efforts: A Judicial Perspective, <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=210§ionid=2&articleid=5428>.

⁵⁹ La. Ch. C. art. 684, Authors' Notes.

⁶⁰ See CW Policy 6-840 Permanent Plan Goal: Reunify with Parents or Principal Caretakers; CW Policy 6-802 "Case Plan Goal Establishment and Concurrent Planning" (October 1, 2019).

- **Responsibility to Support Timely Permanency:** It is their continuing responsibility to support the achievement of timely permanency for the child and to advise DCFS and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of 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
- **Possibility of Termination of Parental Rights (TPR):** A TPR Petition may be filed based on their failure to comply with the case plan, failure to make significant measurable progress toward achieving case plan goals and to correct the conditions requiring the child to be in care, or on any other ground authorized by Article 1015.

HELPFUL GUIDANCE:

- **Obligation to Find Potential Caregivers:** All persons and parties before the court have a continuing obligation to achieve timely permanency for the child. It is critical for relatives and other individuals to be found as soon as possible so that permanency can be achieved expeditiously if reunification becomes no longer viable. Identifying other potential placements early on in the case is crucial to reducing further trauma to a child who may form secure attachments with caregivers. The court's role is to continue to hold persons before the court, parties, and DCFS accountable to these obligations. See the [Appendices Benchbook Section 12](#) for the [Family Connection Form](#) and [Circle of Influence Form](#) DCFS uses with children and parents to help identify potential caregivers. Some attorneys create "Family Trees" to help identify potential caregivers.
- **Preference to Relatives Per Federal Law:** For States to receive funding for foster care and adoption assistance, Federal law under Title IV-E of the Social Security Act requires that the State "consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards."⁶¹ Per the Fostering Connections to Success and Increasing Adoptions Act, within 30 days following the removal of the child and any time after that a relative is identified, DCFS is required to contact all known adult relatives of the child and to inform them about placement and permanency possibilities for the child. Title IV-E of the Social Security Act also requires all States to exercise due diligence to identify and provide notice to all grandparents, all parents of a sibling of the child, where such parent has legal custody of the sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents) that (1) the child has been or is being removed from the custody of his/her parents; (2) the options the relative has to participate in the care and placement of the child; and (3) the requirements to become a foster parent to the child. These Federal laws are based on evidence that placement with relatives maintains the child's connections with his/her family, and children generally fare better in many child well-being factors when placed with a relative.⁶²
- **Suitable Individuals and Cultural Considerations:** The court should press parties and persons before the court to consider not only biological relatives but also individuals with whom the child has a significant relationship (also referred to as "fictive kin," "suitable persons," or "suitable individuals"). These are individuals who are not related by blood, marriage, or adoption to the child but could be close family friends or someone the child considers family. It is important to consider the child's culture, heritage, customs, traditions, religion, etc., in determining placement and custody options. For example, some children may call a close friend their "auntie" even though they are not related by blood. However, the auntie may be the best placement for the child but overlooked if no thorough inquiry is made.

⁶¹ 42 U.S.C. § 671(a)(29).

⁶² See Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>; Center on Children and the Law. (2016) Judicial Tip Sheet: Kin First. Washington, DC: American Bar Association, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/july-2016/judicial-tip-sheet-kin-first/; Issue Brief, Strong Families (2019) Why Should child protection agencies adopt a kin-first approach? Casey Family Programs, <https://www.casey.org/kin-first-approach/>; National Conference of State Legislatures. (2019) The Child Welfare Placement Continuum: What's Best for Children?, <https://www.ncsl.org/research/human-services/the-child-welfare-placement-continuum-what-s-best-for-children.aspx>; Child Welfare Information Gateway. (2018). Placement of children with relatives. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/placement.pdf>.

K. FURTHER FINDINGS AND ORDERS

ARTICLES 309, 618 672(A)(2), 677, 681-4, 710, 712, 42 USC § 671(a)(31)(A)

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

(1) CUSTODY/GUARDIANSHIP: The court retains jurisdiction over custody and guardianship and may maintain or modify the current Disposition, which may include the following dispositional alternatives provided in Articles 681-683:⁶³

- Leave the child in the custody of his/her parents, with or without continuing supervision of DCFS (i.e., in-home safety plan) and/or issuing a PO;
- Return the child to the custody of (or grant custody to) parents, with or without continuing supervision of DCFS (i.e., in-home safety plan) and/or issuing a PO;
- Place the child in the custody of a relative or suitable person;
- Grant guardianship of the child to a nonparent;
- Remove the child from parental custody and place the child in the custody of a private or public institution or agency (i.e., DCFS) (If the court orders that a child be removed, it must also make contrary to welfare and reasonable efforts findings per State and Federal law).⁶⁴
- Commit a child found to have a mental illness to a public or private institution for persons with mental illness; OR
- Grant other such Disposition or combination of the above Dispositions as the court deems to be in the best interest of the child. See [Disposition Hearing Benchbook Section 8 G](#) for more information on dispositional alternatives.

PRACTICE TIPS:

- **Child Welfare Assessment and Decision Making Model (CWADM):** If the child has been removed from his/her parents and reunification is still the case plan goal, the court should insist on a clear articulation of the current safety threat keeping the child in foster care/in an out-of-home placement. Children should be returned home immediately once all safety threats have been eliminated regardless of whether the case plan has been completed. The CWADM includes an assessment used by DCFS (and should be used by all child welfare stakeholders) to help identify whether a child is safe or unsafe at all junctures of the CINC proceeding. A child is considered safe when: (1) there are no threats of danger; (2) if there is a threat of danger, the child is not vulnerable to the threat of danger; or (3) if there is a threat of danger, the parents or caretakers possess sufficient protective capacities to manage the threat of danger and keep the child safe. A child is considered unsafe when: (1) there are identified threats of danger; (2) the child is vulnerable to a threat of danger; and (3) the parent or caretaker does not possess sufficient protective capacities to manage the threat of danger and keep the child safe. At each hearing, the court should make the following inquiries to see if the child is now safe to return home:

- Are the threats of danger to the child still present?
- Is the child still vulnerable to those threats?
- Does the parent or caretaker still lack the necessary protective capacities?

If the child can be safely returned to (or placed in) the custody of a parent, the court should order the child be returned and, if needed for the child's protection and safety, could consider ordering an in-home safety plan, PO, and/or other terms and conditions. Other terms and conditions could include ongoing supervision by DCFS and/or another agency. Courts should consider carefully whether parents can provide a minimally adequate standard of care for their child. All issues in the case do not need to be resolved before a child can return home. A child should be returned home when he/she can be safe in the home, which may or may not also require supportive services and protective supervision.⁶⁵ See [Child Welfare Assessment and Decision Making Model \(CWADM\) Benchbook Section 11](#).

⁶³ La. Ch. C. art. 309 ("A court exercising juvenile jurisdiction shall have exclusive authority to modify any custody determination rendered, including the consideration of visitation rights in CINC proceedings.")

⁶⁴ See 45 C.F.R. § 1356.21(c); 42 U.S.C. § 472(a)(2)(A)(ii); 42 U.S.C. § 479(B); See also Child Welfare Policy Manual, Section 8.3A.6, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?citID=37

⁶⁵ Gatowski, *supra* note 7, at 229.

- **DCFS Family Services:** When the court returns the child to his/her parents or grants provisional custody to a suitable relative or individual, DCFS will generally no longer be involved in the case (because DCFS does not have custody of the child). However, the court can order that DCFS continue to monitor the family and/or provide services. In such cases, DCFS will usually open a DCFS Family Services case to provide supervision and support to the family. In these instances, it is advised that the court also continue to oversee the case.
- **Granting Custody to Parent:** In some cases, the court may not be “returning” the child to a parent’s custody but rather “granting” custody to another parent who did not have custodial rights to the child and/or was not previously legally filiated with the child.⁶⁶
- **Parents of Half-Siblings:** If there are half-siblings, the court should consider granting custody of the child to the sibling’s parent if appropriate and safe to do so. The sibling’s parent may already have a relationship with the half-sibling, but even if not, that parent may be willing to take custody to keep the siblings together.⁶⁷

(2) PLACEMENT IN DCFS CUSTODY: While the court has the authority to change custody of the child, if the child is in DCFS custody, the court has no authority to order a specific placement for the child (i.e., foster parents the child will be placed with by DCFS). However, pursuant to Article 672(A)(2), the court does have the authority to disapprove the placement chosen by DCFS and order DCFS to choose a more suitable placement. Per Article 672(A)(2), there must be a contradictory hearing and the judge may disapprove the placement upon finding that the placement is not in the child’s best interest. For example, after a contradictory hearing, the court could determine that the placement chosen by DCFS is not in the child’s best interest if the child is not placed with his/her siblings.⁶⁸

PRACTICE TIPS:

- **Disapprove Case Plan:** Alternatively, the judge is given the authority and responsibility to review the case plan, listen to evidence and arguments with respect to the case plan, and either approve, disapprove, in whole or in part, or approve the updated case plan. Thus, because the placement of the child is central to the case plan (referred to as the “Child’s Care Setting” in the case plan), the court (alternatively to disapproving the placement pursuant to Article 672(A)(2)) could reject the case plan in part due to not approving the placement chosen by DCFS.
- **Revise Case Plan:** The elements of the case plan related to the child are often contingent on the placement. Thus, if the court disapproves the placement, the court should carefully review the case plan to see if other parts of the plan need to be revised accordingly.
- **Court’s Role in Placement:** If the child is in DCFS custody, the court should address the child’s current placement to ensure that the child is safe, and to determine whether the child’s health, educational, cultural, religious, and emotional needs are being met. This may include but is not limited to the following:
 - Ensuring DCFS has made reasonable efforts to place siblings together;⁶⁹
 - Reviewing information regarding the child’s well-being and overall adjustment to his/her placement and to school;
 - Evaluating the specific services being provided to see if they are meeting the child’s physical, emotional, and educational needs;
 - Examining the steps DCFS is taking to ensure foster caregivers are following the “reasonable and prudent parent standard” and that the child has regular opportunities to participate in age- or developmentally-appropriate events such as sports, field trips, and overnight activities;

⁶⁶ Gatowski, *supra* note 7, at 214.

⁶⁷ See Child Welfare Information Gateway. (2019). Sibling issues in foster care and adoption. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>.

⁶⁸ The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) amended Title IV-E plan provisions to require that Title IV-E agencies make reasonable efforts to place siblings removed from their home in the same foster care, adoption, or guardianship placement or, if that is not possible, facilitate visits or ongoing contacts for siblings that cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings to do so.

⁶⁹ *Id.*

- Ensuring that all health and education information is up to date and that the child is receiving health and education services;
 - Ensuring that the caregivers of a child with a trauma history have the specialized training and support needed for the placement to succeed;⁷⁰
 - Ensuring that a child’s connections to his/her cultural heritage, religion, ethnicity, and traditions are preserved and promoted; AND
 - Asking DCFS to explain how the placement is appropriate to prepare the child for his/her transition into the permanent placement (i.e., reunification, adoption, guardianship, custody with a relative, etc.).⁷¹
- **Full or Half Siblings:** If a child is not placed with siblings, the court must ascertain whether DCFS has made reasonable efforts to place siblings in the same placement.⁷² The research shows that when siblings are separated from each other, many children feel “they have lost a part of themselves,” adding to the pain and anxiety they experience over removal from their parents and home.⁷³ Unless contrary to their safety and well-being, supporting and sustaining the sibling bonds of children who have been placed in foster care should be a priority for the child welfare system and the court. Thus, judges should inquire as to the placement of siblings together—whether half or full siblings. This also may include a child’s significant relationship with another child with whom he/she has been raised.⁷⁴
 - **Changes in Placement or Custody:** Research shows that multiple placements (and changes in custody) break the bonds of trust and attachment formed by the child and consequently harm the child. Multiple placements (and changes in custody) compound the original trauma of abuse and neglect, often leading to long-term adjustment and attachment difficulties. It is critical to minimize the number of times placement changes for a child.⁷⁵

(3) VISITATION: The court has continued jurisdiction to modify visitation in all CINC proceedings per Article 309. To preserve valuable relationships and connections in the best interest of the child, the court should consider the frequency and type of visitation and if other visitation or contact is needed. Visitation planning and scheduling includes an ongoing assessment of the child’s established and significant relationships with his/her parents, grandparents, siblings, relatives, or other important individuals in the child’s life. As long as the case plan goal remains reunification, preserving and enhancing the parent-child relationship while providing for the safety and well-being of child is crucial for many reasons (i.e., maintaining attachment, reducing trauma, providing ability to put parenting skills into practice, etc.), including the child’s future transition back into the custody of parents. Further, initiating or continuing visitation and/or contact with relatives/individuals is not only critical for child’s well-being but is also important if reunification becomes no longer viable.

PRACTICE TIP:

- **Disapprove Case Plan:** Because the visitation schedule is an element of the case plan, the court could alternatively disapprove the case plan in part due to not approving of the visitation schedule.

⁷⁰ Courts are encouraged to attend TBRI Fridays, sponsored by Crossroads NOLA, and to encourage others to attend as well: <https://crossroadsnola.org/tbri/>.

⁷¹ Gatowski, *supra* note 7, at 268.

⁷² See Child Welfare Information Gateway. (2019). Sibling issues in foster care and adoption. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>.

⁷³ Kernan, Emily. Keeping siblings together: past, present, and future. National Center for Youth Law, <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/>.

⁷⁴ See 42 USC § 671(a)(31)(A) and B)).

⁷⁵ See Touchpoints. Preparing Children for Transitions. Milwaukee, WI: Coalition for Children, Youth, Families, <https://wifostercareandadoption.org/cms/assets/uploads/2017/10/touchpoints3.pdf>; Child Welfare Information Gateway. (2016). Reunification: Bringing your children home from foster care. Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau, <https://www.childwelfare.gov/pubPDFs/reunification.pdf>; Child Welfare Information Gateway. (2018). Helping your foster care child transition to your adopted child. Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau, https://www.childwelfare.gov/pubPDFs/f_transition.pdf.

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

PRACTICE TIPS:

- **Located in Disposition Hearing Articles:** This provision (Article 684(A)(3)) is located in the Disposition Hearing articles; however, it is not prohibited by the articles governing Case Review Hearings.
- **Identify Services:** The court is required to identify any services that the child needs and to allocate responsibilities of both the legal custodian and any agencies (i.e., DCFS, LDH, OJJ, LDOE, Office for Citizens with Developmental Disabilities, etc.) to ensure that such services are in fact provided to the child.

(5) TERMS AND CONDITIONS: The court can specify any other applicable terms and conditions that apply to the legal custodian.

PRACTICE TIPS:

- **Located in Disposition Hearing Articles:** This provision (Article 684(A)(3)) is also located in the Disposition Hearing articles; however, it is not prohibited by the articles governing Case Review Hearings.
- **Transition Plan:** If the Disposition is modified to include a change in custody, transfer of guardianship, or a move of any kind, judges should be cognizant of the impact the transition may have on the child.⁷⁶ Judges should consider including a transition plan that is in the best interest of the child in the Order. DCFS policy recognizes that it is traumatic for a child to be moved from one caregiving setting to another even when the change is made in the best interests of the child or to achieve permanency for the child. When a move will occur, it is critical to the child's well-being, regardless of the reason, for judges to collaboratively strategize with all involved to reduce the trauma experienced by the child.⁷⁷ DCFS has developed tools to try to minimize this trauma, including a guide for planful transitions. Transition plans can include multiple, extended visits, such as overnight visits as well as other additional contacts via Zoom, FaceTime, etc., to ensure the most positive experience possible for the child.⁷⁸ These activities should occur both prior to the move and after the move to provide the child a less traumatic separation from previous caregivers and to enhance the connection to the new caregivers.⁷⁹
- **Reunification or Trial Placement:** It is important for judges to know that DCFS policy allows for a trial placement of the child with his/her parents if the home is determined to be safe, but there are still some transition concerns and/or items left to resolve. DCFS policy states that: "If trial placement back with the parent with the Department maintaining custody is in the child's best interest, it should not exceed 90 days as long as the child is safe, and the parent is progressing in his/her case plan. Trial placement should only be initiated when the parent's home is deemed safe."⁸⁰ In this case, the court would order that the child remain in DCFS custody, and DCFS could choose a "trial placement" for the child with his/her parents. The court could also order a transition period with a goal date for reunification. If the child is moved to the parent's home with DCFS retaining custody, the court can gain information at the next hearing about how the child and parent are doing in the home together (in such cases, the court should consider setting a hearing sooner than the timeline for Case Review or Permanency Hearings).

⁷⁶ See Touchpoints. Preparing Children for Transitions. Milwaukee, WI: Coalition for Children, Youth, Families, <https://wifostercareandadoption.org/cms/assets/uploads/2017/10/touchpoints3.pdf>; Child Welfare Information Gateway. (2016). Reunification: Bringing your children home from foster care. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, <https://www.childwelfare.gov/pubPDFs/reunification.pdf>; Child Welfare Information Gateway. (2018). Helping your foster care child transition to your adopted child. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, https://www.childwelfare.gov/pubPDFs/f_transition.pdf.

⁷⁷ DCFS Policy 6-300 "Guidelines for Selecting a Care Setting/Replacement Resource" (April 1, 2019).

⁷⁸ DCFS Policy 6-305 "Guidelines for Care Setting Decision Making for Children Under Age Six" (March 15, 2019).

⁷⁹ Id.

⁸⁰ DCFS Policy 6-2000 "Planning for Exit from Foster Care Custody" (April 1, 2020).

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

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

☰ PRACTICE TIP:

- **Information on Potential Caregivers:** Courts should confirm that DCFS has investigated all available information on relatives and other individuals who are potential permanent placements. The court can order that updates be available for the judge at the next hearing. DCFS should also provide this information in its court report. See also [Appendices Benchbook Section 12](#) for the [Family Connection Form](#) and [Circle of Influence Form](#) DCFS uses with children and parents to help identify potential caregivers and supports.

(7) FAMILY TEAM MEETING (FTM): If the child is in DCFS custody or has an open DCFS Family Services case, DCFS should propose a tentative date for the next FTM. The court can provide notice of and encourage participation by all parents, caretakers, children, foster caregivers, 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 it in the Order helps ensure FTMs are timely held. Also, without enough notice of the FTM date and time, some team members may have difficulty participating. FTMs should be conducted at least every 6 months.

☰ HELPFUL GUIDANCE:

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

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

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

HELPFUL GUIDANCE:

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

(9) OTHER ORDERS: The court may make other additional orders at the Case Review Hearing that are in the best interest of the child as necessary and appropriate (Article 102 and 309), such as orders related to DNA tests or other measures to determine paternity/maternity and filiation if still needed, PO (Article 627), child’s education, services, mental or physical health examinations of the child and/or parents, etc. See also Article 627, Authors’ Notes.

(10) OTHER FINDINGS:

- **ESSENTIAL JUDICIAL FINDING - INDIAN CHILD WELFARE ACT (ICWA):** Per ICWA, at every CINC hearing, the court shall ask each person whether they know or have reason to know that the child is a member of or eligible for membership in a Federally recognized Indian Tribe and a biological child of a member of a Federally recognized Indian Tribe. Further, the court shall advise all to inform the court if any of the above information is subsequently discovered. If the court knows or has reason to know, the court shall follow Articles 624, 624.1, 661.1. The court should also inquire as to DCFS’s due diligence in locating and contacting the Tribe. Noncompliance with ICWA may result in an invalidation of the proceedings, including a subsequent adoption. See also the [Indian Child Welfare Act \(ICWA\) Bench Card](#) and 25 U.S.C. § 1901 et seq.
- **ESSENTIAL JUDICIAL FINDING - REASONABLE EFFORTS INQUIRY:** A reasonable efforts finding is not required in the Case Review Order. However, courts have an ongoing obligation to hold DCFS accountable to making reasonable efforts to prevent removal, reunify the family, and/or achieve permanency. The only exception to the reasonable efforts to reunify the family finding occurs when the court finds that reasonable efforts to reunify the family are not required per Article 672.1. Even if a reasonable efforts finding is not required by law at the particular hearing, the court should make ongoing inquiries as to the reasonable efforts being made by DCFS.⁸¹ See [Disposition Hearing Benchbook Section 8 H](#) for more information on reasonable efforts findings.⁸²

L. ORDER OF NOTICES AND FUTURE HEARINGS

ARTICLES 424.7, 674, 688-9, 702

The court should also include the following orders:

- (1) FUTURE HEARINGS:** The parents of the child, all attorneys of record, a DCFS representative, and CASA be present at all future hearings.
- (2) CASE PLAN:** DCFS shall file case plan with the court at least 10 days prior to the Case Review/Permanency Hearing(s) and upon filing shall provide copies to counsel by mail or email and unrepresented parties by certified mail or email if requirements of Article 674 are met.
- (3) COURT REPORT FILED BY DCFS:** DCFS file its court report at least 10 days prior to the Case Review/Permanency Hearing(s) and provide copies to CASA, counsel, and unrepresented parties (Although Children’s Code is silent on submission of the court report for the Permanency Hearing, DCFS policy requires court reports to be filed beginning at Disposition).
- (4) COURT REPORT FILED BY CASA:** CASA should file its court report prior to the Case Review/Permanency Hearing(s) and shall distribute a copy of such reports prior to or at the time it is submitted to the court, to all counsel of record, any unrepresented party, and DCFS.
- (5) SET MATTER FOR APPROPRIATE HEARINGS:**
 - **Revised Case Plan or Status Hearing:** Set if court did not approve the case plan or there are other issues that need to be addressed or resolved.

⁸¹ See La. Ch. C. arts. 672.1 and 702; 42 U.S.C. § 671(a)(15)(E); 42 U.S.C. § 675(5); and 45 C.F.R. § 1356.21(b)-(h); See also https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=142 and https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=59.

⁸² See also Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. (<https://www.childwelfare.gov/pubPDFs/reunify.pdf>).

- **Case Review Hearing:** Shall be set within 3 months of the Disposition if the child was removed before the Disposition or within 6 months if the child was removed at Disposition, but no more than 6 months after removal; shall be held at least once every 6 months thereafter until the child is permanently placed⁸³ (or earlier upon motion per Article 692(B)).
- **Permanency Hearing:** Shall be set within 9 months after the Disposition Hearing if the child is removed before Disposition or within 12 months if the child is removed at Disposition, but no more than 12 months after removal; shall be held every 12 months thereafter until the child is permanently placed⁸⁴ (or earlier upon motion per Article 702(B)). However, if the court has made a judicial determination that reasonable efforts to reunify the family are not required per Article 672.1, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.

(6) SERVICE AND NOTICE OF HEARINGS:

- Clerk to notify all parties of the date, time, and location of the hearing and that all parties of interest appear;
- Sheriff's Office to serve the parents with a summons commanding him/her to appear at court for the hearing;
- DCFS to provide notice to the parents of the date, time, and location of the hearing as well as the nature of the allegations;
- Notice of the hearing shall be made on counsel of record and CASA (if appointed); AND
- DCFS to provide notice to any foster caregiver providing care for the child of the date, time, and location of the hearing and that the recipient has the right to attend and be heard.

(7) ARRANGEMENTS FOR ANY INCARCERATED PARENT: Be made to attend the hearing, either in person or remotely.

PRACTICE TIPS:

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

M. CASE MANAGEMENT

(1) ENGAGEMENT:

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

⁸³ See La. Ch. C. art. 603(22).

⁸⁴ Id.

(2) PREPARATION FOR NEXT HEARING

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

N. POSSIBLE NEXT STEPS

ARTICLES 330-8, 700, 701-11, 710, 1004, 1004.1, 42 U.S.C. § 675(5)(E)(i)-(iii)

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

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

(3) CASE REVIEW HEARING: The next Case Review Hearing shall be held at least every 6 months until the child is permanently placed (or earlier upon motion per Article 692(B)).⁸⁵

(4) PERMANENCY HEARING: The first Permanency Hearing shall be set within 9 months after the Disposition Hearing if the child was removed prior to Disposition or within 12 months if removed at Disposition, but in no case more than 12 months after removal. These shall be held at least every 12 months until the child is permanently placed (or earlier upon motion per Article 702(B)).⁸⁶ However, if a judicial determination is made per Article 672.1, a Permanency Hearing may be conducted immediately and shall be held within 30 days of the determination.

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

HELPFUL GUIDANCE:

- **Governing Law:** The appeal process in CINC proceedings is governed by Title III of Chapter 9 of the Children’s Code (Articles 330-338). In CINC proceedings, an appeal may be taken only after a Judgment of Disposition. Timelines for appeals in CINC proceedings differ from timelines for appeals in the Louisiana Code of Civil Procedure.
-

(6) TERMINATION OF PARENTAL RIGHTS PETITION: See Article 1004 and 1004.1 for the persons and agencies who have a legal right to file a petition to terminate parental rights (TPR), including the timing and grounds for which a TPR may or must be filed.

⁸⁵ Id.

⁸⁶ Id.

 **PRACTICE TIPS:**

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



APPENDIX

CASE REVIEW HEARINGS

BENCH
CARD



La. Ch. C. arts. 687-700

PURPOSE

For the court to review the: continuing necessity for and appropriateness of child's placement; progress toward mitigating causes necessitating placement in foster care; safety of the child; extent of case plan compliance by parents and DCFS; and likely date by which child may achieve permanency.

Prior to Hearing

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

- (1) **CASE PLAN:** DCFS shall file at least 10 days before hearing; upon filing provide copies to counsel by mail/email and unrepresented parties by certified mail/email per Article 674. Any party may file written response.
- (2) **DCFS COURT REPORT:** DCFS shall file at least 10 days before hearing; distribute copies to CASA prior to/at same time filed; serve counsel by mail/email and unrepresented parties by certified mail/email per Article 689. Any party may file written response.
- (3) **CASA COURT REPORT:** If appointed, CASA shall file before hearing; distribute copies per Article 424.7.

Timing and Continuances

ARTICLES 603(22), 687, 692, 711, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2

- (1) **TIMING:** 3 months after Disposition Hearing if child removed before Disposition (see Article 114); within 6 months after if child removed at Disposition, but not more than 6 months after removal; hold at least every 6 months thereafter until permanently placed or upon motion of party for good cause or court's own motion.
- (2) **CONTINUANCES:** Court shall report continuance exceeding maximum allowed within 10 days to Louisiana Supreme Court, with reasons and copy of Order.

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

Appearances

ARTICLES 575, 607-8, 643, 694-8

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

- (4) **ATTORNEYS:** Child shall have attorney appointed and present (Article 607); indigent and absent parents shall be provided representation (Articles 575 and 608) unless right waived by a parent per Article 608.

ESSENTIAL JUDICIAL FUNCTION | Assistance and Accommodations:

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

PRACTICE TIP | Foster Caregivers (Foster Parents, Pre-Adoptive Parents, and Relatives):

Are not parties but have legal right to notice and opportunity to be heard at any hearing involving a child in their care. If they do not appear, DCFS shall report whether notice given/diligent efforts made to locate and notify caregiver; hearing may be held in their absence even if notice not given by DCFS. (Articles 623 and 696; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o)).

PRACTICE TIP | Service and Treatment Providers:

Can provide valuable information to court concerning family's progress (i.e., therapists, teachers, domestic violence advocates, parenting instructors, etc.). Allows for coordination of services with court-approved treatment goals and recommendations for additional services. If not available to attend hearing, request that DCFS provide information on parent's participation and progress. Ideally, written reports from all service providers should be provided to court and counsel/unrepresented parties in advance of hearing.

PRACTICE TIP | Coordinating Services:

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

PRACTICE TIP | Reunification:

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

Intervention

ARTICLE 697

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

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

Notice

ARTICLES 623, 640-1, 643, 693, 696, 42 U.S.C. § 675(5)(G), 45 C.F.R. § 1356.21(O)

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

Evidence and Testimony

ARTICLES 424.5, 424.7, 696, 699, LA. SUP. CT. RULE XXXIII, PART III, SUBPART II

- (1) **EVIDENCE:** Consider all relevant evidence offered but may limit admissibility or weight of any evidence deemed unreliable, cumulative, or unduly dilatory.
- (2) **PARENTS/CHILDREN:** Right to testify, confront and cross-examine adverse witnesses, present evidence and witnesses.
- (3) **CASA:** May be called as witness by any party or court; may request opportunity to appear as witness.
- (4) **FOSTER CAREGIVERS:** Right to be heard regarding child in their care. If attend, court shall ask if they would like to speak regarding the care and treatment of child. Articles 623 and 696; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

PRACTICE TIP | Engagement: Court should do all it can to support and encourage meaningful engagement of families in CINC proceedings. Court is intimidating for most individuals, and stakes could not be higher for parents and children. Keep in mind 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., custody, placement, case plan and goal, services, visitation, etc.). If child wishes to be heard but is not able or does not want to be present in courtroom, consider other methods of communication, such as audio or visual conferencing, videotaped interview, or in-chambers conference.

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

Case Plan Content

ARTICLES 673, 675, 677, 685, 42 U.S.C. § 671(16), 42 U.S.C. § 675(1)

Court shall approve or not approve case plan, which if it is a DCFS case, shall at least include the following:

- (1) **PLACEMENT:** Appropriateness of placement; if substantial distance from parents, reasons why in best interest of child; placement shall be in least restrictive, most family-like setting available in close proximity to parents' home, consistent with best interests and special needs of child.
- (2) **CARE, SERVICES, AND ACTIVITIES:** Plan for providing services to parents, child, and foster parents to improve conditions in parents' home, facilitate safe return of child to own home or other permanent placement, or both; plan for child to receive safe and proper care and be afforded greatest opportunity for normalcy through age or developmentally appropriate activities.
- (3) **VISITATION/FAMILY TIME:** Ensure plan for visitation with parents, siblings (half-siblings and those the child considers siblings), relatives, and other important individuals, which shall include preserving child's valuable relationships and connections by considering frequency and type of visitation.
- (4) **EFFORTS TO RETURN CHILD/FINALIZE PLACEMENT:** Ensure documentation of efforts DCFS is making to safely return child home or finalize child's placement in accordance with permanent plan.
- (5) **ASSESSMENT OF RELATIONSHIPS:** Assess child's relationships with parents, grandparents, and siblings, and develop plan for assuring continuing contact with those whom child has significant relationships; ensure preserved while in foster care.
- (6) **YOUTH 14 AND OLDER:** Shall include written description of programs and services that will help youth prepare to transition from foster care to independent living, i.e., Youth Transition Plan (YTP).
- (7) **OBLIGATION TO CONTRIBUTE:** Shall recommend amount parents are obligated to contribute for cost of care and treatment of child in accordance with Article 685.
- (8) **TERMINATION OF PARENTAL RIGHTS:** If not filing for TPR, DCFS shall provide documentation of compelling reasons.

PRACTICE TIP | Paramount Concern: Health and safety of child shall be the paramount concern in development of case plan.

PRACTICE TIP | Shortage of Placements: Does not justify an assertion that it is in the best interest of child to be placed a substantial distance from his/her parents' home or out-of-State.

PRACTICE TIP | Disapprove Placement: Judge cannot choose child's specific placement when he/she is in DCFS custody. However, court has authority to disapprove case plan, in whole or part, which includes child's placement. Judge has separate authority to disapprove placement chosen by DCFS when requirements of Article 672(A)(2) are met.

PRACTICE TIP | Reasonable and Prudent Parent: Recognizing greatest opportunity for normalcy lies in the day-to-day decisions affecting the child's activities, child's caregiver should be supported in making those decisions through use of the reasonable and prudent parent standard as set forth in La. R.S. § 46:283.

HELPFUL GUIDANCE | Child's Relationships: Maintaining child's relationships to minimize trauma is an important aspect of case work, especially during a time of insecurity while permanent plans have not yet been finalized.

PRACTICE TIP | Youth Transition Plan (YTP): Per Federal law, YTP shall be updated every 6 months. Development and implementation of YTP should be considered in reasonable efforts to achieve permanency for youth. Every child in foster care, age 14 and older, should be actively involved in case planning. 42 U.S.C. § 673(b) and 675.

Case Plan Finding and Order

ARTICLE 700, 42 U.S.C. § 671(16), 42 U.S.C. § 675(1)

After court considers content and implementation of case plan and any response filed, court shall:

- (1) **APPROVE:** If protects child's health and safety and in child's best interest; order parties comply therewith; OR
- (2) **NOT APPROVE:** In whole or part, including reasons why case plan does not protect child's health and safety or not in child's best interest; order DCFS to revise accordingly.

ESSENTIAL JUDICIAL ORDER | Approval of Case Plan: Court shall approve or disapprove case plan per Article 677, based on arguments of parties and evidence presented and enter it into written Order.

PRACTICE TIP | Specific Grounds: Upon which the child was adjudicated should guide ongoing implementation and review of case plan.

PRACTICE TIP | Case Planning: Is an integral element of the reasonable efforts requirement. Make sure case plan: (a) includes elements designed to support increased protective capacities feasible within stated time limitations; and (b) identifies safety and risk issues and conditions for return before court's involvement ends. Proposed services and other case plan activities should address specific issues and be accessible and culturally and linguistically appropriate. Paramount for court to make sure parents and child are involved in case planning process. 42 U.S.C. § 671(16), 42 U.S.C. § 675(1).

PRACTICE TIP | Disapprove Case Plan: Court not authorized to revise case plan. If court disapproves case plan, it should enter disapproval in the Order and direct DCFS to make necessary revisions. DCFS will revise plan and submit to court until approved. Set deadline for submitting revision. Ideally, issues can be resolved while still at court; party may move to have plan amended during hearing and if DCFS and parties agree, court can approve updated plan.

PRACTICE TIP | Case Plan Goal: Should not be changed from reunification to adoption, custody, or guardianship until court has either made a reasonable efforts finding to reunify the family or made an Article 672.1 judicial determination that reasonable efforts to reunify are not required.

Advisements

ARTICLE 700

Court shall advise parents of:

- Their obligation to cooperate with DCFS, comply with requirements of case plan, including duty to keep DCFS apprised of current address, and correct conditions requiring child to be in care;
- Their continuing responsibility to support timely achievement of permanency for the child and advise DCFS and court of whereabouts, including the address, cellular number, telephone number, and any other contact information, of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of child; AND
- That TPR Petition may be filed based on grounds in Article 1015, including failure to: (a) make significant progress toward achieving case plan goals; (b) comply with case plan; and (c) correct conditions requiring child to be in care.

Further Findings and Orders

ARTICLES 309, 618, 672(A)(2), 677, 669, 681-4, 710, 712, 42 U.S.C. § 671(A)(31)(A)

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

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

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

PRACTICE TIP | Reasonable Efforts (RE) Finding: Not required in Case Review Order. However, courts have an ongoing obligation to hold DCFS accountable to making RE to prevent removal, reunify family, and/or achieve permanency. Only exception to RE to reunify the family occurs when court finds RE not required per Article 672.1.

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

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

Case Management

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

Possible Next Steps

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

- (1) **APPEAL:** Any person directly affected may appeal findings or orders of court; shall be taken within 15 days from mailing of notice of Judgment.
- (2) **TPR Petition:** At any time, court on its own motion may order filing of TPR Petition on any ground authorized by Article 1015. If child in DCFS custody for 17 of last 22 months, DCFS shall file TPR Petition unless a compelling reason why filing is not in best interest of child is documented in case plan.

Order of Notices and Future Hearings

ARTICLES 424.7, 674, 688-9, 702

Court may also make the following orders:

- **PARTIES, COUNSEL, DCFS, AND CASA:** Be present at all future hearings;
- **DCFS CASE PLAN:** Be filed at least 10 days before hearing; copies provided to counsel by mail/email and unrepresented parties by certified mail/email per Article 674;
- **DCFS COURT REPORT:** Be filed at least 10 days before hearing; copies distributed to CASA prior to or at same time filed; served upon counsel by mail/email and unrepresented parties by certified mail/email per Article 689 (DCFS policy requires reports beginning at Disposition, although Children's Code is silent on submission for the Permanency Hearing);
- **CASA COURT REPORT:** Be filed before next hearing; copies distributed per Article 424.7;
- **SET DATES/TIMES FOR NEXT HEARING(S):**
 - **Revised Case Plan/Status Hearing:** Set if court did not approve case plan or other issues to address or resolve;
 - **Permanency Hearing:** Initial shall be held within 9 months after Disposition Hearing if removed before or within 12 months if removed after and then at least every 12 months thereafter until permanently placed (or earlier upon motion per Article 702(B)); may be held immediately or shall be held within 30 days of an Article 672.1 judicial determination;
 - **Next Case Review Hearing:** Shall be held at least once every 6 months until child is permanently placed (or earlier upon motion per Article 692(B));
- **SERVICE/NOTICE OF HEARINGS:** Be made on parties, counsel, CASA, and foster caregivers; AND
- **ARRANGEMENTS FOR ANY INCARCERATED PARENT:** Be made to attend hearing, either in person or remotely.

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

CRITICAL CONSIDERATIONS FOR ALL AT EACH CINC HEARING:

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

STATE OF LOUISIANA

DOCKET NUMBER: _____

IN THE INTEREST OF

SECTION: _____

_____ DOB: _____

COURT: _____

_____ DOB: _____

PARISH OF _____

_____ DOB: _____

STATE OF LOUISIANA

Filed: _____

DEPUTY CLERK: _____

CASE REVIEW ORDER

THIS CAUSE came for a Case Review Hearing on the _____ day of _____, 20____, regarding the following named minor child(ren), _____.

I. APPEARANCES

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

The child(ren), _____, is not present and: *(Please check the applicable box for each child)*

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

the child, _____, is age 12 or older and counsel did not request the child's appearance.

_____.

Parent _____	Department of Children and Family Services
Parent's Attorney _____	Staff/Representative _____
Parent _____	Foster Parent(s), Pre-adoptive Parent(s), Relative(s)
Parent's Attorney _____	Providing Care for Child(ren) _____
Caretaker(s) _____	_____
Child(ren) Attorney(s) _____	Assistant District Attorney _____
_____	Bureau of General Counsel _____
Others _____	

II. NOTICE

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

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

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

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

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

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

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

III. TESTIMONY AND EVIDENCE

THE COURT has considered the testimony of the following witness(es): _____

_____.

THE COURT considered the following evidence: *(Please check the applicable boxes)*

- the case plan (including the Youth Transition Plan, if applicable);
- information regarding care and treatment of the child from any foster parent, pre-adoptive parent, or relative providing care for the child who appeared at the hearing;
- all other evidence offered.

IV. CASE PLAN FINDING AND ORDER

THE COURT FINDS AND ORDERS: *(Please check one of following)*

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

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

AND ORDERS THE DEPARTMENT TO REVISE THE PLAN ACCORDINGLY.

V. ADVISEMENTS

The Court informed the parent(s) of their obligation to cooperate with the Department, comply with the requirements of the case plan, including their duty to keep the Department apprised of their current address, and correct the conditions requiring the child to be in care.

The Court informed the parent(s) that a petition to terminate their parental rights may be filed based upon their failure to comply with the requirements of the case plan, failure to make significant measurable progress toward achieving case plan goals and to correct the conditions requiring the child to be in care, or on any other ground authorized by Article 1015.

The Court informed the parent(s) of their continuing responsibility to support the achievement of timely permanency for the minor child(ren) and to advise the Department and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the minor child(ren).

VI. FURTHER ORDERS

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

IT IS FURTHER ORDERED that the current Disposition for children, _____, be maintained with: _____.

IT IS FURTHER ORDERED that the current Disposition for children, _____,
be modified accordingly: _____.

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

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

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

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

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

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

A **Family Team Meeting** is tentatively set for _____ day of _____, 20____,
at _____ am/___pm.

IT IS FURTHER ORDERED that _____
_____.

VII. ORDER OF NOTICES AND FUTURE HEARINGS

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

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

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

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

IT IS FURTHER ORDERED that:

Upon ordering the matter be set for _____ Hearing(s), the clerk shall notify all parties of the date, time, and location of the hearing(s) and that all parties of interest appear; the Sheriff's Office serve the parent(s) with a summons commanding him or her to appear at Court for the hearing(s); the Department shall provide notice to the parent(s) of the date, time, and location of the hearing(s); notice of the hearing(s) be made on the child and parent representation programs and CASA (if appointed); the Department provide notice to any foster parent, pre-adoptive parent, or relative providing care for the child(ren) of the date, time, and location of the hearing(s) and recipients right to attend and be heard; and for any parent(s) incarcerated, _____ arrange for the parent(s) to attend the hearing, either in person or remotely.

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

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

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

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

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

JUDGE

DISTRIBUTION OF NOTICE

Please serve all parties and counsel of record as follows:

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

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

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

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

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

Assistant District Attorney/Bureau of General Counsel:

Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

Please send notice and copy of order as follows:

Department of Children and Family Services Staff/Representative:

Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

CASA: _____

Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

Other: _____

Role: _____
Street: _____
City, State, Zip: _____
Fax Number: (____) _____
Email Address: _____

CASE REVIEW COURT REPORT

Department of Children and Family Services

. . .

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

Date ____ / ____ / _____

Judge's Name _____

Court _____

Court Address _____

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

SALUTATION

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

PRELIMINARY INFORMATION

Date Adjudicated Child in Need of Care:

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

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

Brief summary of reason child(ren) entered care/DCFS involved:

See attached Case Plan: Federal Compliance Section "Reason Child(ren) entered Foster Care."

Date of Current Case Plan: _____ / _____ / _____

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

Tentative Date of Next FTM: _____ / _____ / _____

Please summarize any significant changes since the last hearing: _____

NOTICE OF DATE, TIME, AND LOCATION OF CASE REVIEW HEARING

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

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

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

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

ICWA

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

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

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

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

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

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

LEGAL RELATIONSHIPS/TESTING RESULTS

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

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

If yes, please explain: _____

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

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

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

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

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

OTHER ORDERS

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

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

Yes No

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

Yes No

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

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

Yes No

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

CURRENT STATUS OF THE PARENT

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

SAFETY AND RISK ASSESSMENT

Threats of danger at the time of initial safety assessment: _____

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

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

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

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

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

Conditions for Closure (DCFS no longer involved): _____

CASE PLAN UPDATE

For more detail, please see attached Case Plan.

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

If no, please explain why not: _____

Were the attorneys invited to the FTM? Yes No

Did they participate? Yes No

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

PLACEMENT

Are all children in this case placed together?

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

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

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

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

	Child:	Child:
Caregiver Name(s)	_____	_____
Date of Placement	___ / ___ / _____	___ / ___ / _____
Type of Placement	<input type="checkbox"/> Relative <input type="checkbox"/> Other Individual <input type="checkbox"/> Certified Foster Home <input type="checkbox"/> Therapeutic Foster Home <input type="checkbox"/> Group Home <input type="checkbox"/> Psychiatric Residential Treatment Facility <input type="checkbox"/> Other: Reason(s) if not placed with relative:	<input type="checkbox"/> Relative <input type="checkbox"/> Other Individual <input type="checkbox"/> Certified Foster Home <input type="checkbox"/> Therapeutic Foster Home <input type="checkbox"/> Group Home <input type="checkbox"/> Psychiatric Residential Treatment Facility <input type="checkbox"/> Other: Reason(s) if not placed with relative:
History of Previous Placements: <i>Include name, type, and dates of each</i>		
Child's Adjustment to Current Placement		

QPI <i>(co-parenting between foster caregivers and parents)</i>		
Certification Update for Relatives/Individuals Not Yet Certified; Include Date Referral Made to Home Development and Current Status		
If reunification is not the primary goal, has the current caregiver committed to permanency for the child?		
Foster Caregiver Progress Form completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

If siblings in this case are not placed together, state

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

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

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

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

CURRENT STATUS OF CHILD(REN)

Please provide updates since the last hearing:

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

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

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

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

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

YOUTH 14 AND OLDER

Identify the youth's permanent connections: _____

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

Is the youth receiving independent living classes? Yes No

What has the youth learned from these classes? _____

Describe progress with the youth preparing to live independently: _____

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

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

VISITATION

Have there been any changes to the visitation plan since the last court hearing? Yes No

If yes, please explain: _____

Are there any relatives and/or other individuals who are visiting since the last court hearing? Yes No

If yes, please explain: _____

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

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

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

SIGNIFICANT RELATIONSHIPS AND RELATIVES/OTHER SUITABLE INDIVIDUALS

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

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

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

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

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

DCFS RECOMMENDED CASE PLAN GOAL AND REASONS

Child:	Child:
<input type="checkbox"/> Reunification <input type="checkbox"/> Custody to Another Parent <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship <input type="checkbox"/> Custody to a Relative <input type="checkbox"/> APLA (if 16 or 17 years old) <input type="checkbox"/> Concurrent Plan:	<input type="checkbox"/> Reunification <input type="checkbox"/> Custody to Another Parent <input type="checkbox"/> Adoption <input type="checkbox"/> Guardianship <input type="checkbox"/> Custody to a Relative <input type="checkbox"/> APLA (if 16 or 17 years old) <input type="checkbox"/> Concurrent Plan:
Is this recommendation a change? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this recommendation a change? <input type="checkbox"/> Yes <input type="checkbox"/> No
Reasons underlying recommendation:	Reasons underlying recommendation:

OTHER RECOMMENDATIONS

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

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

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

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

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

That a _____ hearing be set for: _____.

Sincerely,

Case Worker

Supervisor

ATTACHMENTS

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

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