

Module 12 Chapter 3: Permanency

Overview

This chapter addresses:

- Reunification as the primary permanency goal
- Permanency options when reunification is not possible in spite of reasonable efforts.

This course does not cover the adoption process. Talk with your supervisor about trainings to attend if your work includes adoptions.

Reasonable Efforts to Finalize Permanency

Agencies are required to make reasonable efforts to finalize a permanent plan for the child. The agency is responsible to:

- Reunify the child with the parent or guardian from whom the child was removed
- Assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services to enable the noncustodial parent to safely provide care. (Minnesota Statute 260C.219.)
- Conduct a relative search to identify and provide notice to adult relatives. (Minnesota Statutes 260C.221.)
- Place siblings in the same home for foster care or adoption, or Transfer Permanent Legal and Physical Custody (TPLPC) to a relative.
- When necessary, plan for and finalize a safe and legally permanent alternative home for the child.

Reasonable efforts include use of culturally appropriate services to meet the needs of the child and family.

A link to *Making It Permanent: Reasonable Efforts To Finalize Permanency Plans For Foster Children* is available on the website.

Permanency Timelines

When families can't be reunited within mandated timelines, permanency proceedings must begin and a permanent placement must be found. (Refer to web handouts that identified timelines for achieving permanency in CHIPS cases.)

A permanency petition must be filed within certain timelines. Because of these requirements, you need to identify cases which might result in a need for permanent removal of the child. When you identify these cases, consult with your supervisor, colleagues and county or tribal attorney as you start the permanency process.

Reunification

Reunification with parents or primary caregivers is the preferred permanency option. You are responsible for making reasonable efforts to help the family reunify unless or until the court relieves you of that responsibility.

As you review case plan progress at every visit, you need to think about whether, and at what point, reunification will take place. Complete the SDM Reunification Assessment tool as part of your decision-making process. Consider asking the court to order a trial home visit (THV) for up to six months as a reunification tool when parents are making progress on the case plan.

Barriers to Reunification

Barriers to reunification may include:

- Fear of reunification or recurring harm
- Damaged parent-child attachment
- The parent or child has formed a new life and identity excluding the other
- The child is angry at the parent
- The child has strong attachments to other caregivers and the transition doesn't allow the child to transfer that attachment
- The parent or child experiences a crisis prior to reunification.

Promoting Reunification

With supportive casework, there are several things you can do to overcome barriers and promote successful reunification:

- Build relationships and empower families
- Emphasize the intent to reunify
- Talk openly with parents and children about fears, expectations, and hopes
- Ensure frequent and convenient parent-child visits
- Provide effective services
- Ensure that the resource family supports both the child and parents
- Consider returning sibling groups in stages
- Develop the post-reunification service plan to reflect anticipated needs and provide appropriate services
- Create post-reunification safety plans.

Reunification Strategies

There are two major reunification strategies:

- Trial Home Visits
- Protective supervision.

Trial Home Visits – THV

The court may order a trial home visit (THV) for up to six months to help determine if reunification will be successful or if a different permanency option needs to be ordered. Time spent in a trial home visit or under protective supervision in the home of a custodial or noncustodial parent counts toward the permanency hearing timelines. (Minnesota Statutes 260C.201, Subdivision 1(3).)

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THV can be used as a strategy for successful reunification. Consider asking the court to grant a THV when:

- The family has made sufficient progress toward reunification
- Risks are decreased but still concerning enough to prevent full reunification
- Services can be implemented or continued during the THV to maintain child safety.

When implementing a THV, it is best practice to develop a new case plan identifying:

- Safety threats that prevent full reunification
- A safety plan
- Appropriate services
- Steps the agency will take to monitor safety, and assure educational, medical and mental health needs are met
- Steps the family will take to provide safety, and assure educational, medical and mental health needs are met
- The length of the THV
- Frequency of worker contact.

During the THV, the agency:

- Retains legal custody, including visiting the child
- Continues to provide appropriate services to the child and family and monitor child safety and well-being
- May terminate the THV and return the child to foster care without court authorization
- Must inform the court and parties within three days that the THV was terminated
- Must send a report to the court stating why the THV was terminated and recommend an appropriate order to protect the child. (The court shall conduct a hearing within 10 days of receiving notice that the THV was terminated.)

An excellent resource is Practice Notes 18: Trial Home Visits: Strengthening Reunification Practices. (March 2005.) A link is available on the website.

Talk with your supervisor to learn your agency's policy about THV decision-making, ending a THV, assessing safety during the visit, and reporting to the court.

Protective Supervision

Protective supervision occurs when a determination of abuse or neglect has been made or the court grants a CHIPS Petition, but the child remains with his or her birth family. The family continues to have legal and physical custody. The agency can't remove the child – only the court or law enforcement can initiate removal. The agency opens the case as protective supervision for an unspecified period of time.

Protective supervision overlaps with THV. In both instances:

- The child is home, under a court order
- The agency continues to provide services to the child and family
- Some level of risk to the child's safety exists

Permanency Notices

If reunification is not possible, the agency is required to send notices of the determination to all relatives notified when child was first placed:

- Any adult with whom the child resides
- Any adult with whom the child resided for at least one year in the past
- Any adult identified in the case plan who has maintained a relationship with the child
- Any adult who has demonstrated an interest in the child
- Any relative who has provided a current address to the county agency
- The parent, including presumed, alleged and adjudicated father, guardian, grandparent and the tribe when the child is American Indian.

Alternative Permanency Options

When reunification is not possible, alternative permanency options include:

- Adoption
- Transfer of Permanent Legal and Physical Custody – TPLPC
- Long Term Foster Care – LTFC
- Foster Care for a Specified Period of Time.

The next screens provide more detail.

Adoption and Termination of Parental Rights – TPR

Adoption occurs because of voluntary or involuntary termination of parental rights – TPR. TPR means the parent has *no* rights, powers, privileges, immunities, duties or obligations, including rights to custody, control, visitation, or support in relation to the child. The court orders the guardianship and legal custody of the child to be transferred to:

- The Commissioner of Human Services
- A licensed child-placing agency or
- An individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Because there are so many TPR details, you are encouraged to explore Minnesota Statutes 260C.301 to .328.

Voluntary TPR

Voluntary TPR occurs when the court terminates all rights of a parent to a child with the written consent of the parent who for good cause desires to terminate parental rights.

The best interests of the child must be the paramount consideration when the court finds that good cause exists.

(Minnesota Statutes 260C.301.)

Involuntary TPR

In order for the court to involuntarily terminate a parent's rights, the court must find that one of the following conditions exists:

- The parent has abandoned the child
- The parent has substantially, continuously, or repeatedly refused or neglected to comply with parental duties of the parent-child relationship

- The parent has been ordered to contribute to the support of the child and has continuously failed to do so without good cause
- The parent is palpably unfit
- Following a child's placement, reasonable efforts have failed to correct the conditions that led to placement
- The child has experienced egregious harm in the parent's care
- The child is neglected and in foster care
- The parent has been convicted of certain crimes.

Be sure to explore the statute for full details.
(Minnesota Statutes 260C.301.)

TPR Tips

- When the interests of the parent and child conflict, the best interests of the child are paramount.
- The legal standard for TPR is clear and convincing evidence, for non-ICWA cases
- Following TPR, a court hearing must be held every 90 days until permanency is finalized.
- Best practice is to consult with tribal representatives, your supervisor, and county attorney when working with American Indian children and families.

Adoption

Parents can voluntarily choose to have someone adopt their child. This is called *consent to adopt*.

In a consent to adopt, the birth parents choose the adoptive parents; but the agency must agree with the choice. Parental rights are terminated with the adoption decree. If notices are provided to the parents, the consent is irrevocable upon acceptance by the court. The child is under the guardianship of the commissioner of human services until the adoption is finalized.

Refer to Minnesota statutes for more details.

Transfer of Permanent Legal and Physical Custody – TPLPC

Another permanency option is Transfer of Permanent Legal and Physical Custody – TPLPC. It is exactly what the title implies – a permanent transfer of legal and physical custody from the parent to another person.

Parental rights are *not* terminated when TPLPC occurs; however, parents do not retain full and unlimited rights and responsibilities. The court helps establish what rights and responsibilities remain with the parents and which are transferred to the new caregiver.

TPLPC is typically the best option to maintain family connections, continuity for the child, and reduce the stress of moving to a new family. The exceptions are situations in which further parent contact is not in the child's best interests.

Permanent Placement with a Relative

Permanent placement with a relative, whether it be through TPLPC or adoption, has several advantages:

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- Pre-existing relationships
- Knowledge of family dynamics
- Maintaining relationships with the parent.

However, these concerns must be considered:

- The relative's emotions may include guilt and anger
- The child's confusion and intense emotions, especially over the changed roles of the parent and relative
- Parental anger because they may think the relative was responsible for the permanency situation
- Inappropriate communication between the parent and relative
- Lack of clarity around boundaries
- The relative's relationship with the parent can be a source of conflict and stress for everyone.

From the website, the document *Kinship Adoption: Meeting the Unique Needs of a Growing Population* can be accessed for more information.

Long Term Foster Care – LTFC

Long Term Foster Care is one of the least desirable options and should be a last alternative. Parental rights do not have to be terminated in order for a child to be placed in long-term care.

LTFC can only occur if:

- The court order approves and documents the agency's compelling reasons that other permanency options are not in the child's best interests
- The child is at least 12 years of age and the agency has made reasonable efforts to find an adoptive family or an appropriate relative who will agree to TPLPC, but such efforts were not successful, or
- The child is a sibling of a child described above, they have a significant positive relationship and are ordered into the same long term foster care home.

The placement must be reviewed annually to ensure that it is still the best permanency option. Refer to Minnesota Statutes for more details.

Foster Care for a Specified Period of Time

Another permanency option is Foster Care for a Specified Period of Time. This option is court-ordered only if:

- The sole basis for the CHIPS petition is the child's behavior. For example, the child is a runaway or habitual truant, or has committed a delinquent act before age 10.
- Foster care is in the child's best interests.
- The court finds compelling reasons to determine that TPLPC or TPR are not in child's best interests.
- The order for continuing in foster care does not exceed one year.

Challenges

Culture and ethnicity may present challenges in any type of placement.

Although MEPA/IEPA clearly state that placement can't be denied or delayed based on the race, color or national origin of the prospective foster or adoptive parent or the child, it is important to maintain a child's cultural or ethnic heritage even in permanent placements.

From the website, you can access *Foster Parent Adoptions: Talking with Children about the Difference Between Foster Care and Adoption* for strategies to help children and families successfully transition.

Also from the website, *Implications of Foster Parent Adoption for All Involved*, is available.

Court Reviews of Permanency Orders

The court must review permanency orders:

- Annually if the placement is for long-term foster care
- Within 12 months if the order is foster care for a specified time
- When it maintains jurisdiction in a TPLPC
- When an adoption has not been finalized
- If there is a disruption of the placement.

Keeping Connections

Keeping connections between the child, parent, and other support persons is crucial to successful permanency and child well-being. Maintaining connections also helps minimize the impact of separation and loss.

Placement with relatives or kinship providers is an excellent way to help children keep critical connections.

American Indian children may want to maintain, or perhaps develop, connections with their tribe.

Disruptions in Permanency

Sometimes placements disrupt or dissolve in spite of tremendous efforts to find ideal families. Children who are in permanent care often bring many challenges with them when they enter placement, including attachment issues.

When concerns arise, early involvement is important.

For information about possible causes of disruption and resources for handling these challenges, read the article *Adoption Disruption and Dissolution*, which can be accessed from the website.

Summary

As you have learned, reunification is the preferred permanency outcome for children in placement. But sometimes children can't go home and need to be provided with alternative permanency options, including adoption, Transfer of Permanent Legal and Physical Custody (TPLPC), Long Term Foster Care (LTFC) or foster care for a specified period of time.

Next Steps

From the website, the chapter transcript is available along with the following documents:

- Foster Parent Adoptions: Talking with Children about the Difference Between Foster Care and Adoption
- Implications of Foster Parent Adoption for All Involved
- Kinship Adoption: Meeting the Unique Needs of a Growing Population

Consult with your supervisor regarding:

- The adoption process and appropriate trainings to attend
- Your agency's policy about THV decision-making, ending a THV, assessing safety and reporting to the court.

Complete the Module 12 Post-Test and print your results.

Remember to check the website and print the documents labeled for classroom use. You will need to bring those documents to class with you.

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When you are ready, begin Module 13.