

# Fostering Forward

A monthly tip sheet to navigate through foster care

## Snapshot of Children's Court: Part Two

Remember when we said that the court process was difficult to understand? In fact there was so much information we couldn't fit it on one Fostering Forward! Here's part two to give you the tools you need to be confident when walking into the courtroom.

### Court Phases

**Temporary Physical Custody (TPC):** This hearing occurs within 48 hours of a child being removed from their home by Division of Milwaukee Child Protective Services (DMCPS.) The judge will determine if there was adequate reason and enough evidence to remove the child from the home. If there was not, the child will return home to their parents. During this hearing, the judge will address visitation hours and supervision.

**Initial Appearance (IA):** The Initial Appearance begins the jurisdiction phase, and occurs about a month after TPC. At the Initial Appearance, the judge will determine if there is enough evidence for the child to remain in out of home care on a CHIPS (Child In Need of Protection or Services) order. Parents can either agree with the statements made as to why the child was removed or contest them. If a parent contests, a trial will be scheduled allowing the parents to explain why the child should not have been removed from the home. If a parent does not contest, the court will proceed with the next hearing.

**Jurisdiction Phase:** The finding that there was reason to remove the child from the home, resulting in the child remaining in DMCPS custody and out of home care. This is decided at the Initial Appearance.

**Disposition:** The Disposition phase occurs after jurisdiction is reached. During the Disposition phase, the Assistant District Attorney (ADA) presents an order to the court containing a list of goals and services for each of the parents. Once all parties come to an agreement about the services, the dispositional order will be issued. The dispositional order is often referred to as the CHIPS order.

**Permanency Hearing:** These occur every 6 months following Disposition. This is where the legal parties discuss progress made by the parents and make recommendations regarding a child's permanency. A permanency goal is determined by the judge and an order containing the set goals is issued at each permanency hearing. A permanency goal of TPR/Adoption does not initiate the legal process to terminate parental rights.

**Termination of Parental Rights (TPR):** If a child has been placed outside of the home for at least 12 months, and the parents have not made enough progress to begin reunification, a referral to court will be made to terminate parental rights. The TPR process consists of an initial appearance, the grounds phase, and the best interest phase. A child being in out of home care for 12 months or more is not reason alone to initiate the TPR process.

## Commonly Heard Court Terms



**Adjourned:** If a hearing is not able to be completed due to a missing party, inadequate information, etc. the hearing will be rescheduled for another date.

**Appeal:** An individual has the ability to request an appeal to the court if they feel there was a mistake made by a legal party. During an appeal an external judge will reassess all documentation and court processes that occurred during the initial court proceedings.

**Contested Hearing:** If a parent does not agree with a decision made either by the court or the case manager, their attorney can file for a contested hearing. During this hearing, each legal party will bring witnesses to present reasons behind their decision, and a final decision will be made by the judge.

**Change of Placement (COP):** A COP can be filed by the case manager or any other legal party involved in the case. Each party involved, including both biological parents and foster parents will receive a notice in the mail regarding the anticipated change. Each party has 10 days to contest the COP, which would result in a contested hearing. If no one contests within 10 days, the COP is able to occur. In order for a foster parent to contest, the child must have been placed in their home for 6 months or more. This would not apply to emergency change of placements.

**Indian Child Welfare Act (ICWA):** If a child is of Native American heritage, the FCM is required to contact the child's tribe to inform them that the child was removed from the home and is in DMCPs custody. The tribe then has the choice to become involved in decisions regarding the case and child permanency.

**Kinship:** If the child is able to be placed with a relative, the child will be placed there under "kinship." The relative is then able to receive kinship payments to help support the child. The relative also has the option of being licensed as a foster parent.

**Paternity:** A father of a child may be considered adjudicated, presumed, or alleged.

- ◆ Adjudicated: Once a DNA test is completed and the result prove that the father is in fact the father of that child.
- ◆ Presumed: If the mother gave birth while she was legally married to the father.
- ◆ Alleged: If both the mother and father acknowledge this person as being the father of the child, but there has not been any genetic testing done to prove whether this is true.

**Transfer of Guardianship (TOG):** This form of permanency may be reached if a child is unable to return home and it is determined to not be in the child's best interest to terminate parental rights.

**Trial:** A court proceeding which occurs if there is a disagreement between legal parties. A trial can either be a "court trial" where the final decision is made by the judge or a "jury trial", during which a decision will be made when 5 out of 6 jury members are in agreement.