DCFS MANUAL: CHAPTER 23 -- PERMANENCY PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

TO: Holders of DCFS Manuals

NOTICE NO.: T-111
ISSUED: 01/06/94

FROM: Gerard Sidorowicz, Director
Division of Children & Family Services
MS 45710

SECTIONS REVISED:
Chapter 23

EFFECTIVE: On Receipt
FOR INFORMATION CALL:
SCAN 321-2657/(206)586

IF NOT DELIVERABLE, RETURN TO: DISTRIBUTION CENTER, MS 45807. FOR DISTRIBUTION CHANGES, NOTIFY: MANUAL DISTRIBUTION, MS 45807/(206) 586-8439 OR SCAN 321-8439.

SUBJECT: ADDITION OF INDEPENDENT LIVING AS A PERMANENT PLAN

Place this notice in front of Chapter 23, and note on the Tan Notice Control Sheet the date T-111 was entered.

A. BACKGROUND

The Consolidated Omnibus Budget Reconciliation Act of 1985 added Section 477 as a project to Title IVE of the Social Security Act to assist eligible children in foster care make the transition from foster care to independent living.

Section 477 is now a permanent section of Title IVE, providing the underlying authority to add Independent Living to the list of acceptable permanent plans under Section 427 of Title IVB.

B. ACTION REQUIRED

Add the following information to Section 23.10 Policy - Permanency Planning of the DCFS Manual:

THE ONLY ACCEPTABLE PERMANENT PLANS ARE:

1. Maintaining a child at home.

2. Relative guardianship.

3. Relative placement with written permanency agreement.

4. Adoption.

5. Foster parent guardianship.

6. Family Foster Care with written permanency agreement.

7. Independent Living.

C. PROCEDURES

Independent Living as the permanent plan of choice may be selected for children age 16 and over. However, simply because a child is 16 years of age, or older, is not sufficient reason to chose Independent Living as the permanent plan. The DSHS 15-209(X), Individual Service Plan shall, at a minimum, address the following:

1. How will this plan aid the child in securing housing?

2. How will this plan address the child's educational requirements?

3. How will the child's vocational requirements be met, such that the child will have the opportunity to acquire a marketable skill and reach self-sufficiency in the workplace?

4. What sort of plan is there to allow for a relationship with a parent figure, or an adult mentor, to help guide the child towards appropriate independence?

DCFS MANUAL: CHAPTER 23 -- PERMANENCY PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

TO: Holders of DCFS Manuals

NOTICE NO.: T-113
ISSUED: 07/19/94

FROM: Carole Cheatle, Director of Operations
Children's Administration
MS 45710

SECTIONS REVISED:
Chapter 23

EFFECTIVE: On Receipt
FOR INFORMATION CALL:
SCAN 321-2657/(206)586-2657

IF NOT DELIVERABLE, RETURN TO: DISTRIBUTION CENTER, MS 45807. FOR DISTRIBUTION CHANGES, NOTIFY: MANUAL DISTRIBUTION, MS 45807/(206) 586-8439 OR SCAN 321-8439.

SUBJECT: REVISIONS TO RCW 13.34

Place this notice in front of Chapter 23, and note on the Tan Notice Control Sheet the date T-113 was entered, remove T-111 and note on Tan Notice Control Sheet the date T-111 was removed.

I. BACKGROUND

The 1994 Legislature, via passage of E2SSB 6255, re-wrote a good portion of RCW 13.34 (the Juvenile Court Act in cases relating to the dependency of a child). As a result, three major revisions were made.

A. Revision to Acceptable Permanent Plans

Child welfare agencies charged with the care of children shall only provide juvenile courts with written permanency plans that specifically identify certain outcomes as "primary goals"; any additional outcome may be identified, but only as an "alternative goal." Independent Living was purposely omitted as one of the "primary goals" (despite the permanent inclusion of Independent Living in federal law).

State Law in this instance takes precedent, and requires the removal of Tan Notice T-111, which incorporated Independent Living as an acceptable permanent plan.

B. New Permanency Planning Requirements for Children Age Ten and Under

E2SSB 6255 amended the time frames for Permanency Planning hearings for children ten years of age and younger, if they have resided in foster care placement nine months or longer. These children must have a Permanency Planning hearing by their twelfth month of placement, and then annually thereafter.

The statute was also amended to require the supervising agency to develop a permanency plan no later than sixty days after assuming responsibility for providing services to that child.

C. Preventive Services Requirements

At the dependency disposition hearing, the court must make a finding that "preventive services" were offered or provided to prevent placement, separate from the "reasonable efforts to prevent placement" judicial requirement. Preventive services was specifically defined as family preservation services per RCW 74.14C.010, or "other reasonable services capable of preventing the need for out-of-home placement while protecting the child."

II. ACTION REQUIRED

A. Remove T-111 and add the following information to 23.10 POLICY - PERMANENCY PLANNING of the DCFS Manual:

THE ONLY ACCEPTABLE PERMANENT PLANS THAT HAVE THE FOLLOWING AS "PRIMARY GOALS" ARE:

1. Return home
2. Permanent relative placement with written agreement
3. Relative guardianship
4. Adoption
5. Foster parent guardianship
6. Foster care with long-term written agreement

B. Permanency Planning Hearing for Children Ten and Under

Delete the text at DCFS Manual Chapter 23.23.44, and add the following text under section 23.44 Permanency Planning Hearings:

Both federal and state law require juvenile courts to determine the future status of any child in foster care no later than eighteen months after the original placement. In addition, state law requires that for any child age ten and under (has not reached their eleventh birthday) and who has remained in out-of-home care for at least nine months, a permanency planning hearing shall take place no later than twelve months from the beginning of the current placement episode. Subsequent to the initial permanency planning hearing for any child, state law requires permanency planning hearings be held annually thereafter until the permanent plan is achieved or dependency is dismissed. The court is required to review all dependency cases at least one every six months until dependency is dismissed. (NOTE: There is an exception granted to counties with citizen review boards.)

C. Preventive Services

Delete the text at DCFS Manual Chapter 23.13 B. and add the following under B. Preventive/Reunification Services:

Prior to a child being placed out-of-home, a complete needs assessment of the individual child and family is required. Reasonable efforts must be made to prevent placement and to make it possible for the child to return home. If removal from the home is recommended, the predisposition report to the court must provide a full description of the preventive services (specifically family preservation services delivered primarily in the home - see RCW 74.14 C. 010) plus any other reasonable services capable of preventing the need for out-of-home placement while protecting the child, that have been offered or provided but have failed to eliminate the need for out-of-home placement. The only acceptable reason for not offering and/or providing preventive services is if the health, safety and welfare of the child could not be adequately protected while the child remained in the home. "Preventive Services" are not in lieu of "Reasonable Efforts" requirements, but rather preventive services are a sub-set of reasonable efforts. That is, reasonable efforts to prevent any removal of the child from his/her home must be attempted (barring health or safety issues) prior to that child's initial removal, and are usually addressed at the shelter care hearing. However, prior to the court's ordering continued out-of-home placement at the dependency disposition, the issue of preventive services must be addressed to the courts satisfaction.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

RECEIVED
WENATCHEE OFFICE
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DSHS
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TO: HOLDERS OF DCFS MANUAL

NOTICE NO: T-28
Issued: 08/28/85

FROM: DIV. OF CHILDREN & FAMILY SVCS.
Shirley Goins, Director

SECTIONS REVISED:
23.31, 23.32, and 23.33

EFFECTIVE: 10/01/84
FOR INFORMATION CALL:
Non-SCAN 754-1570 or
SCAN 235-1570

IF NOT DELIVERABLE, RETURN TO: MANUAL PRODUCTION UNIT MS OB-16

SUBJECT: CLARIFICATION OF APPROPRIATE USES OF ALTERNATIVE ADMINISTRATIVE REVIEW AND COURT REVIEW HEARINGS

Insert this notice in front of DCFS Manual, Chapter 23 and note on the Tan Notice Control Sheet the date Notice No. T-28 was entered.

A combination of state and federal law requires that each child in foster care have their case reviewed at least every six months either through the Juvenile Court (Chapter 23) or through the Alternative Administrative Case Review process (Chapter 32.42). The first review must be held within six months from the date of placement. In addition, every child who remains in care up to eighteen months must have a dependency or ARP dispositional hearing prior to the end of the eighteenth month from the date of placement (32.13 K, 32.32 D 3 e, 32.33 F 2 e (2), 32.41 H). Court review hearings must then continue every six months thereafter.

TO ENSURE CONTINUED PROPER IMPLEMENTATION OF THE STATE'S CASE REVIEW SYSTEM, THE FOLLOWING CLARIFICATIONS OF CHAPTER 23.31, 23.32, 23.33, 32.42, AND 34.50 ARE PROVIDED FOR THESE SPECIFIC TYPES OF CASES:

A. Case Review for Children Whose Parental Rights Were Terminated Prior to 1978

These children, like all foster children, must have their case reviewed every six months and have a court hearing before the end of the eighteenth month in foster care. They must continue court review hearings every six months thereafter.

Prior to 1978, wardship and juvenile court jurisdiction over these children were often dismissed upon termination of parental rights, because the state law at that time did not require ongoing jurisdiction and review following termination.

For any child coming into foster care or currently in care whose parental rights were terminated prior to 1978, the service worker should determine the length of time the child has been in foster care, and

1. For children whose wardship was dismissed and who have been in foster care seventeen months or more (counting from the date of placement), immediate steps should be taken to either file or petition for dependency or request the court to vacate the prior dismissal order, thereby reinstituting dependency and juvenile court jurisdiction. The case should then be reviewed by the court prior to the end of the eighteenth month, and regular court reviews should be set for every six months thereafter.

2. For children in foster care less than eighteen months, Alternative Administrative Review (32.42) can be used each six months (counting from date of placement) to review the case. However, court jurisdiction must be invoked and a court hearing must be held prior to the end of the eighteenth month in foster care.

   NOTE: Children for whom legal guardianship has been established are exempt from the case review and the court hearing process.

B. Case Review for Children in Adoptive Placement Pending Finalization

RCW 13.34.210 requires that children in adoptive placement continue to have court review hearings every six months until the adoption is final or guardianship is established.

If a problem arises with the court's ability to conduct these review hearings in a timely fashion, the service worker should arrange an Alternative Administrative Review (32.42) to be held within the required six months' time frame. The service worker should continue to actively pursue the court review even though an administrative review was held in the interim.

C. Case Review for Children Who Remain in Shelter Care Status Five Months or More

The components of the state's shelter care process and court orders do not fully satisfy the federal requirements for a case review. Since either a court hearing or administrative review is required before the end of the sixth month from the date of placement, the service worker should:

1. Attempt to move all cases to a fact finding/dispositional hearing prior to the end of the sixth month in care;

2. Seek legal consultation on cases remaining in shelter care status beyond five months; and

3. Within six months, conduct an Alternative Administrative Review (32.42) for any case that, after legal consultation, remains in shelter care status.

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DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

TO: HOLDERS OF DCFS MANUAL

NOTICE NO: T-34
Issued: 09/24/85

FROM: DIV. OF CHILDREN & FAMILY SVCS.
Shirley Goins, Director

SECTIONS REVISED:
23.33 & 23.80 C,
Reports 4, 5, 6 & 7

EFFECTIVE: 10/1/84
(retroactive)
FOR INFORMATION CALL:
Non-SCAN 754-1570 or
SCAN 235-1570

IF NOT DELIVERABLE, RETURN TO: MANUAL PRODUCTION UNIT MS OB-16

SUBJECT: CLARIFICATION OF REQUIRED CONTENT FOR COURT REPORTS FOR DEPENDENCY (FACT FINDING/DISPOSITION), DEPENDENCY REVIEW, ALTERNATIVE RESIDENTIAL PLACEMENT (ARP), AND ARP REVIEW.

Insert this notice in front of DCFS Manual, Chapter 23 and note on the Tan Notice Control Sheet the date Notice No. T-34 was entered.

BACKGROUND:

A combination of state and federal law requires every child in foster care to have their case reviewed within six months from the date of out-of-home placement either through the juvenile court or, for voluntary placements, through the Alternative Administrative Case Review process (Chapter 32.42). Case reviews must then continue to occur every six months thereafter.

There are specific items that these reviews must address which are stipulated in both state and federal law. The "required outlines" in Section 23.80 of this chapter list those legally required items that must be included in the reports to the court prepared by DSHS.

This Tan Notice clarifies some questions regarding the specific elements required by federal Title IV-B of PL 96-272 which must be addressed in the reports to the court.

ACTION REQUIRED

I. Reports to the Court for Dependency (Fact Finding/Disposition)

A. The report to the court must address all the items as listed in Required Outline #5. Included within the outlined items, ensure the report addresses the following specific points:

1. A determination/justification of why the child needs to remain in placement (as part of B 4 a), and

2. A discussion regarding compliance to date with the case plan (ISP) for the child (as part of B 4 g), and

3. A discussion of progress to date toward return home or other permanent plan (as part of B 4 g), and

4. An estimated date/time frame for the child's return home or completion of another permanent plan (as part of B 4 g (3)).

B. Since the fact finding/dispositional hearing occurs relatively early in the placement, discussions of case plan compliance and progress will be limited to a short time frame. However, it is important to have some statement, however brief, regarding progress to date.

C. The estimated date/time frame for return home or other permanent plan completion may also be difficult to address. This date is strictly an estimate and is intended to stress:

1. The importance of the permanency plan,

2. The fact that foster care is a time-limited service, and

3. That case planning is done with limited time frames in mind as determined by the case plan. This date/time frame can be tied to the actions/changes/activities expected of the parents or other relevant persons, and this date can change as circumstances in the case change.

II. Report to the Court for Dependency Review

This report to the court must address all the items as listed in Required Outline #6. The service worker should ensure the following specific points are addressed within the outlined items:

A. A determination/justification of why the child needs to remain in placement (as part of D 3 b), and

B. A discussion regarding compliance with the case plan (ISP) for the child (as part of E 1), and

C. A discussion of progress toward return home or other permanent plan (as part of E 1 and E 2 c, d, and e), and

D. An estimated date/time frame for the child's return home or completion of another permanent plan (as part of E 2 g).

Also see discussion in I C above regarding the "estimated date" requirement.

III. Report to the Court for ARP or ARP Review

This report to the court must address all the items as listed in Required Outline #7. The service worker should ensure the following specific points are addressed within the outlined items:

A. Determination/justification of why the child needs to remain in placement (as part of B 3 a), and

B. Discussion regarding compliance with the case plan (ISP) for the child (as part of B 3 e), and

C. Discussion regarding progress toward return home or other permanent plan (as part of B 3 e and f), and

D. An estimated date/time frame for the child's return home or completion of another permanent plan (as part of B 3 e).

Also see discussion in I C above regarding the "estimated date" requirement.

NOV 12 1985

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

TO: HOLDERS OF DCFS MANUAL

NOTICE NO: T-36
Issued: 10/01/85

FROM: DIV. OF CHILDREN & FAMILY SVCS.
Shirley Goins, Director

SECTIONS REVISED:
23.33

EFFECTIVE: 10/1/84
FOR INFORMATION CALL:
Non-SCAN 754-1570 or
SCAN 235-1570

IF NOT DELIVERABLE, RETURN TO: MANUAL PRODUCTION UNIT MS OB-16

SUBJECT: POLICY REGARDING USE OF AGREED ORDERS

Insert this notice in front of DCFS Manual, Chapter 23 and note on the Tan Notice Control Sheet the date Notice No. T-36 was entered.

Background:

Court practice varies considerably on how an agreed order is handled for presentation and review. In some courts, an actual hearing occurs with all parties present or represented while in others all parties need not appear in court for presentation of an agreed order. When a case moves into the court system (either by the 18th month or before), the court hearings/ reviews serve to meet both the "periodic" review and the court hearing requirements of federal law. To satisfy these IV-B requirements, either an actual in-court hearing must be held or an agreed order must be entered.

The following procedures are being implemented to ensure casework practice follows federal laws and regulations.

ACTION REQUIRED

A. When, after legal consultation, an agreed order will be entered, the following steps are required:

1. The parents and all necessary parties (including the child's guardian ad litem) must have been given in writing proper and timely notice of the hearing and of their right to legal representation.

2. Appearance in court for the hearing is vastly preferred. For those courts in which appearance by all parties is not required, the parents and all necessary parties and their legal counsel must sign an agreed order which satisfies the federal requirements (See B below).

   If parents have agreed to the contents of the agreed order, but are unavailable to sign, the signature of the parent's legal representative may suffice.

3. If the parent has consented to the "agreed" order, but has refused legal counsel, the service worker must obtain and include in the child's case record a signed copy of the parent's written waiver of their right to legal representation.

4. NOTE: If a parent refuses to sign or is unavailable, a hearing must be held. In this situation, no "agreement" has been reached, and an "agreed" order is not appropriate.

B. Any court order issued as a result of a contested hearing or agreement between all parties must contain the following four elements in the order or in the DSHS report to the court in order to satisfy federal requirements:

1. A determination that the child needed to stay in the placement.

2. A determination regarding compliance with the case plan (ISP).

3. Assessment of progress toward return home or other permanent plan.

4. A projected date for return home or other permanent plan.

These four required items are also discussed in Tan Notice T-34 of this chapter.

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DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

TO: HOLDERS OF DCFS MANUAL

NOTICE NO.: T-46
ISSUED: 5/8/86

FROM: DIVISION OF CHILDREN/FAMILY SERVICES
Shirley Goins, Director

SECTIONS REVISED:
23.34A6a(3), B2a(8),(9) and B2b(8),(9)
EFFECTIVE: 5/1/86
FOR INFORMATION CALL:
Non-SCAN 586-6070 or
SCAN 321-6070

IF NOT DELIVERABLE, RETURN TO: MANUAL PRODUCTION UNIT MS OB-16

SUBJECT: DOCUMENT MAILING INSTRUCTIONS

Place this notice in front of the DCFS Manual, Chapter 23, and note on the Tan Notice Control Sheet the date Notice No. 46 entered.

The postal service defines registered mail as mail containing items of monetary value. Effective immediately, please use "certified mail" instead of "registered mail" when specifying special mailing instructions for nonmonetary documents.

Please correct sections 23.34 A 6 a (3), B 2 a (8) and (9), and B 2 b (8) and (9) to read certified mail instead of registered mail.

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DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

TO: HOLDERS OF DCFS MANUAL

NOTICE NO.: T-57
Issued: 04/06/87

FROM: Jerome Wasson, Acting Director
Division of Children and
Family Services

SECTIONS REVISED
T-34

EFFECTIVE: 04/15/87
FOR INFORMATION CALL:
Sue Browning
Non-SCAN 586-0253 or
SCAN 321-0253

FOR MANUAL DISTRIBUTION CHANGES, PLEASE NOTIFY: MANUAL PRODUCTION UNIT AT MS OB-16. IF NOT DELIVERABLE, RETURN TO: DSHS STOCKROOM, MS FB-11

SUBJECT: USE OF THE DSHS 15-209(X), PERIODIC REVIEW REPORT/INDIVIDUAL SERVICE PLAN FOR DEPENDENCY AND ALTERNATIVE RESIDENTIAL PLACEMENT (ARP) REVIEW REPORTS TO COURT

Place this notice in front of the DCFS Manual, Chapter 23, and note on the Tan Notice Control Sheet the date Notice No. T-57 was entered.

I. BACKGROUND

Following a recent federal audit of state compliance with P.L. 96-272, federal auditors recommended the development of a statewide ISP form.

A statewide committee developed a form that would not only serve as an ISP but could also be used as a court-report format for all review hearings. Development of a format useful for multiple purposes reduces duplicative paperwork requirements. The new format is also designed to re-orient court decision-making to put a greater emphasis on the earliest achievement of the permanent plan for the child.

L 4-10 OFFICE OF SUPPORT
ENFORCEMENT
1=2,8=2

II. ACTION REQUIRED

A. Revise Tan Notice T-34 to delete references to Required Outlines #5 and #7 (Reports to Court for Dependency and ARP Review Hearings). These outlines are no longer used.

B. Revise Tan Notice T-34 to add:

II. Report to the Court for Dependency Review

This report to the court shall be prepared using the DSHS 15-209(X), DSHS Periodic Review Report/Individual Service Plan. Follow procedures described in Chapter 32 for completion of this form.

C. Revise Tan Notice T-34 to add:

III. Report to the Court for ARP or ARP Review

This report to the court shall be prepared using the DSHS 15-209(X), DSHS Periodic Review Report/Individual Service plan. Follow procedures described in Chapter 32 for completion of this form.

D. Revise Tan Notice T-34, Section 23-80, Required Forms, as follows:

Delete: Report for Dependency Review Hearing (Outline #6)
Report for ARP Review Hearing (Outline #7)

Add: DSHS 15-209(X), Periodic Review Report/Individual Service Plan

DCFS MANUAL: CHAPTER 23 -- PERMANENCY PLANING, CASE REVIEW AND THE JUVENILE COURT PROCESS

TO: Holders of DCFS Manuals

Notice No.: T-

FROM:

SECTIONS REVISED:
Tan Notice T-111
(Issued 1-6-94)
Chapter 23

EFFECTIVE: On Reciept
FOR INFORMATION CALL:
(206) 586-2657

SUBJECT: REVISIONS TO RCW 13.34

Place this notice in front of Chapter 23, and note on the Tan Notice Control Sheet the date T- was entered; remove T-111.

I. BACKGROUND

The 1994 Legislature, via passage of E2SSB 6255, re-wrote a good portion of RCW 13.34 (the Juvenile Court Act in cases relating to the dependency of a child). As a result, three important revisions were made.

A. Revision to acceptable permanent plans

Child welfare agencies charged with the care of children shall only provide juvenile courts with written permanency plans that specifically identify certain outcomes as "primary goals"; any additional outcome may be identified, but only as an "alternative goal". Independent Living was purposely omitted as one of the "primary goals" (despite the permanent inclusion of Independent Living in federal law).

State law in this instance takes precedent, and requires the removal of Tan Notice T-111, that incorporated Independent Living as an acceptable permanent plan.

B. New Permanency Planning requirements for children age 10 and under.

E2SSB 6255 amended the time frames for Permanency Planning hearings for children 10 years of age and younger, if they have resided in foster care placement 9 months or longer. These children must have a Permanency Planning hearing by their twelth month of placement, and then annually thereafter.

The statute also was amended to require the supervising agency develop a permanency plan no later than sixty days after

assuming responsibility for providing services to that child.

C. Preventive Services requirements

At the dependency disposition hearing, the court must make a finding that "preventive services" were offered or provided to prevent placement, seperate from the "reasonable efforts to prevent placement" judicial requirement. Preventive services was specifically defined as family preservation services per RCW 74.14C.010, or "other reasonable services capable of preventing the need for out of home placement".

II. ACTION REQUIRED

Remove T-111 and add the following information to 23.10 POLICY - PERMANENCY PLANNING of the DCFS Manual:

THE ONLY ACCEPTABLE PERMANENT PLANS, THAT HAVE THE FOLLOWING AS "PRIMARY GOALS" ARE:

1. Return home
2. Permanent relative placement with written agreement
3. Relative guardianship
4. Adoption
5. Foster parent guardianship
6. Foster care with long-term written agreement

III. PROCEDURES

A. Permanency Planning hearings for children 10 and under.

Delete the text at DCFS Manual Ch. 23.23.44, and add the following text under section 23.44 Permanency Planning Hearings:

Both federal and state law require juvenile courts to determine the future status of any child in foster care no later than eighteen months after the original placement. In addition, state law requires that for any child age ten and under (has not reached their eleventh birthday) and who has remained in out-of-home care ~~nine~~ for at least nine months, a permanency planning hearing shall take place no later than twelve months from the current placement episode. Subsequent to the initial permanency planning hearing for any child, state law requires continual permanency planning hearings be held annually thereafter until the permanent plan is achieved. The court is also required to review all dependency cases at least one every six months until dependency is dismissed.

B. Preventive Services

Delete the text at DCFS Manual Ch. 23.13.B and add the following under B. Preventive /Reunification Services:

Prior to a child being placed out-of-home, a complete needs assessment of the individual child and family is required. Reasonable efforts must be made to prevent placement and to make it posible for the child to return home. If removal from the home is recommended, the predisposition study to the court must provide a full description of the preventive services (specifically family preservation services delivered primarily in the home - see RCW 74.14C.010) plus any other reasonable services, that have been offered or provided and have failed to eliminate the need for out of home placement. The only acceptable reason for not offering and/or providing preventive services is if the health, safety and welfare of the child could not be adequately protected while the child remained in the home. "Preventive Services" are not in lieu of "Reasonable Efforts" requirements, but rather preventive services are viewed as a sub-set of reasonable efforts. That is, reasonable efforts to prevent any removal of the child from his/her home must be attempted (barring health or safety issues) prior to that child's removal, and is usually addressed at the shelter care hearing. However, prior to the court ordering continued out-of-home placement at the dependency disposition, the issue of preventive services must be addressed to the courts satisfaction.

Preprint

DCFS MANUAL: CHAPTER 23 -- PERMANENCY PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

TO: Holders of DCFS Manuals

NOTICE NO.: T-111
ISSUED: 01/06/94

FROM: Gerard Sidorowicz, Director
Division of Children & Family Services
MS 45710

SECTIONS REVISED:
Chapter 23

EFFECTIVE: On Receipt
FOR INFORMATION CALL:
SCAN 321-2657/(206)586

IF NOT DELIVERABLE, RETURN TO: DISTRIBUTION CENTER, MS 45807. FOR DISTRIBUTION CHANGES, NOTIFY: MANUAL DISTRIBUTION, MS 45807/(206) 586-8439 OR SCAN 321-8439.

SUBJECT: ADDITION OF INDEPENDENT LIVING AS A PERMANENT PLAN

Place this notice in front of Chapter 23, and note on the Tan Notice Control Sheet the date T-111 was entered.

A. BACKGROUND

The Consolidated Omnibus Budget Reconciliation Act of 1985 added Section 477 as a project to Title IVE of the Social Security Act to assist eligible children in foster care make the transition from foster care to independent living.

Section 477 is now a permanent section of Title IVE, providing the underlying authority to add Independent Living to the list of acceptable permanent plans under Section 427 of Title IVB.

B. ACTION REQUIRED

Add the following information to Section 23.10 Policy - Permanency Planning of the DCFS Manual:

THE ONLY ACCEPTABLE PERMANENT PLANS ARE:

1. Maintaining a child at home.
2. Relative guardianship.
3. Relative placement with written permanency agreement.
4. Adoption.
5. Foster parent guardianship.
6. Family Foster Care with written permanency agreement.
7. Independent Living.

C. PROCEDURES

Independent Living as the permanent plan of choice may be selected for children age 16 and over. However, simply because a child is 16 years of age, or older, is not sufficient reason to chose Independent Living as the permanent plan. The DSHS 15-209(X), Individual Service Plan shall, at a minimum, address the following:

1. How will this plan aid the child in securing housing?

2. How will this plan address the child's educational requirements?

3. How will the child's vocational requirements be met, such that the child will have the opportunity to acquire a marketable skill and reach self-sufficiency in the workplace?

4. What sort of plan is there to allow for a relationship with a parent figure, or an adult mentor, to help guide the child towards appropriate independence?

CHAPTER 23

JUVENILE COURT PROCESS

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CHAPTER 23

JUVENILE COURT PROCESS

23.00 PROGRAM AUTHORITY

State: RCW 13.32A.120 through 13.32A.200; and RCW 13.34.010 through 13.34.300.

Federal: P.L. 95-608.

23.10 POLICY

23.11 Purpose of Service

A. The purpose of this chapter is to provide procedures for implementing the legal requirements of the Juvenile Court Code. The Juvenile Court Code requires that child welfare staff participate in four court processes: (1) Alternative residential placement (ARP), (2) Dependency, (3) Guardianship, and (4) Termination of parental rights. The consent to place process may be used under some circumstances in lieu of the ARP or dependency processes.

B. One or more of these court processes may occur in the provision of the following child welfare programs: (1) Family Reconciliation Services (see Chapter 24); (2) Child Protective Services (see Chapter 26); (3) Crisis Residential Placement (see Chapter 31); (4) Child Foster Family Care (see Chapter 32); (5) Private Agency/Child Group Care (see Chapter 34); and (6) Adoption Services (see Chapter 36).

23.30 Service Procedures

23.31 Alternative Residential Placement (ARP) (See RCW 13.32A.120 through 13.32A.200)

The purpose of the alternative residential placement process is to resolve disputes between parents and children as to where children may live outside the parents' home.

A. ARP Petition (See required outline in 23.80 C. 2.)

1. The parent or child may file a petition to approve an alternative residential placement (see RCW 13.32A.120).

2. A petition may be filed only within the county of the parent(s) residence. (See RCW 13.32A.200.)

B. The service worker shall file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances (see RCW 13.32A.140):

1. The child has been admitted to a crisis residential center or has been placed with a responsible person other than his/her parent, and:

   a. The parent has been notified that the child was so admitted or placed;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

   c. No agreement has been reached between the parent and the child as to where the child shall live;

   d. No petition requesting approval of an alternative residential placement has been filed by either the child, parent, or legal custodian; and

   e. The child has no suitable place to live other than the home of his/her parent.

   f. Staff will make such notifications and place American Indian children as required under 23.38 B.

2. The child has been admitted to a crisis residential center and:

   a. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

   b. The staff, after searching with due diligence, have been unable to contact the parent of such child; and

   c. The child has no suitable place to live other than the home of his/her parent.

   d. The required notifications have been made for American Indian children and the service worker/Local Indian Child Welfare Advisory Committee (LICWAC) have reached agreement as to appropriate placement for the child. (See 23.38 B.)

3. An agreement between parent and child made regarding an alternative residential placement is no longer acceptable to parent or child, and:

   a. The party to whom the arrangement is no longer acceptable has so notified the department;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

c. No new agreement between parent and child as to where the child shall live has been reached;

d. No petition requesting approval of an alternative residential placement has been filed by either the child or the parent; and

e. The child has no suitable place to live other than the home of his/her parent.

f. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

C. The state, when the department files a petition for alternative residential placement, will be represented as provided for in RCW 13.04.093.

D. Child/Parent Filing Petition (see RCW 13.32A.150).

1. A child or child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home if no agreement can be reached about placement or returning to the home.

2. The service worker shall, when requested, assist either a parent or child in filing the petition, i.e., explain procedures, help in initiating telephone contacts, etc.

3. The petition shall only ask that the placement of a child outside the home of his/her parent be approved.

4. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his/her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

E. Procedures Prior to Fact-Finding Hearing (see RCW 13.32A.160).

When a proper petition is filed (see RCW 13.32A.120, 13.32A.140, or 13.32A.150), the juvenile court will:

1. Schedule a date for a fact-finding hearing and notify the parent and child of such date;

2. Notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him/her by the court;

3. Appoint legal counsel for the child;

4. Inform the child and his/her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and

5. Notify all parties of their right to present evidence at the fact-finding hearing.

F. Placement of Child (see RCW 13.32A.160(2)).

1. Upon filing of an Alternative Residential Placement Petition, the child may be placed, if not already placed, by the service worker in a crisis residential center, foster family care home, group home facility or any other suitable, licensed (or determined exempt from licensing) residence as determined by the service worker.

2. If the child has been placed in a foster family care home or group care facility, the child will remain there, or in any other suitable residence as determined by the service worker, pending resolution of the alternative residential placement petition by the court.

3. Any placement may be reviewed by the court upon the request of the juvenile or the juvenile's parent within three court days of the request.

4. The department may authorize emergency medical or dental treatment for a child in placement. (See RCW 13.32A.140.)

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

G. Fact-Finding Hearing (see RCW 13.32A.170(1)).

1. The court will hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children.

2. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel.

3. The court may approve an order stating that the child shall be placed in a residence other than the home of his/her parent only if it is established by a preponderance of evidence that:

a. The petition is not capricious;

b. The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict; and

c. The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home.

4. The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

H. Court's Approval or Denial of ARP Petition (see RCW 13.32A.170(4)).

1. If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons will be filed by the court.

2. If the court denies a petition requesting that a child be placed in a residence other than the home of his/her parent, the court will enter an order requiring that the child remain at or return to the home of his/her parent.

3. If the court denies the petition, the court will impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services. (See RCW 13.32A.170(5).)

4. A child who fails to comply with a court order directing that the child remain at or return to the home of his/her parent shall be subject to contempt proceedings. (See 23.31 N. below) but only if the noncompliance occurs within ninety calendar days after the day of the order. (See RCW 13.32A.170(6).)

I. Fact-Finding Court Order (see RCW 13.32A.170(2)).

1. The order approving out-of-home placement will direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict.

2. In making the order, the court may further direct the department to make recommendations, as to:

a. Which agency or person should have physical custody of the child, and

b. Which parental powers should be awarded to such agency or person, and

c. Parental visitation rights.

3. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

J. Procedures Prior to Disposition Hearing (See RCW 13.32A.170(3))

1. The hearing to consider the recommendations of the department for a three-month disposition plan is set by the court no later than fourteen days after the approval of the court of a petition to approve alternative residential placement.

2. Each party is notified by the court of the time and place of such disposition hearing.

3. Departmental disposition planning for American Indian children will be consistent with the recommendations of the LICWAC.

K. Disposition Hearing (See RCW 13.32A.180 and required outline in 23.80 C. 7.)

1. At a dispositional hearing held to consider the three-month dispositional plan presented by the department, the court will consider all recommendations included in the plan. The service worker shall also present to the court the LICWAC recommendations if the department's recommendations are inconsistent with those of the LICWAC and the petition will so state.

2. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify the plan and will make its dispositional order for a three-month out-of-home placement for the child.

3. The court dispositional order will specify:

   a. The person or agency with whom the child is to be placed, and

   b. Those parental powers which will be temporarily awarded to the agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights.

4. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed foster family care homes.

5. No placement made as a result of a dispositional hearing may be in a juvenile correctional institution or facility as defined in Section 103, PL 93-415 Juvenile Justice and Delinquency Prevention Act of 1974 (i.e., "any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.")

L. Dispositional Court Order (See RCW 13.32A.190(1).)

Upon making a dispositional order, the court will:

1. Schedule the matter on the calendar for review within three months, and

2. Advise the parties of the date, and

3. Appoint legal counsel and/or a legal guardian ad litem to represent the child at the review hearing, and

4. Advise parents of their right to be represented by legal counsel at the review hearing, and

5. Notify the parties of their rights to present evidence at the hearing.

6. Where resources are available, encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

M. Review Hearing (See RCW 13.32A.190(2) and required outline in 23.80 C. 7.)

At the review hearing, the court:

1. Will approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval.

2. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious.

3. If out-of-home placement is continued, the court may modify the dispositional plan.

4. Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court will order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court will enter an order requiring that the child return to the home of the child's parent.

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

N. Contempt (see chapter 13.22A RCW).

1. Contempt proceedings can be instituted by the court on its own initiative or when a motion for contempt is made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order.

2. Failure by a party to comply with an order entered under this chapter is punishable as contempt.

3. Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

4. A child found in contempt under this section will be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

5. The procedure in a contempt proceeding held under this section is governed by RCW 7.20.040 through 7.20.080, as now law or hereafter amended.

O. Support Payments (see chapter 13.32A RCW).

1. In any proceeding in which the court approves an alternative residential placement, the court will inquire into the ability of parents to contribute to the child's support.

2. If the court finds that the parents are able to contribute to the support of the child, the court will order them to make such support payments as the court deems equitable.

3. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders.

4. However, payments will not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child.

5. Recommendations to the court to establish, raise, lower, release, or forgive support payments for a child in placement may be made only by the staff of the Office of Support Enforcement (OSE) (see WAC 388-70-028).

23.32 Dependency Petition Process (See RCW 13.34.030 through 13.34.130)

A. A dependency petition (see Outline #1 and DSHS 9-428, Rev. 5/81, in 23.80) is filed after all other reasonably possible attempts to help correct the problem have been exhausted and if the child is in imminent danger or the parents refuse or are unable to immediately make changes adequate to protect the child.

B. It will be the duty of the attorney general to handle dependency cases and in contested cases brought by the department, to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship. (In Class 1-9 counties the attorney general may contract with the prosecuting attorney of the county to perform paid duties of the attorney general.)

C. A petition to the juvenile court by a service worker to have a child declared dependent from abusing/neglecting parents or those legally responsible for the child is made in accordance with RCW 13.34.030. The petition may only be filed in the county of the parent(s) residence, the child's residence, or where the child is physically present. A petition is made when a child:

1. Is abandoned: that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

2. Is abused or neglected as defined in Chapter 26.44 RCW; or

3. Has no parent, guardian, or custodian willing and capable of caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

D. The service worker shall provide the juvenile probation officer with a statement of the facts supporting the allegation that a child is dependent at the time the petition is to be filed.

E. If a child is alleged to be dependent and if a child's health, safety, and welfare will be seriously endangered if he/she is not taken into custody, a service worker should file a petition and request a court order that the child be taken into custody. If the court grants an order of custody, the court may direct a law enforcement officer, a probation counselor, or a child protective services official to take the child into custody. (See RCW 13.34.040.)

F. The report of a possible crime to the juvenile court is not fulfilling DSHS's duty under law to report to a law enforcement agency or the county prosecutor in accordance with RCW 26.44.020 and 26.44.040.

G. When it is necessary to refer to and/or petition the juvenile court, the family should be informed of the reasons for the referral and helped to understand and participate in the court process. This would include helping the family to understand the need for and right of legal counsel. (See RCW 13.34.090.)

H. Any time an alleged dependent child is placed in receiving care the service worker must inform the child's parent, guardian, or custodian of his/her right to a preliminary shelter care hearing. (See RCW 13.34.060.)

I. Refer to 23.38 C. when working with American Indian/Alaskan Native children.

23.33 Juvenile Court Hearings and Reports

The service worker may be required to submit written reports, attend, and present testimony at the following hearings:

A. Shelter Care Hearing

1. A child taken into custody by a service worker prior to the hearing is to be placed in a receiving home/foster home licensed by the department or in a home not required to be licensed. (See RCW 13.34.060(1).)

2. Ordinarily, the initial shelter care hearing will be held within 72 hours after the child has been taken into custody. (See RCW 13.34.060(5).) If possible, the service worker should submit a written recommendation to the juvenile court in support of the need for shelter care in cases where the petition alleging dependency has been filed by the department.

3. An order for shelter care may not continue for more than 30 days unless reauthorized by the judge. A service worker may request modification of the order to continue shelter care past 30 days. (See RCW 13.34.060(8).)

4. Any report or modification request submitted to the court for American Indian children will be developed in consulation with the LICWAC and the court will be informed of any conflict between the worker/LICWAC recommendations. (See 23.80.)

B. Dependency Fact-Finding Hearing (See 23.80 C. 4. for required report outline)

This hearing is to determine the facts related to the petition. If the petition is filed by the department, the service worker must appear at the hearing and present testimony. The service worker may be required to present testimony when the petition is filed by some other party. (See RCW 13.34.110.) The service worker shall request an American Indian representative from the LICWAC/Indian consultant or the child's tribe to appear in court to present expert testimony in behalf of American Indian clients.

C. Support for Dependent Children (See RCW 13.34.160)

In any case in which the court will find the child dependent, it may in the same or subsequent proceeding upon the parent or parents, guardian, or other person having custody of said child, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such persons or person to support the child or contribute to its support, and if the court will find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its decrees.

D. Disposition Hearing (See required outline in 23.80 C. 5.)

1. The service worker shall be required to attend and may be required to present testimony. If the department filed the petition, then the service worker must prepare the following reports (listed as D. 2., 3. and 4. below) for the court. In other situations reports will be prepared/provided to juvenile probation staff according to CSO/juvenile court agreements. (See RCW 13.34.110, 13.34.120, 13.34.130, and Manual G, 23.80.) Complete and timely recording of service intervention on the DSHS 2-305(X), Service Episode Record, will facilitate the preparation of the Social Study, Predisposition Study, Agency Placement Plan and Six-Month Reviews.

2. Social Study (see RCW 13.34.120 (1)). The service worker must give close attention to the requirements of this report and the needed information. This report is a written evaluation of matters relevant to the disposition of the case. The study and all social records will be made available to the court, including facts relating to the child's cultural heritage, particularly LICWAC recommendations and those of the parent and child, if of significant age, the tribe's request for intervention and transfer of jurisdiction to tribal court.

3. Predisposition Study (see RCW 13.34.120 (2)). The service worker must be familiar with specific requirements of this report. This report relates to the specific issue of whether or not the child should remain in the home and shall contain:

   a. A statement of the specific harm to the child that intervention is designed to alleviate;

   b. A description of the specific programs for the parent(s) and child that are needed in order to prevent serious harm to the child - including why they will be useful, their availability, and the plan for ensuring their delivery;

   c. Why the child cannot be protected in the home--including past efforts to work with the parent and child in the home; treatment programs which have been considered and rejected, and the parents' attitude toward placement;

   d. The likely harm the child will suffer as a result of removal, including the parent-child attachment and meaning of separation and loss to both;

   e. Steps to be taken to minimize harm to the child that may result because of separation, and

   f. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

   g. Placement of an American Indian child will be done in accordance with Chapter 1.04 and 32.33 of Manual G.

4. Agency Placement Plan (see RCW 13.34.130(2)).

a. Agency Report

This report is required of the agency placing the child and includes:

(1) Where the child will be placed;

(2) Steps to eventually return the child to the home;

(3) Actions to maintain child-parent ties;

(4) Services the parents will be offered to enable them to resume custody;

(5) What requirements the parents must meet in order to resume custody.

b. Agency Responsibility

(1) The agency charged with supervising a child in placement shall provide all reasonable services available within the agency or community or those which the department has existing contracts to purchase.

(2) The placement agency will report to the court and appropriate tribal government or urban American Indian organization if it is unable to provide such services.

E. Six-Month Review Hearings (See 23.80 C. 6. for required report outline)

1. The service worker may be required to give testimony and enter a report outlining: what services have been given; cooperation and visitation of the parents, whether additional services are needed to facilitate the child's return to his/her parents; and when the child's return can be expected. (See RCW 13.34.130 (3) and RCW 13.34.180.)

2. For American Indian children the service worker shall also report use of urban American Indian organization/tribal services provided, if any, and LICWAC recommendations in relation to service plan and, if Committee recommendations and the service worker's plan conflict, the report shall so state and justify why Committee recommendations were not taken into consideration if they were not. (See 23.38.)

23.34 Termination of Parental Rights

A. Termination Petition (See required outline in 23.80 C. 3.)

1. A petition to terminate a parent/child relationship may be filed in the juvenile court when:

   a. A child has been removed from the custody of a parent pursuant to a finding of dependency and a dispositional order has been entered pursuant to RCW 13.34.130; and

   b. The child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

   c. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

   d. There is little likelihood that the conditions will be remedied so the child can be returned to the care of the parents.

2. A petition may also be filed:

   a. If a child is found under such circumstances that the identity and whereabouts of the child's parent are unknown, and

   b. No parent has claimed the child within two months after the child was found.

3. As described in 23.32 B., it will be the duty of the attorney general or the prosecuting attorney (as contracted by the attorney general) to present evidence supporting any petition seeking termination of a parent and child relationship.

4. The service worker is required to attend and present testimony at the Fact Finding and Disposition hearings.

5. The service worker shall provide the Attorney General with names and location of potential witnesses. (See Witness Summary List outline in in 23.80 C. 8.)

6. The service record must contain complete and accurate information (see RCW 13.50.010(3) which documents:

   a. Agency efforts to locate and/or reunite the family and services offered or provided to correct parental deficiencies during the minimum six-month period when the child is removed from the parent(s) custody. Documentation may consist of:

(1) Written, mutually developed/signed contracts between the department and the parents to facilitate the return of the child(ren).

(2) Case narrative, DSHS 2-305(X), Service Episode Record (SER), documenting progress (or lack of) on these plans and any services which have been offered to the parents.

(3) Registered letters of attempts to locate parents.

(4) DSHS 14-154(X), Social Services Authorization, and DSHS 14-159, Change of Service Authorization, showing all services provided to the parents.

7. Refer to 23.38 E. when working with American Indian/Alaskan Native children.

B. Voluntary Termination

1. The juvenile courts are authorized to terminate parental rights involuntarily under the conditions of RCW 13.34.180 and RCW 26.32.

2. Anticipated uncontested, voluntary terminations are to be processed through the Superior Courts or Juvenile Court. The appropriate forms are found in the series DSHS 9-466 through DSHS 9-471, DSHS 9-473, DSHS 9-474, and DSHS 9-476 through DSHS 9-482, and DSHS 9-552. Forms and instructions are found in Section 23.80. These are initiated by the service worker or by the attorney and submitted to the court. Petition for voluntary terminations can be initiated for either an unborn or a born child. The hearing on the petition cannot take place until after the birth of the child or, in the case of an American Indian child, until after the child is ten days old.

a. Procedures for Unborn Child

(1) Service worker gathers data for DSHS 9-552, Voluntary Termination Information/Referral, which provides necessary information for the completion of all other voluntary termination forms. Service worker has parent(s) sign DSHS 9-479, Authorization to Release Information, and has it notarized.

(2) Expectant mother who desires to terminate her parental rights should sign DSHS 9-476, Petition for Termination of Relationship Parent-Unborn Child and DSHS 9-477, Consent to Termination and Waiver of Right to Receive Notice of Termination Proceedings. The petition should be signed early enough in the pregnancy to allow the court time to issue notice to the alleged father(s) at least 30 days prior to the expected date of birth.

(3) If alleged father(s) acknowledges paternity, and consents to termination he signs DSHS 9-477, Consent to Termination, or if alleged father(s) does not claim paternity, he signs DSHS 9-478, Waiver of Right to Receive Notice and Appearance.

Service worker sends DSHS 9-477 or DSHS 9-478 to legal counsel, retaining one copy for file.

(4) If either parent is a minor, there must be a guardian Ad Litem appointed for that minor parent prior to the time the parent executes the DSHS 9-477 or DSHS 9-478. This is accomplished through completion, by legal counsel, of the DSHS 9-482, Motion and Order Appointing Guardian Ad Litem for Minor Parent.

(5) DSHS 9-476 is filed in court and, if alleged father(s) have not also signed DSHS 9-477 or DSHS 9-478, court issues DSHS 9-466, Order of Service and Publication and DSHS 9-481, Notice of Petition and Intent to Release Custody or Consent to Adoption.

(6) Service worker personally serves alleged father(s) with DSHS 9-481, Notice of Petition and Intent to Release Custody or Consent to Adoption, and with a copy of signed and verified DSHS 9-476. Service worker notifies legal counsel immediately after personal service by telephone, sends counsel a copy of DSHS 9-469, Affidavit of Personal Service, and retains one copy for service file.

The alleged father(s) must receive DSHS 9-481 at least 30 days prior to the expected birth of the child.

(7) After personal service of the DSHS 9-481, follow same procedure as in (3) above.

(8) If personal service is not feasible, service worker sends alleged father(s) a copy of DSHS 9-481 and a copy of signed and verified DSHS 9-476 by registered mail.

(9) Concurrent with service by registered mail, the service worker shall execute DSHS 9-470, Affidavit in Support of Service by Publication. This is submitted with proof of sending registered mail attached, to legal counsel, who has the clerk of the court issue DSHS 9-468, Publication by Notice. Legal counsel makes arrangement with the appropriate newspapers for publication. The service worker is responsible for providing legal counsel with names of appropriate newspapers. The newspaper completes DSHS 9-471, Affidavit of Publication, after publication has been made.

In cases when notice is by registered mail and publication, notice must take place at least 20 days prior to the hearing.

(10) Baby is born.

(11) If mother has signed DSHS 9-477 prior to the birth of the child, reaffirm with mother her previous agreement to consent to termination, or if mother has not already done so, have her sign DSHS 9-477. Send it to legal counsel, retaining one copy for service record.

(12) Service worker notifies legal counsel of birth. Legal counsel files DSHS 9-477, and DSHS 9-478 if either have been obtained.

(13) Hearing on petition takes place:

(a) Service worker and, if desired, petitioning parent appears in court.

(b) If nonpetitioning parent has not signed DSHS 9-477 or DSHS 9-478, and if that parent does not respond to notice, legal counsel will request that the nonpetitioning parent be found in default.

(14) Court issues DSHS 9-473, Findings of Fact, Conclusions of Law and Order of Termination of Parent - Child Relationship.

b. Procedures for Born Child

(1) Service worker gathers data for DSHS 9-552, Voluntary Termination Information/Referral, which provides necessary information for the completion of all other voluntary termination forms. Service worker has parent(s) sign DSHS 9-479, Authorization to Release Information, and has it notarized.

(2) Petitioning parent(s) signs DSHS 9-474, Petition for Termination of Parent-Child Relationship, and DSHS 9-477, Consent to Termination and Waiver of Right to Receive Notice of Termination Proceedings.

(3) If alleged father is known, acknowledges paternity, and consents to the termination, he signs DSHS 9-477, and if he so desires, the DSHS 9-474, or if alleged father does not claim paternity and does not want to be actively involved in consenting to termination, he signs DSHS 9-478, Waiver of Right to Receive Notice and Appearance.

(4) If either parent is a minor, there must be a Guardian Ad Litem appointed for that minor parent prior to the time the parent executes the DSHS 9-477 or DSHS 9-478. This is accomplished through completion, by legal counsel, of the DSHS 9-482, Motion and Order Appointing Guardian Ad Litem for Minor Parents.

(5) Service worker forwards DSHS 9-474, DSHS 9-477, and DSHS 9-478, if it has been obtained, to legal counsel for filing with court.

(6) Court issues DSHS 9-467, Notice of Hearing on Petition and Intent to Release Custody or Consent to Adoption, or if only one parent has signed DSHS 9-474 and DSHS 9-477, and if the nonpetitioning parent is absent or unknown, the court will issue DSHS 9-480, Order of Service and Publication and Setting Hearing, twenty days prior to the hearing.

After the court issues DSHS 9-480, legal counsel will request that the clerk of the court issue DSHS 9-467.

(7) Service worker shall personally serve the father or alleged father with DSHS 9-467, and a copy of signed and verified DSHS 9-474. Service worker shall notify legal counsel by telephone immediately after personal service, sending counsel a copy of DSHS 9-469, Affidavit of Personal Service, and retains one copy for service file.

Personal service must be done at least five days prior to the hearing, excluding weekends and holidays.

(8) If personal service is not feasible because nonpetitioning parent(s) cannot be contacted or is geographically distant, service worker sends nonpetitioning parent(s) copy of DSHS 9-467 and a copy of signed and verified DSHS 9-474, by registered mail.

(9) Concurrent with service by registered mail, the service worker shall execute DSHS 9-470, Affidavit in Support of Service by Publication. This is submitted by service worker with proof of sending registered mail attached, to legal counsel who has the clerk of the court issue DSHS 9-468, Publication Notice. Legal counsel makes arrangements with the appropriate newspapers for publication. The service worker is responsible for providing legal counsel with names of appropriate newspapers. The newspaper completes DSHS 9-471, Affidavit of Publication, after publication has been made.

If the original date of the hearing is prior to twenty days after publication, the hearing date shall be set forward so that it takes place at least twenty days following publication.

(10) Hearing on termination petition takes place:

(a) Service worker and, if desired, petitioning parent appears in court.

(b) If nonpetitioning parent has not signed DSHS 9-477 or DSHS 9-478, and if that parent does not respond to notice, legal counsel will request that the nonpetitioning parent be found in default.

Court issues DSHS 9-473, Findings of Fact, Conclusions of Law and Order of Termination of Parent-Child Relationship.

3. The service shall authorize the payment of court filing fees and publication fees on the child's DSHS 14-154(X), Social Services Authorization.

4. As described in 23.32 B., the attorney general will present evidence supporting any petition seeking termination of parent and child relationship.

5. Staff will not accept a voluntary relinquishment from American Indian parents or custodians of American Indian children but will follow the procedures in Section 23.38 E. of this chapter.

23.35 Guardianship (See RCW 13.34.230 and guideline in 23.80)

A. Filing Guardianship Petition

1. Any party to a dependency, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as a dependent child.

2. The Department of Social and Health Services will receive notice of any guardianship proceedings and have the right to intervene the proceedings.

3. The department or voluntary agency may initiate action on a guardianship petition, and are not dependent on securing advance approval by the court to do so.

4. There are demonstrable advantages to the child for the relative, foster parent, or other individual, to have guardianship as opposed to a permanent foster care arrangement in which the department retains supervision.

5. When DSHS initiates or is a party to the petition for guardianship in a child's behalf, the following procedures apply:

   a. The petition should specify that guardianship of the person shall go to the guardian (i.e., relative, foster parent or other individual);

b. The service worker will request the court to identify the rights and responsibilities of the guardian in the court order of guardianship; the rights and responsibilities to be addressed shall include but not be limited to:

(1) Medical services,
(2) Consent to marriage,
(3) Enlistment in military services,
(4) Visitation of biological parents.

c. The service worker shall make recommendations to the court regarding what, if any, supervision the agency should provide.

B. Guardianship Court Hearing

1. At the hearing on a guardianship petition, all parties have the right to present evidence and cross examine witnesses.

2. The rules of evidence apply to the conduct of the hearing.

3. A guardianship may be established if the court finds by a preponderance of the evidence that:

a. The child has been found to be a dependent child under RCW 13.34.030)2);

b. A dispositional order has been entered pursuant to RCW 13.34.130;

c. The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

d. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

e. There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

f. A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

C. Guardianship Court Order

1. If the court has made a finding, it will enter an order establishing a guardianship for the child. The order will:

a. Appoint a person or agency to serve as guardian;

b. Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian will not have the authority to consent to the child's adoption;

c. Specify an appropriate frequency of visitation between the parent and the child; and

d. Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

2. Any party may seek a modification of the guardianship order under RCW 13.34.150.

3. Establishment of a guardianship does not preclude a guardian from receiving foster care payments.

4. An established guardianship is not subject to the review hearing requirements of RCW 13.34.130.

5. Any person over the age of twenty-one years who is not otherwise disqualified by this section, any nonprofit corporation or any Indian tribe may be appointed the guardian of a child. No person is qualified to serve as a guardian who:

a. Is of unsound mind;

b. Has been convicted of a felony or misdemeanor involving moral turpitude; or

c. Is a person whom the court finds unsuitable.

D. Departmental Responsibilities

1. The homes of guardians to which the department makes payment must be certified as meeting licensing requirements as per WAC 388-73-020.

2. The department's rules and procedures regarding the certification and supervision of the home for licensing purposes (see Manual G, Chapter 06) must be followed in spite of the fact that the court may have relieved the department of responsibility to supervise the child.

3. Guardianship of a child, under RCW 13.34.230 does not disentitle a guardian from continued eligibility to receive foster care payment.

4. Where a court order relieves the department of providing supervision for a child and that child's care had previously been AFDC-FC funded, the source of funds must be changed to state funds (on DSHS 14-159, Change of Service Authorization).

5. When a foster care payment continues to the guardian, the service worker remains responsible to perform the six-month SSPS review to:

   a. Ensure the child's continued eligibility for foster care payment (use SSPS service code 3210); and

   b. Update the circumstances of the guardianship arrangement.

6. Establishment of guardianship eliminates the automatic six-month review in Juvenile Court. However, if the service worker finds that the guardianship has failed or is terminated, i.e., death of the guardian or other reason, the case should be brought before the Juvenile Court to review the status of the child.

7. A child found to be dependent under RCW 13.34.030(2) remains under the court's jurisdiction, i.e., dependency continues, even though a legal guardianship was established.

8. Appointment of guardianship for American Indian children will follow procedures in 23.38 F.

23.36 Consent to Place

A. If a child and a parent cannot agree to the child's return home, but do agree to the child's placement out of the home, or when a parent is unable to care for a child of any age, the parent(s)/guardian may request a voluntary placement.

   1. Children may be accepted for voluntary family foster care or group care placement only when the parent(s) have signed a DSHS 9-04(X), Placement Authorization and Acknowledgment (found in Chapter 99), and when one or more of the out-of-home placement criteria listed in Manual G, Chapter 32.13 I. exists.

   2. Court intervention shall be sought in spite of parent(s) willingness to place the child voluntarily when:

      a. The family situation or dependency of the child warrants, or

      b. There is not a responsible plan to remedy the situation which necessitated the placement, or

      c. It appears that a placement of more than three months is needed.

   3. When a request for a voluntary placement involves an American Indian child, see Section 23.38 G. for procedures.

B. Procedures for handling voluntary placements are found in Manual G, Chapters 32 and 34.

23.37 Other Juvenile Court Related Responsibilities

The service worker may be asked to or decide to perform other duties in relation to working with the juvenile court.

A. A "DSHS Social Worker" may be required by the court to serve summons (RCW 13.34.070) to any person the court determines to be a proper or necessary person to the proceedings.

B. If a petition is filed and the court finds reasonable grounds, the juvenile court judge may enter an order directing a service worker to take a child into custody (RCW 13.34.050).

C. The juvenile court may require the service worker to bring a child who is in the department's physical or temporary custody to a shelter care hearing (see RCW 13.34.050 through 13.34.070).

D. A service worker may ask the court to appoint a guardian ad litem for a child who is alleged to be subject to a child abuse/neglect (see RCW 26.44.053(1) and RCW 13.34.100).

E. In all cases, when there is an existing court order for placement of the child outside of the home, a change in the court order must be obtained prior to placing the child back in the home. An order of the court may be changed, modified, or set aside only by the juvenile court judge (RCW 13.34.150). A service worker may request modification of a court order at any time.

F. The service worker is responsible for making review reports or other reports as ordered by the court.

G. When a child has been declared to be dependent, placed out of the home, and then is returned to the home after an out-of-the-home placement, the supervision by the service worker shall continue for a period of at least six months at which time there shall be a hearing on the need for continued intervention. (See Chapter 13.34.130 RCW.) The service worker must provide for the continued supervision or arrange for and/or monitor that service. The intensity of that service is to be determined by the service worker and/or juvenile court order.

23.38 Indian Child Welfare

This section consolidates all legal requirements of P.L. 95-608, the Indian Child Welfare Act of 1978.

The information the service worker will provide for documents in this section is very important for complying with the most stringent procedural requirements of federal law regarding the provision of services to Indian families and placement of Indian children outside the natural home.

A. When a Child's Enrollment Status is Questionable

The service worker shall complete DSHS 9-539, Letter to Tribe - Enrollment Status, and send by certified mail. If tribal affiliation is also questionable, prepare DSHS 9-540, Letter to Bureau of Indian Affairs - Tribal Affiliation, and send by certified mail. Notify the LICWAC or Indian consultants that Indian status of child is pending and plan in a manner to assure compliance with appropriate procedures if Indian status is confirmed.

B. Alternative Residential Placement (ARP)

1. When American Indian/Alaskan native parent/custodian/child requests an ARP, the service worker shall:

   a. Follow the standard ARP procedures as outlined in Manual G, 23.31. In addition to following standard ARP procedures, the service worker shall:

   b. Prepare or forward the following forms upon filing an ARP petition:

      (1) Prepare DSHS 9-534, Letter to Parent and/or Indian Custodian and DSHS 9-535, Letter to Tribe - Notification. These forms are to be filled out in their entirety and mailed to the parent/custodian and/or tribe, as appropriate, by certified mail. A copy of each form is to be kept in the social service file.

      (2) The service worker shall provide copies of DSHS 9-543, Notice to Parent and/or Indian Custodian, and DSHS 9-544, Request for Continuance, to the court. The court staff person responsible for providing notice will complete these forms and send to the parent and/or Indian custodian.

      (3) Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court staff person responsible for providing notice. They are to be completed in their entirety and mailed to the tribe by the court. Copies of each form must be obtained from the court and kept in the social service file.

      (4) The service worker shall provide a completed copy of DSHS 9-535, Letter to Tribe, and DSHS 9-534, Letter to Parent and/or Indian Custodian, to the court staff person responsible for providing notice, to assist the court staff in completing the notice forms.

   c. Where appropriate in the above procedures, use: (1) DSHS 9-538, Letter to Canadian Indian Parent, and (2) DSHS 9-537, Letter to Canadian Indian Band. Send each by certified mail.

d. If the Indian parent, custodian and child are residents of a reservation over which the Indian tribe maintains exclusive jurisdiction, the service worker shall not file an ARP petition in superior court as the state has no jurisdiction over the matter.

e. If the Indian parent, custodian and child (12 or over) are residents of a reservation maintaining concurrent jurisdiction, the service worker shall propose to the parent and/or Indian custodian and child that the case be transferred to tribal court.

When all parties agree to transfer a case to tribal court, the service worker shall provide the state court with copies of DSHS 9-547, Motion to Transfer Jurisdiction to Indian Tribe, and DSHS 9-547A, Order to Transfer Jurisdiction to Indian Tribe. The service worker shall also provide to the tribal court DSHS 9-548, Motion for the Tribal Court to Accept Jurisdiction, and DSHS 9-548A, Order for Tribal Court to Accept Jurisdiction. The service worker must obtain copies of these forms from each court for the social service file.

f. When the parent, custodian or tribe denies transfer of the case to a tribal court maintaining concurrent jurisdiction, the service worker shall notify the Indian consultants or the Office of Indian Affairs by telephone and request them to staff the case. If the parent(s) has consented to LICWAC staffing, LICWAC will staff the case.

g. The service worker shall consult with LICWAC and place Indian children in an Alternative Residential Placement (ARP) taking into consideration the committee's recommendations. When LICWAC staffing is denied by the parent, custodian or child (12 or over), the service worker shall utilize Indian consultants.

h. Indian children shall remain in a non-Indian home or facility only until arrangements can be made to place the child in an Indian home or facility. Children 12 years and over must be given the opportunity to consent to the placement. Prior to the dispositional hearing, the service worker shall provide reports to court and other relevant social service information to any tribe that has requested to intervene in the matter.

i. Information to be submitted to the court shall be developed in consultation with LICWAC or Indian consultants, in order to assist the court in determining if appropriate interim services, which are culturally relevant, have been offered to an Indian parent/custodian and child, and whether the feasibility of transferring the case to tribal court was considered.

C. Dependency Petition

After filing a dependency petition (see outline and DSHS 9-428, Rev. 5/81, in 23.80), the service worker shall, within five (5) working days of filing the petition:

1. Prepare DSHS 9-534, Letter to Parent and/or Indian Custodian, and DSHS 9-535, Letter to Tribe - Notification, and send by certified mail to the parent or custodian and/or tribe, as appropriate. These forms are to be completed in their entirety.

2. The service worker shall provide copies of DSHS 9-543, Notice to Parent and/or Indian Custodian, and DSHS 9-544, Request for Continuance, to the court staff person responsible for providing notice. The forms shall be sent to the Indian parent/custodian by certified mail.

3. Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court staff person responsible for providing notice. They are to be completed in their entirety and mailed to the tribe by the court. Copies of each form must be obtained from the court and kept in the social service file.

4. If the parent and/or Indian custodian and child (12 and over) are residents of a reservation maintaining concurrent jurisdiction, the service worker shall propose, to the parent and/or Indian custodian, that the case be transferred to tribal court.

   When all parties agree to transfer a case to tribal court, the service worker shall provide the state court with copies of DSHS 9-547, Motion to Transfer Jurisdiction to Indian Tribe, and DSHS 9-547A, Order to Transfer Jurisdiction to Indian Tribe. The service worker shall also provide, to the tribal court, copies of DSHS 9-548, Motion for the Tribal Court to Accept Jurisdiction, or DSHS 9-548A, Order for Tribal Court to Accept Jurisdiction. The service worker must obtain copies of these forms from each court for the social service file.

5. If either the parent/custodian or the tribe's location is unknown, the service worker shall prepare and send DSHS 9-536, Letter to Bureau of Indian Affairs. Provide DSHS 9-545, Notice to Secretary of the U. S. Department of Interior Regarding an Indian Child, to the court for completion and mailing to the address printed upon the form. This form is to be completed in its entirety.

6. The service worker shall provide a completed copy of DSHS 9-535, Letter to Parent and/or Custodian, to the court staff person responsible for providing notice to assist the court staff in completing notice forms.

7. If the Indian parent, custodian and child are residents of a reservation over which the Indian tribe maintains exclusive jurisdiction, the service worker shall not file a dependency petition in superior court as the state has no jurisdiction over the matter.

D. Juvenile Court Hearings and Reports

1. Shelter Care Hearing

a. At the initial shelter care hearing that is held within 72 hours (excluding Sundays and holidays) after taking a child into custody, the service worker shall inform the court that an Indian child is the subject of the hearing. The service worker shall notify the LICWAC or Indian consultants and, when possible, shall staff the case on an emergency basis prior to the initial hearing. When it is not possible to obtain consultation before the initial hearing, the service worker shall inform the court that the LICWAC or Indian consultant recommendations are pending, and shall staff the case at the earliest convenience after the initial hearing.

b. The report developed by the service worker shall include recommendations of the LICWAC or Indian consultants.

c. The service worker shall provide the Letter Notices as outlined in Section 23.38 C., Dependency Petition.

d. If the parent/custodian or Indian child has consented to staffing by the LICWAC, the service worker shall coordinate development of court reports with the LICWAC. In situations where LICWAC review has been denied, the service worker shall utilize Indian consultants.

2. Dispositional Hearing and Reports.

a. In preparing the necessary reports, DSHS 2-305(X), Service Episode Record (social study, predisposition study, agency placement plan and six-month reviews), the service worker shall coordinate with LICWAC-Tribal representatives or Indian consultants to present a consistent agency view of culturally relevant case plan development and service delivery. Service worker testimony shall reflect this process.

b. Prior to testifying in court, the service worker shall coordinate with the LICWAC and a representative of the Indian child's tribe in order to provide a consistent expert viewpoint of the cultural relevance of case planning and service delivery. When the LICWAC-Tribal representatives are not used, the service worker shall utilize Indian consultants. The service worker shall request LICWAC or Indian consultants to appear in court to provide supportive testimony.

3. Social Study

a. This report shall give particular details to the court regarding the cultural relevance of service planning and service delivery.

b. The report shall contain the parents/custodians and child's (12 and older) views in regard to the service plan.

c. The service worker shall include copies of the DSHS 9-541 and DSHS 9-534 forms.

d. If recommendations of the Local Indian Child Welfare Advisory Committee or Indian consultants were not followed, the service worker shall show by clear and convincing evidence, including expert testimony, why the service worker plan is more relevant than plans recommended by the Local Indian Child Welfare Advisory Committee or Indian consultants.

e. The social study report should describe the serious emotional or physical damage to the child which may result from the continued custody by the parent or Indian custodian and it should document what actual efforts have been made to reunite the child with his/her family.

f. The service worker will try to utilize Indian community programs designed to prevent the break-up of the Indian family. In describing why the child cannot be protected in the home, the service worker shall:

(1) Explain the cultural relevance of past efforts of working with the family and child.

(2) Describe in detail the specific purpose of treatment programs which are designed to keep the child at home which were considered and rejected and why rejected.

(3) Give the child's (12 and older) attitude towards placement and indicate if LICWAC or the Indian consultants agree. If the child does not wish to return home, the child will not be forced to do so.

g. In describing the likely harm to the Indian child as a result of removal, the servce worker shall assess the dynamics of the particular placement involved (i.e., extended family home, other Indian family home, non-Indian home, etc.).

h. In describing the steps to be taken to minimize harm to the child because of separation, the service worker shall include a summary of the extended family-tribal dynamics that will be supportive of the situation.

i. In relation to the efforts expected of the parents, the service worker shall provide a succinct statement of the cultural relevancy of the expected effort.

4. Six Month Review Report to Court

a. When American Indian children are involved, the service worker shall use urban Indian organizations/tribal social services, if provided, and LICWAC or Indian consultant recommendations when developing a service plan. If committee or Indian consultant recommendations and the service worker's plan conflict, the parties shall utilize the pre-existing DSHS internal grievance procedure.

b. The service worker shall provide descriptive testimony about his/her case planning and service delivery that is relevant to Indian culture when LICWAC or Indian consultant recommendations are not used.

c. The above subsections (23.38 D. 4. a. and b.) are to be used in addition to the standard requirement for a six-month report as outlined in 23.37 G.

E. Termination of Parental Rights

1. Involuntary Termination

a. Staff each case with LICWAC or Indian consultants prior to filing with the court.

b. Within five (5) working days of filing an involuntary termination of parental rights petition for an American Indian child, the service worker shall do the following:

(1) Prepare completely and send by certified mail DSHS 9-534, Letter to Parent and/or Indian Custodian, and 9-535, Letter to Tribe - Notification. Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court for completion.

(2) If the whereabouts of either the parent or the tribe are unknown, prepare and send DSHS 9-536, Letter to Bureau of Indian Affairs, and provide DSHS 9-545, Notice to Secretary of the U.S. Department of Interior Regarding an Indian Child, to the court for completion and mailing.

2. Voluntary Termination

Prior to accepting a voluntary termination from an American Indian parent(s) or custodian, the service worker shall follow these procedures:

a. The service worker shall refer any voluntary termination to tribal court if the parent and child are reservation residents, and the tribe that the child is a member of, or eligible to be a member of, exercises exclusive tribal jurisdiction over Indian child welfare matters (i.e., the tribal court exercises total control over child welfare matters within the exterior boundaries of the reservation). Neither the state nor the federal governments can preempt or take away tribal authority to enter orders in child welfare matters arising within the tribal court jurisdiction. The voluntary termination petition should only be filed in Superior Court if the tribal court gives permission.

b. In all voluntary termination cases concerning Indian children, the service worker and a LICWAC representative or Indian consultant shall discuss notification of the tribe with the parent. The discussion with the parents should include the following points:

(1) The advantage of voluntary termination in tribal court,

(2) The advantage of voluntary termination in state court,

(3) The future implications of voluntary termination in state or tribal court.

c. When an Indian parent still wishes to relinquish to the state after active efforts have been made to explain the benefits of a voluntary termination in tribal court, service worker shall coordinate with court staff to complete the DSHS 9-546, Certificate of Presiding Judge, and record the voluntary termination in court.

d. If the parent agrees that notification to the tribe of the voluntary termination is acceptable, the service worker shall prepare appropriate forms as outlined in 23.38 C.

e. When an Indian parent/custodian who is the resident of a reservation where there is concurrent state/tribal jurisdiction (i.e., the state courts and tribal court both exercise jurisdiction over child welfare matters within the exterior boundaries of the Indian reservation) or is an urban (off reservation) resident desires the voluntary termination to remain confidential (no LICWAC staffing or notice to tribe), the service worker shall:

(1) Immediately notify and involve Indian consultants;

(2) Coordinate with court staff to prepare the DSHS 9-546, Certificate of Presiding Judge;

(3) See that the voluntary termination is recorded before the judge in court.

Where confidentiality is requested and the parent is not a member of a tribe that exercises exclusive jurisdiction over Indian child welfare matters, no notice will be sent to the tribe of a voluntary relinquishment.

f. Service workers shall not accept a voluntary termination of an Indian child until at least ten (10) days after the child's birth.

F. Guardianship

1. When considering the establishment of guardianship for American Indian children, staff shall consult with the LICWAC or Indian consultants and utilize extended family/tribal resources.

2. Any of the following may be designated as guardians of Indian/Alaskan Native children:

a. Any Indian tribe, federally or non-federally recognized.

b. An Alaskan Native corporation established under the Alaskan Native Claims Settlement Act (see Chapter 03).

c. Appropriate nonprofit Indian/Alaskan native Social Service Corporation (for example, Seattle Indian Center).

G. Consent to Place

American Indian parent/custodian consent to place a child shall be done as follows:

1. Staff shall follow voluntary termination procedures (23.38 E.2.) in accepting consent to place from American Indian parents/custodians.

2. The service worker shall coordinate with LICWAC or Indian consultants (and tribal social service staff, when available) in the development of culturally relevant case services.

3. The service worker shall reach mutual agreement with the parent/custodian and child (12 and older) regarding the appropriateness of the service plan. This plan will be time limited and include description/justification.

4. The child shall be placed in a setting that must meet the child's cultural needs and identification. Consultation with LICWAC or Indian consultants shall be made prior to placements.

23.39 Privacy and Security of Records

A. Any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship, the juvenile, his/her parents or attorney may upon request inquire to the department as to the existence and content of custody or care records. The inquiries shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, location of the contact and the purpose of the request.

B. The department will make a written response to the inquiry within 10 calendar days after receipt. The department will give priority to expedite processing inquiries which involve litigation. The department will provide to the juvenile, his/her parent(s), or attorney making the inquiry information regarding the location, nature, and content of the records in the department's possession except:

1. If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his/her parents, the agency may withhold the information subject to the order of the court: Provided that if the court determines that limited release of the information is appropriate the court may specify terms and conditions for release of the information; or

2. If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has the legal right to receive these services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

C. See Chapter 01 for additional policy on confidentiality of information.

23.80 REQUIRED FORMS AND INSTRUCTIONS

A. The following specific forms used for voluntary termination of parental rights are located in Chapter 99, Forms.

1.	DSHS 9-466	Order of Service and Publication (12/79)
2.	DSHS 9-467	Notice of Hearing re Petition and Intent (12/79)
3.	DSHS 9-468	Publication Notice (12/79)
4.	DSHS 9-469	Affidavit of Personal Service (12/79)
5.	DSHS 9-470	Affidavit in Support of Service by Publication (5/80)
6.	DSHS 9-471	Affidavit of Publication (12/79)
7.	DSHS 9-473	Findings, Conclusions, and Order (3/80)
8.	DSHS 9-474	Petition for Termination of Parent-Child Relationship (12/79)

9.	DSHS 9-476	Petition for Termination of Relationship: Parent-Unborn Child (12/79)
10.	DSHS 9-477	Consent to Termination (12/79)
11.	DSHS 9-478	Waiver of Right to Receive Notice and Appearance (12/79)
12.	DSHS 9-479	Authorization to Release Information (12/79)
13.	DSHS 9-480	Order of Service and Publication (12/79)
14.	DSHS 9-481	Notice of Petition and Intent to Release Custody or Consent to Adoption (12/79)
15.	DSHS 9-482	Motion and Order Appointing Guardian ad Litem for Minor Parent (4/80)
16.	DSHS 9-552	Voluntary Termination Information/Referral (12/80)

B. The following specific forms, instructions and guidelines used in cases involving Indian Child Welfare as referenced in 23.38 are included in Chapter 99, Forms.

1.	DSHS 9-534	Letter to Parent and/or Indian Custodian (12/80)
2.	DSHS 9-535	Letter to Tribe - Notification (12/80)
3.	DSHS 9-536	Letter to Bureau of Indian Affairs (12/80)
4.	DSHS 9-537	Letter to Canadian Indian Band (12/80)
5.	DSHS 9-538	Letter to Canadian Indian Parent (12/80)
6.	DSHS 9-539	Letter to Tribe - Enrollment Status (12/80)
7.	DSHS 9-540	Letter to Bureau of Indian Affairs - Tribal Affiliations (12/80)
8.	DSHS 9-541	Notice to Indian Tribe, Band or Nation (12/80)
9.	DSHS 9-542	Notice of Intervention and Request for Continuance (12/80)
10.	DSHS 9-543	Notice to Parent and/or Indian Custodian (12/80)
11.	DSHS 9-544	Request for Continuance (12/80)
12.	DSHS 9-545	Notice to Secretary of United States Department of Interior Regarding an Indian Child (12/80)
13.	DSHS 9-546	Certificate of Presiding Judge (12/80)
14.	DSHS 9-547	Motion to Transfer Jurisdiction to Indian Tribe (3/81)
15.	DSHS 9-547A	Order to Transfer Jurisdiction to Indian Tribe (3/81)
16.	DSHS 9-548	Motion for the Tribal Court to Accept Jurisdiction (3/81)
17.	DSHS 9-548A	Order for the Tribal Court to Accept Jurisdiction (3/81)

C. The following are required outlines for use in developing reports and petitions for court-related actions. Since courts may differ in their procedures, additional items required by the court may be added to these reports. This information is required in order to facilitate legal processes. They are included as follows at the end of this chapter:

1. Information for Dependency Petition (Outline #1)
2. Information for Alternative Residential Placement Petition (Outline #2)
3. Request for Termination/Guardianship Petition (Outline #3)

4. Report for Dependency Fact Finding Hearing (Outline #4)
5. Report for Dependency Disposition Hearing (Outline #5)
6. Report for Dependency Review Hearing (Outline #6)
7. Report for Alternative Residential Placement Disposition or Review Hearing Report (Outline #7)
8. Witness Summary List (Outline #8)

The DSHS 9-428(X), Dependency Petition (4/81), can be found in Chapter 99, Forms.

INFORMATION FOR DEPENDENCY PETITION (OUTLINE #1)

Instructions

This is an outline for a report to be submitted to the juvenile court for a dependency petition. This form only needs to be submitted in those counties where either the probation officer or the prosecutor drafts the petition. The information contained in the report may be used in the petition.

In other counties, use the DSHS 9-428, Dependency Petition, which is also in this Section 23.80.

At the minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added..

INFORMATION FOR DEPENDENCY PETITION

REQUIRED OUTLINE #1

CASE NO.: _____

NAME: _____ LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Type of Hearing - Dependency

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney's Name
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem's Name
   a. Name
   b. Phone

4. Parents' Names
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to dependency petition
4. Any other agencies involved prior to dependency petition

D. Dependency Status (if appropriate)

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date child removed from custody of parents
   c. Date dependency was established
   d. Date dispositional order was entered
   e. Dates of subsequent hearings after disposition

E. Social Plan (if appropriate)

1. Social plan entered at time of dispositional hearing on dependency
2. Any modification of the plan by court order
3. Parental compliance/noncompliance with the court ordered social plan
4. Parental cooperation with service worker
5. Other social services offered or provided to the parents

F. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered

G. If contested by parent(s)/child, send along with this report to the AAG/Prosecuting Attorney the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

INFORMATION FOR ALTERNATIVE RESIDENTIAL PLACEMENT PETITION - REQUIRED OUTLINE #2

Instructions

This is an outline for a report to be submitted to the juvenile court for an alternative residential placement petition. The information contained in the report may be used in the petition.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

INFORMATION FOR ALTERNATIVE RESIDENTIAL PLACEMENT PETITION

REQUIRED OUTLINE #2

NAME: _____ CASE NO.: _____
LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Reason for Alternative Residential Placement Hearing

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents
   a. Name(s)
   b. Address(es)
   c. Age(s), if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to alternative residential placement petition
4. Any other agencies involved prior to alternative residential placement petition

D. Alternative Residential Placement Status (if appropriate)

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date placement was made

E. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers, distance between child's placement and parent's residence

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered (e.g., distance a factor)

F. Cultural Heritage - Indicate child's cultural background. If American Indian, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parent's status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

G. If contested by parent(s)/child, send along with this report to the AAG/ Prosecuting Attorney the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REQUEST FOR TERMINATION/GUARDIANSHIP PETITION - REQUIRED OUTLINE #3

Instructions

This is an outline for a report to be submitted to the Assistant Attorney General/Prosecuting Attorney for a termination/guardianship petition. The information contained in the report may be used in the petition.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REQUEST FOR TERMINATION/GUARDIANSHIP PETITION

REQUIRED OUTLINE #3

NAME: _____ CASE NO.: _____ LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Type of Hearing

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents'
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to dependency petition
4. Any other agencies involved prior to dependency petition

D. Dependency Status

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date child removed from custody of parents
   c. Date dependency was established
   d. Date dispositional order was entered
   e. Dates of subsequent hearings after disposition

E. Social Plan (if appropriate)

1. Social plan entered at time of dispositional hearing on dependency
2. Any modification of the plan by court order
3. Parental compliance/noncompliance with the court ordered social plan
4. Parental cooperation with service worker
5. Other social services offered or provided to the parents

F. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers, distance between child's placement and parent's residence

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered (e.g., distance a factor)

G. Cultural Heritage - Indicate child's cultural background. If American Indian child, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parents' status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

H. Why is termination or guardianship recommended at this time?

Include placement plan for the child (i.e., adoption, placement with relative or foster parent)

I. Along with this report to AAG/Prosecuting Attorney, include the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY FACT-FINDING HEARING - REQUIRED OUTLINE #4

Instructions

This is an outline for an agency report for a dependency fact-finding hearing. This report should be sent to the Assistant Attorney General or Prosecuting Attorney preparing the case.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REPORT FOR DEPENDENCY FACT-FINDING HEARING

REQUIRED OUTLINE #4

CASE NO.: _____

NAME: _____ LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

DATE AND TIME OF HEARING: _____

A. TYPE OF HEARING

1. Dependency Fact-Finding
2. Agreed or Contested

B. SIGNIFICANT PERSONS INVOLVED IN CASE

1. Service Worker
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. REASON FOR HEARING

Give report as to child's current legal status, when petition was filed, summary of the petition and if a finding was made. State purpose of the present hearing and what you wish to accomplish, i.e., establishment of dependency.

D. RECOMMENDATIONS - include your recommendation on each item listed

1. Legal Status: i.e., establish dependency and assign supervision to the appropriate agency

2. Placement: Make recommendation on child's placement.

   a. Placement at home
   b. Out of home - foster or group care. State specific placement plan if possible.
   c. Custody - physical custody to the appropriate placing agency.
   d. Placement with relative.

3. Services to be provided by agency/parental responsibilities. These recommendations should be based on the information found in the Social Service Summary (Section E), and your recommendations on placement.

   a. If you are recommending return home following temporary shelter care:

      (1) List the services to be provided during the term of recommended social service plan after the child's return.
      (2) State clearly the actions the parents must take prior to the next review hearing.

   b. If you are recommending out-of-home placement:

      (1) List the specific services the parties will be offered in order to enable them to resume custody.
      (2) State clearly the activities/actions the parties must take in order to resume custody and list behavioral changes the parents must make.
      (3) Include parties' responsibility with regard to visitation.

E. SOCIAL SERVICE SUMMARY

Give brief history of the case, including the reason for the agency's initial involvement and the nature of any continuing involvement. Describe parents' attitude to agency involvement and progress or lack of progress if there has been a previous service plan. Include a report on adjustment to placement if child has been out of his/her home.

F. SOCIAL SERVICE PLAN

1. A statement of the specific harm to the child that intervention is designed to alleviate.

2. A description of the specific programs, for both the parents and the child, that are needed in order to prevent harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered.

3. If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; and the parents' attitude toward placement of the child.

4. A statement of the likely harm the child will suffer as a result of removal. This section should include an exploration of the nature of the parent/child attachment and the meaning of separation and loss to both the parents and the child.

5. A description of the steps that will be taken to minimize harm to the child that may result if separation occurs, i.e., state the visitation program to maintain contact between parents and child.

6. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

G. CULTURAL HERITAGE - Indicate child's cultural background. If American Indian, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parents status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

H. DISTRIBUTION OF SOCIAL SUMMARIES, PETITIONS, AND COURT ORDERS

DSHS service worker distributes copies of all social summaries, petitions, and court orders as follows:

1. Guardian ad Litem - 1 copy
2. Parents' attorney - 1 copy
3. AAG/Prosecutor - 1 copy
4. DSHS service file - 1 copy

I. ALONG WITH COPY OF REPORT TO AAG/PROSECUTING ATTORNEY, INCLUDE THE FOLLOWING ATTACHMENTS:

1. Copy of all petitions
2. Copy of all court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY DISPOSITION HEARING - REQUIRED OUTLINE #5

Instructions

This is an outline for a disposition report on a dependency. This report is sent to the court and a copy attached to the agency report sent to the attorney.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

COMPLETION OF THIS REPORT MEETS THE REQUIREMENTS FOR DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) AS SPECIFIED IN CHAPTER 32 AND 34. REFER TO THESE CHAPTERS FOR ADDITIONAL INSTRUCTIONS FOR ONGOING RECORDING ON THE ISP.

REPORT FOR DEPENDENCY DISPOSITION HEARING

REQUIRED OUTLINE #5

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. TYPE OF HEARING - Dependency Disposition

B. SOCIAL SERVICE PLAN

1. A statement of the specific harm to the child that intervention is designed to alleviate.

2. Provide a description of:

   a. The specific services for both parents and the child that are needed to prevent harm to the child;

   b. The reasons why such services are likely to be useful;

   c. The availability of any proposed services; and

   d. The agency's overall plan for ensuring the services will be delivered.

3. Placement - Make recommendation on the child's placement:

   a. Place at home

   b. Out of home; specify type, i.e., foster home, group care

   c. Custody - physical custody to the appropriate placing agency

   d. Placement with relative

4. If removal is recommended, address each of the following points:

   a. The appropriateness of the placement, including reasons why the child cannot be protected adequately in the home, and a description of previous efforts to work with the parents and the child in the home;

   b. The in-home treatment programs which were considered and rejected;

   c. The parent's attitude toward placement of the child;

d. Verification that the placement is the least restrictive (most family like) alternative available and in the closest proximity to the parent(s) home consistent with the best interests and special needs of the child;

e. A statement of the likely harm the child will suffer as a result of removal. This section should include an exploration of the nature of the parent/child attachment and the meaning of separation and loss to both the parents and the child.

f. A description of the steps that will be taken to minimize harm to the child that may result if separation occurs, i.e., describe the visitation plan as discussed with the natural parents that will maintain contact between parents, siblings (if appropriate), and child. Include all parties' responsibilities with regard to visitation.

g. Identify the permanent plan goal and the services to be provided to facilitate the child's return home or to achieve another permanent placement, and include:

(1) The specific services the parties will be offered to enable them to resume custody when return home is the goal, and

(2) The specific services to be provided to support the child's needs and adjustment during out-of-home placement, including special education and related services, when appropriate, and

(3) The activities/actions/behavioral changes that the parent(s), child (as age appropriate) and foster parents (as appropriate) must do to implement the case plan, including time frames.

5. If you are recommending return home, address each of the following points:

a. List the services to be provided during the term of the recommended social service case plan after the child returns home.

b. State clearly the actions the parents must take prior to the next review hearing.

c. Describe behavior that will be expected before a determination that supervision of the family is no longer necessary.

6. Child's/parents' status of membership in American Indian tribe or band.

   a. Child tribal affiliation _____

   b. Parents' tribal affiliation - Father _____
      Mother _____

   c. Tribe notified - Yes _____ No _____. If yes, contents of notice

   d. (1) Child placed in American Indian home

      (2) Prospective home American Indian/non-Indian

      (3) DSHS 15-128(X), Verification of American Indian Status, on file _____ not on file _____

   e. LICWAC staffings and recommendations (describe Committee/worker differences in the service plan and explain why committee recommendations not followed, if they were not).

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY REVIEW HEARING - REQUIRED OUTLINE #6

Instructions

This is an outline for a report on a dependency review hearing. The report is to be sent to the court to advise them of the progress of a case.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REPORT TO COURT FOR DEPENDENCY REVIEW HEARING

REQUIRED OUTLINE #6

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. TYPE OF HEARING

1. Dependency Review
2. State whether hearing will be agreed or contested

B. EXPECTED TO BE PRESENT IN COURT

List all persons attending and state relationship or agency representation.

On contested reviews, add witnesses and short summary of facts that witness can testify to. Also list attorney and Guardian ad Litem if known.

C. REASON FOR HEARING

1. State initial reason for dependency and date of dependency order, plus initial court recommendations from that hearing.

2. Last court order - requirements, findings, and date.

3. State purpose of present hearing and what you wish to accomplish, i.e., dismissal, continuation of dependency, etc.

D. RECOMMENDATIONS

1. Legal status - continue custody/dependency; dismiss dependency proceedings.

2. Placement - return home, remove from home, or continuation of placement.

3. Services to be provided by agency/parental responsibilities.

   a. If you are recommending that child return home from foster or group care:

      (1) Agency must supervise for at least six (6) months after child's return. List services to be provided.

      (2) Also list recommendations for any treatment plan (i.e., actions the parents must take, or continue during the next six (6) months and state the agency to provide it.

b. If you are recommending that a child be in a placement outside the family home, establish that one of the four reasons (per RCW 13.34.130 (1)(b)) exists:

(1) There is no parent or guardian available to care for such child; or
(2) The child is unwilling to reside in the custody of the child's parents, guardian, or legal custodian; or
(3) The parent or guardian or legal custodian is not willing to take custody of the child; or
(4) A manifest danger would exist that the child will suffer serious abuse or neglect if the child is not removed from the home.

c. For an American Indian child recommended for out-of-home placement, provide the court:

(1) Child's tribal affiliation
(2) Parents' tribal affiliation
(3) Tribe notified? If yes, contents of notice.
(4) Whether child is currently placed in an American Indian home.
(5) Whether prospective home is American Indian or non-Indian. If American Indian, indicate whether DSHS 15-128(X), Verification of American Indian Status, is or is not on file.
(6) LICWAC staffings and recommendations. (Describe any Committee/worker differences over the service plan and explain why committee recommendations were not followed.)

E. SOCIAL SERVICE CASE PLAN SUMMARY:

1. Briefly state child's current situation. Give pertinent facts on progress or lack of progress in problem areas. Relate when appropriate to previous case plan. Include a report on adjustment to placement if child has been out of his/her home, and services offered to support the child in placement.

2. If child is not to be returned home, the following points must be addressed per RCW 13.34.130 (3 b). Identify:

a. What services have been provided or offered to the parties to facilitate reunion.

b. The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent. Describe any changes made in the visitation agreement as presented in the case plan in the previous court report.

c. Or update the permanent plan goal and services being provided to achieve it.

d. Any changes or additions to the case plan as presented in the previous court report.

e. Whether the agency is satisfied with the cooperation given to it by the parents.

f. Whether additional services are needed to facilitate the return of the child to the child's parents.

g. When return of the child can be expected.

3. When needed, include a statement on the need for a petition to seek termination.

On contested reviews, add parental names, addresses, and marital status.

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR ALTERNATIVE RESIDENTIAL PLACEMENT DISPOSITION OR REVIEW HEARING REPORT - REQUIRED OUTLINE #7

Instructions

This is an outline of a report to be sent to the court as a dispositional plan for an Alternative Residential Placement after the fact-finding hearing. This report should also be used at the time of a review on the ARP placement.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

COMPLETION OF THIS REPORT MEETS THE REQUIREMENTS FOR DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) AS SPECIFIED IN CHAPTER 32 AND 34. REFER TO THESE CHAPTERS FOR ADDITIONAL INSTRUCTIONS FOR ONGOING RECORDING ON THE ISP.

REPORT FOR ALTERNATIVE RESIDENTIAL PLACEMENT DISPOSITION OR REVIEW HEARING REPORT

REQUIRED OUTLINE #7

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. Type of Hearing (dispositional plan or review)

B. Social Service Case Plan and Recommendations

1. Make recommendation on the type of out-of-home placement, i.e., home of relative, foster home, group care, crisis residential care.

2. Make recommendations on:

   a. Physical custody to the appropriate agency or person.

   b. Which parental powers should be awarded to which agency or person, i.e., power to consent to optical/medical/dental/psychiatric treatment; authorization for child to travel outside the state, and any unusual situations of which the court should be aware.

   c. Which services should be provided to resolve the family conflict and facilitate the child's return home.

   d. The visitation plan as discussed with the natural parent(s) that will maintain contact between the parent(s) siblings (if appropriate), and child. Include each party's responsibility with regard to visitation.

3. Address each of the following points in relation to the out-of-home placement:

   a. The appropriateness of the placement, including reasons for the placement, and a description of previous efforts to work with and/or provide reconciliation services to the parents and the child to resolve the conflict and reunite the family.

   b. Verification that the placement is the least restrictive (most family like) alternative available and in the closest proximity to the parent(s) home consistent with the best interests and special needs of the child.

   c. The parent's attitude toward placement of the child.

d. The specific services to be provided to support the child's needs and adjustment during out-of-home placement, including special education and related services, when appropriate.

e. The activities/actions/behavioral changes that the parent(s), child (as age appropriate) and foster parents (as appropriate) must do to implement the case plan, including time frames.

f. If the placement extends to 90 days, identify the permanent plan goal and the services to be provided to facilitate the permanent plan. If the goal remains return home, the services should be addressed in 2.c. above.

4. Cultural Heritage - Indicate child's cultural background. If American Indian child, provide:

a. Child's tribal affiliation _____

b. Parents' tribal affiliation - Father _____ Mother _____

c. Tribe notified? Yes _____ No _____ If yes, contents of notice.

d. (1) Whether child is currently placed in American Indian home.
(2) Whether prospective home is American Indian or non-Indian. DSHS 15-128(X), Verification of American Indian Status (on file _____ not on file _____)

e. LICWAC staffings and recommendations (describe any Committee/worker differences in the service plan and explain if Committee recommendations were not followed.

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

WITNESS SUMMARY LIST - REQUIRED OUTLINE #8

Instructions

The witness summary list is a worksheet for the service worker to provide information to the Assistant Attorney General or Prosecuting Attorney. This list is to be used for all court proceedings where witnesses are necessary. A separate sheet is filled out on each witness and sent to the Attorney.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

CHAPTER 23

JUVENILE COURT PROCESS

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CHAPTER 23

JUVENILE COURT PROCESS

23.00 PROGRAM AUTHORITY

State: RCW 13.32A.120 through 13.32A.200; and RCW 13.34.010 through 13.34.300.

Federal: P.L. 95-608.

23.10 POLICY

23.11 Purpose of Service

A. The purpose of this chapter is to provide procedures for implementing the legal requirements of the Juvenile Court Code. The Juvenile Court Code requires that child welfare staff participate in four court processes: (1) Alternative residential placement (ARP), (2) Dependency, (3) Guardianship, and (4) Termination of parental rights. The consent to place process may be used under some circumstances in lieu of the ARP or dependency processes.

B. One or more of these court processes may occur in the provision of the following child welfare programs: (1) Family Reconciliation Services (see Chapter 24); (2) Child Protective Services (see Chapter 26); (3) Crisis Residential Placement (see Chapter 31); (4) Child Foster Family Care (see Chapter 32); (5) Private Agency/Child Group Care (see Chapter 34); and (6) Adoption Services (see Chapter 36).

23.30 Service Procedures

23.31 Alternative Residential Placement (ARP) (See RCW 13.32A.120 through 13.32A.200)

The purpose of the alternative residential placement process is to resolve disputes between parents and children as to where children may live outside the parents' home.

A. ARP Petition (See required outline in 23.80 C. 2.)

1. The parent or child may file a petition to approve an alternative residential placement (see RCW 13.32A.120).

2. A petition may be filed only within the county of the parent(s) residence. (See RCW 13.32A.200.)

B. The service worker shall file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances (see RCW 13.32A.140):

1. The child has been admitted to a crisis residential center or has been placed with a responsible person other than his/her parent, and:

   a. The parent has been notified that the child was so admitted or placed;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

   c. No agreement has been reached between the parent and the child as to where the child shall live;

   d. No petition requesting approval of an alternative residential placement has been filed by either the child, parent, or legal custodian; and

   e. The child has no suitable place to live other than the home of his/her parent.

   f. Staff will make such notifications and place American Indian children as required under 23.38 B.

2. The child has been admitted to a crisis residential center and:

   a. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

   b. The staff, after searching with due diligence, have been unable to contact the parent of such child; and

   c. The child has no suitable place to live other than the home of his/her parent.

   d. The required notifications have been made for American Indian children and the service worker/Local Indian Child Welfare Advisory Committee (LICWAC) have reached agreement as to appropriate placement for the child. (See 23.38 B.)

3. An agreement between parent and child made regarding an alternative residential placement is no longer acceptable to parent or child, and:

   a. The party to whom the arrangement is no longer acceptable has so notified the department;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

c. No new agreement between parent and child as to where the child shall live has been reached;

d. No petition requesting approval of an alternative residential placement has been filed by either the child or the parent; and

e. The child has no suitable place to live other than the home of his/her parent.

f. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

C. The state, when the department files a petition for alternative residential placement, will be represented as provided for in RCW 13.04.093.

D. Child/Parent Filing Petition (see RCW 13.32A.150).

1. A child or child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home if no agreement can be reached about placement or returning to the home.

2. The service worker shall, when requested, assist either a parent or child in filing the petition, i.e., explain procedures, help in initiating telephone contacts, etc.

3. The petition shall only ask that the placement of a child outside the home of his/her parent be approved.

4. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his/her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

E. Procedures Prior to Fact-Finding Hearing (see RCW 13.32A.160).

When a proper petition is filed (see RCW 13.32A.120, 13.32A.140, or 13.32A.150), the juvenile court will:

1. Schedule a date for a fact-finding hearing and notify the parent and child of such date;

2. Notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him/her by the court;

3. Appoint legal counsel for the child;

4. Inform the child and his/her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and

5. Notify all parties of their right to present evidence at the fact-finding hearing.

F. Placement of Child (see RCW 13.32A.160(2)).

1. Upon filing of an Alternative Residential Placement Petition, the child may be placed, if not already placed, by the service worker in a crisis residential center, foster family care home, group home facility or any other suitable, licensed (or determined exempt from licensing) residence as determined by the service worker.

2. If the child has been placed in a foster family care home or group care facility, the child will remain there, or in any other suitable residence as determined by the service worker, pending resolution of the alternative residential placement petition by the court.

3. Any placement may be reviewed by the court upon the request of the juvenile or the juvenile's parent within three court days of the request.

4. The department may authorize emergency medical or dental treatment for a child in placement. (See RCW 13.32A.140.)

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

G. Fact-Finding Hearing (see RCW 13.32A.170(1)).

1. The court will hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children.

2. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel.

3. The court may approve an order stating that the child shall be placed in a residence other than the home of his/her parent only if it is established by a preponderance of evidence that:

a. The petition is not capricious;

b. The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict; and

c. The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home.

4. The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

H. Court's Approval or Denial of ARP Petition (see RCW 13.32A.170(4)).

1. If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons will be filed by the court.

2. If the court denies a petition requesting that a child be placed in a residence other than the home of his/her parent, the court will enter an order requiring that the child remain at or return to the home of his/her parent.

3. If the court denies the petition, the court will impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services. (See RCW 13.32A.170(5).)

4. A child who fails to comply with a court order directing that the child remain at or return to the home of his/her parent shall be subject to contempt proceedings. (See 23.31 N. below) but only if the noncompliance occurs within ninety calendar days after the day of the order. (See RCW 13.32A.170(6).)

I. Fact-Finding Court Order (see RCW 13.32A.170(2)).

1. The order approving out-of-home placement will direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict.

2. In making the order, the court may further direct the department to make recommendations, as to:

a. Which agency or person should have physical custody of the child, and

b. Which parental powers should be awarded to such agency or person, and

c. Parental visitation rights.

3. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

J. Procedures Prior to Disposition Hearing (See RCW 13.32A.170(3))

1. The hearing to consider the recommendations of the department for a three-month disposition plan is set by the court no later than fourteen days after the approval of the court of a petition to approve alternative residential placement.

2. Each party is notified by the court of the time and place of such disposition hearing.

3. Departmental disposition planning for American Indian children will be consistent with the recommendations of the LICWAC.

K. Disposition Hearing (See RCW 13.32A.180 and required outline in 23.80 C. 7.)

1. At a dispositional hearing held to consider the three-month dispositional plan presented by the department, the court will consider all recommendations included in the plan. The service worker shall also present to the court the LICWAC recommendations if the department's recommendations are inconsistent with those of the LICWAC and the petition will so state.

2. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify the plan and will make its dispositional order for a three-month out-of-home placement for the child.

3. The court dispositional order will specify:

   a. The person or agency with whom the child is to be placed, and

   b. Those parental powers which will be temporarily awarded to the agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights.

4. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed foster family care homes.

5. No placement made as a result of a dispositional hearing may be in a juvenile correctional institution or facility as defined in Section 103, PL 93-415 Juvenile Justice and Delinquency Prevention Act of 1974 (i.e., "any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.")

L. Dispositional Court Order (See RCW 13.32A.190(1).)

Upon making a dispositional order, the court will:

1. Schedule the matter on the calendar for review within three months, and

2. Advise the parties of the date, and

3. Appoint legal counsel and/or a legal guardian ad litem to represent the child at the review hearing, and

4. Advise parents of their right to be represented by legal counsel at the review hearing, and

5. Notify the parties of their rights to present evidence at the hearing.

6. Where resources are available, encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

M. Review Hearing (See RCW 13.32A.190(2) and required outline in 23.80 C. 7.)

At the review hearing, the court:

1. Will approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval.

2. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious.

3. If out-of-home placement is continued, the court may modify the dispositional plan.

4. Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court will order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court will enter an order requiring that the child return to the home of the child's parent.

5. Refer to 23.38 B. when working with American Indian/Alaskan Native children.

N. Contempt (see chapter 13.22A RCW).

1. Contempt proceedings can be instituted by the court on its own initiative or when a motion for contempt is made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order.

2. Failure by a party to comply with an order entered under this chapter is punishable as contempt.

3. Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

4. A child found in contempt under this section will be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

5. The procedure in a contempt proceeding held under this section is governed by RCW 7.20.040 through 7.20.080, as now law or hereafter amended.

O. Support Payments (see chapter 13.32A RCW).

1. In any proceeding in which the court approves an alternative residential placement, the court will inquire into the ability of parents to contribute to the child's support.

2. If the court finds that the parents are able to contribute to the support of the child, the court will order them to make such support payments as the court deems equitable.

3. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders.

4. However, payments will not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child.

5. Recommendations to the court to establish, raise, lower, release, or forgive support payments for a child in placement may be made only by the staff of the Office of Support Enforcement (OSE) (see WAC 388-70-028).

23.32 Dependency Petition Process (See RCW 13.34.030 through 13.34.130)

A. A dependency petition (see Outline #1 and DSHS 9-428, Rev. 5/81, in 23.80) is filed after all other reasonably possible attempts to help correct the problem have been exhausted and if the child is in imminent danger or the parents refuse or are unable to immediately make changes adequate to protect the child.

B. It will be the duty of the attorney general to handle dependency cases and in contested cases brought by the department, to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship. (In Class 1-9 counties the attorney general may contract with the prosecuting attorney of the county to perform paid duties of the attorney general.)

C. A petition to the juvenile court by a service worker to have a child declared dependent from abusing/neglecting parents or those legally responsible for the child is made in accordance with RCW 13.34.030. The petition may only be filed in the county of the parent(s) residence, the child's residence, or where the child is physically present. A petition is made when a child:

1. Is abandoned: that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

2. Is abused or neglected as defined in Chapter 26.44 RCW; or

3. Has no parent, guardian, or custodian willing and capable of caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

D. The service worker shall provide the juvenile probation officer with a statement of the facts supporting the allegation that a child is dependent at the time the petition is to be filed.

E. If a child is alleged to be dependent and if a child's health, safety, and welfare will be seriously endangered if he/she is not taken into custody, a service worker should file a petition and request a court order that the child be taken into custody. If the court grants an order of custody, the court may direct a law enforcement officer, a probation counselor, or a child protective services official to take the child into custody. (See RCW 13.34.040.)

F. The report of a possible crime to the juvenile court is not fulfilling DSHS's duty under law to report to a law enforcement agency or the county prosecutor in accordance with RCW 26.44.020 and 26.44.040.

G. When it is necessary to refer to and/or petition the juvenile court, the family should be informed of the reasons for the referral and helped to understand and participate in the court process. This would include helping the family to understand the need for and right of legal counsel. (See RCW 13.34.090.)

H. Any time an alleged dependent child is placed in receiving care the service worker must inform the child's parent, guardian, or custodian of his/her right to a preliminary shelter care hearing. (See RCW 13.34.060.)

I. Refer to 23.38 C. when working with American Indian/Alaskan Native children.

23.33 Juvenile Court Hearings and Reports

The service worker may be required to submit written reports, attend, and present testimony at the following hearings:

A. Shelter Care Hearing

1. A child taken into custody by a service worker prior to the hearing is to be placed in a receiving home/foster home licensed by the department or in a home not required to be licensed. (See RCW 13.34.060(1).)

2. Ordinarily, the initial shelter care hearing will be held within 72 hours after the child has been taken into custody. (See RCW 13.34.060(5).) If possible, the service worker should submit a written recommendation to the juvenile court in support of the need for shelter care in cases where the petition alleging dependency has been filed by the department.

3. An order for shelter care may not continue for more than 30 days unless reauthorized by the judge. A service worker may request modification of the order to continue shelter care past 30 days. (See RCW 13.34.060(8).)

4. Any report or modification request submitted to the court for American Indian children will be developed in consulation with the LICWAC and the court will be informed of any conflict between the worker/LICWAC recommendations. (See 23.80.)

B. Dependency Fact-Finding Hearing (See 23.80 C. 4. for required report outline)

This hearing is to determine the facts related to the petition. If the petition is filed by the department, the service worker must appear at the hearing and present testimony. The service worker may be required to present testimony when the petition is filed by some other party. (See RCW 13.34.110.) The service worker shall request an American Indian representative from the LICWAC/Indian consultant or the child's tribe to appear in court to present expert testimony in behalf of American Indian clients.

C. Support for Dependent Children (See RCW 13.34.160)

In any case in which the court will find the child dependent, it may in the same or subsequent proceeding upon the parent or parents, guardian, or other person having custody of said child, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such persons or person to support the child or contribute to its support, and if the court will find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its decrees.

D. Disposition Hearing (See required outline in 23.80 C. 5.)

1. The service worker shall be required to attend and may be required to present testimony. If the department filed the petition, then the service worker must prepare the following reports (listed as D. 2., 3. and 4. below) for the court. In other situations reports will be prepared/provided to juvenile probation staff according to CSO/juvenile court agreements. (See RCW 13.34.110, 13.34.120, 13.34.130, and Manual G, 23.80.) Complete and timely recording of service intervention on the DSHS 2-305(X), Service Episode Record, will facilitate the preparation of the Social Study, Predisposition Study, Agency Placement Plan and Six-Month Reviews.

2. Social Study (see RCW 13.34.120 (1)). The service worker must give close attention to the requirements of this report and the needed information. This report is a written evaluation of matters relevant to the disposition of the case. The study and all social records will be made available to the court, including facts relating to the child's cultural heritage, particularly LICWAC recommendations and those of the parent and child, if of significant age, the tribe's request for intervention and transfer of jurisdiction to tribal court.

3. Predisposition Study (see RCW 13.34.120 (2)). The service worker must be familiar with specific requirements of this report. This report relates to the specific issue of whether or not the child should remain in the home and shall contain:

   a. A statement of the specific harm to the child that intervention is designed to alleviate;

   b. A description of the specific programs for the parent(s) and child that are needed in order to prevent serious harm to the child - including why they will be useful, their availability, and the plan for ensuring their delivery;

   c. Why the child cannot be protected in the home--including past efforts to work with the parent and child in the home; treatment programs which have been considered and rejected, and the parents' attitude toward placement;

   d. The likely harm the child will suffer as a result of removal, including the parent-child attachment and meaning of separation and loss to both;

   e. Steps to be taken to minimize harm to the child that may result because of separation, and

   f. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

   g. Placement of an American Indian child will be done in accordance with Chapter 1.04 and 32.33 of Manual G.

4. Agency Placement Plan (see RCW 13.34.130(2)).

a. Agency Report

This report is required of the agency placing the child and includes:

(1) Where the child will be placed;

(2) Steps to eventually return the child to the home;

(3) Actions to maintain child-parent ties;

(4) Services the parents will be offered to enable them to resume custody;

(5) What requirements the parents must meet in order to resume custody.

b. Agency Responsibility

(1) The agency charged with supervising a child in placement shall provide all reasonable services available within the agency or community or those which the department has existing contracts to purchase.

(2) The placement agency will report to the court and appropriate tribal government or urban American Indian organization if it is unable to provide such services.

E. Six-Month Review Hearings (See 23.80 C. 6. for required report outline)

1. The service worker may be required to give testimony and enter a report outlining: what services have been given; cooperation and visitation of the parents, whether additional services are needed to facilitate the child's return to his/her parents; and when the child's return can be expected. (See RCW 13.34.130 (3) and RCW 13.34.180.)

2. For American Indian children the service worker shall also report use of urban American Indian organization/tribal services provided, if any, and LICWAC recommendations in relation to service plan and, if Committee recommendations and the service worker's plan conflict, the report shall so state and justify why Committee recommendations were not taken into consideration if they were not. (See 23.38.)

23.34 Termination of Parental Rights

A. Termination Petition (See required outline in 23.80 C. 3.)

1. A petition to terminate a parent/child relationship may be filed in the juvenile court when:

   a. A child has been removed from the custody of a parent pursuant to a finding of dependency and a dispositional order has been entered pursuant to RCW 13.34.130; and

   b. The child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

   c. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

   d. There is little likelihood that the conditions will be remedied so the child can be returned to the care of the parents.

2. A petition may also be filed:

   a. If a child is found under such circumstances that the identity and whereabouts of the child's parent are unknown, and

   b. No parent has claimed the child within two months after the child was found.

3. As described in 23.32 B., it will be the duty of the attorney general or the prosecuting attorney (as contracted by the attorney general) to present evidence supporting any petition seeking termination of a parent and child relationship.

4. The service worker is required to attend and present testimony at the Fact Finding and Disposition hearings.

5. The service worker shall provide the Attorney General with names and location of potential witnesses. (See Witness Summary List outline in in 23.80 C. 8.)

6. The service record must contain complete and accurate information (see RCW 13.50.010(3) which documents:

   a. Agency efforts to locate and/or reunite the family and services offered or provided to correct parental deficiencies during the minimum six-month period when the child is removed from the parent(s) custody. Documentation may consist of:

(1) Written, mutually developed/signed contracts between the department and the parents to facilitate the return of the child(ren).

(2) Case narrative, DSHS 2-305(X), Service Episode Record (SER), documenting progress (or lack of) on these plans and any services which have been offered to the parents.

(3) Registered letters of attempts to locate parents.

(4) DSHS 14-154(X), Social Services Authorization, and DSHS 14-159, Change of Service Authorization, showing all services provided to the parents.

7. Refer to 23.38 E. when working with American Indian/Alaskan Native children.

B. Voluntary Termination

1. The juvenile courts are authorized to terminate parental rights involuntarily under the conditions of RCW 13.34.180 and RCW 26.32.

2. Anticipated uncontested, voluntary terminations are to be processed through the Superior Courts or Juvenile Court. The appropriate forms are found in the series DSHS 9-466 through DSHS 9-471, DSHS 9-473, DSHS 9-474, and DSHS 9-476 through DSHS 9-482, and DSHS 9-552. Forms and instructions are found in Section 23.80. These are initiated by the service worker or by the attorney and submitted to the court. Petition for voluntary terminations can be initiated for either an unborn or a born child. The hearing on the petition cannot take place until after the birth of the child or, in the case of an American Indian child, until after the child is ten days old.

a. Procedures for Unborn Child

(1) Service worker gathers data for DSHS 9-552, Voluntary Termination Information/Referral, which provides necessary information for the completion of all other voluntary termination forms. Service worker has parent(s) sign DSHS 9-479, Authorization to Release Information, and has it notarized.

(2) Expectant mother who desires to terminate her parental rights should sign DSHS 9-476, Petition for Termination of Relationship Parent-Unborn Child and DSHS 9-477, Consent to Termination and Waiver of Right to Receive Notice of Termination Proceedings. The petition should be signed early enough in the pregnancy to allow the court time to issue notice to the alleged father(s) at least 30 days prior to the expected date of birth.

(3) If alleged father(s) acknowledges paternity, and consents to termination he signs DSHS 9-477, Consent to Termination, or if alleged father(s) does not claim paternity, he signs DSHS 9-478, Waiver of Right to Receive Notice and Appearance.

Service worker sends DSHS 9-477 or DSHS 9-478 to legal counsel, retaining one copy for file.

(4) If either parent is a minor, there must be a guardian Ad Litem appointed for that minor parent prior to the time the parent executes the DSHS 9-477 or DSHS 9-478. This is accomplished through completion, by legal counsel, of the DSHS 9-482, Motion and Order Appointing Guardian Ad Litem for Minor Parent.

(5) DSHS 9-476 is filed in court and, if alleged father(s) have not also signed DSHS 9-477 or DSHS 9-478, court issues DSHS 9-466, Order of Service and Publication and DSHS 9-481, Notice of Petition and Intent to Release Custody or Consent to Adoption.

(6) Service worker personally serves alleged father(s) with DSHS 9-481, Notice of Petition and Intent to Release Custody or Consent to Adoption, and with a copy of signed and verified DSHS 9-476. Service worker notifies legal counsel immediately after personal service by telephone, sends counsel a copy of DSHS 9-469, Affidavit of Personal Service, and retains one copy for service file.

The alleged father(s) must receive DSHS 9-481 at least 30 days prior to the expected birth of the child.

(7) After personal service of the DSHS 9-481, follow same procedure as in (3) above.

(8) If personal service is not feasible, service worker sends alleged father(s) a copy of DSHS 9-481 and a copy of signed and verified DSHS 9-476 by registered mail.

(9) Concurrent with service by registered mail, the service worker shall execute DSHS 9-470, Affidavit in Support of Service by Publication. This is submitted with proof of sending registered mail attached, to legal counsel, who has the clerk of the court issue DSHS 9-468, Publication by Notice. Legal counsel makes arrangement with the appropriate newspapers for publication. The service worker is responsible for providing legal counsel with names of appropriate newspapers. The newspaper completes DSHS 9-471, Affidavit of Publication, after publication has been made.

In cases when notice is by registered mail and publication, notice must take place at least 20 days prior to the hearing.

(10) Baby is born.

(11) If mother has signed DSHS 9-477 prior to the birth of the child, reaffirm with mother her previous agreement to consent to termination, or if mother has not already done so, have her sign DSHS 9-477. Send it to legal counsel, retaining one copy for service record.

(12) Service worker notifies legal counsel of birth. Legal counsel files DSHS 9-477, and DSHS 9-478 if either have been obtained.

(13) Hearing on petition takes place:

(a) Service worker and, if desired, petitioning parent appears in court.

(b) If nonpetitioning parent has not signed DSHS 9-477 or DSHS 9-478, and if that parent does not respond to notice, legal counsel will request that the nonpetitioning parent be found in default.

(14) Court issues DSHS 9-473, Findings of Fact, Conclusions of Law and Order of Termination of Parent - Child Relationship.

b. Procedures for Born Child

(1) Service worker gathers data for DSHS 9-552, Voluntary Termination Information/Referral, which provides necessary information for the completion of all other voluntary termination forms. Service worker has parent(s) sign DSHS 9-479, Authorization to Release Information, and has it notarized.

(2) Petitioning parent(s) signs DSHS 9-474, Petition for Termination of Parent-Child Relationship, and DSHS 9-477, Consent to Termination and Waiver of Right to Receive Notice of Termination Proceedings.

(3) If alleged father is known, acknowledges paternity, and consents to the termination, he signs DSHS 9-477, and if he so desires, the DSHS 9-474, or if alleged father does not claim paternity and does not want to be actively involved in consenting to termination, he signs DSHS 9-478, Waiver of Right to Receive Notice and Appearance.

(4) If either parent is a minor, there must be a Guardian Ad Litem appointed for that minor parent prior to the time the parent executes the DSHS 9-477 or DSHS 9-478. This is accomplished through completion, by legal counsel, of the DSHS 9-482, Motion and Order Appointing Guardian Ad Litem for Minor Parents.

(5) Service worker forwards DSHS 9-474, DSHS 9-477, and DSHS 9-478, if it has been obtained, to legal counsel for filing with court.

(6) Court issues DSHS 9-467, Notice of Hearing on Petition and Intent to Release Custody or Consent to Adoption, or if only one parent has signed DSHS 9-474 and DSHS 9-477, and if the nonpetitioning parent is absent or unknown, the court will issue DSHS 9-480, Order of Service and Publication and Setting Hearing, twenty days prior to the hearing.

After the court issues DSHS 9-480, legal counsel will request that the clerk of the court issue DSHS 9-467.

(7) Service worker shall personally serve the father or alleged father with DSHS 9-467, and a copy of signed and verified DSHS 9-474. Service worker shall notify legal counsel by telephone immediately after personal service, sending counsel a copy of DSHS 9-469, Affidavit of Personal Service, and retains one copy for service file.

Personal service must be done at least five days prior to the hearing, excluding weekends and holidays.

(8) If personal service is not feasible because nonpetitioning parent(s) cannot be contacted or is geographically distant, service worker sends nonpetitioning parent(s) copy of DSHS 9-467 and a copy of signed and verified DSHS 9-474, by registered mail.

(9) Concurrent with service by registered mail, the service worker shall execute DSHS 9-470, Affidavit in Support of Service by Publication. This is submitted by service worker with proof of sending registered mail attached, to legal counsel who has the clerk of the court issue DSHS 9-468, Publication Notice. Legal counsel makes arrangements with the appropriate newspapers for publication. The service worker is responsible for providing legal counsel with names of appropriate newspapers. The newspaper completes DSHS 9-471, Affidavit of Publication, after publication has been made.

If the original date of the hearing is prior to twenty days after publication, the hearing date shall be set forward so that it takes place at least twenty days following publication.

(10) Hearing on termination petition takes place:

(a) Service worker and, if desired, petitioning parent appears in court.

(b) If nonpetitioning parent has not signed DSHS 9-477 or DSHS 9-478, and if that parent does not respond to notice, legal counsel will request that the nonpetitioning parent be found in default.

Court issues DSHS 9-473, Findings of Fact, Conclusions of Law and Order of Termination of Parent-Child Relationship.

3. The service shall authorize the payment of court filing fees and publication fees on the child's DSHS 14-154(X), Social Services Authorization.

4. As described in 23.32 B., the attorney general will present evidence supporting any petition seeking termination of parent and child relationship.

5. Staff will not accept a voluntary relinquishment from American Indian parents or custodians of American Indian children but will follow the procedures in Section 23.38 E. of this chapter.

23.35 Guardianship (See RCW 13.34.230 and guideline in 23.80)

A. Filing Guardianship Petition

1. Any party to a dependency, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as a dependent child.

2. The Department of Social and Health Services will receive notice of any guardianship proceedings and have the right to intervene the proceedings.

3. The department or voluntary agency may initiate action on a guardianship petition, and are not dependent on securing advance approval by the court to do so.

4. There are demonstrable advantages to the child for the relative, foster parent, or other individual, to have guardianship as opposed to a permanent foster care arrangement in which the department retains supervision.

5. When DSHS initiates or is a party to the petition for guardianship in a child's behalf, the following procedures apply:

   a. The petition should specify that guardianship of the person shall go to the guardian (i.e., relative, foster parent or other individual);

b. The service worker will request the court to identify the rights and responsibilities of the guardian in the court order of guardianship; the rights and responsibilities to be addressed shall include but not be limited to:

(1) Medical services,
(2) Consent to marriage,
(3) Enlistment in military services,
(4) Visitation of biological parents.

c. The service worker shall make recommendations to the court regarding what, if any, supervision the agency should provide.

B. Guardianship Court Hearing

1. At the hearing on a guardianship petition, all parties have the right to present evidence and cross examine witnesses.

2. The rules of evidence apply to the conduct of the hearing.

3. A guardianship may be established if the court finds by a preponderance of the evidence that:

a. The child has been found to be a dependent child under RCW 13.34.030)2);

b. A dispositional order has been entered pursuant to RCW 13.34.130;

c. The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

d. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

e. There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

f. A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

C. Guardianship Court Order

1. If the court has made a finding, it will enter an order establishing a guardianship for the child. The order will:

a. Appoint a person or agency to serve as guardian;

b. Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian will not have the authority to consent to the child's adoption;

c. Specify an appropriate frequency of visitation between the parent and the child; and

d. Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

2. Any party may seek a modification of the guardianship order under RCW 13.34.150.

3. Establishment of a guardianship does not preclude a guardian from receiving foster care payments.

4. An established guardianship is not subject to the review hearing requirements of RCW 13.34.130.

5. Any person over the age of twenty-one years who is not otherwise disqualified by this section, any nonprofit corporation or any Indian tribe may be appointed the guardian of a child. No person is qualified to serve as a guardian who:

a. Is of unsound mind;

b. Has been convicted of a felony or misdemeanor involving moral turpitude; or

c. Is a person whom the court finds unsuitable.

D. Departmental Responsibilities

1. The homes of guardians to which the department makes payment must be certified as meeting licensing requirements as per WAC 388-73-020.

2. The department's rules and procedures regarding the certification and supervision of the home for licensing purposes (see Manual G, Chapter 06) must be followed in spite of the fact that the court may have relieved the department of responsibility to supervise the child.

3. Guardianship of a child, under RCW 13.34.230 does not disentitle a guardian from continued eligibility to receive foster care payment.

4. Where a court order relieves the department of providing supervision for a child and that child's care had previously been AFDC-FC funded, the source of funds must be changed to state funds (on DSHS 14-159, Change of Service Authorization).

5. When a foster care payment continues to the guardian, the service worker remains responsible to perform the six-month SSPS review to:

   a. Ensure the child's continued eligibility for foster care payment (use SSPS service code 3210); and

   b. Update the circumstances of the guardianship arrangement.

6. Establishment of guardianship eliminates the automatic six-month review in Juvenile Court. However, if the service worker finds that the guardianship has failed or is terminated, i.e., death of the guardian or other reason, the case should be brought before the Juvenile Court to review the status of the child.

7. A child found to be dependent under RCW 13.34.030(2) remains under the court's jurisdiction, i.e., dependency continues, even though a legal guardianship was established.

8. Appointment of guardianship for American Indian children will follow procedures in 23.38 F.

23.36 Consent to Place

A. If a child and a parent cannot agree to the child's return home, but do agree to the child's placement out of the home, or when a parent is unable to care for a child of any age, the parent(s)/guardian may request a voluntary placement.

   1. Children may be accepted for voluntary family foster care or group care placement only when the parent(s) have signed a DSHS 9-04(X), Placement Authorization and Acknowledgment (found in Chapter 99), and when one or more of the out-of-home placement criteria listed in Manual G, Chapter 32.13 I. exists.

   2. Court intervention shall be sought in spite of parent(s) willingness to place the child voluntarily when:

      a. The family situation or dependency of the child warrants, or

      b. There is not a responsible plan to remedy the situation which necessitated the placement, or

      c. It appears that a placement of more than three months is needed.

   3. When a request for a voluntary placement involves an American Indian child, see Section 23.38 G. for procedures.

B. Procedures for handling voluntary placements are found in Manual G, Chapters 32 and 34.

23.37 Other Juvenile Court Related Responsibilities

The service worker may be asked to or decide to perform other duties in relation to working with the juvenile court.

A. A "DSHS Social Worker" may be required by the court to serve summons (RCW 13.34.070) to any person the court determines to be a proper or necessary person to the proceedings.

B. If a petition is filed and the court finds reasonable grounds, the juvenile court judge may enter an order directing a service worker to take a child into custody (RCW 13.34.050).

C. The juvenile court may require the service worker to bring a child who is in the department's physical or temporary custody to a shelter care hearing (see RCW 13.34.050 through 13.34.070).

D. A service worker may ask the court to appoint a guardian ad litem for a child who is alleged to be subject to a child abuse/neglect (see RCW 26.44.053(1) and RCW 13.34.100).

E. In all cases, when there is an existing court order for placement of the child outside of the home, a change in the court order must be obtained prior to placing the child back in the home. An order of the court may be changed, modified, or set aside only by the juvenile court judge (RCW 13.34.150). A service worker may request modification of a court order at any time.

F. The service worker is responsible for making review reports or other reports as ordered by the court.

G. When a child has been declared to be dependent, placed out of the home, and then is returned to the home after an out-of-the-home placement, the supervision by the service worker shall continue for a period of at least six months at which time there shall be a hearing on the need for continued intervention. (See Chapter 13.34.130 RCW.) The service worker must provide for the continued supervision or arrange for and/or monitor that service. The intensity of that service is to be determined by the service worker and/or juvenile court order.

23.38 Indian Child Welfare

This section consolidates all legal requirements of P.L. 95-608, the Indian Child Welfare Act of 1978.

The information the service worker will provide for documents in this section is very important for complying with the most stringent procedural requirements of federal law regarding the provision of services to Indian families and placement of Indian children outside the natural home.

A. When a Child's Enrollment Status is Questionable

The service worker shall complete DSHS 9-539, Letter to Tribe - Enrollment Status, and send by certified mail. If tribal affiliation is also questionable, prepare DSHS 9-540, Letter to Bureau of Indian Affairs - Tribal Affiliation, and send by certified mail. Notify the LICWAC or Indian consultants that Indian status of child is pending and plan in a manner to assure compliance with appropriate procedures if Indian status is confirmed.

B. Alternative Residential Placement (ARP)

1. When American Indian/Alaskan native parent/custodian/child requests an ARP, the service worker shall:

   a. Follow the standard ARP procedures as outlined in Manual G, 23.31. In addition to following standard ARP procedures, the service worker shall:

   b. Prepare or forward the following forms upon filing an ARP petition:

      (1) Prepare DSHS 9-534, Letter to Parent and/or Indian Custodian and DSHS 9-535, Letter to Tribe - Notification. These forms are to be filled out in their entirety and mailed to the parent/custodian and/or tribe, as appropriate, by certified mail. A copy of each form is to be kept in the social service file.

      (2) The service worker shall provide copies of DSHS 9-543, Notice to Parent and/or Indian Custodian, and DSHS 9-544, Request for Continuance, to the court. The court staff person responsible for providing notice will complete these forms and send to the parent and/or Indian custodian.

      (3) Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court staff person responsible for providing notice. They are to be completed in their entirety and mailed to the tribe by the court. Copies of each form must be obtained from the court and kept in the social service file.

      (4) The service worker shall provide a completed copy of DSHS 9-535, Letter to Tribe, and DSHS 9-534, Letter to Parent and/or Indian Custodian, to the court staff person responsible for providing notice, to assist the court staff in completing the notice forms.

   c. Where appropriate in the above procedures, use: (1) DSHS 9-538, Letter to Canadian Indian Parent, and (2) DSHS 9-537, Letter to Canadian Indian Band. Send each by certified mail.

d. If the Indian parent, custodian and child are residents of a reservation over which the Indian tribe maintains exclusive jurisdiction, the service worker shall not file an ARP petition in superior court as the state has no jurisdiction over the matter.

e. If the Indian parent, custodian and child (12 or over) are residents of a reservation maintaining concurrent jurisdiction, the service worker shall propose to the parent and/or Indian custodian and child that the case be transferred to tribal court.

When all parties agree to transfer a case to tribal court, the service worker shall provide the state court with copies of DSHS 9-547, Motion to Transfer Jurisdiction to Indian Tribe, and DSHS 9-547A, Order to Transfer Jurisdiction to Indian Tribe. The service worker shall also provide to the tribal court DSHS 9-548, Motion for the Tribal Court to Accept Jurisdiction, and DSHS 9-548A, Order for Tribal Court to Accept Jurisdiction. The service worker must obtain copies of these forms from each court for the social service file.

f. When the parent, custodian or tribe denies transfer of the case to a tribal court maintaining concurrent jurisdiction, the service worker shall notify the Indian consultants or the Office of Indian Affairs by telephone and request them to staff the case. If the parent(s) has consented to LICWAC staffing, LICWAC will staff the case.

g. The service worker shall consult with LICWAC and place Indian children in an Alternative Residential Placement (ARP) taking into consideration the committee's recommendations. When LICWAC staffing is denied by the parent, custodian or child (12 or over), the service worker shall utilize Indian consultants.

h. Indian children shall remain in a non-Indian home or facility only until arrangements can be made to place the child in an Indian home or facility. Children 12 years and over must be given the opportunity to consent to the placement. Prior to the dispositional hearing, the service worker shall provide reports to court and other relevant social service information to any tribe that has requested to intervene in the matter.

i. Information to be submitted to the court shall be developed in consultation with LICWAC or Indian consultants, in order to assist the court in determining if appropriate interim services, which are culturally relevant, have been offered to an Indian parent/custodian and child, and whether the feasibility of transferring the case to tribal court was considered.

C. Dependency Petition

After filing a dependency petition (see outline and DSHS 9-428, Rev. 5/81, in 23.80), the service worker shall, within five (5) working days of filing the petition:

1. Prepare DSHS 9-534, Letter to Parent and/or Indian Custodian, and DSHS 9-535, Letter to Tribe - Notification, and send by certified mail to the parent or custodian and/or tribe, as appropriate. These forms are to be completed in their entirety.

2. The service worker shall provide copies of DSHS 9-543, Notice to Parent and/or Indian Custodian, and DSHS 9-544, Request for Continuance, to the court staff person responsible for providing notice. The forms shall be sent to the Indian parent/custodian by certified mail.

3. Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court staff person responsible for providing notice. They are to be completed in their entirety and mailed to the tribe by the court. Copies of each form must be obtained from the court and kept in the social service file.

4. If the parent and/or Indian custodian and child (12 and over) are residents of a reservation maintaining concurrent jurisdiction, the service worker shall propose, to the parent and/or Indian custodian, that the case be transferred to tribal court.

   When all parties agree to transfer a case to tribal court, the service worker shall provide the state court with copies of DSHS 9-547, Motion to Transfer Jurisdiction to Indian Tribe, and DSHS 9-547A, Order to Transfer Jurisdiction to Indian Tribe. The service worker shall also provide, to the tribal court, copies of DSHS 9-548, Motion for the Tribal Court to Accept Jurisdiction, or DSHS 9-548A, Order for Tribal Court to Accept Jurisdiction. The service worker must obtain copies of these forms from each court for the social service file.

5. If either the parent/custodian or the tribe's location is unknown, the service worker shall prepare and send DSHS 9-536, Letter to Bureau of Indian Affairs. Provide DSHS 9-545, Notice to Secretary of the U. S. Department of Interior Regarding an Indian Child, to the court for completion and mailing to the address printed upon the form. This form is to be completed in its entirety.

6. The service worker shall provide a completed copy of DSHS 9-535, Letter to Parent and/or Custodian, to the court staff person responsible for providing notice to assist the court staff in completing notice forms.

7. If the Indian parent, custodian and child are residents of a reservation over which the Indian tribe maintains exclusive jurisdiction, the service worker shall not file a dependency petition in superior court as the state has no jurisdiction over the matter.

D. Juvenile Court Hearings and Reports

1. Shelter Care Hearing

a. At the initial shelter care hearing that is held within 72 hours (excluding Sundays and holidays) after taking a child into custody, the service worker shall inform the court that an Indian child is the subject of the hearing. The service worker shall notify the LICWAC or Indian consultants and, when possible, shall staff the case on an emergency basis prior to the initial hearing. When it is not possible to obtain consultation before the initial hearing, the service worker shall inform the court that the LICWAC or Indian consultant recommendations are pending, and shall staff the case at the earliest convenience after the initial hearing.

b. The report developed by the service worker shall include recommendations of the LICWAC or Indian consultants.

c. The service worker shall provide the Letter Notices as outlined in Section 23.38 C., Dependency Petition.

d. If the parent/custodian or Indian child has consented to staffing by the LICWAC, the service worker shall coordinate development of court reports with the LICWAC. In situations where LICWAC review has been denied, the service worker shall utilize Indian consultants.

2. Dispositional Hearing and Reports.

a. In preparing the necessary reports, DSHS 2-305(X), Service Episode Record (social study, predisposition study, agency placement plan and six-month reviews), the service worker shall coordinate with LICWAC-Tribal representatives or Indian consultants to present a consistent agency view of culturally relevant case plan development and service delivery. Service worker testimony shall reflect this process.

b. Prior to testifying in court, the service worker shall coordinate with the LICWAC and a representative of the Indian child's tribe in order to provide a consistent expert viewpoint of the cultural relevance of case planning and service delivery. When the LICWAC-Tribal representatives are not used, the service worker shall utilize Indian consultants. The service worker shall request LICWAC or Indian consultants to appear in court to provide supportive testimony.

3. Social Study

a. This report shall give particular details to the court regarding the cultural relevance of service planning and service delivery.

b. The report shall contain the parents/custodians and child's (12 and older) views in regard to the service plan.

c. The service worker shall include copies of the DSHS 9-541 and DSHS 9-534 forms.

d. If recommendations of the Local Indian Child Welfare Advisory Committee or Indian consultants were not followed, the service worker shall show by clear and convincing evidence, including expert testimony, why the service worker plan is more relevant than plans recommended by the Local Indian Child Welfare Advisory Committee or Indian consultants.

e. The social study report should describe the serious emotional or physical damage to the child which may result from the continued custody by the parent or Indian custodian and it should document what actual efforts have been made to reunite the child with his/her family.

f. The service worker will try to utilize Indian community programs designed to prevent the break-up of the Indian family. In describing why the child cannot be protected in the home, the service worker shall:

(1) Explain the cultural relevance of past efforts of working with the family and child.

(2) Describe in detail the specific purpose of treatment programs which are designed to keep the child at home which were considered and rejected and why rejected.

(3) Give the child's (12 and older) attitude towards placement and indicate if LICWAC or the Indian consultants agree. If the child does not wish to return home, the child will not be forced to do so.

g. In describing the likely harm to the Indian child as a result of removal, the servce worker shall assess the dynamics of the particular placement involved (i.e., extended family home, other Indian family home, non-Indian home, etc.).

h. In describing the steps to be taken to minimize harm to the child because of separation, the service worker shall include a summary of the extended family-tribal dynamics that will be supportive of the situation.

i. In relation to the efforts expected of the parents, the service worker shall provide a succinct statement of the cultural relevancy of the expected effort.

4. Six Month Review Report to Court

a. When American Indian children are involved, the service worker shall use urban Indian organizations/tribal social services, if provided, and LICWAC or Indian consultant recommendations when developing a service plan. If committee or Indian consultant recommendations and the service worker's plan conflict, the parties shall utilize the pre-existing DSHS internal grievance procedure.

b. The service worker shall provide descriptive testimony about his/her case planning and service delivery that is relevant to Indian culture when LICWAC or Indian consultant recommendations are not used.

c. The above subsections (23.38 D. 4. a. and b.) are to be used in addition to the standard requirement for a six-month report as outlined in 23.37 G.

E. Termination of Parental Rights

1. Involuntary Termination

a. Staff each case with LICWAC or Indian consultants prior to filing with the court.

b. Within five (5) working days of filing an involuntary termination of parental rights petition for an American Indian child, the service worker shall do the following:

(1) Prepare completely and send by certified mail DSHS 9-534, Letter to Parent and/or Indian Custodian, and 9-535, Letter to Tribe - Notification. Provide DSHS 9-541, Notice to Indian Tribe, Band or Nation, and DSHS 9-542, Notice of Intervention and Request for Continuance, to the court for completion.

(2) If the whereabouts of either the parent or the tribe are unknown, prepare and send DSHS 9-536, Letter to Bureau of Indian Affairs, and provide DSHS 9-545, Notice to Secretary of the U.S. Department of Interior Regarding an Indian Child, to the court for completion and mailing.

2. Voluntary Termination

Prior to accepting a voluntary termination from an American Indian parent(s) or custodian, the service worker shall follow these procedures:

a. The service worker shall refer any voluntary termination to tribal court if the parent and child are reservation residents, and the tribe that the child is a member of, or eligible to be a member of, exercises exclusive tribal jurisdiction over Indian child welfare matters (i.e., the tribal court exercises total control over child welfare matters within the exterior boundaries of the reservation). Neither the state nor the federal governments can preempt or take away tribal authority to enter orders in child welfare matters arising within the tribal court jurisdiction. The voluntary termination petition should only be filed in Superior Court if the tribal court gives permission.

b. In all voluntary termination cases concerning Indian children, the service worker and a LICWAC representative or Indian consultant shall discuss notification of the tribe with the parent. The discussion with the parents should include the following points:

(1) The advantage of voluntary termination in tribal court,

(2) The advantage of voluntary termination in state court,

(3) The future implications of voluntary termination in state or tribal court.

c. When an Indian parent still wishes to relinquish to the state after active efforts have been made to explain the benefits of a voluntary termination in tribal court, service worker shall coordinate with court staff to complete the DSHS 9-546, Certificate of Presiding Judge, and record the voluntary termination in court.

d. If the parent agrees that notification to the tribe of the voluntary termination is acceptable, the service worker shall prepare appropriate forms as outlined in 23.38 C.

e. When an Indian parent/custodian who is the resident of a reservation where there is concurrent state/tribal jurisdiction (i.e., the state courts and tribal court both exercise jurisdiction over child welfare matters within the exterior boundaries of the Indian reservation) or is an urban (off reservation) resident desires the voluntary termination to remain confidential (no LICWAC staffing or notice to tribe), the service worker shall:

(1) Immediately notify and involve Indian consultants;

(2) Coordinate with court staff to prepare the DSHS 9-546, Certificate of Presiding Judge;

(3) See that the voluntary termination is recorded before the judge in court.

Where confidentiality is requested and the parent is not a member of a tribe that exercises exclusive jurisdiction over Indian child welfare matters, no notice will be sent to the tribe of a voluntary relinquishment.

f. Service workers shall not accept a voluntary termination of an Indian child until at least ten (10) days after the child's birth.

F. Guardianship

1. When considering the establishment of guardianship for American Indian children, staff shall consult with the LICWAC or Indian consultants and utilize extended family/tribal resources.

2. Any of the following may be designated as guardians of Indian/Alaskan Native children:

a. Any Indian tribe, federally or non-federally recognized.

b. An Alaskan Native corporation established under the Alaskan Native Claims Settlement Act (see Chapter 03).

c. Appropriate nonprofit Indian/Alaskan native Social Service Corporation (for example, Seattle Indian Center).

G. Consent to Place

American Indian parent/custodian consent to place a child shall be done as follows:

1. Staff shall follow voluntary termination procedures (23.38 E.2.) in accepting consent to place from American Indian parents/custodians.

2. The service worker shall coordinate with LICWAC or Indian consultants (and tribal social service staff, when available) in the development of culturally relevant case services.

3. The service worker shall reach mutual agreement with the parent/custodian and child (12 and older) regarding the appropriateness of the service plan. This plan will be time limited and include description/justification.

4. The child shall be placed in a setting that must meet the child's cultural needs and identification. Consultation with LICWAC or Indian consultants shall be made prior to placements.

23.39 Privacy and Security of Records

A. Any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship, the juvenile, his/her parents or attorney may upon request inquire to the department as to the existence and content of custody or care records. The inquiries shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, location of the contact and the purpose of the request.

B. The department will make a written response to the inquiry within 10 calendar days after receipt. The department will give priority to expedite processing inquiries which involve litigation. The department will provide to the juvenile, his/her parent(s), or attorney making the inquiry information regarding the location, nature, and content of the records in the department's possession except:

1. If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his/her parents, the agency may withhold the information subject to the order of the court: Provided that if the court determines that limited release of the information is appropriate the court may specify terms and conditions for release of the information; or

2. If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has the legal right to receive these services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

C. See Chapter 01 for additional policy on confidentiality of information.

23.80 REQUIRED FORMS AND INSTRUCTIONS

A. The following specific forms used for voluntary termination of parental rights are located in Chapter 99, Forms.

1. DSHS 9-466 Order of Service and Publication (12/79)
2. DSHS 9-467 Notice of Hearing re Petition and Intent (12/79)
3. DSHS 9-468 Publication Notice (12/79)
4. DSHS 9-469 Affidavit of Personal Service (12/79)
5. DSHS 9-470 Affidavit in Support of Service by Publication (5/80)
6. DSHS 9-471 Affidavit of Publication (12/79)
7. DSHS 9-473 Findings, Conclusions, and Order (3/80)
8. DSHS 9-474 Petition for Termination of Parent-Child Relationship (12/79)

9.	DSHS 9-476	Petition for Termination of Relationship: Parent-Unborn Child (12/79)
10.	DSHS 9-477	Consent to Termination (12/79)
11.	DSHS 9-478	Waiver of Right to Receive Notice and Appearance (12/79)
12.	DSHS 9-479	Authorization to Release Information (12/79)
13.	DSHS 9-480	Order of Service and Publication (12/79)
14.	DSHS 9-481	Notice of Petition and Intent to Release Custody or Consent to Adoption (12/79)
15.	DSHS 9-482	Motion and Order Appointing Guardian ad Litem for Minor Parent (4/80)
16.	DSHS 9-552	Voluntary Termination Information/Referral (12/80)

B. The following specific forms, instructions and guidelines used in cases involving Indian Child Welfare as referenced in 23.38 are included in Chapter 99, Forms.

1.	DSHS 9-534	Letter to Parent and/or Indian Custodian (12/80)
2.	DSHS 9-535	Letter to Tribe - Notification (12/80)
3.	DSHS 9-536	Letter to Bureau of Indian Affairs (12/80)
4.	DSHS 9-537	Letter to Canadian Indian Band (12/80)
5.	DSHS 9-538	Letter to Canadian Indian Parent (12/80)
6.	DSHS 9-539	Letter to Tribe - Enrollment Status (12/80)
7.	DSHS 9-540	Letter to Bureau of Indian Affairs - Tribal Affiliations (12/80)
8.	DSHS 9-541	Notice to Indian Tribe, Band or Nation (12/80)
9.	DSHS 9-542	Notice of Intervention and Request for Continuance (12/80)
10.	DSHS 9-543	Notice to Parent and/or Indian Custodian (12/80)
11.	DSHS 9-544	Request for Continuance (12/80)
12.	DSHS 9-545	Notice to Secretary of United States Department of Interior Regarding an Indian Child (12/80)
13.	DSHS 9-546	Certificate of Presiding Judge (12/80)
14.	DSHS 9-547	Motion to Transfer Jurisdiction to Indian Tribe (3/81)
15.	DSHS 9-547A	Order to Transfer Jurisdiction to Indian Tribe (3/81)
16.	DSHS 9-548	Motion for the Tribal Court to Accept Jurisdiction (3/81)
17.	DSHS 9-548A	Order for the Tribal Court to Accept Jurisdiction (3/81)

C. The following are required outlines for use in developing reports and petitions for court-related actions. Since courts may differ in their procedures, additional items required by the court may be added to these reports. This information is required in order to facilitate legal processes. They are included as follows at the end of this chapter:

1. Information for Dependency Petition (Outline #1)
2. Information for Alternative Residential Placement Petition (Outline #2)
3. Request for Termination/Guardianship Petition (Outline #3)

4. Report for Dependency Fact Finding Hearing (Outline #4)
5. Report for Dependency Disposition Hearing (Outline #5)
6. Report for Dependency Review Hearing (Outline #6)
7. Report for Alternative Residential Placement Disposition or Review Hearing Report (Outline #7)
8. Witness Summary List (Outline #8)

The DSHS 9-428(X), Dependency Petition (4/81), can be found in Chapter 99, Forms.

INFORMATION FOR DEPENDENCY PETITION (OUTLINE #1)

Instructions

This is an outline for a report to be submitted to the juvenile court for a dependency petition. This form only needs to be submitted in those counties where either the probation officer or the prosecutor drafts the petition. The information contained in the report may be used in the petition.

In other counties, use the DSHS 9-428, Dependency Petition, which is also in this Section 23.80.

At the minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added..

INFORMATION FOR DEPENDENCY PETITION

REQUIRED OUTLINE #1

NAME: _____ CASE NO.: _____
LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Type of Hearing - Dependency

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney's Name
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem's Name
   a. Name
   b. Phone

4. Parents' Names
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to dependency petition
4. Any other agencies involved prior to dependency petition

D. Dependency Status (if appropriate)

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date child removed from custody of parents
   c. Date dependency was established
   d. Date dispositional order was entered
   e. Dates of subsequent hearings after disposition

Information for Dependency Petition - Required Outline #1

E. Social Plan (if appropriate)

1. Social plan entered at time of dispositional hearing on dependency
2. Any modification of the plan by court order
3. Parental compliance/noncompliance with the court ordered social plan
4. Parental cooperation with service worker
5. Other social services offered or provided to the parents

F. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered

G. If contested by parent(s)/child, send along with this report to the AAG/Prosecuting Attorney the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

INFORMATION FOR ALTERNATIVE RESIDENTIAL PLACEMENT PETITION - REQUIRED OUTLINE #2

Instructions

This is an outline for a report to be submitted to the juvenile court for an alternative residential placement petition. The information contained in the report may be used in the petition.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

INFORMATION FOR ALTERNATIVE RESIDENTIAL PLACEMENT PETITION

REQUIRED OUTLINE #2

NAME: _____ CASE NO.: _____
LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Reason for Alternative Residential Placement Hearing

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents
   a. Name(s)
   b. Address(es)
   c. Age(s), if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to alternative residential placement petition
4. Any other agencies involved prior to alternative residential placement petition

D. Alternative Residential Placement Status (if appropriate)

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date placement was made

E. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers, distance between child's placement and parent's residence

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered (e.g., distance a factor)

F. Cultural Heritage - Indicate child's cultural background. If American Indian, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parent's status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

Information for Alternative Residential Placement Petition - Required Outline #2

G. If contested by parent(s)/child, send along with this report to the AAG/ Prosecuting Attorney the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REQUEST FOR TERMINATION/GUARDIANSHIP PETITION - REQUIRED OUTLINE #3

Instructions

This is an outline for a report to be submitted to the Assistant Attorney General/Prosecuting Attorney for a termination/guardianship petition. The information contained in the report may be used in the petition.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REQUEST FOR TERMINATION/GUARDIANSHIP PETITION

REQUIRED OUTLINE #3

NAME: _____ CASE NO.: _____
LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

A. Type of Hearing

B. Significant Persons

1. All service workers involved in the case
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents'
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. Social Background

1. Date agency became involved in the case
2. Presenting problem
3. Any social plan attempted prior to dependency petition
4. Any other agencies involved prior to dependency petition

D. Dependency Status

1. Petition - reasons for filing
   Including:
   a. Date petition filed
   b. Date child removed from custody of parents
   c. Date dependency was established
   d. Date dispositional order was entered
   e. Dates of subsequent hearings after disposition

E. Social Plan (if appropriate)

1. Social plan entered at time of dispositional hearing on dependency
2. Any modification of the plan by court order
3. Parental compliance/noncompliance with the court ordered social plan
4. Parental cooperation with service worker
5. Other social services offered or provided to the parents

F. Placement/Visitation Schedule (if appropriate)

1. Placements - list each placement separately including dates, names of foster parents or group home, addresses, phone numbers, distance between child's placement and parent's residence

2. Child's reaction to each placement and why he/she was moved

3. Parental Visitation
   a. Frequency
   b. Quality
   c. Any special problems encountered (e.g., distance a factor)

G. Cultural Heritage - Indicate child's cultural background. If American Indian child, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parents' status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

Request for Termination/Guardianship Petition - Required Outline #3

H. Why is termination or guardianship recommended at this time?

Include placement plan for the child (i.e., adoption, placement with relative or foster parent)

I. Along with this report to AAG/Prosecuting Attorney, include the following attachments:

1. Copy of all petitions
2. Copy of court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY FACT-FINDING HEARING - REQUIRED OUTLINE #4

Instructions

This is an outline for an agency report for a dependency fact-finding hearing. This report should be sent to the Assistant Attorney General or Prosecuting Attorney preparing the case.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REPORT FOR DEPENDENCY FACT-FINDING HEARING

REQUIRED OUTLINE #4

NAME: _____ CASE NO.: _____ LEGAL NO.: _____

AGE: _____ BIRTHDATE: _____

DATE AND TIME OF HEARING: _____

A. TYPE OF HEARING

1. Dependency Fact-Finding
2. Agreed or Contested

B. SIGNIFICANT PERSONS INVOLVED IN CASE

1. Service Worker
   a. Name
   b. Address
   c. Phone number
   d. Supervisor's name

2. Attorney
   a. Name (and for whom)
   b. Address
   c. Phone number

3. Guardian ad Litem
   a. Name
   b. Phone

4. Parents
   a. Names
   b. Addresses
   c. Ages, if known
   d. Marital status

C. REASON FOR HEARING

Give report as to child's current legal status, when petition was filed, summary of the petition and if a finding was made. State purpose of the present hearing and what you wish to accomplish, i.e., establishment of dependency.

D. RECOMMENDATIONS - include your recommendation on each item listed

1. Legal Status: i.e., establish dependency and assign supervision to the appropriate agency

2. Placement: Make recommendation on child's placement.

   a. Placement at home
   b. Out of home - foster or group care. State specific placement plan if possible.
   c. Custody - physical custody to the appropriate placing agency.
   d. Placement with relative.

3. Services to be provided by agency/parental responsibilities. These recommendations should be based on the information found in the Social Service Summary (Section E), and your recommendations on placement.

   a. If you are recommending return home following temporary shelter care:

      (1) List the services to be provided during the term of recommended social service plan after the child's return.
      (2) State clearly the actions the parents must take prior to the next review hearing.

   b. If you are recommending out-of-home placement:

      (1) List the specific services the parties will be offered in order to enable them to resume custody.
      (2) State clearly the activities/actions the parties must take in order to resume custody and list behavioral changes the parents must make.
      (3) Include parties' responsibility with regard to visitation.

E. SOCIAL SERVICE SUMMARY

Give brief history of the case, including the reason for the agency's initial involvement and the nature of any continuing involvement. Describe parents' attitude to agency involvement and progress or lack of progress if there has been a previous service plan. Include a report on adjustment to placement if child has been out of his/her home.

F. SOCIAL SERVICE PLAN

1. A statement of the specific harm to the child that intervention is designed to alleviate.

2. A description of the specific programs, for both the parents and the child, that are needed in order to prevent harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered.

3. If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; and the parents' attitude toward placement of the child.

4. A statement of the likely harm the child will suffer as a result of removal. This section should include an exploration of the nature of the parent/child attachment and the meaning of separation and loss to both the parents and the child.

5. A description of the steps that will be taken to minimize harm to the child that may result if separation occurs, i.e., state the visitation program to maintain contact between parents and child.

6. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

G. CULTURAL HERITAGE - Indicate child's cultural background. If American Indian, provide:

1. Child's status of membership in American Indian tribe or band.
   a. Enrolled _____ Not enrolled _____
   b. Tribal affiliation _____ Tribe notified _____
      (Contents of Notice)

2. Parents status of membership in American Indian tribe or band
   a. Father - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   b. Mother - enrolled _____ Not enrolled _____
      Tribal affiliation _____

   c. Foster care/adoptive parents
      DSHS 15-120(X), Verification of American Indian Status
      On file _____ Not on file _____

   d. LICWAC staffing
      Include copy of Committee recommendations and a brief description of Committee/worker differences in the service plan. If Committee recommendations were not used, state why.

      Add appropriate Committee members to the list of witnesses under Section I. 6. below.

H. DISTRIBUTION OF SOCIAL SUMMARIES, PETITIONS, AND COURT ORDERS

DSHS service worker distributes copies of all social summaries, petitions, and court orders as follows:

1. Guardian ad Litem - 1 copy
2. Parents' attorney - 1 copy
3. AAG/Prosecutor - 1 copy
4. DSHS service file - 1 copy

I. ALONG WITH COPY OF REPORT TO AAG/PROSECUTING ATTORNEY, INCLUDE THE FOLLOWING ATTACHMENTS:

1. Copy of all petitions
2. Copy of all court orders
3. Copy of psychiatric and/or psychological evaluations
4. Copy of medical and/or police reports
5. Copy of original CPS complaint
6. Copy of witness list

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY DISPOSITION HEARING - REQUIRED OUTLINE #5

Instructions

This is an outline for a disposition report on a dependency. This report is sent to the court and a copy attached to the agency report sent to the attorney.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

COMPLETION OF THIS REPORT MEETS THE REQUIREMENTS FOR DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) AS SPECIFIED IN CHAPTER 32 AND 34. REFER TO THESE CHAPTERS FOR ADDITIONAL INSTRUCTIONS FOR ONGOING RECORDING ON THE ISP.

REPORT FOR DEPENDENCY DISPOSITION HEARING

REQUIRED OUTLINE #5

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. TYPE OF HEARING - Dependency Disposition

B. SOCIAL SERVICE PLAN

1. A statement of the specific harm to the child that intervention is designed to alleviate.

2. Provide a description of:

   a. The specific services for both parents and the child that are needed to prevent harm to the child;

   b. The reasons why such services are likely to be useful;

   c. The availability of any proposed services; and

   d. The agency's overall plan for ensuring the services will be delivered.

3. Placement - Make recommendation on the child's placement:

   a. Place at home

   b. Out of home; specify type, i.e., foster home, group care

   c. Custody - physical custody to the appropriate placing agency

   d. Placement with relative

4. If removal is recommended, address each of the following points:

   a. The appropriateness of the placement, including reasons why the child cannot be protected adequately in the home, and a description of previous efforts to work with the parents and the child in the home;

   b. The in-home treatment programs which were considered and rejected;

   c. The parent's attitude toward placement of the child;

d. Verification that the placement is the least restrictive (most family like) alternative available and in the closest proximity to the parent(s) home consistent with the best interests and special needs of the child;

e. A statement of the likely harm the child will suffer as a result of removal. This section should include an exploration of the nature of the parent/child attachment and the meaning of separation and loss to both the parents and the child.

f. A description of the steps that will be taken to minimize harm to the child that may result if separation occurs, i.e., describe the visitation plan as discussed with the natural parents that will maintain contact between parents, siblings (if appropriate), and child. Include all parties' responsibilities with regard to visitation.

g. Identify the permanent plan goal and the services to be provided to facilitate the child's return home or to achieve another permanent placement, and include:

(1) The specific services the parties will be offered to enable them to resume custody when return home is the goal, and

(2) The specific services to be provided to support the child's needs and adjustment during out-of-home placement, including special education and related services, when appropriate, and

(3) The activities/actions/behavioral changes that the parent(s), child (as age appropriate) and foster parents (as appropriate) must do to implement the case plan, including time frames.

5. If you are recommending return home, address each of the following points:

a. List the services to be provided during the term of the recommended social service case plan after the child returns home.

b. State clearly the actions the parents must take prior to the next review hearing.

c. Describe behavior that will be expected before a determination that supervision of the family is no longer necessary.

6. Child's/parents' status of membership in American Indian tribe or band.

   a. Child tribal affiliation _____

   b. Parents' tribal affiliation - Father _____
      Mother _____

   c. Tribe notified - Yes _____ No _____. If yes, contents of notice

   d. (1) Child placed in American Indian home

      (2) Prospective home American Indian/non-Indian

      (3) DSHS 15-128(X), Verification of American Indian Status, on file _____ not on file _____

   e. LICWAC staffings and recommendations (describe Committee/worker differences in the service plan and explain why committee recommendations not followed, if they were not).

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR DEPENDENCY REVIEW HEARING - REQUIRED OUTLINE #6

Instructions

This is an outline for a report on a dependency review hearing. The report is to be sent to the court to advise them of the progress of a case.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

REPORT TO COURT FOR DEPENDENCY REVIEW HEARING

REQUIRED OUTLINE #6

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. TYPE OF HEARING

1. Dependency Review
2. State whether hearing will be agreed or contested

B. EXPECTED TO BE PRESENT IN COURT

List all persons attending and state relationship or agency representation.

On contested reviews, add witnesses and short summary of facts that witness can testify to. Also list attorney and Guardian ad Litem if known.

C. REASON FOR HEARING

1. State initial reason for dependency and date of dependency order, plus initial court recommendations from that hearing.

2. Last court order - requirements, findings, and date.

3. State purpose of present hearing and what you wish to accomplish, i.e., dismissal, continuation of dependency, etc.

D. RECOMMENDATIONS

1. Legal status - continue custody/dependency; dismiss dependency proceedings.

2. Placement - return home, remove from home, or continuation of placement.

3. Services to be provided by agency/parental responsibilities.

   a. If you are recommending that child return home from foster or group care:

      (1) Agency must supervise for at least six (6) months after child's return. List services to be provided.

      (2) Also list recommendations for any treatment plan (i.e., actions the parents must take, or continue during the next six (6) months and state the agency to provide it.

b. If you are recommending that a child be in a placement outside the family home, establish that one of the four reasons (per RCW 13.34.130 (1)(b)) exists:

(1) There is no parent or guardian available to care for such child; or
(2) The child is unwilling to reside in the custody of the child's parents, guardian, or legal custodian; or
(3) The parent or guardian or legal custodian is not willing to take custody of the child; or
(4) A manifest danger would exist that the child will suffer serious abuse or neglect if the child is not removed from the home.

c. For an American Indian child recommended for out-of-home placement, provide the court:

(1) Child's tribal affiliation
(2) Parents' tribal affiliation
(3) Tribe notified? If yes, contents of notice.
(4) Whether child is currently placed in an American Indian home.
(5) Whether prospective home is American Indian or non-Indian. If American Indian, indicate whether DSHS 15-128(X), Verification of American Indian Status, is or is not on file.
(6) LICWAC staffings and recommendations. (Describe any Committee/worker differences over the service plan and explain why committee recommendations were not followed.)

E. SOCIAL SERVICE CASE PLAN SUMMARY:

1. Briefly state child's current situation. Give pertinent facts on progress or lack of progress in problem areas. Relate when appropriate to previous case plan. Include a report on adjustment to placement if child has been out of his/her home, and services offered to support the child in placement.

2. If child is not to be returned home, the following points must be addressed per RCW 13.34.130 (3 b). Identify:

a. What services have been provided or offered to the parties to facilitate reunion.

b. The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent. Describe any changes made in the visitation agreement as presented in the case plan in the previous court report.

c. Or update the permanent plan goal and services being provided to achieve it.

d. Any changes or additions to the case plan as presented in the previous court report.

e. Whether the agency is satisfied with the cooperation given to it by the parents.

f. Whether additional services are needed to facilitate the return of the child to the child's parents.

g. When return of the child can be expected.

3. When needed, include a statement on the need for a petition to seek termination.

On contested reviews, add parental names, addresses, and marital status.

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

REPORT FOR ALTERNATIVE RESIDENTIAL PLACEMENT DISPOSITION OR REVIEW HEARING REPORT - REQUIRED OUTLINE #7

Instructions

This is an outline of a report to be sent to the court as a dispositional plan for an Alternative Residential Placement after the fact-finding hearing. This report should also be used at the time of a review on the ARP placement.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

COMPLETION OF THIS REPORT MEETS THE REQUIREMENTS FOR DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) AS SPECIFIED IN CHAPTER 32 AND 34. REFER TO THESE CHAPTERS FOR ADDITIONAL INSTRUCTIONS FOR ONGOING RECORDING ON THE ISP.

REPORT FOR ALTERNATIVE RESIDENTIAL PLACEMENT DISPOSITION OR REVIEW HEARING REPORT

REQUIRED OUTLINE #7

NAME: _____ CASE NO.: _____

AGE: _____ LEGAL NO.: _____

DATE AND TIME OF HEARING: _____ BIRTHDATE: _____

A. Type of Hearing (dispositional plan or review)

B. Social Service Case Plan and Recommendations

1. Make recommendation on the type of out-of-home placement, i.e., home of relative, foster home, group care, crisis residential care.

2. Make recommendations on:

   a. Physical custody to the appropriate agency or person.

   b. Which parental powers should be awarded to which agency or person, i.e., power to consent to optical/medical/dental/psychiatric treatment; authorization for child to travel outside the state, and any unusual situations of which the court should be aware.

   c. Which services should be provided to resolve the family conflict and facilitate the child's return home.

   d. The visitation plan as discussed with the natural parent(s) that will maintain contact between the parent(s) siblings (if appropriate), and child. Include each party's responsibility with regard to visitation.

3. Address each of the following points in relation to the out-of-home placement:

   a. The appropriateness of the placement, including reasons for the placement, and a description of previous efforts to work with and/or provide reconciliation services to the parents and the child to resolve the conflict and reunite the family.

   b. Verification that the placement is the least restrictive (most family like) alternative available and in the closest proximity to the parent(s) home consistent with the best interests and special needs of the child.

   c. The parent's attitude toward placement of the child.

d. The specific services to be provided to support the child's needs and adjustment during out-of-home placement, including special education and related services, when appropriate.

e. The activities/actions/behavioral changes that the parent(s), child (as age appropriate) and foster parents (as appropriate) must do to implement the case plan, including time frames.

f. If the placement extends to 90 days, identify the permanent plan goal and the services to be provided to facilitate the permanent plan. If the goal remains return home, the services should be addressed in 2.c. above.

4. Cultural Heritage - Indicate child's cultural background. If American Indian child, provide:

a. Child's tribal affiliation _____

b. Parents' tribal affiliation - Father _____ Mother _____

c. Tribe notified? Yes _____ No _____ If yes, contents of notice.

d. (1) Whether child is currently placed in American Indian home.
(2) Whether prospective home is American Indian or non-Indian. DSHS 15-128(X), Verification of American Indian Status (on file _____ not on file _____)

e. LICWAC staffings and recommendations (describe any Committee/worker differences in the service plan and explain if Committee recommendations were not followed.

Submitted by: _____
Service Worker

_____
CSO

_____
Phone Number

_____
Supervisor

WITNESS SUMMARY LIST - REQUIRED OUTLINE #8

Instructions

The witness summary list is a worksheet for the service worker to provide information to the Assistant Attorney General or Prosecuting Attorney. This list is to be used for all court proceedings where witnesses are necessary. A separate sheet is filled out on each witness and sent to the Attorney.

At a minimum, information required by each heading must be addressed in the report. Additional items needed by the court or for other purposes may also be added.

CHAPTER 23 -- PERMANENCY PLANNING: CASE PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

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23.00 INTRODUCTION

23.01 Purpose and Scope

The division meets legal requirements for permanency planning, case planning and case review to children and families according to several different methods. This chapter contains policy and procedure governing permanency planning, the writing of case plans and court reports. Additionally, this chapter describes juvenile court, administrative case review, and citizen case review.

23.02 Authority

Public Law 96-272 of 1980, Child Welfare and Adoption Assistance Act

Public law 96-272 provides funds to states for services to children if the state maintains compliance with several requirements for permanency planning, case plans and case review procedures. These procedures are designed to ensure that each child will have a safe, permanent home as quickly as possible. PL 96-272 requires that:

- States maintain a state-wide information system, that can track all children in out-of-home care.
- Detailed case plans (Individual Service Plans) be completed no later than 60 days of a placement episode, at six months and every six months thereafter for all children in out-of-home care.
- Detailed case reviews ("periodic reviews") occur for each child in out-of-home care every six months.
- Court hearings that make a determination regarding the permanent plan for the child occur by the 18th month that the child is out-of-home and periodically thereafter (every 12 months in Washington State).
- Revised Code of Washington (RCW)

  Washington State law mandates development of case plans and requires case review.

  Chapter 13.34.120(1) and 13.34.120(2)

  Chapter 13.34.130(2) and 13.34.130(2)(a)

The statute requires that:

- The agency having temporary custody of the child shall "provide the court with a specific plan" that specifies "where the child will be placed," what steps will be taken to return the child home and actions taken to maintain parent-child ties." The agency must also specify services to be offered to assist parents to resume custody.

23.03 Definitions

- Substitute care: Placement of a child outside of the home of the child's natural parent, legal guardian or legally established adoptive parent related to the provision of child welfare services in accordance with 74.13 RCW.

- Placement Episode means the period of time that begins with the date the child was removed from the home of the parent or legal custodian for the purposes of placement in substitute care and continues until the child returns home or an adoption decree or guardianship order is entered.

- Dependency: Established when a person under the age of 18 is found by the court to be:

  1. Abandoned,

  2. Abused or neglected, such that the child is in serious danger of harm.

  3. Without a parent, guardian, or legal custodian willing and capable of adequately caring for the child such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development, or

  4. Developmentally disabled and the child's parent, guardian, or legal custodian with DSHS/DCFS has determined that services appropriate to the child's needs cannot be provided in the home.

- Alternative Residential Placement (ARP): Placement begins when a petition filed by a child or his/her parent is approved by the court for alternative residential placement. The hearing on the petition will be on the question of the child's placement. The court will approve the placement in which the child resides, when either the parent or child wishes the child to reside or in a much more secure facility as deemed necessary.

- Individual Service Plan (ISP): the Individual Service Plan is completed for each child in care by the 30th day of the initial placement episode, by sixth month from the date of placement, and every six months thereafter. The ISP provides information regarding the entire case plan for a child and his/her family. It enables the reviewing body to make informed conclusions and recommendations regarding the child's future status, and reviews the progress already made towards achieving a permanent plan for the child. The ISP provides information to the juvenile court and documents the requirements of Public Law 96-272 for a written case plan. It also provides a written report for Administrative reviews, case conferences, LICWAC (Local Indian Child Welfare Advisory Committee) reviews, Child Protective team reviews, and is used to obtain approval for group care placement.

- Periodic Review: A review of a child's case plan held every six months when the child is in out-of-home substitute care that meets federal and state law for periodic review.

- Dispositional Hearing:

  a. Federal Definition: A hearing held by the juvenile court by 18 months of placement that makes a determination regarding the future status (permanent plan) of the child.

  b. State Definition: A hearing held by the juvenile court following a fact finding hearing that determines the immediate placement and case plan for the child.

- Shelter Care Hearing: A brief hearing held by the juvenile court after the filing of a dependency petition but before a child has been found dependent that allows the court to examine the need for shelter care.

- Dependency Petition: A written statement which contains factual allegations, requests that the court take specific action, and recites the legal basis for such action.

- Dependency Review: A hearing designed to examine what has happened in the case since the last court hearing. At a minimum, dependency cases must be reviewed every six months. The hearing allows all parties to present recommendations regarding the future course of the case. The court will examine the extent of the parties compliance with the dispositional plan and, if necessary, the dispositional plan may be modified by the court.

- ARP Review: A hearing designed to examine what has happened in the case since the alternative residential placement petition was approved. ARP reviews are held at three months of placement. Out-of-home placement may not be continued past 180 days from the day the review hearing commenced, and the court must order that the child be returned to the home of the parent at the expiration of the placement.

- Termination of Parental Rights: Permanent severance of the legal relationship between a parent and child. All rights, powers, privileges, immunities, duties, and obligations, including rights to custody, control, visitation, and support are extinguished. Any support obligation existing prior to the effective date of the termination order is not affected by the termination. The rights of one parent may be terminated without affecting the rights of the other.

- Dependency Guardianship: A procedure available through juvenile court whereby someone other than the child's parent is designated by the court to care for a dependent child and exercise, in most respects, the rights and responsibilities of a parent. A guardianship is a means of providing the child with stability and permanence in his/her placement while removing the need for the active agency supervision and six month court reviews otherwise required when a child has been found dependent. Although the parental rights of the child's natural parent are not permanently terminated as the result of a guardianship, such rights are severely limited.

- Adoption: Adoption is a legal and social process provided for by law, to establish the legal relationship of child and parent when they are not so related by birth. Adoption services provide opportunities for children to achieve permanent, nurturing families.

- Termination of Publication Hearing: If the court orders publication of notice, the court will set a date to return to court to verify whether anyone responded to the notice. The date is routinely referred to as the "TOP" date.

  Publication must occur on three successive weeks. The first publication must occur at least 25 days before the termination of publication date. Because the process of receiving verification back from the newspaper requires extra time, the entire process takes approximately seven weeks. For that reason, TOP is usually set for 60 days after the date that publication is ordered.

  The termination of publication day may be set before, after, or at the same time as the Fact-Finding date, but the court may not enter an order regarding the individual to whom publication has been ordered until the termination of publication occurs.

- Default: When a person fails to answer a petition within the time allowed or fails to appear in court at the required time, an order may then be entered finding the person to be in default and granting the relief requested by the opposing party.

- Continuance: Postponing a hearing. The court will set the matter for a later date.

23.10 POLICY - PERMANENCY PLANNING

- All children, regardless of age, ethnicity, or disability, are entitled to a permanent home.

- The Case Permanency Plan means the plan mandated by Public Law 96-272. This plan shall ensure that no child is placed in foster care who can effectively be protected in the child's own home; and that when removal is necessary, reunification be attempted before any other permanent plan is sought.

- The permanency plan shall begin when the department begins working with the child's family and shall outline specific goals that will ensure that the child is placed and maintained in a permanent family situation as quickly as possible. If it is necessary to place a child temporarily, the case permanency plan shall be founded on a family assessment and include a statement of how the child's special needs will be met in the least restrictive, most family-like setting available that is in the closest possible proximity to the child's family.

THE ONLY ACCEPTABLE PERMANENT PLACEMENTS PLANS ARE:

1. Maintaining a child at home.

2. Relative placement with written permanency agreement.

3. Relative guardianship.

4. Adoption.

5. Foster parent guardianship.

6. Family Foster care with written permanency agreement.

23.11 Purpose of Service and Statement of Philosophy - Out-of-Home Care

The purpose of out-of-home care services is to provide children a temporary, protective, nurturing home when a child's family is unable to provide basic protection care and nurture for a child. Preventative service alternatives are offered in order to help maintain the family unit prior to any consideration of out-of-home placement. When placement is necessary, reunification services are immediately initiate to expedite the child's return home before any other permanent plan of care is considered. Out-of-home care is viewed as a short-term service solution to an emergent situation.

Permanency planning begins at the time DCFS begins working with a child and the child's family, and continues throughout the service period until permanency is achieved. Permanency planning and follow-through are essential to reducing/eliminating the negative effects that separation from family has on every child.

The underlying goal is to provide each child with a permanent family, capable of providing protection, care, and nurture as expeditiously as possible.

The philosophy of substitute out-of-home care services is:

- Children have a right to a stable, permanent home as quickly as possible.
- Children have a right to be raised by their birth parents when their parents are able to do so in a minimally adequate manner.
- Children who come to the attention of the child welfare system generally have parents who care about them, want what is best for them, and who with help, can assume responsibility and provide adequate care for their children.
- Immediately available intensive service(s) can assist most parents in improving their capacity to carry out and resume their responsibilities as parents.
- Children have a right to a stable, permanent home by means of adoption, or other plan for permanency, when their parents are unable or unwilling to improve their ability to function as adequate parents within 18 months of the beginning of the placement.

23.12 Service Description

A. Out-of-home care is a temporary substitute for the child whose family is unable to minimally provide for the child's care. This could include relative care, foster care, group care or institutional or hospital care. The most common reason for placement is that the child would be at risk of serious abuse or neglect if left at home as determined by DCFS risk assessment protocol. A child might also be placed temporarily due to extreme conflict with his/her parents. In a few cases placement may be due solely to the child's own physical and/or psychological problems. Except in rare instances, out-of-home care is neither a goal nor a plan for permanence for the child.

B. Out-of-home care service includes:

1. A full assessment of the individual child and family situation.

2. Counseling and preventive services to the child, parent(s)/guardian(s), relative(s) to reinforce and maintain the family unit whenever possible.

3. Placement and supervision of children who cannot remain in their own family homes after all reasonable efforts have been made to provide services to maintain the family unit.

4. Specialized placements for children with special needs.

5. Post-placement counseling and reunification services to the child, parent(s)/guardian(s), relative(s) to return the child home or to place child in an alternate permanent family situation.

6. Medical, psychological/psychiatric, and other specialized services as needed.

23.13 General Policies

A. Foster Care Teams

1. Parent Involvement

Whenever possible, the child's parents will be involved in the decision to place their child prior to removing the child from his/her home.

Parents will actively participate in the development of an individual service plan (ISP) to ensure expedient remediation of risk factors to facilitate the child's timely return home. Social workers are encouraged to develop the ISP in a family in-person conference, as workloads permit. All parents whose location are known must be provided with a copy of the ISP.

2. Social Worker Role

Social Workers have primary responsibility to coordinate the case planning efforts of all persons working on behalf of the child. This includes developing goals with the biological parents that will strengthen the family, and provide the means of achieving these goals. The foster care provider/agency will be given information and resources to assist with the stability of the placement and to meet the needs of the child. The Social Worker will work with the placement family/agency and with the other professionals involved in the case to support the permanent plan for the child.

3. Foster Care Provider Role

Foster care providers are responsible for the protection, care and nurture of the child in placement. Foster care providers may, if appropriate and agreed to by provider, participate in the development of the service plan for the child and his/her family; assist in family visitation, including monitoring; and model effective parenting behavior for the natural family.

4. Indian Tribes/Bands

Indian tribes/bands have a substantial legal and social interest in those children who are members/eligible for membership in the tribe/band. In cases involving Indian children the child's tribe/band is a primary resource for identifying appropriate placement options and for service plan development/implementation. (See DSHS Indian Child Welfare Manual for specific instructions.)

5. Other Professionals

Professional members of the medical, educational, tribal psychological, and legal community work in accordance with the individual service plan (ISP) to provide services which support the child and his/her family moving toward permanency. These professionals share their recommendation with the social worker through written reports or network staffings.

6. Child

Many children who enter the foster care system are willing and able to participate in the individual service plan by sharing their needs and feelings. Although not in a decision-making position, their input needs to be heard, acknowledged, and responded to by DCFS. Adolescent children <u>particularly</u> should be involved in planning.

B. Preventive/Reunification Services

Prior to a child being placed out of home, a full assessment of the individual child and family is required, and it must be clearly ascertained that the child's needs cannot be met through available services provided in his/her own home or relative's home. Reasonable efforts must be made to prevent placement and to make it possible for the child to return to his/her own home. (See 23.20 for Reasonable Efforts Policy to Placement.)

C. Parent Involvement

Whenever possible, the child's parent(s)/guardian(s) will be involved in the decision to place, or not to place, their child, prior to removing the child from his/her home.

D. Minimum Possible Number of Placements

In order to provide stability to the child in out-of-home care, the placement selection will be made with a view toward the fewest possible placements for each child. If possible, the initial placement should be viewed as potentially the only placement for the child. The use of short-term interim placements (30 days maximum) to protect a child's health or safety while the placement of choice is being arranged is not a violation of this principle.

E. Preservation of Family Relationships

Efforts shall be made to place the child in close proximity to the parent(s)/guardian(s) home and the child's current school consistent with the best interests and special needs of the child. Placement selection will attempt to preserve the family relationships of the child. Frequency of visitation of the child in foster care by the parent(s) is directly related to the length of stay in foster care. Generally, the more frequent the visitation, the more likely the child will return home.

F. Long-Range Plan

The ultimate or long-range plan for the child (return home, adoption, placement with relative, guardianship, or in limited situations, long-term foster care) will be the primary consideration in the type and location of both initial and subsequent placements. Any temporary placement should be chosen with a view toward preparing the child for the long-range placement plan. (See Section 23.14 for permanency planning priorities.)

G. Relative Placement

RCW 13.34.130(b) states that unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child would be hindered, children will be placed with relatives.

1. The definition of relatives includes: grandparents, brothers, sisters, stepbrothers, stepsisters uncles, aunts or first cousins with whom the child has a relationship and is comfortable. The relative needs to be willing and available to care for the child.

2. Efforts shall be made whenever possible and appropriate to place the child with a relative when the child cannot return to his/her natural family. This should include thorough relative searches early in the DCFS involvement in the family, and periodically throughout the child's placement in out-of-home care.

3. A criminal background check should be done on all relatives being considered as a placement option for the child. (Refer to Chapter 6.)

4. When a child is placed temporarily with a relative in lieu of foster care, casework services should be provided the same as for all out-of-home care. (See Chapter 32.33.) Relative placements must meet all case planning and case review requirements described in this chapter.

H. Permanent Family at Earliest Possible Date

Time is a critical factor in the temporary placement of children. The long-range placement plan is to be achieved at the earliest possible date. If the plan is to return the child home, selection of placement resources shall facilitate and support return home within weeks, if possible. (See Section 23.14 for permanency planning priorities.)

I. Child's Previous Placement History

Careful attention is to be given to the child's previous placement history when selecting a temporary or permanent home for a child. Prior placement history may indicate a need for prompt action to achieve permanency, a need for more or less structure, an inability to relate to parental figures, or other factors which should be considered in placement selection.

J. Needs of the Child and Placement Resources

Efforts shall be made to place the child in the least restrictive (most family-like) setting available consistent with the best interests and special needs of the child. Placement selection must consider the needs of a child for specialized services and the accessibility of those services. For example, a child in need of special education services should not be placed where such services are not available. Similarly, the child in need of specialized medical treatment or services is to be placed where such services are available and reasonably accessible to the child.

K. Case Plans (ISP)

For each child in out-of-home care, there must be a case plan which is time-limited, goal-oriented, and routinely involves the child, parent(s)/guardian(s), and foster parent(s). The case plan is also intended to serve as a written agreement between the agency, the parent(s), child, and foster parent(s). (See ISP procedures, Chapter 23.99.) This case plan also includes a Health and Education Record which is updated with all ISP's and also at the point of any change of placement.

L. Court Involvement

Foster care required beyond six months must be authorized by a court order, or through an Exception to Policy utilizing an Alternative Administrative Review or Citizens Review as appropriate. (See Chapter 23.42 & 43 for Alternative Administrative Review and Citizens Review procedures.)

23.14 Service Priorities

A. Mandatory Services

1. Providing assessment and counseling to child, parent(s), guardian(s), relative(s) to develop a plan for meeting child's needs without placement if possible.

2. Providing/arranging counseling/preventive services to child, parent(s)/guardian(s), relative(s) to prevent placement.

3. Evaluating need for out-of-home placement.

4. Arranging for placement of children into homes of relatives, receiving homes, and family foster homes when out-of-home care cannot be prevented.

5. Determining source of funding for foster care maintenance payments and medical services.

6. Providing/arranging counseling/reunification services to child, parent(s)/guardian(s), relative(s) to return child home or to place child in an alternate permanent care situation.

7. Providing consultative and support services to foster parents to assist with maintaining the foster placement, to prevent a more restrictive placement of the foster child, and to achieve the Individual Service Place (ISP) for permanency.

8. Monitoring of placement to ensure quality of care.

23.20 REASONABLE EFFORTS TO PREVENT PLACEMENT AND RETURN CHILDREN HOME

Legal Basis

- Federal Law 96-272, 42 U.S.C. sec 671(1)(15) 42 U.S.C. sec 672(a)(1).
- Federal Regulations, Title 45, Part 1356.51.
- Chapter 13:34 Revised Code of Washington.

Purpose and Scope of Policy

Federal and state law require that children only be removed from their own homes when reasonable efforts to keep them safely at home are not possible. This body of law recognizes that children may be emotionally harmed if separated from their parents and that parental custody should only be interfered with by the state when no other alternative is reasonably available to protect the child at home. Following placement, these laws recognize that the state child welfare agency should facilitate planning to make it possible to eliminate the need for placement. Reasonable efforts need to be made by the child placing agency responsible for the child. It has an obligation to make reasonable efforts to prevent the need for out of home care. If placement is necessary the agency is responsible for providing reasonable efforts to return the child home as soon as possible.

Child safety and emergency removal may preclude attempts at reasonable efforts. Federal regulations allow the juvenile court to determine that it is reasonable not to make reasonable efforts in those circumstances. DCFS should carefully document what caused the emergency such that reasonable efforts could not be made.

"Reasonable efforts" do not mean that a laundry-list of all services in the community be offered to a family. Services should be carefully chosen to be responsive to a particular family's needs. Offering a "shotgun" list of services without careful planning may be as ineffective as offering no services at all. When available, services should be offered in the family's own home at times appropriate to the family's schedule and needs.

The Scope of Reasonable Efforts to Prevent Placement Includes:

- A comprehensive assessment of the entire family situation,
- A Risk Assessment based on current agency protocol,
- A determination of what services would be appropriate for the family,
- Consideration and involvement of parental opinion in determining what services should be pursued,
- Consideration of cultural issues, including availability of planning and services offered in the native language and culture of the family,
- Consideration of the distance of the family from services and transportation available to the family,
- Consideration of financial ability to pay for services (both DCFS and family),
- Development of specific timelines for demonstration of parental change,
- Development of parental-agency contracts and/or written case plan with parents,
- Decisions on use of court action to mandate services to prevent the placement of the child,
- Regular review of parent-agency contracts and case plans by social workers, supervisors and (if court-ordered), the juvenile court.

The Scope of Reasonable Efforts to Return a Child Home Includes:

Following placement of the child into substitute care, the Social Worker must offer reunification services to the family in an attempt to eliminate the need for placement.

Reasonable effort to reunify a family should take the following factors into account:

- Visitation between parent and child should be as frequent as possible if visitation is not harmful to the child or prohibited by court order,
- Services offered should be geographically accessible to the family,
- Services offered should be responsive to the family's cultural background and native language,
- Placement of the child should be the closest to the family home that meets the needs of the child,

- Parental opinion should be considered in the development of all case plans,
- Clear timeframes should be placed on the completion of services,
- Case plans should be monitored and reviewed regularly by courts, citizen review boards and administrative review boards as required by state and federal law.
- Efforts made to offer/provide services, and outcomes of services should be carefully described in updated case plans.
- Families should be reassessed at least every six months to evaluate the continuing risk to the child if the child were returned home.

Outcomes of Unsuccessful Reasonable Efforts

The DCFS social worker should carefully weigh the potential harm to a child of continuing seemingly unsuccessful efforts to return the child home. Even six months in out-of-home care is a long time in the life of a child. Eighteen months is a very long time for a child to be without a permanent family. The social worker should modify the permanent plan to seek another permanent outcome when reasonable efforts have been unsuccessful. Often this is apparent by six months following dependency. In very few circumstances should workers continue with a goal of return to the home following 18 months of placement.

Long-term out-of-home care without permanency is usually harmful to children. Reasonable efforts requirements do not preclude that social workers must sometimes make recommendations to the court that the parent(s) do not appear capable of change within the time-frames required by a developing child.

23.30 CASE PLANNING REQUIREMENTS

23.31 Types and Uses of Case Plans and Court Reports

Types

- Individual Service Plan Summary Assessment Form (DSHS 15-209(X)) for Children in Placement which must include the Health and Education Record (DSHS 15-209A).

The ISP is the complete case plan for all children in out-of-home care. Its primary purpose is providing goal-orientated, time-limited case planning for each child and his/her family so that he/she obtains and is maintained in a safe permanent home as soon as possible.

The ISP serves as a blueprint for what DCFS expects to happen in a case. It outlines how the child will be cared for in substitute care and what DCFS expects of the agency, parents and child. It also maintains an ongoing record the child's health and education needs.

Uses and Time Frames Required for Completion of the Individual Service Plan and Health and Education Record

When a child is in out-of-home care the social worker completes or updates the ISP at or before:

- By the 30th day of the placement episode of a child, at six months, and periodically thereafter at six month intervals.
- Six months following the completion of the preceding ISP.
- If the ISP is completed earlier than required the next ISP is due no later than six months from the last one completed.
- The Health and Education form, which is to be attached to the ISP and kept in the legal section of the case record will be updated at the time of any ISP update. In addition it will be updated at the point of any placement change. A copy of the form is always provided to the caregiver at the time of placement, and the time of update.

Social workers also use the ISP as the report to the court in most regions. It is used as the primary source of information for many staffings and case reviews.

The social worker submits the ISP in the following situation:

- For all court permanency planning and review hearings,
- To obtain approval to place a child in group care,
- For administrative reviews,
- For citizen reviews,
- For LICWAC staffings.

23.32 Policy Governing Case Plans for Children in Out-of Home Care

The DCFS social worker, private agency or tribe having physical custody of a child shall complete the DSHS 15-209, Individual Service Plan, for all children in out-of-home care who are in the temporary or permanent legal custody of DCFS. Individual Service Plans should be developed after a comprehensive family assessment has been completed by the DCFS social worker. Families have a right to know what the comprehensive case plan is for their child and family. Failure to establish ISPs in a timely manner may contribute to parental resistance to involvement in services needed to return a child home.

Consultation on the ISP

The social worker develops the ISP after consulting with the parents of the child. This consultation with the parents will be conducted in person if possible.

Individual Service Plans should clearly describe what is necessary to be accomplished before the permanency plan is completed. Whenever possible, all activities planned for parents, children foster parents and DCFS shall be described as specifically as possible. For example: "Mother will start out-patient drug treatment at Community Drug Service Agency by October 1, 1989 and will complete treatment by January 30, 1990." "DCFS will complete a home study on Jane Doe by December 30, 1989." "Child will attend tutoring session at Lincoln School four times by December 1989."

23.40 CASE REVIEW REQUIREMENTS FOR CHILDREN IN OUT-OF-HOME CARE

23.41 Type of Case Review, Periodic Review - Federal Law

Federal law requires that each child in substitute care have a full case review at least every six months from the beginning date of the placement episode. This may be accomplished in a court review hearing or through a citizen or administrative review.

State Law - Court Review

State law requires that the case of every dependent be reviewed by the juvenile court every six months from the date of the establishment of dependency or the date of the placement of the child, whichever comes first. Children who are in placement as a result of an ARP dispositional hearing must be reviewed by the court three months after an ARP dispositional hearing.

Social workers usually meet federal requirements for periodic (six-month) review of children in substitute care through one of the following:

- Court review hearings,
- Administrative reviews.

Other types of court hearings or internal staffings may sometimes meet federal requirements for periodic review if:

- Parent(s) of the child have been invited to the review or staffing, and
- One person on the reviewing body is not directly responsible for developing and implementing the case plan.
- The review addresses the content of the periodic review

Content of Periodic Reviews

Periodic reviews cover the entire case plan for the child. They should include a review of:

- The ISP,
- The appropriateness of the type of placement and the permanent plan,
- The reason(s) placement is necessary,
- Parental compliance with the case plan, and progress towards permanency,
- The projected date that the permanent plan will be completed,
- Whether parents have been notified and/or involved in agency decision making especially as it relates to changes in visitation, placement, and the child's legal status.

23.42 Administrative Case Review

Regional administrators shall establish an administrative review system to ensure that federal requirements for periodic review are met.

Administrative Review Coordinators:

Each region shall appoint an administrative review coordinator. The administrative review coordinator is responsible for:

- Establishing and maintaining administrative review teams,
- Establishing a scheduling system for review,
- Seeing that reviews are conducted within state and federal guidelines and timeframes,
- Liaison with state office,
- Preparing monthly reports on the status of the review system, and
- Establishing training for staff and volunteers.

Administrative Review Teams/Composition

Administrative review teams shall be composed of at least three persons. One member must not be in the chain of command of the social worker responsible for the case. These people may be:

- DCFS staff or trained citizen volunteers who have signed oaths of confidentiality.

- Cases involving Indian children shall be administratively reviewed as provided in the DCFS Indian Child Welfare Manual, Chapter 07.60.

Administrative review must occur in the following situations:

- Court procedures or hearings have not met the federal guidelines or timeframes for periodic review,

- The social worker requests a voluntary placement extension beyond six months.

Additionally, administrative review may be used for other purposes as determined by the regional administrator.

Administrative Review/Process Notice:

At least 14 days prior to an Administrative Review the social worker shall send written notice of the date, time and place of review to:

- Parents

- Children over the age of 12

- Child's tribe (see DCFS Indian Child Welfare Manual for definition of tribe)

If an emergency review must occur to meet federal timeframes, the Regional Administration Review Coordinator may waive the above notice requirements. In these cases the social worker shall notify the above persons by phone or in person of their right to attend the review. Documentation of notice to parents is made on the Administrative Review Hearing Form by the Administrative Review Chairman.

The social worker or Administrative Review Chairman may invite other people to the review. However, with the exception of the guardian ad litem and parents' attorney, parents must give written parental consent to the attendance of others at the reviews.

Foster care providers often have valuable information about the child's daily life, medical, educational and emotional condition. Social workers should encourage birth parents to allow foster parents to attend. If a parent refuses such permission, the foster care provider may be invited into the review only for the purpose of giving information about the child's adjustment to out-of-home care and to give the reviewers information on the child's current condition. In this situation, the foster parent does not attend the entire review so that birth parents right to privacy is protected.

Recommendations from Review:

The Administrative Review Coordinator or Review Board Chair completes the Administrative Review Form, DSHS 05-203, after the review. The Administrative Review Coordinator sends copies of the DSHS 05-203 to:

- The parents of the child,
- The DCFS social worker for the child,
- Children over 12 subject to the review,
- The Indian child's tribe, and
- The private agency social worker responsible for placement of the child.

23.43 Citizen Review Boards

Purpose and Scope

The 1989 Legislature established pilot projects on citizen review in one or more Class 1 Counties in the state to improve accountability for permanency planning for children in out-of-home care. These pilot projects will be administered through the Office of the Administrator for the Courts through contracts with local juvenile courts. All dependent children who are in placement and children in placement as a result of voluntary placement agreements are subject to citizen review in selected pilot sites. Children who are not in out-of-home care and children in out-of-home care as a result of an ARP are not subject to citizen review.

Citizen review sites have significantly different requirements for court review than non-citizen review counties. Citizen review replaces some court reviews in pilot sites. Citizen review occurs at three months, six months, 12 months and annually thereafter during the child's placement episode. Reviews are scheduled by the juvenile court citizen review board.

DCFS Attendance at Citizen Review

DCFS social workers responsible for the child's case plan shall attend citizen reviews. If this employee is not available, DCFS shall require another employee who is knowledgeable about the case plan to attend the review. If the child is in private agency placement, the private agency case worker should also attend the review.

DCFS Preparation for Citizen Review

The social worker shall send a copy of the written parental consent to the local citizen review board within 30 days of placement when a child is placed in out-of-home care without court action. (When a child is placed by court order, the court is legally required to notify the citizen review board.)

The social worker shall send copies of the Individual Service Plan, DSHS 15-209, to the citizen review board at least 14 days prior to any scheduled citizen review.

DCFS Response to Citizen Review Recommendations

Citizen Review Board findings are advisory in nature to DCFS. However, should a board decide that DCFS' ability to complete board recommendations is unacceptable to the board, the board, by statute, may request that a court review hearing be scheduled to resolve the matter.

Following a citizen review, the review board will send a copy of its findings to the DCFS social worker. If the social worker, following consultation with his/her supervisor is unable or unwilling to implement the citizen review board findings, the social worker will prepare an implementation report within ten working days describing:

- Reasons why DCFS is unwilling or unable to implement the recommendations, and
- The case plan DCFS does intend to implement.

The DCFS Implementation Report format shall be established by DCFS Regional Offices in cooperation with pilot citizen review boards.

23.44 Permanency Planning Hearings

Both federal and state law require that the juvenile court make a determination regarding the future status of the child by 18 months of the child's placement episode. Following that hearing, state law requires the court must annually, thereafter, hold permanency planning hearings to make further determinations about the permanency plan. In addition, six month periodic review hearings continue to occur as long as the child remains dependent unless a guardianship has been established.

DCFS Preparation for Permanency Planning Hearings

DCFS submits an updated Individual Service Plan, DSHS 15-209 to the juvenile court prior to the permanency planning hearing. This report should be submitted within timeframes established by regional policy.

The ISP submitted for a permanency planning hearing shall clearly delineate the DCFS recommendations for permanency planning. Research indicates that any child who has been in out-of-home care for 18 continuous months is increasingly unlikely to return home. Eighteen months in placement is a very long time in the life of a child.

While it is always necessary when updating the ISP to review the parents' progress towards improving the conditions leading to the child's placement in out-of-home care, it is particularly important that a careful review of the permanency plan occur at the 18 month point. If, at this point, DCFS is still recommending to the court that eventual return home will occur, DCFS should carefully describe to the court how this view is consistent with the child's right to early achievement of a safe, permanent home. DCFS should carefully consider all alternative permanency plans before making a recommendation on permanency to the court. Questions to be considered by the social worker include:

- What emotional impact is long-term out-of-home care (without permanency) having on this particular child?
- How continued out-of-home care has affected the parent/child bond?
- Who is the child emotionally attached to?
- Have the parents been offered a reasonable opportunity to improve the conditions that lead to placement? What has been the result? Have conditions changed?
- How long will it take for conditions to change enough for the child to go home?
- What is the likely harm to the child of waiting for that period of time?
- How likely is it that an alternative permanent plan can be completed by DCFS?

23.50 COURT PROCESS

Federal: P.L. 95-608.

State: RCW 13.32A.120 through 13.32A.200; and RCW 13.34.010 through 13.34.300.

23.51 Policy

23.52 Purpose of Service

A. The purpose of this section is to describe the legal requirements of the Juvenile Court Code. The Juvenile Court Code requires that child welfare staff participate in four court processes: (1) Alternative residential placement (ARP), (2) Dependency, (3) Guardianship, and (4) Termination of parental rights. The consent to place process may be used under some circumstances in lieu of the ARP or dependency processes.

B. One or more of these court processes may occur in the provision of the following child welfare programs: (1) Family Reconciliation Services (see Chapter 24); (2) Child Protective Services (see Chapter 26); (3) Crisis Residential Placement (see Chapter 31); (4) Child Foster Family Care (see Chapter 32); (5) Private Agency/Child Group Care (see Chapter 34); and (6) Adoption Services (see Chapter 36).

23.53 Alternative Residential Placement (ARP) (See RCW 13.32A.120 through 13.32A.200)

The purpose of the alternative residential placement process is to resolve disputes between parents and children as to where children may live outside the parents' home.

A. ARP Petition (see required outline in 23.80 C. 2.).

1. The parent or child may file a petition to approve an alternative residential placement (see RCW 13.32A.120).

2. A petition may be filed only within the county where the parent resides. (See RCW 13.32A.200.)

B. The service worker may file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances (see RCW 13.32A.140):

1. The child has been admitted to a crisis residential center or has been placed with a responsible person other than his/her parent, and:

a. The parent has been notified that the child was so admitted or placed;

b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

c. No agreement has been reached between the parent and the child as to where the child shall live;

d. No petition requesting approval of an alternative residential placement has been filed by either the child, parent, or legal custodian; and

e. The child has no suitable place to live other than the home of his/her parent.

f. Staff will make such notifications and place American Indian children as required under 23.60.

2. The child has been admitted to a crisis residential center and:

   a. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

   b. The staff, after searching with due diligence, have been unable to contact the parent of such child;

   c. The child has no suitable place to live other than the home of his/her parent;

   d. The required notifications have been made for American Indian children and the service worker/Local Indian Child Welfare Advisory Committee (LICWAC) have reached agreement as to appropriate placement for the child. (See 23.60.)

3. An agreement between parent and child made regarding an alternative residential placement is no longer acceptable to parent or child, and:

   a. The party to whom the arrangement is no longer acceptable has so notified the department;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

   c. No new agreement between parent and child as to where the child shall live has been reached;

   d. No petition requesting approval of an alternative residential placement has been filed by either the child or the parent; and

   e. The child has no suitable place to live other than the home of his/her parent.

   f. Refer to 23.60 when working with American Indian/Alaskan Native children.

C. When the department files a petition for alternative residential placement the state will be represented as provided for in RCW 13.04.093.

D. Child/Parent Filing Petition (see RCW 13.32A.150).

1. A child or child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home if no agreement can be reached about placement or returning to the home.

2. The service worker shall, when requested, assist either a parent or child in filing the petition, i.e., explain procedures, help in initiating telephone contacts, etc.

3. The petition shall only ask that the placement of a child outside the home of his/her parent be approved.

4. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his/her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

E. Procedures Prior to Fact-Finding Hearing (see RCW 13.32A.160).

When a proper petition is filed (see RCW 13.32A.120, 13.32A.140, or 13.32A.150), the juvenile court will:

1. Schedule a date for a fact-finding hearing and notify the parent and child of such date;

2. Notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him/her by the court;

3. Appoint legal counsel for the child;

4. Inform the child and his/her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and

5. Notify all parties of their right to present evidence at the fact-finding hearing.

F. Placement of Child (see RCW 13.32A.160(2)).

1. Upon filing of an Alternative Residential Placement Petition, the child may be placed, if not already placed, by the service worker in a crisis residential center, foster family care home, group home facility or any other suitable, licensed (or determined exempt from licensing) residence as determined by the service worker.

2. If the child has been placed in a foster family care home or group care facility, the child will remain there, or in any other suitable residence as determined by the service worker, pending resolution of the alternative residential placement petition by the court.

3. Any placement may be reviewed by the court upon the request of the juvenile or the juvenile's parent within three court days of the request.

4. The department may authorize emergency medical or dental treatment for a child in placement. (See RCW 13.32A.140.)

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

G. Fact-Finding Hearing (see RCW 13.32A.170(1)).

1. The court will hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children.

2. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel.

3. The court may approve an order stating that the child shall be placed in a residence other than the home of his/her parent only if it is established by a preponderance of evidence that:

   a. The petition is not capricious;

   b. The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict; and

   c. The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home.

4. The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

H. Court's Approval or Denial of ARP Petition (see RCW 13.32A.170(4)).

1. If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons will be filed by the court.

2. If the court denies a petition requesting that a child be placed in a residence other than the home of his/her parent, the court will enter an order requiring that the child remain at or return to the home of his/her parent.

3. If the court denies the petition, the court will impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services. (See RCW 13.32A.170(5).)

4. A child who fails to comply with a court order directing that the child remain at or return to the home of his/her parent shall be subject to contempt proceedings. (See 23.53 N. below) but only if the noncompliance occurs within ninety calendar days after the day of the order. (See RCW 13.32A.170(6).)

I. Fact-Finding Court Order (see RCW 13.32A.170(2)).

1. The order approving out-of-home placement will direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict.

2. In making the order, the court may further direct the department to make recommendations as to:

   a. Which agency or person should have physical custody of the child, and

   b. Which parental powers should be awarded to such agency or person, and

   c. Parental visitation rights.

3. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

J. Procedures Prior to Disposition Hearing (see RCW 13.32A.170(3)).

1. The hearing to consider the recommendations of the department for a three-month disposition plan is set by the court no later than fourteen days after the approval of the court of a petition to approve alternative residential placement.

2. Each party is notified by the court of the time and place of such disposition hearing.

3. Departmental disposition planning for American Indian children will be consistent with the recommendations of the LICWAC.

K. Disposition Hearing (See RCW 13.32A.180 and required outline in 23.80 C. 7).

1. At a dispositional hearing held to consider the three-month dispositional plan presented by the department, the court will consider all recommendations included in the plan. The service worker shall also present to the court the LICWAC recommendations if the department's recommendations are inconsistent with those of the LICWAC and the petition will so state.

2. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify the plan and will make its dispositional order for a three-month out-of-home placement for the child.

3. The court dispositional order will specify:

   a. The person or agency with whom the child is to be placed, and

   b. Those parental powers which will be temporarily awarded to the agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights.

4. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed foster family care homes.

5. No placement made as a result of a dispositional hearing may be in a juvenile correctional institution or facility as defined in Section 103, PL 93-415 Juvenile Justice and Delinquency Prevention Act of 1974 (i.e., "any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses").

L. Dispositional Court Order (see RCW 13.32A.190(1)).

Upon making a dispositional order, the court will:

1. Schedule the matter on the calendar for review within three months, and

2. Advise the parties of the date, and

3. Appoint legal counsel and/or a legal guardian ad litem to represent the child at the review hearing, and

4. Advise parents of their right to be represented by legal counsel at the review hearing, and

5. Notify the parties of their rights to present evidence at the hearing.

6. Where resources are available, encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

M. Review Hearing (see RCW 13.32A.190(2) and required outline in 23.80 C. 7).

At the review hearing:

1. The court will approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval. The court shall determine whether reasonable efforts have been made to reunify the family and make it possible for the child to return home.

2. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious.

3. If out-of-home placement is continued, the court may modify the dispositional plan.

4. Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court will order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court will enter an order requiring that the child return to the home of the child's parent.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

N. Contempt (see chapter 13.22A RCW).

1. Contempt proceedings can be instituted by the court on its own initiative or when a motion for contempt is made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order.

2. Failure by a party to comply with an order entered under this chapter is contempt of court as provided in RCW 7.21.

3. Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

4. A child found in contempt under this section may be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

5. The procedure in a contempt proceeding held under this section is governed by RCW 7.21.010 through 7.21.070.

O. Support Payments (see chapter 13.32A RCW).

1. In any proceeding in which the court approves an alternative residential placement, the court will inquire into the ability of parents to contribute to the child's support.

2. If the court finds that the parents are able to contribute to the support of the child, the court will order them to make such support payments as the court deems equitable.

3. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders.

4. However, payments will not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child.

5. All orders of support entered in a proceeding approving alternative residential placement shall be in compliance with the provisions of RCW 26.23.050 relating to child support orders.

6. Recommendations to the court to establish, raise, lower, release, or forgive support payments for a child in placement may be made only by the staff of the Office of Support Enforcement (OSE) (see WAC 388-70-028).

23.54 Dependency Petition Process (see RCW 13.34.030 through 13.34.130).

A. A dependency petition (see Outline #1 and DSHS 09-428, Rev. 5/81, in 23.99) is filed after all other reasonably possible attempts to help correct the problem have been exhausted and if the child is in imminent danger or the parents refuse or are unable to immediately make changes adequate to protect the child.

B. It will be the duty of the attorney general to handle contested dependency cases brought by the department and, to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship. (In Class 1-9 counties the attorney general may contract with the prosecuting attorney of the county to perform paid duties of the attorney general.)

C. A petition to the juvenile court to have a child declared dependent is made in accordance with RCW 13.34.030. The petition may only be filed in the county of the parent(s) residence, the child's residence, or where the child is physically present. A petition must allege that a child:

1. Is abandoned, that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

2. Is abused or neglected as defined in Chapter 26.44 RCW; or

3. Has no parent, guardian, or custodian willing and capable of caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

4. Has a developmental disability, and DSHS and the parents (guardian or legal custodian) determine that services appropriate to the child's needs cannot be provided in the home.

D. If a child is alleged to be dependent and if a child's health, safety, and welfare will be seriously endangered if he/she is not taken into custody, a service worker should file a petition and request a court order that the child be taken into custody. If the court enter such an order, the court may direct a law enforcement officer, a probation counselor, or a child protective services official to take the child into custody. (See RCW 13.34.050.)

E. DSHS caseworkers have a duty under law to report possible crimes to a law enforcement agency or the county prosecutor, in accordance with RCW 26.44.020 and 26.44.040. Such a duty is not fulfilled by filing a dependency petition or by reporting a possible crime to the juvenile court.

F. CPS must make reasonable efforts to notify the child's parents as soon as possible and in no event more than 24 hours after the child is taken into custody pursuant to a court order or after CPS is notified of a law enforcement pickup. The notice may be given by any means reasonably certain of notifying the parents including written, telephonic, or in person oral notification. If the initial notification is provided by means other than writing, CPS must make reasonable efforts to also provide written notification. The written notification shall be contained in the Parent Guide to CPS booklet which has been distributed to the local DCFS office. (See RCW 13.34.060(2).)

G. Upon receipt of the written notice, the parents must acknowledge such notice by signing a receipt contained in the Parents Guide to CPS booklet. If the parent does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall then be made part of the juvenile court file in the case. If after making reasonable efforts to provide notification, CPS is unable to determine the parents' whereabouts, notice shall be delivered or sent to the parents' last known address. (See RCW 13.34.060(2).)

H. When it is necessary to petition the juvenile court regarding a child, the child's parents shall be informed of the reasons for the petition and helped to understand and participate in the court process. Such assistance should include helping the family to understand the need for and right to legal counsel. (See RCW 13.34.090.)

I. Refer to the 23-60 when working with American Indian/Alaskan Native children.

23.55 Juvenile Court Hearings and Reports

The service worker may be required to submit written reports, attend, and present testimony at the following hearings:

A. Shelter Care Hearing

1. A child taken into custody by a service worker prior to the hearing is to be placed in a receiving home/foster home licensed by the department or in a home not required to be licensed. (See RCW 13.34.060(1).)

2. A shelter care hearing must be held within 72 hours (excluding Saturdays, Sunday and holidays) after a child is taken into custody under the authority of a court order for emergency pickup or after a law enforcement pickup. Any parental waiver of the hearing must be made while the parents are present in court. (See RCW 13.34.060(1).)

3. At the shelter care hearing, the court must hear evidence and enter findings about the notice given to the parents and the efforts made by the case worker to provide notification. Case worker must testify about the reasonableness of his or her efforts to provide notification to the parents. (See RCW 13.34-060.)

4. The court must appoint legal counsel for indigent parents unless the parent waives the right to counsel in court. Notice and Summons issued by the court must contain information about the right to counsel and the procedure for securing appointed counsel. (See RCW 13.34.070.)

5. At the shelter care hearing, the court must consider the specific services that have been provided to the parents before making a finding that reasonable efforts have been made to prevent or eliminate the need for out-of-home placement. (See RCW 13.34.060.)

6. Parents who for good cause are unable to attend the initial shelter care hearing may request that a subsequent hearing be scheduled. The hearings must be held within 72 hours (excluding Saturdays, Sundays, and holidays) of the parents' request. The court clerk is required to notify all other parties of the hearing. (See RCW 13.34.060.)

7. An order for shelter care may not continue for more than 30 days unless reauthorized by the court. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. (See RCW 13.34.060.)

8. Any report of modification request submitted to the court for American Indian Children will be developed in consultation with the LICWAC and the court will be informed of any conflict between the worker and LICWAC recommendations. (See 23-60.)

9. Requests for discovery. Copies of DSHS agency records to which parent have legal access under disclosure and discovery rules must be provided to the parent or his or her legal counsel within 20 days after the department receives a written request for such records. The records must also be provided to the parents or legal counsel prior to the shelter care hearing. In addition to the materials that are already exempt from disclosure under RCW 13.50, DSHS must also delete the name and identifying information regarding child abuse referents. (See RCW 13.34.090 and 13.50.010.)

10. If a parent or other party in a case is represented by legal counsel, an order cannot be provided to the parent or party for his or her signature without prior notice and provision of the order to that party's counsel. (See RCW 13.34.090.)

B. Dependency Fact-Finding Hearing

1. Notice of fact-finding hearings must be provided no later than fifteen days prior to the hearing.

Note: See written changes on page 32.

C. Support for Dependent Children (see RCW 13.34.160)

Note: See written changes on page 32.

D. Disposition Hearing (see required outline in 23.99 C. 5)

1. The service worker shall be required to attend and may be required to present testimony. If the department filed the petition, then the service worker must prepare the following reports (listed as D. 2., 3. and 4. below) for the court. In other situations reports will be prepared/provided to juvenile probation staff according to DCFS/juvenile court agreements. (See RCW 13.34.110, 13.34.120, 13.34.130, and Manual G, 23.80.) This study is included in the DSHS 15-209, Individual Service Plan which is submitted to the court.

2. Social Study (see RCW 13.34.120 (1)). The service worker must give close attention to the requirements of this report and the needed information. This report is a written evaluation of matters relevant to the disposition of the case. The study and all social records will be made available to the court, including facts relating to the child's cultural heritage, particularly LICWAC recommendations and those of the parent and child, if of significant age, the tribe's request for intervention and transfer of jurisdiction to tribal court.

3. Predisposition Study (see RCW 13.34.120 (2)). The service worker must be familiar with specific requirements of this report. These requirements may be included when completing the Individual Service Plan, DSHS 15-209, if this form is accepted by the local juvenile court for dispositional hearings. If it is not, then the workers report shall include the following information in the alternative format described within this chapter. This report relates to the specific issue of whether or not the child should remain in the home and shall contain:

   a. A statement of the specific harm to the child that intervention is designed to alleviate;

   b. A description of the specific programs for the parent(s) and child that are needed in order to prevent serious harm to the child including why they will be useful, their availability, and the plan for ensuring their delivery;

   c. Why the child cannot be protected in the home--including past efforts to work with the parent and child in the home; treatment programs which have been considered and rejected, and the parents' attitude toward placement;

   d. The likely harm the child will suffer as a result of removal, including the parent-child attachment and meaning of separation and loss to both;

   e. Steps to be taken to minimize harm to the child that may result because of separation; and

f. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

g. Placement of an American Indian child will be done in accordance with Chapter 1.04 and 32.33 of Manual G.

4. Agency Placement Plan (see RCW 13.34.130(2)).

a. Agency Report

This report is completed on the DSHS 15-209, ISP the DSHS 15-209A Health and Education Record and includes:

(1) Where the child will be placed;

(2) Steps to eventually return the child to the home;

(3) Actions to maintain child-parent ties;

(4) Services the parents will be offered to enable them to resume custody;

(5) What requirements the parents must meet in order to resume custody.

(6) A time limit for each service plan and parental requirement.

(7) A listing of the child's current health and education record, listing medication and known medical/education or emotional problems.

b. Agency Responsibility

(1) The agency charged with supervising a child in placement shall provide all reasonable services available within the agency or community or those which the department has existing contracts to purchase.

(2) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must begin in order to resume custody, and a time limit for each service plan and parental requirement.

(3) The agency shall be required to encourage the maximum parent child contact possible including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety or welfare.

(4) A current and ongoing record of the child's Health and Education needs will be maintained (DSHS 15-209A) this record will be completed within 30 days of placement and attached to the ISP. Copies of this record will be provided to the caregiver at the point of any placement and will be updated at that time as will as at the time of the update of the ISP.

(5) The child shall be placed as close to the child's home and school as possible, preferably in the child's own neighborhood, unless the court finds that placement at greater distance is necessary to promote the child's or parents' well-being.

(6) The placement agency will report to the court and appropriate tribal government or urban American Indian organization if it is unable to provide such services.

E. Six-Month Review Hearings (See 23.99 C. 6. for required form, DSHS 15-209, Individual Service Plan.)

1. The service worker may be required to give testimony and enter an updated ISP to the court outlining: what services have been provided or offered; cooperation and visitation of the parents, whether additional services are needed to facilitate the child's return to his/her parents; and when the child's return can be expected. (See RCW 13.34.130 (4) and RCW 13.34.180.)

2. For American Indian children the service worker shall also report use of urban American Indian organization/tribal services provided, if any, and LICWAC recommendations in relation to the service plan and, if LICWAC recommendations and the service worker's plan conflict, the report shall so state and justify why Committee recommendations were not taken into consideration if they were not.

23.56 Termination of Parental Rights

A. Termination Petition (see required outline in 23.99).

1. A petition to terminate a parent/child relationship may be filed in the juvenile court when:

   a. A child has been removed from the custody of a parent pursuant to a finding of dependency and a dispositional order has been entered pursuant to RCW 13.34.130; and

   b. The child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

   c. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

   d. There is little likelihood that the conditions will be remedied so the child can be returned to the care of the parents.

2. A petition may also be filed:

   If a judge has ordered a child removed from his or her home after a dispositional hearing, the judge may order that a termination petition be filed if he or she finds it is recommended by DSHS or the supervising agency that it is in the best interest of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

   a. Conviction of the parent of rape of the child in the first, second or third degree as defined in RCW 9A.44.073, 9A.44.076 and 9A.44.079;

   b. Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

   c. Conviction of the parent of assault to the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

d. Conviction of the parent of murder, manslaughter or homicide by abuse of the child's other parent, sibling or another child;

e. A finding by the court that a parent is a sexually violent predator;

f. Failure of the parent to complete available treatment ordered under the laws of Washington or of another state where such a failure has resulted in a prior termination of parental rights to another child and the parent has failed to make significant change in the interim.

B. Voluntary Termination

The juvenile courts are authorized to terminate parental rights voluntarily under RCW 26.33. Social workers should use the forms found in § 23.80 relating to relinquishment of parental rights. It is important to use the most recently revised forms whenever handling a voluntary relinquishment. If out of date forms are used rather than the most recent forms, the relinquishment may not be legally binding. Special procedures will apply when handling the voluntary termination of an Indian child. Discussion of these procedures is included below.

1. Petitions for voluntary termination of parental rights may be initiated for either an unborn or born child. The hearing on the petitions for relinquishment or termination cannot occur until at least 48 hours after the birth of the child. (See below for relinquishments relating to Indian children.)

2. In considering a petition for termination of parental rights based on a voluntary consent to adoption by a parent, the judge will review whether the consent was genuinely voluntary and whether the termination of parental rights is in the best interests of the child.

   a. To ensure that parental consent is genuine, the parents should never be coerced into relinquishing parental rights during the termination process. The social worker should take care to inform the parent that any relinquishment is voluntary throughout this process.

   b. If the parent has an attorney, that attorney must be involved in the legal process of termination of parental rights. Never work with a parent to secure a relinquishment and consent to adoption without the involvement of the parent's attorney.

3. PARENTS UNDER AGE 18. If any parent seeking to relinquish his or her parental rights is under age 18, a guardian ad litem (GAL) must be appointed for that person prior to relinquishment and termination of parental rights. If a social worker learns that a parent is under 18, he or she should ensure that a hearing is set to have a guardian ad litem appointed for the parent before taking any other legal action to proceed with a voluntary termination. If a GAL is not appointed, there is a high likelihood that the termination will be overturned. The guardian ad litem for a parent or alleged father shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action. (RCW 26.33.070)

4. RELINQUISHMENT OF PARENTAL RIGHTS TO AN INDIAN CHILD. Special procedures and rules apply to the relinquishment and termination of parental rights of an Indian child. The most important rules are as follows:

   a. If the child who is the subject of the relinquishment is an Indian child, the petition and consent to adoption shall not be signed by the child's parents until at least ten days after the child's birth. A consent to adoption must be recorded in the presence of a judge in order to be valid. Social workers should never accept a consent from the parent of an Indian child unless such consent is accepted in court.

   b. Notice of any hearing on a petition for relinquishment or termination must be served on the child's tribe. If the tribe does not receive notice, there is a high likelihood that any relinquishment or order of termination will be overturned. (RCW 26.33.090)

   c. Consent to the adoption of an Indian child may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may also be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of consent may be delivered or mailed to the Clerk of the Court or made orally to a judge who shall certify that such a revocation took place. (RCW 26.33.090)

d. Social workers who take a relinquishment and consent to an adoption from the parent of an Indian child must use a different form from that used with non-Indian children when processing a voluntary termination. This form is listed in § 23.80 of this manual. Social workers must take care to use the correct form when taking a relinquishment. The Indian child relinquishment and consent to adoption form includes important information about the parent's legal rights which must be reviewed by the parents before consenting to an adoption. If the social worker has any questions about this process, he or she should get legal advice before proceeding.

5. The final implementation of the Indian Child Welfare Manual is pending at the time of printing of this section. Once the Indian Child Welfare Manual has been implemented, social workers must refer to it to answer Indian child welfare questions. This manual will include specific directions regarding procedures and laws affecting Indian children.

23.57 Guardianship (See RCW 13.34.230 and guideline in 23.80)

A. Filing Guardianship Petition

1. Any party to a dependency, including the supervising agency, may file a petition in juvenile court requesting that guardianship be established for a dependent child. (13.34.23a.)

2. The Department of Social and Health Services will receive notice of any guardianship proceedings and have the right to intervene in the proceedings. (13.34.230)

3. The department or voluntary agency may initiate action on a guardianship petition, and are not dependent on securing advance approval by the court to do so.

4. There are demonstrable advantages to the child for the relative, foster parent, or other individual, to have guardianship as opposed to a permanent foster care arrangement in which the department retains supervision.

5. When DSHS initiates or is a party to the petition for guardianship in a child's behalf, the following procedures apply:

a. The petition should specify that guardianship of the child shall go to the guardian (i.e., relative, foster parent or other individual);

b. The service worker will request the court to identify the rights and responsibilities of the guardian in the court order of guardianship; the rights and responsibilities to be addressed shall include but not be limited to:

(1) Medical services,
(2) Consent to marriage,
(3) Enlistment in military services,
(4) Visitation between biological parents and child.

c. The service worker shall make recommendations to the court regarding what, if any, supervision the agency should provide.

B. Guardianship Court Hearing

1. At the hearing on a guardianship petition, all parties have the right to present evidence and cross examine witnesses.

2. The rules of evidence apply to the conduct of the hearing.

3. A guardianship may be established if the court finds by a preponderance of the evidence that:

a. The child has been found to be a dependent child under RCW 13.34.030)2);

b. A dispositional order has been entered pursuant to RCW 13.34.130;

c. The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

d. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

e. There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

f. A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

C. Guardianship Court Order

1. If the court has made a finding, it will enter an order establishing a guardianship for the child. The order will:

   a. Appoint a person or agency to serve as guardian;

   b. Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian will not have the authority to consent to the child's adoption;

   c. Specify an appropriate frequency of visitation between the parent and the child; and

   d. Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

2. Any party may seek a modification of the guardianship order under RCW 13.34.150.

3. Establishment of a guardianship does not preclude a guardian from receiving foster care payments.

4. An established guardianship is not subject to the review hearing requirements of RCW 13.34.130.

5. Any person over the age of 21 years who is not otherwise disqualified by a - c below, any nonprofit corporation or any Indian tribe may be appointed the guardian of a child. No person is qualified to serve as a guardian who:

   a. Is of unsound mind;

   b. Has been convicted of a felony or misdemeanor involving moral turpitude; or

   c. Is a person whom the court finds unsuitable.

D. Departmental Responsibilities

1. The homes of guardians to which the department makes payment must be certified as meeting licensing requirements as per WAC 388-73-020.

2. The department's rules and procedures regarding the certification and supervision of the home for licensing purposes (see Manual G, Chapter 06) must be followed in spite of the fact that the court may have relieved the department of responsibility to supervise the child.

3. Guardianship of a child, under RCW 13.34.231 & .232 does not disentitle a guardian from continued eligibility to receive foster care payment.

4. Where a court order relieves the department of providing supervision for a child and that child's care had previously been AFDC-FC funded, the source of funds must be changed to state funds (see Chapter 33).

5. When a foster care payment continues to the guardian, the service worker remains responsible to perform the six-month SSPS review to:

   a. Ensure the child's continued eligibility for foster care payment (use SSPS service code 3210); and

   b. Update the circumstances of the guardianship arrangement.

6. Establishment of guardianship eliminates the automatic six-month review in Juvenile Court. However, if the service worker finds that the guardianship has failed or is terminated, i.e., death of the guardian or other reason, the case should be brought before the Juvenile Court to review the status of the child.

7. A child found to be dependent under RCW 13.34.030(2) remains under the court's jurisdiction, (i.e., dependency continues) even after a legal guardianship is established.

8. Appointment of guardianship for American Indian children will follow procedures in 23.38 F.

23.58 Consent to Place

A. If a child and a parent cannot agree to the child's return home, but do agree to the child's placement out of the home, or when a parent is unable to care for a child of any age, the parent(s)/guardian may request a voluntary placement.

   1. Children may be accepted for voluntary family foster care or group care placement only when the parent(s) have signed a DSHS 09-004(X), Placement Authorization and Acknowledgment, and when one or more of the out-of-home placement criteria listed in Manual G, Chapter 32.13 I. exists.

   2. Court intervention shall be sought in spite of parent(s) willingness to place the child voluntarily when:

      a. The circumstances of the family situation warrants the filing of a dependency petition, or

      b. There is not a responsible plan to remedy the situation which necessitated the placement, or

c. It appears that a placement of more than three months is needed.

3. When a request for a voluntary placement involves an American Indian child, see Section 23.60 for procedures.

B. Procedures for handling voluntary placements are found in Chapters 32 and 34.

23.59 Other Juvenile Court Related Responsibilities

The service worker may be asked to or decide to perform other duties in relation to working with the juvenile court.

A. A "DSHS Social Worker" may be required by the court to serve summons (RCW 13.34.070) to any person the court determines to be a proper or necessary person to the proceedings.

B. If a petition is filed and the court finds reasonable grounds, the juvenile court judge may enter an order directing a service worker to take a child into custody (RCW 13.34.050).

C. The juvenile court may require the service worker to bring a child who is in the department's physical or temporary custody to a shelter care hearing (see RCW 13.34.050 through 13.34.070).

D. A service worker may ask the court to appoint a guardian ad litem for a child who is alleged to be subject to a child abuse/neglect (see RCW 26.44.053(1) and RCW 13.34.100).

E. In all cases, when there is an existing court order for placement of the child outside of the home, a change in the court order must be obtained prior to placing the child back in the home. An order of the court may be changed, modified, or set aside only by the juvenile court judge (RCW 13.34.150). A service worker may request modification of a court order at any time.

F. If a child has been returned to the home of the parent but continues to be dependent, the Social Worker is required to obtain a court order, Consent to Place or an authorization for emergency placement from law enforcement in order to place the child back into foster care. At the point of placement a new "placement episode" begins

G. The service worker is responsible for making review reports or other reports as ordered by the court.

G. When a child has been declared to be dependent, placed out of the home, and then is returned to the home after an out-of-the-home placement, the supervision by the service worker shall continue for a period of at least six months. At that time there shall be a hearing on the need for continued intervention. (See Chapter 13.34.130 RCW.) The service worker must provide for the continued supervision or arrange for and/or monitor that service. The intensity of that service is to be determined by the service worker and/or juvenile court order.

Note: This section shall remain in effect until final implementation of the Indian Child Welfare Manual. After the manual has been implemented, refer to it to answer Indian child welfare questions.

23.60 Indian Child Welfare

Policy/Procedure for LICWAC/Administrative Reviews

This section is an extension of WAC 388-70-091, 092, 093, 095, 450, 600, 615, 620, 640, 73-044, RCW 13.34.25, P.L. 95-608, HB 480, P.L. 96-272, current Child Protective Team Mandates; and the DCFS Manual, chapter 1.04. and 23.38.

WAC 388-70-600

Local Indian Child Welfare Advisory Committee - Purpose

The intent of WAC 388-70-096, 388-70-450, and 388-70-600 to 640 is to ensure protection of the Indian identity of Indian children, protecting Tribal rights pertaining to Indian Child Welfare, and the maximum utilization of available Indian resources for Indian children to assist in the preservation of Indian families.

It is also the intent of the LICWAC to assist social workers in evaluation of risk to Indian children and make appropriate recommendations to ensure that the safety of Indian children, the preservation of Indian heritage, are primary focuses of the Department and the Committee.

To ensure the realization of this intent, information about EACH current and future case involving Indian children, for whom the Department and Private Agencies have a responsibility for, shall be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC for staffing according to the Department procedures.

All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC, per Regional procedures, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, the Director of DCFS. This public and private partnership, utilizing Indian community representatives in the review process emphasizes that the problem of abused and neglected children is a community problem and their well-being is a community responsibility.

A. Definition of Indian Child:

1. An enrolled Indian:

   a. Any person who is enrolled or eligible for enrollment in a federally recognized tribe;

   b. Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior;

   c. An Eskimo, Aleut, or other Alaskan Native.

2. A Canadian Indian: Any person who is a member of a treaty tribe, Metis community, or non-status Indian community from Canada.

3. An unenrolled Indian: A person considered to be an Indian by a federally or non-federally recognized Indian tribe or urban Indian/Alaskan Native community organization.

B. Purpose of LICWAC:

1. The primary focus of the LICWAC is to review caseworkers evaluation of risk to Indian children so that appropriate case plans are implemented to ensure the safety of Indian children and the maintenance of their Indian heritage.

2. To ensure that Indian children are connected to their own Tribes and families through early notification to Tribes as mandated by the Indian Child Welfare Act and by following notification mandated by the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, the Tribal - State Indian Child Welfare Agreement, and DCFS LICWAC regulations.

3. To assist the DCFS to involve Tribal governments and Indian organizations in case planning for Indian children.

4. To encourage increased participation of families, foster parents, and children in the review process. (See H.)

5. To ensure that culturally relevant resources are offered to Indian children and their families to expedite reunification efforts, including in-home family support services; and to assist the department in developing these resources.

6. To ensure that Indian children are placed in culturally relevant placements following the placement preferences of the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, DCFS LICWAC regulations, and the Tribal State Indian Child Welfare Agreement.

7. To act as a multi-disciplinary resource team for DCFS caseworkers in developing and advocating for culturally relevant case plans for Indian children and their families.

8. To support Tribal sovereignty with its right of eminent domain, and to support the efforts of Tribes in obtaining self-determination in Indian Child Welfare matters.

9. To advocate for the needs of caseworkers carrying Indian cases, recognizing the additional mandated requirements of these cases, to seek equitability for these workers within the Department. Ensure LICWAC's participation in the development and monitoring of all DCFS case plans for Indian children.

C. Functions of LICWAC:

1. To review the case of each Indian child receiving services from a DCFS program or private child placing agency. All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or the Department's LICWAC, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Review DCFS/private agency staff's assessment of risk and development of culturally relevant case plans for Indian Children.

3. Act as the Administrative Review team for all Indian cases requiring an Administrative review, except where alternate active agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established Administrative Boards when Indian cases are presented.)

4. Act as the Child Protective Team for all Indian cases fitting the criteria of a CPT case, except where alternative agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established CPT committees when Indian cases are presented.)

5. Requires the Regional DCFS Administrator to initiate reviews of case plans that the LICWAC believe to be detrimental to the best interest of Indian children.

6. Acts in an advisory capacity to the Regional DCFS Administrator regarding the Division's development, implementation, and monitoring of rules related to FRS, CWS, CPS, and adoption services to Indian children and their families.

7. LICWAC will act as an "Expert Witness" for Indian children in cases where Tribal representatives are unavailable.

D. LICWAC Membership Criteria:

1. Members shall be American Indian or Canadian Indian or Native Alaskan who are familiar with the special needs of Indian children residing within DCFS catchment area.

   a. Police Checks may be made on all applicants, per Regional procedures.

   b. Members are to be responsible community members who:

      - have a genuine interest in the welfare of children;
      - don't abuse alcohol/drugs;
      - don't have any convictions or felonies relating to offenses against children.

   c. Members are to have an understanding of community resources for Indian children and their families.

   d. Members must be willing to participate in mandatory training. The LICWAC may appoint non-Indian resource persons as ex-officio, non-voting members, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Persons interested in serving on the LICWAC but are not tribal designated representatives shall:

   Obtain an "Application for Advisory Body Appointment" from the LICWAC chairperson or DCFS LICWAC Liaison. Upon completion of the application, applicants may attach a current resume and two reference letters and return to the DCFS LICWAC Liaison.

3. Tribes and Indian organizations may submit their designated representatives to participate on the LICWAC in the usual manner.

4. The Liaison will review the application with the committee for discussion and approval. The committee shall review all applications and make selection to be sent to the Regional Administrator for appointment.

   The Application process may include a personal interview with the LICWAC members.

5. Once the appointment to the committee is made, termination will occur only if the member resigns, consistently misses meetings, or a determination is made after input from the LICWAC, Tribes, and off-reservation Indian organizations that an individual is not suitable to continue to serve on the LICWAC committee. If a member is found to act in a manner that is in direct contradiction with the goals and philosophy of the LICWAC, his/her seat will immediately be vacated. The Regional Administrator will make the official termination of the above applicant except where an alternative active agreement applies by the LICWAC expert.

   NOTE: Indian staff of DCFS' with LICWAC approval, are authorized to act in a consultant capacity for cases carried by a private agency.

E. Regional DCFS LICWAC Liaison:

1. The regional LICWAC Liaison is to be selected and designated as a result of a collaborative effort of the LICWAC and the Regional Administrator and is responsible for providing staff support to the LICWAC and coordinating functions of LICWAC.

2. The functions of the LICWAC Liaison include:

   a. Upon concurrent appointment by the Regional Administrator and the LICWAC, the Liaison (in conjunction with the LICWAC chairperson and DCFS Indian staff) will provide mandatory training and orientation to new members in the following areas:

      - Volunteer liability - each LICWAC member is to sign a DSHS Volunteer Registration Form.
      - Confidentiality - each LICWAC member will sign the CFS Volunteer Registration form committing to the maintenance of client confidentiality.
      - Mileage reimbursement arrangements.
      - Volunteer registration of all LICWAC members.
      - Staffing process according to the Regional LICWAC policy and procedures.
      - DCFS programs and processes.
      - Indian Child Welfare Act - P.L. 95-608.
      - Age requirements of P.L. 96-272 - Title IV-B-Periodic Reviews.
      - H.B. 480 - Washington State Indian Child Welfare Act.

- Department's Risk Assessment Matrix.
- Reporting law.

b. Schedules and coordinates case staffings, CPT staffings, Administrative Reviews, and regular LICWAC meetings.

c. Ensures that minutes on all cases staffed by LICWAC are recorded in a timely manner, and that copies of the minutes are retained in a central file and in case records, readily available for LICWAC review.

d. Develops, updates, and approves on an annual basis, working agreements with private child placing agencies within the Region regarding the provisions of Indian Child Welfare services that comply with the Indian Child Welfare Act of 1978. Monitors that the agreements and provisions of the Indian Child Welfare Act of 1978 are being followed.

e. Identifies training opportunities and ensures that LICWAC members and private agency staff are included in DCFS and other ICW trainings related to the delivery of Indian Child Welfare services, i.e., DCFS Training Academy, Risk Assessment, and trainings sponsored by Indian programs.

f. Ensures that appropriate material be mailed by DCFS Clerical staff to all LICWAC members and designated private agency staff.

g. Authorizes mileage for LICWAC members and consultants.

h. Identifies and advocates for the special unmet needs of Indian children and their families that may relate to barriers to timely family reunification efforts.

F. Cases Mandated to be Reviewed by LICWAC:

1. All DCFS and private agency Indian cases are to be reviewed by either a Tribal Indian Child Welfare Committee, or by the LICWAC except where LICWAC has an approved alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

STAFFING PRIORITIES:

a. Child Protective Team Staffings - any case in which a child has been determined by a community professional or physician to have been physically or sexually abused and the case plan is not to place the child out of the home, or to return a child home from foster care contrary to professional advice. Where LICWACs are not providing CPT staffings, a minimum of two LICWAC representatives are to sit on the established CPT committee.

b. Administrative Reviews - cases where no DEPENDENCY REVIEW has occurred within six months from the date of placement.

c. Non-Indian Placements - any Indian case where an Indian child has been placed in a non-Indian placement resource.

d. Private Agency case staffings - all Indian cases where a private agency has responsibility or custody.

e. Voluntary Placements - cases in which the parent's have voluntarily placed their child in the custody of DCFS or a private Child Placing Agency.

f. Permanency Planning reviews - cases where the plan is to terminate parental rights, pursue guardianship, maintain a child in long-term foster care placement, or pursue an adoptive placement.

g. Any other Indian cases.

G. Quorum for LICWAC Staffings/Reviews:

1. A quorum for an Administrative Review, permanency planning staffing, non-Indian placement case, or private agency case review shall consist of no less than three (3) LICWAC members except where an alternate agreement exists.

2. A quorum for a CPT staffing shall consist of no less than five (5) LICWAC members representing the following disciplines:

a. Medical
b. Law Enforcement/Legal
c. Alcohol/Drug
d. Social Services
e. Educational

H. Notification for Reviews/Staffing:

1. Administrative Reviews: Notification to all interested parties, parents, child over 13, GAL, foster parents, attorneys and therapists - needs to be made in writing fourteen (14) days in advance; or in an emergency, notice can be made by personal contact by the caseworker.

2. CPT staffings or emergency staffings are to be scheduled with a minimum of 24 hours advance verbal notice to LICWAC members, followed by immediate written notice.

3. Initial cases for LICWAC are to be scheduled at the next regularly scheduled LICWAC meeting after assignment of an Indian case, except where the LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

4. LICWAC staffings shall occur regularly, but not less than once every six (6) months.

I. Who can Request a Staffing:

1. Requests by a worker for a staffing can be made verbally or in writing to the Liaison or Chairperson.

2. In regions that have an alternate agreement with the Department, staffings are initiated according to that agreement.

J. Who can Attend a Staffing:

1. The social worker shall always be the primary presenter and shall be in attendance.

2. All appointed and registered LICWAC members.

3. Parents.

4. Child(ren) - usually over 13 years of age.

5. Foster parents.

6. Tribal Representatives.

7. Guardian Ad Litems.

8. Attorneys.

9. Other resource persons necessary for additional information.

K. Relationships or Conflicts of Interest:

LICWAC members who are expressly familiar or involved in another capacity with the parties being reviewed shall state their role/relationship prior to the review. They shall give in-put on the situation, but refrain from being involved in making any recommendations if:

1. They are related (up to the specified degree of second cousin).

2. They work for a private agency providing placement services to the family.

3. Upon discussion, it is determined that they are in an advocacy role with one or more individuals in the family.

L. Staffing Dates:

If a significant change occurs in the plan or with the case, it must be restaffed at the next LICWAC review prior to any court hearings to ensure that the recommendations of the LICWAC are followed.

M. Staff Protocol:

1. The DCFS Supervisor will screen all Indian cases and request the appropriate type of staffing for each case.

2. The social worker completes a current ISP (DSHS 15-209) for use in the staffing to be given to the liaison five days in advance of the staffing.

   a. For CPT cases the police report may be used in lieu of the ISP for the initial staffing.

3. The clerical support staff of DCFS will make at least three (3) copies of the ISP and distributes them for review at the staffing.

4. The DCFS case record shall be available: all psychological reports, all medical reports, counseling reports, professional correspondence, police reports, pictures, and all court reports.

5. The ISP, including attachment A, must have the supervisor's signature indicating that the supervisor concurs with the presented plan.

6. The Chairperson will open each meeting with an announcement that members are to declare relationships or involvements as cases are presented.

7. The ISP/Police Report is reviewed along with any other pertinent material and discussion takes place along with questions regarding the history of the case, services being offered and provided, progress being made, barriers to reunification, and time-frames as to when the permanent plan is most likely to be accomplished.

8. The LICWAC Liaison documents all recommendations clearly on the Administrative Review Form (DSHS 05-203) or a LICWAC Staffing Form that includes all the documented recommendations.

9. The recommendations are read by the LICWAC Chairperson or secretary, and all LICWAC members vote or otherwise concur with the recommendations made to be incorporated into the case plan and then sign the form.

10. The caseworker is to review the written LICWAC recommendations at that point. If the caseworker is in agreement with the LICWAC recommendations and plans to implement those recommendations as part of the case plan, the caseworker then signs the form. If the caseworker is not in agreement with the LICWAC recommendations, the caseworker must not sign the form. The caseworker must advise the LICWAC at that time of his/her points of disagreement. Further discussion and mediation can take place regarding the disputed recommendations. However, the staffing cannot be recessed until the caseworker has either signed the LICWAC Staffing Form or an impasse declared, unless a time-limited recess has been mutually agreed upon by the LICWAC and the caseworker. Such recesses are to be in restricted use.

11. If after mediation and discussion the disagreement is not resolved, and the majority of LICWAC members vote to pursue the impasse, the impasse procedures will be initiated.

N. Impasse Procedures:

1. If the social worker does not agree with the LICWAC recommendations, and the majority of LICWAC members have voted to proceed, the following impasse procedures will be initiated:

   a. Within 24 hours the LICWAC Liaison will notify the Regional Administrator, Area Manager, Supervisor, Social worker, LICWAC Representatives, and the Office of Indian Affairs that it is necessary to conduct an impasse staffing. All CPT cases will be reviewed within 48 hours.

   b. If the LICWAC considers the child involved in the case to be in imminent danger or at serious risk, the CPT guidelines will be enforced so that the child will be placed out of danger until a staffing with the Regional Administrator has been held within 24 hours.

c. If a court hearing is imminent, the department is to request that the AAG seek a continuance to provide additional time to reconcile differences unless a party other than DCFS disagrees.

d. If the court hearing is not rescheduled, an impasse staffing will need to be held within the 24 hour time-frame.

e. If the impasse is not resolved at the regional level, after notification by the LICWAC Chairperson or Liaison, the Division Director will review the case within 24 hours.

f. If the impasse is not resolved at the Division level, the Assistant Secretary for DCFS will be notified within 24 hours to schedule another meeting.

g. If the impasse is not resolved at the Assistant Secretary's level, the Secretary for DCFS will be notified within 24 hours to schedule another meeting, and shall make the final determination.

O. Disciplinary and Corrective Action:

Any situation in which a social worker WILLFULLY REFUSES to abide by the policies established for LICWAC shall be handled in a manner consistent with personnel policy 545 and 546 and the provisions of the Merit System Rules for employee disciplinary action.

23.61 Privacy and Security of Records

A. Any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship, (the juvenile, his/her parents or attorney) may, upon request, make inquiry to the department as to the existence and content of custody or care records. The inquiries shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, location of the contact and the purpose of the request.

B. The department will make a written response to the inquiry within 10 calendar days after receipt. The department will give priority to expedite processing inquiries which involve litigation. The department will provide to the juvenile, his/her parent(s), or attorney making the inquiry information regarding the location, nature, and content of the records in the department's possession except:

1. If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his/her parents, the agency may withhold the information subject to the order of the court. If the court determines that limited release of the information is appropriate, the court may specify terms and conditions for release of the information; or

2. If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has the legal right to receive these services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

C. See Chapter 01 for additional policy on confidentiality of information.

23.99 REQUIRED FORMS AND INSTRUCTIONS

A. The following specific forms used for voluntary termination of parental rights are located in Chapter 99, Forms.

1. DSHS 09-466 Order of Service and Publication (12/79)
2. DSHS 09-467 Notice of Hearing re Petition and Intent (12/79)
3. DSHS 09-468 Publication Notice (12/79)
4. DSHS 09-469 Affidavit of Personal Service (12/79)
5. DSHS 09-470 Affidavit in Support of Service by Publication (5/80)
6. DSHS 09-471 Affidavit of Publication (12/79)
7. DSHS 09-473 Findings, Conclusions, and Order (3/80)
8. DSHS 09-474 Petition for Termination of Parent-Child Relationship (12/79)
9. DSHS 09-476 Petition for Termination of Relationship: Parent-Unborn Child (12/79)
10. DSHS 09-477 Consent to Termination (12/79)
11. DSHS 09-478 Waiver of Right to Receive Notice and Appearance (12/79)
12. DSHS 09-479 Authorization to Release Information (12/79)
13. DSHS 09-480 Order of Service and Publication (12/79)
14. DSHS 09-481 Notice of Petition and Intent to Release Custody or Consent to Adoption (12/79)
15. DSHS 09-482 Motion and Order Appointing Guardian ad Litem for Minor Parent (4/80)
16. DSHS 09-552 Voluntary Termination Information/Referral (12/80)

B. The following specific forms, instructions and guidelines used in cases involving Indian Child Welfare as referenced in 23.60 are included in Chapter 99, Forms.

1. DSHS 09-534 Letter to Parent and/or Indian Custodian (12/80)
2. DSHS 09-535 Letter to Tribe - Notification (12/80)
3. DSHS 09-536 Letter to Bureau of Indian Affairs (12/80)
4. DSHS 09-537 Letter to Canadian Indian Band (12/80)
5. DSHS 09-538 Letter to Canadian Indian Parent (12/80)
6. DSHS 09-539 Letter to Tribe - Enrollment Status (12/80)
7. DSHS 09-540 Letter to Bureau of Indian Affairs - Tribal Affiliations (12/80)
8. DSHS 09-541 Notice to Indian Tribe, Band or Nation (12/80)
9. DSHS 09-542 Notice of Intervention and Request for Continuance (12/80)
10. DSHS 09-543 Notice to Parent and/or Indian Custodian (12/80)
11. DSHS 09-544 Request for Continuance (12/80)
12. DSHS 09-545 Notice to Secretary of United States Department of Interior Regarding an Indian Child (12/80)
13. DSHS 09-546 Certificate of Presiding Judge (12/80)
14. DSHS 09-547 Motion to Transfer Jurisdiction to Indian Tribe (3/81)
15. DSHS 09-547A Order to Transfer Jurisdiction to Indian Tribe (3/81)
16. DSHS 09-548 Motion for the Tribal Court to Accept Jurisdiction (3/81)

DCFS MANUAL: CHAPTER 23 -- PERMANENCY PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

TO: Holders of DCFS Manuals

NOTICE NO.: T-113
ISSUED: 07/19/94

RECEIVED
JUL 23 1994
DIVISION OF
CHILDREN AND FAMILY SERVICES

FROM: Carole Cheatle, Director of Operations
Children's Administration
MS 45710

SECTIONS REVISED:
Chapter 23

EFFECTIVE: On Receipt
FOR INFORMATION CALL:
SCAN 321-2657/(206)586-2657

IF NOT DELIVERABLE, RETURN TO: DISTRIBUTION CENTER, MS 45807. FOR DISTRIBUTION CHANGES, NOTIFY: MANUAL DISTRIBUTION, MS 45807/(206) 586-8439 OR SCAN 321-8439.

SUBJECT: REVISIONS TO RCW 13.34

Place this notice in front of Chapter 23, and note on the Tan Notice Control Sheet the date T-113 was entered, remove T-111 and note on Tan Notice Control Sheet the date T-111 was removed.

I. BACKGROUND

The 1994 Legislature, via passage of E2SSB 6255, re-wrote a good portion of RCW 13.34 (the Juvenile Court Act in cases relating to the dependency of a child). As a result, three major revisions were made.

A. Revision to Acceptable Permanent Plans

Child welfare agencies charged with the care of children shall only provide juvenile courts with written permanency plans that specifically identify certain outcomes as "primary goals"; any additional outcome may be identified, but only as an "alternative goal." Independent Living was purposely omitted as one of the "primary goals" (despite the permanent inclusion of Independent Living in federal law).

State Law in this instance takes precedent, and requires the removal of Tan Notice T-111, which incorporated Independent Living as an acceptable permanent plan.

B. New Permanency Planning Requirements for Children Age Ten and Under

E2SSB 6255 amended the time frames for Permanency Planning hearings for children ten years of age and younger, if they have resided in foster care placement nine months or longer. These children must have a Permanency Planning hearing by their twelfth month of placement, and then annually thereafter.

The statute was also amended to require the supervising agency to develop a permanency plan no later than sixty days after assuming responsibility for providing services to that child.

C. Preventive Services Requirements

At the dependency disposition hearing, the court must make a finding that "preventive services" were offered or provided to prevent placement, separate from the "reasonable efforts to prevent placement" judicial requirement. Preventive services was specifically defined as family preservation services per RCW 74.14C.010, or "other reasonable services capable of preventing the need for out-of-home placement while protecting the child."

II. ACTION REQUIRED

A. Remove T-111 and add the following information to 23.10 POLICY - PERMANENCY PLANNING of the DCFS Manual:

THE ONLY ACCEPTABLE PERMANENT PLANS THAT HAVE THE FOLLOWING AS "PRIMARY GOALS" ARE:

1. Return home
2. Permanent relative placement with written agreement
3. Relative guardianship
4. Adoption
5. Foster parent guardianship
6. Foster care with long-term written agreement

B. Permanency Planning Hearing for Children Ten and Under

Delete the text at DCFS Manual Chapter 23.23.44, and add the following text under section 23.44 Permanency Planning Hearings:

Both federal and state law require juvenile courts to determine the future status of any child in foster care no later than eighteen months after the original placement. In addition, state law requires that for any child age ten and under (has not reached their eleventh birthday) and who has remained in out-of-home care for at least nine months, a permanency planning hearing shall take place no later than twelve months from the beginning of the current placement episode. Subsequent to the initial permanency planning hearing for any child, state law requires permanency planning hearings be held annually thereafter until the permanent plan is achieved or dependency is dismissed. The court is required to review all dependency cases at least one every six months until dependency is dismissed. (NOTE: There is an exception granted to counties with citizen review boards.)

C. Preventive Services

Delete the text at DCFS Manual Chapter 23.13 B. and add the following under B. Preventive/Reunification Services:

Prior to a child being placed out-of-home, a complete needs assessment of the individual child and family is required. Reasonable efforts must be made to prevent placement and to make it possible for the child to return home. If removal from the home is recommended, the predisposition report to the court must provide a full description of the preventive services (specifically family preservation services delivered primarily in the home - see RCW 74.14 C. 010) plus any other reasonable services capable of preventing the need for out-of-home placement while protecting the child, that have been offered or provided but have failed to eliminate the need for out-of-home placement. The only acceptable reason for not offering and/or providing preventive services is if the health, safety and welfare of the child could not be adequately protected while the child remained in the home. "Preventive Services" are not in lieu of "Reasonable Efforts" requirements, but rather preventive services are a subset of reasonable efforts. That is, reasonable efforts to prevent any removal of the child from his/her home must be attempted (barring health or safety issues) prior to that child's initial removal, and are usually addressed at the shelter care hearing. However, prior to the court's ordering continued out-of-home placement at the dependency disposition, the issue of preventive services must be addressed to the courts satisfaction.

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23.00 INTRODUCTION

23.01 Purpose and Scope

The division meets legal requirements for permanency planning, case planning and case review to children and families according to several different methods. This chapter contains policy and procedure governing permanency planning, the writing of case plans and court reports. Additionally, this chapter describes juvenile court, administrative case review, and citizen case review.

23.02 Authority

Public Law 96-272 of 1980, Child Welfare and Adoption Assistance Act

Public law 96-272 provides funds to states for services to children if the state maintains compliance with several requirements for permanency planning, case plans and case review procedures. These procedures are designed to ensure that each child will have a safe, permanent home as quickly as possible. PL 96-272 requires that:

- States maintain a state-wide information system, that can track all children in out-of-home care.
- Detailed case plans (Individual Service Plans) be completed no later than 60 days of a placement episode, at six months and every six months thereafter for all children in out-of-home care.
- Detailed case reviews ("periodic reviews") occur for each child in out-of-home care every six months.
- Court hearings that make a determination regarding the permanent plan for the child occur by the 18th month that the child is out-of-home and periodically thereafter (every 12 months in Washington State).
- Revised Code of Washington (RCW)

  Washington State law mandates development of case plans and requires case review.

  Chapter 13.34.120(1) and 13.34.120(2)

  Chapter 13.34.130(2) and 13.34.130(2)(a)

The statute requires that:

- The agency having temporary custody of the child shall "provide the court with a specific plan" that specifies "where the child will be placed," what steps will be taken to return the child home and actions taken to maintain parent-child ties." The agency must also specify services to be offered to assist parents to resume custody.

23.03 Definitions

- Substitute care: Placement of a child outside of the home of the child's natural parent, legal guardian or legally established adoptive parent related to the provision of child welfare services in accordance with 74.13 RCW.

- Placement Episode means the period of time that begins with the date the child was removed from the home of the parent or legal custodian for the purposes of placement in substitute care and continues until the child returns home or an adoption decree or guardianship order is entered.

- Dependency: Established when a person under the age of 18 is found by the court to be:

  1. Abandoned,

  2. Abused or neglected, such that the child is in serious danger of harm.

  3. Without a parent, guardian, or legal custodian willing and capable of adequately caring for the child such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development, or

  4. Developmentally disabled and the child's parent, guardian, or legal custodian with DSHS/DCFS has determined that services appropriate to the child's needs cannot be provided in the home.

- Alternative Residential Placement (ARP): Placement begins when a petition filed by a child or his/her parent is approved by the court for alternative residential placement. The hearing on the petition will be on the question of the child's placement. The court will approve the placement in which the child resides, when either the parent or child wishes the child to reside or in a much more secure facility as deemed necessary.

- Individual Service Plan (ISP): the Individual Service Plan is completed for each child in care by the 30th day of the initial placement episode, by sixth month from the date of placement, and every six months thereafter. The ISP provides information regarding the entire case plan for a child and his/her family. It enables the reviewing body to make informed conclusions and recommendations regarding the child's future status, and reviews the progress already made towards achieving a permanent plan for the child. The ISP provides information to the juvenile court and documents the requirements of Public Law 96-272 for a written case plan. It also provides a written report for Administrative reviews, case conferences, LICWAC (Local Indian Child Welfare Advisory Committee) reviews, Child Protective team reviews, and is used to obtain approval for group care placement.

- Periodic Review: A review of a child's case plan held every six months when the child is in out-of-home substitute care that meets federal and state law for periodic review.

- Dispositional Hearing:

  a. Federal Definition: A hearing held by the juvenile court by 18 months of placement that makes a determination regarding the future status (permanent plan) of the child.

  b. State Definition: A hearing held by the juvenile court following a fact finding hearing that determines the immediate placement and case plan for the child.

- Shelter Care Hearing: A brief hearing held by the juvenile court after the filing of a dependency petition but before a child has been found dependent that allows the court to examine the need for shelter care.

- Dependency Petition: A written statement which contains factual allegations, requests that the court take specific action, and recites the legal basis for such action.

- Dependency Review: A hearing designed to examine what has happened in the case since the last court hearing. At a minimum, dependency cases must be reviewed every six months. The hearing allows all parties to present recommendations regarding the future course of the case. The court will examine the extent of the parties compliance with the dispositional plan and, if necessary, the dispositional plan may be modified by the court.

- ARP Review: A hearing designed to examine what has happened in the case since the alternative residential placement petition was approved. ARP reviews are held at three months of placement. Out-of-home placement may not be continued past 180 days from the day the review hearing commenced, and the court must order that the child be returned to the home of the parent at the expiration of the placement.

- Termination of Parental Rights: Permanent severance of the legal relationship between a parent and child. All rights, powers, privileges, immunities, duties, and obligations, including rights to custody, control, visitation, and support are extinguished. Any support obligation existing prior to the effective date of the termination order is not affected by the termination. The rights of one parent may be terminated without affecting the rights of the other.

- Dependency Guardianship: A procedure available through juvenile court whereby someone other than the child's parent is designated by the court to care for a dependent child and exercise, in most respects, the rights and responsibilities of a parent. A guardianship is a means of providing the child with stability and permanence in his/her placement while removing the need for the active agency supervision and six month court reviews otherwise required when a child has been found dependent. Although the parental rights of the child's natural parent are not permanently terminated as the result of a guardianship, such rights are severely limited.

- Adoption: Adoption is a legal and social process provided for by law, to establish the legal relationship of child and parent when they are not so related by birth. Adoption services provide opportunities for children to achieve permanent, nurturing families.

- Termination of Publication Hearing: If the court orders publication of notice, the court will set a date to return to court to verify whether anyone responded to the notice. The date is routinely referred to as the "TOP" date.

  Publication must occur on three successive weeks. The first publication must occur at least 25 days before the termination of publication date. Because the process of receiving verification back from the newspaper requires extra time, the entire process takes approximately seven weeks. For that reason, TOP is usually set for 60 days after the date that publication is ordered.

  The termination of publication day may be set before, after, or at the same time as the Fact-Finding date, but the court may not enter an order regarding the individual to whom publication has been ordered until the termination of publication occurs.

- Default: When a person fails to answer a petition within the time allowed or fails to appear in court at the required time, an order may then be entered finding the person to be in default and granting the relief requested by the opposing party.

- Continuance: Postponing a hearing. The court will set the matter for a later date.

23.10 POLICY - PERMANENCY PLANNING

- All children, regardless of age, ethnicity, or disability, are entitled to a permanent home.

- The Case Permanency Plan means the plan mandated by Public Law 96-272. This plan shall ensure that no child is placed in foster care who can effectively be protected in the child's own home; and that when removal is necessary, reunification be attempted before any other permanent plan is sought.

- The permanency plan shall begin when the department begins working with the child's family and shall outline specific goals that will ensure that the child is placed and maintained in a permanent family situation as quickly as possible. If it is necessary to place a child temporarily, the case permanency plan shall be founded on a family assessment and include a statement of how the child's special needs will be met in the least restrictive, most family-like setting available that is in the closest possible proximity to the child's family.

THE ONLY ACCEPTABLE PERMANENT PLACEMENTS PLANS ARE:

1. Maintaining a child at home.

2. Relative placement with written permanency agreement.

3. Relative guardianship.

4. Adoption.

5. Foster parent guardianship.

6. Family Foster care with written permanency agreement.

23.11 Purpose of Service and Statement of Philosophy - Out-of-Home Care

The purpose of out-of-home care services is to provide children a temporary, protective, nurturing home when a child's family is unable to provide basic protection care and nurture for a child. Preventative service alternatives are offered in order to help maintain the family unit prior to any consideration of out-of-home placement. When placement is necessary, reunification services are immediately initiate to expedite the child's return home before any other permanent plan of care is considered. Out-of-home care is viewed as a short-term service solution to an emergent situation.

Permanency planning begins at the time DCFS begins working with a child and the child's family, and continues throughout the service period until permanency is achieved. Permanency planning and follow-through are essential to reducing/eliminating the negative effects that separation from family has on every child.

The underlying goal is to provide each child with a permanent family, capable of providing protection, care, and nurture as expeditiously as possible.

The philosophy of substitute out-of-home care services is:

- Children have a right to a stable, permanent home as quickly as possible.
- Children have a right to be raised by their birth parents when their parents are able to do so in a minimally adequate manner.
- Children who come to the attention of the child welfare system generally have parents who care about them, want what is best for them, and who with help, can assume responsibility and provide adequate care for their children.
- Immediately available intensive service(s) can assist most parents in improving their capacity to carry out and resume their responsibilities as parents.
- Children have a right to a stable, permanent home by means of adoption, or other plan for permanency, when their parents are unable or unwilling to improve their ability to function as adequate parents within 18 months of the beginning of the placement.

23.12 Service Description

A. Out-of-home care is a temporary substitute for the child whose family is unable to minimally provide for the child's care. This could include relative care, foster care, group care or institutional or hospital care. The most common reason for placement is that the child would be at risk of serious abuse or neglect if left at home as determined by DCFS risk assessment protocol. A child might also be placed temporarily due to extreme conflict with his/her parents. In a few cases placement may be due solely to the child's own physical and/or psychological problems. Except in rare instances, out-of-home care is neither a goal nor a plan for permanence for the child.

B. Out-of-home care service includes:

1. A full assessment of the individual child and family situation.

2. Counseling and preventive services to the child, parent(s)/guardian(s), relative(s) to reinforce and maintain the family unit whenever possible.

3. Placement and supervision of children who cannot remain in their own family homes after all reasonable efforts have been made to provide services to maintain the family unit.

4. Specialized placements for children with special needs.

5. Post-placement counseling and reunification services to the child, parent(s)/guardian(s), relative(s) to return the child home or to place child in an alternate permanent family situation.

6. Medical, psychological/psychiatric, and other specialized services as needed.

23.13 General Policies

A. Foster Care Teams

1. Parent Involvement

Whenever possible, the child's parents will be involved in the decision to place their child prior to removing the child from his/her home.

Parents will actively participate in the development of an individual service plan (ISP) to ensure expedient remediation of risk factors to facilitate the child's timely return home. Social workers are encouraged to develop the ISP in a family in-person conference, as workloads permit. All parents whose location are known must be provided with a copy of the ISP.

2. Social Worker Role

Social Workers have primary responsibility to coordinate the case planning efforts of all persons working on behalf of the child. This includes developing goals with the biological parents that will strengthen the family, and provide the means of achieving these goals. The foster care provider/agency will be given information and resources to assist with the stability of the placement and to meet the needs of the child. The Social Worker will work with the placement family/agency and with the other professionals involved in the case to support the permanent plan for the child.

3. Foster Care Provider Role

Foster care providers are responsible for the protection, care and nurture of the child in placement. Foster care providers may, if appropriate and agreed to by provider, participate in the development of the service plan for the child and his/her family; assist in family visitation, including monitoring; and model effective parenting behavior for the natural family.

4. Indian Tribes/Bands

Indian tribes/bands have a substantial legal and social interest in those children who are members/eligible for membership in the tribe/band. In cases involving Indian children the child's tribe/band is a primary resource for identifying appropriate placement options and for service plan development/implementation. (See DSHS Indian Child Welfare Manual for specific instructions.)

5. Other Professionals

Professional members of the medical, educational, tribal psychological, and legal community work in accordance with the individual service plan (ISP) to provide services which support the child and his/her family moving toward permanency. These professionals share their recommendation with the social worker through written reports or network staffings.

6. Child

Many children who enter the foster care system are willing and able to participate in the individual service plan by sharing their needs and feelings. Although not in a decision-making position, their input needs to be heard, acknowledged, and responded to by DCFS. Adolescent children <u>particularly</u> should be involved in planning.

B. Preventive/Reunification Services

Prior to a child being placed out of home, a full assessment of the individual child and family is required, and it must be clearly ascertained that the child's needs cannot be met through available services provided in his/her own home or relative's home. Reasonable efforts must be made to prevent placement and to make it possible for the child to return to his/her own home. (See 23.20 for Reasonable Efforts Policy to Placement.)

SEE T-113

C. Parent Involvement

Whenever possible, the child's parent(s)/guardian(s) will be involved in the decision to place, or not to place, their child, prior to removing the child from his/her home.

D. Minimum Possible Number of Placements

In order to provide stability to the child in out-of-home care, the placement selection will be made with a view toward the fewest possible placements for each child. If possible, the initial placement should be viewed as potentially the only placement for the child. The use of short-term interim placements (30 days maximum) to protect a child's health or safety while the placement of choice is being arranged is not a violation of this principle.

E. Preservation of Family Relationships

Efforts shall be made to place the child in close proximity to the parent(s)/guardian(s) home and the child's current school consistent with the best interests and special needs of the child. Placement selection will attempt to preserve the family relationships of the child. Frequency of visitation of the child in foster care by the parent(s) is directly related to the length of stay in foster care. Generally, the more frequent the visitation, the more likely the child will return home.

F. Long-Range Plan

The ultimate or long-range plan for the child (return home, adoption, placement with relative, guardianship, or in limited situations, long-term foster care) will be the primary consideration in the type and location of both initial and subsequent placements. Any temporary placement should be chosen with a view toward preparing the child for the long-range placement plan. (See Section 23.14 for permanency planning priorities.)

G. Relative Placement

RCW 13.34.130(b) states that unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child would be hindered, children will be placed with relatives.

1. The definition of relatives includes: grandparents, brothers, sisters, stepbrothers, stepsisters uncles, aunts or first cousins with whom the child has a relationship and is comfortable. The relative needs to be willing and available to care for the child.

2. Efforts shall be made whenever possible and appropriate to place the child with a relative when the child cannot return to his/her natural family. This should include thorough relative searches early in the DCFS involvement in the family, and periodically throughout the child's placement in out-of-home care.

3. A criminal background check should be done on all relatives being considered as a placement option for the child. (Refer to Chapter 6.)

4. When a child is placed temporarily with a relative in lieu of foster care, casework services should be provided the same as for all out-of-home care. (See Chapter 32.33.) Relative placements must meet all case planning and case review requirements described in this chapter.

H. Permanent Family at Earliest Possible Date

Time is a critical factor in the temporary placement of children. The long-range placement plan is to be achieved at the earliest possible date. If the plan is to return the child home, selection of placement resources shall facilitate and support return home within weeks, if possible. (See Section 23.14 for permanency planning priorities.)

I. Child's Previous Placement History

Careful attention is to be given to the child's previous placement history when selecting a temporary or permanent home for a child. Prior placement history may indicate a need for prompt action to achieve permanency, a need for more or less structure, an inability to relate to parental figures, or other factors which should be considered in placement selection.

J. Needs of the Child and Placement Resources

Efforts shall be made to place the child in the least restrictive (most family-like) setting available consistent with the best interests and special needs of the child. Placement selection must consider the needs of a child for specialized services and the accessibility of those services. For example, a child in need of special education services should not be placed where such services are not available. Similarly, the child in need of specialized medical treatment or services is to be placed where such services are available and reasonably accessible to the child.

K. Case Plans (ISP)

For each child in out-of-home care, there must be a case plan which is time-limited, goal-oriented, and routinely involves the child, parent(s)/guardian(s), and foster parent(s). The case plan is also intended to serve as a written agreement between the agency, the parent(s), child, and foster parent(s). (See ISP procedures, Chapter 23.99.) This case plan also includes a Health and Education Record which is updated with all ISP's and also at the point of any change of placement.

L. Court Involvement

Foster care required beyond six months must be authorized by a court order, or through an Exception to Policy utilizing an Alternative Administrative Review or Citizens Review as appropriate. (See Chapter 23.42 & 43 for Alternative Administrative Review and Citizens Review procedures.)

23.14 Service Priorities

A. Mandatory Services

1. Providing assessment and counseling to child, parent(s), guardian(s), relative(s) to develop a plan for meeting child's needs without placement if possible.

2. Providing/arranging counseling/preventive services to child, parent(s)/guardian(s), relative(s) to prevent placement.

3. Evaluating need for out-of-home placement.

4. Arranging for placement of children into homes of relatives, receiving homes, and family foster homes when out-of-home care cannot be prevented.

5. Determining source of funding for foster care maintenance payments and medical services.

6. Providing/arranging counseling/reunification services to child, parent(s)/guardian(s), relative(s) to return child home or to place child in an alternate permanent care situation.

7. Providing consultative and support services to foster parents to assist with maintaining the foster placement, to prevent a more restrictive placement of the foster child, and to achieve the Individual Service Place (ISP) for permanency.

8. Monitoring of placement to ensure quality of care.

23.20 REASONABLE EFFORTS TO PREVENT PLACEMENT AND RETURN CHILDREN HOME

Legal Basis

- Federal Law 96-272, 42 U.S.C. sec 671(1)(15) 42 U.S.C. sec 672(a)(1).
- Federal Regulations, Title 45, Part 1356.51.
- Chapter 13:34 Revised Code of Washington.

Purpose and Scope of Policy

Federal and state law require that children only be removed from their own homes when reasonable efforts to keep them safely at home are not possible. This body of law recognizes that children may be emotionally harmed if separated from their parents and that parental custody should only be interfered with by the state when no other alternative is reasonably available to protect the child at home. Following placement, these laws recognize that the state child welfare agency should facilitate planning to make it possible to eliminate the need for placement. Reasonable efforts need to be made by the child placing agency responsible for the child. It has an obligation to make reasonable efforts to prevent the need for out of home care. If placement is necessary the agency is responsible for providing reasonable efforts to return the child home as soon as possible.

Child safety and emergency removal may preclude attempts at reasonable efforts. Federal regulations allow the juvenile court to determine that it is reasonable not to make reasonable efforts in those circumstances. DCFS should carefully document what caused the emergency such that reasonable efforts could not be made.

"Reasonable efforts" do not mean that a laundry-list of all services in the community be offered to a family. Services should be carefully chosen to be responsive to a particular family's needs. Offering a "shotgun" list of services without careful planning may be as ineffective as offering no services at all. When available, services should be offered in the family's own home at times appropriate to the family's schedule and needs.

The Scope of Reasonable Efforts to Prevent Placement Includes:

- A comprehensive assessment of the entire family situation,
- A Risk Assessment based on current agency protocol,
- A determination of what services would be appropriate for the family,
- Consideration and involvement of parental opinion in determining what services should be pursued,
- Consideration of cultural issues, including availability of planning and services offered in the native language and culture of the family,
- Consideration of the distance of the family from services and transportation available to the family,
- Consideration of financial ability to pay for services (both DCFS and family),
- Development of specific timelines for demonstration of parental change,
- Development of parental-agency contracts and/or written case plan with parents,
- Decisions on use of court action to mandate services to prevent the placement of the child,
- Regular review of parent-agency contracts and case plans by social workers, supervisors and (if court-ordered), the juvenile court.

The Scope of Reasonable Efforts to Return a Child Home Includes:

Following placement of the child into substitute care, the Social Worker must offer reunification services to the family in an attempt to eliminate the need for placement.

Reasonable effort to reunify a family should take the following factors into account:

- Visitation between parent and child should be as frequent as possible if visitation is not harmful to the child or prohibited by court order,
- Services offered should be geographically accessible to the family,
- Services offered should be responsive to the family's cultural background and native language,
- Placement of the child should be the closest to the family home that meets the needs of the child,

- Parental opinion should be considered in the development of all case plans,
- Clear timeframes should be placed on the completion of services,
- Case plans should be monitored and reviewed regularly by courts, citizen review boards and administrative review boards as required by state and federal law.
- Efforts made to offer/provide services, and outcomes of services should be carefully described in updated case plans.
- Families should be reassessed at least every six months to evaluate the continuing risk to the child if the child were returned home.

Outcomes of Unsuccessful Reasonable Efforts

The DCFS social worker should carefully weigh the potential harm to a child of continuing seemingly unsuccessful efforts to return the child home. Even six months in out-of-home care is a long time in the life of a child. Eighteen months is a very long time for a child to be without a permanent family. The social worker should modify the permanent plan to seek another permanent outcome when reasonable efforts have been unsuccessful. Often this is apparent by six months following dependency. In very few circumstances should workers continue with a goal of return to the home following 18 months of placement.

Long-term out-of-home care without permanency is usually harmful to children. Reasonable efforts requirements do not preclude that social workers must sometimes make recommendations to the court that the parent(s) do not appear capable of change within the time-frames required by a developing child.

23.30 CASE PLANNING REQUIREMENTS

23.31 Types and Uses of Case Plans and Court Reports

Types

- Individual Service Plan Summary Assessment Form (DSHS 15-209(X)) for Children in Placement which must include the Health and Education Record (DSHS 15-209A).

The ISP is the complete case plan for all children in out-of-home care. Its primary purpose is providing goal-orientated, time-limited case planning for each child and his/her family so that he/she obtains and is maintained in a safe permanent home as soon as possible.

The ISP serves as a blueprint for what DCFS expects to happen in a case. It outlines how the child will be cared for in substitute care and what DCFS expects of the agency, parents and child. It also maintains an ongoing record the child's health and education needs.

Uses and Time Frames Required for Completion of the Individual Service Plan and Health and Education Record

When a child is in out-of-home care the social worker completes or updates the ISP at or before:

- By the 30th day of the placement episode of a child, at six months, and periodically thereafter at six month intervals.
- Six months following the completion of the preceding ISP.
- If the ISP is completed earlier than required the next ISP is due no later than six months from the last one completed.
- The Health and Education form, which is to be attached to the ISP and kept in the legal section of the case record will be updated at the time of any ISP update. In addition it will be updated at the point of any placement change. A copy of the form is always provided to the caregiver at the time of placement, and the time of update.

Social workers also use the ISP as the report to the court in most regions. It is used as the primary source of information for many staffings and case reviews.

The social worker submits the ISP in the following situation:

- For all court permanency planning and review hearings,
- To obtain approval to place a child in group care,
- For administrative reviews,
- For citizen reviews,
- For LICWAC staffings.

23.32 Policy Governing Case Plans for Children in Out-of Home Care

The DCFS social worker, private agency or tribe having physical custody of a child shall complete the DSHS 15-209, Individual Service Plan, for all children in out-of-home care who are in the temporary or permanent legal custody of DCFS. Individual Service Plans should be developed after a comprehensive family assessment has been completed by the DCFS social worker. Families have a right to know what the comprehensive case plan is for their child and family. Failure to establish ISPs in a timely manner may contribute to parental resistance to involvement in services needed to return a child home.

Consultation on the ISP

The social worker develops the ISP after consulting with the parents of the child. This consultation with the parents will be conducted in person if possible.

Individual Service Plans should clearly describe what is necessary to be accomplished before the permanency plan is completed. Whenever possible, all activities planned for parents, children foster parents and DCFS shall be described as specifically as possible. For example: "Mother will start out-patient drug treatment at Community Drug Service Agency by October 1, 1989 and will complete treatment by January 30, 1990." "DCFS will complete a home study on Jane Doe by December 30, 1989." "Child will attend tutoring session at Lincoln School four times by December 1989."

23.40 CASE REVIEW REQUIREMENTS FOR CHILDREN IN OUT-OF-HOME CARE

23.41 Type of Case Review, Periodic Review - Federal Law

Federal law requires that each child in substitute care have a full case review at least every six months from the beginning date of the placement episode. This may be accomplished in a court review hearing or through a citizen or administrative review.

State Law - Court Review

State law requires that the case of every dependent be reviewed by the juvenile court every six months from the date of the establishment of dependency or the date of the placement of the child, whichever comes first. Children who are in placement as a result of an ARP dispositional hearing must be reviewed by the court three months after an ARP dispositional hearing.

Social workers usually meet federal requirements for periodic (six-month) review of children in substitute care through one of the following:

- Court review hearings,
- Administrative reviews.

Other types of court hearings or internal staffings may sometimes meet federal requirements for periodic review if:

- Parent(s) of the child have been invited to the review or staffing, and
- One person on the reviewing body is not directly responsible for developing and implementing the case plan.
- The review addresses the content of the periodic review

Content of Periodic Reviews

Periodic reviews cover the entire case plan for the child. They should include a review of:

- The ISP,
- The appropriateness of the type of placement and the permanent plan,
- The reason(s) placement is necessary,
- Parental compliance with the case plan, and progress towards permanency,
- The projected date that the permanent plan will be completed,
- Whether parents have been notified and/or involved in agency decision making especially as it relates to changes in visitation, placement, and the child's legal status.

23.42 Administrative Case Review

Regional administrators shall establish an administrative review system to ensure that federal requirements for periodic review are met.

Administrative Review Coordinators:

Each region shall appoint an administrative review coordinator. The administrative review coordinator is responsible for:

- Establishing and maintaining administrative review teams,
- Establishing a scheduling system for review,
- Seeing that reviews are conducted within state and federal guidelines and timeframes,
- Liaison with state office,
- Preparing monthly reports on the status of the review system, and
- Establishing training for staff and volunteers.

Administrative Review Teams/Composition

Administrative review teams shall be composed of at least three persons. One member must not be in the chain of command of the social worker responsible for the case. These people may be:

- DCFS staff or trained citizen volunteers who have signed oaths of confidentiality.

- Cases involving Indian children shall be administratively reviewed as provided in the DCFS Indian Child Welfare Manual, Chapter 07.60.

Administrative review must occur in the following situations:

- Court procedures or hearings have not met the federal guidelines or timeframes for periodic review,

- The social worker requests a voluntary placement extension beyond six months.

Additionally, administrative review may be used for other purposes as determined by the regional administrator.

Administrative Review/Process Notice:

At least 14 days prior to an Administrative Review the social worker shall send written notice of the date, time and place of review to:

- Parents

- Children over the age of 12

- Child's tribe (see DCFS Indian Child Welfare Manual for definition of tribe)

If an emergency review must occur to meet federal timeframes, the Regional Administration Review Coordinator may waive the above notice requirements. In these cases the social worker shall notify the above persons by phone or in person of their right to attend the review. Documentation of notice to parents is made on the Administrative Review Hearing Form by the Administrative Review Chairman.

The social worker or Administrative Review Chairman may invite other people to the review. However, with the exception of the guardian ad litem and parents' attorney, parents must give written parental consent to the attendance of others at the reviews.

Foster care providers often have valuable information about the child's daily life, medical, educational and emotional condition. Social workers should encourage birth parents to allow foster parents to attend. If a parent refuses such permission, the foster care provider may be invited into the review only for the purpose of giving information about the child's adjustment to out-of-home care and to give the reviewers information on the child's current condition. In this situation, the foster parent does not attend the entire review so that birth parents right to privacy is protected.

Recommendations from Review:

The Administrative Review Coordinator or Review Board Chair completes the Administrative Review Form, DSHS 05-203, after the review. The Administrative Review Coordinator sends copies of the DSHS 05-203 to:

- The parents of the child,
- The DCFS social worker for the child,
- Children over 12 subject to the review,
- The Indian child's tribe, and
- The private agency social worker responsible for placement of the child.

23.43 Citizen Review Boards

Purpose and Scope

The 1989 Legislature established pilot projects on citizen review in one or more Class 1 Counties in the state to improve accountability for permanency planning for children in out-of-home care. These pilot projects will be administered through the Office of the Administrator for the Courts through contracts with local juvenile courts. All dependent children who are in placement and children in placement as a result of voluntary placement agreements are subject to citizen review in selected pilot sites. Children who are not in out-of-home care and children in out-of-home care as a result of an ARP are not subject to citizen review.

Citizen review sites have significantly different requirements for court review than non-citizen review counties. Citizen review replaces some court reviews in pilot sites. Citizen review occurs at three months, six months, 12 months and annually thereafter during the child's placement episode. Reviews are scheduled by the juvenile court citizen review board.

DCFS Attendance at Citizen Review

DCFS social workers responsible for the child's case plan shall attend citizen reviews. If this employee is not available, DCFS shall require another employee who is knowledgeable about the case plan to attend the review. If the child is in private agency placement, the private agency case worker should also attend the review.

DCFS Preparation for Citizen Review

The social worker shall send a copy of the written parental consent to the local citizen review board within 30 days of placement when a child is placed in out-of-home care without court action. (When a child is placed by court order, the court is legally required to notify the citizen review board.)

The social worker shall send copies of the Individual Service Plan, DSHS 15-209, to the citizen review board at least 14 days prior to any scheduled citizen review.

DCFS Response to Citizen Review Recommendations

Citizen Review Board findings are advisory in nature to DCFS. However, should a board decide that DCFS' ability to complete board recommendations is unacceptable to the board, the board, by statute, may request that a court review hearing be scheduled to resolve the matter.

Following a citizen review, the review board will send a copy of its findings to the DCFS social worker. If the social worker, following consultation with his/her supervisor is unable or unwilling to implement the citizen review board findings, the social worker will prepare an implementation report within ten working days describing:

- Reasons why DCFS is unwilling or unable to implement the recommendations, and
- The case plan DCFS does intend to implement.

The DCFS Implementation Report format shall be established by DCFS Regional Offices in cooperation with pilot citizen review boards.

23.44 Permanency Planning Hearings

SEE T-Notice 113

~~Both federal~~ and state law require that the juvenile court make a determination ~~regarding~~ the future status of the child by 18 months of the child's placement episode. ~~Following~~ that hearing, state law requires the court must annually, thereafter, ~~hold permanency~~ planning hearings to make further determinations about the permanency ~~plan. In addition~~, six month periodic review hearings continue to occur as long as the ~~child remains~~ dependent unless a guardianship has been established.

DCFS Preparation for Permanency Planning Hearings

DCFS submits an updated Individual Service Plan, DSHS 15-209 to the juvenile court prior to the permanency planning hearing. This report should be submitted within timeframes established by regional policy.

The ISP submitted for a permanency planning hearing shall clearly delineate the DCFS recommendations for permanency planning. Research indicates that any child who has been in out-of-home care for 18 continuous months is increasingly unlikely to return home. Eighteen months in placement is a very long time in the life of a child.

While it is always necessary when updating the ISP to review the parents' progress towards improving the conditions leading to the child's placement in out-of-home care, it is particularly important that a careful review of the permanency plan occur at the 18 month point. If, at this point, DCFS is still recommending to the court that eventual return home will occur, DCFS should carefully describe to the court how this view is consistent with the child's right to early achievement of a safe, permanent home. DCFS should carefully consider all alternative permanency plans before making a recommendation on permanency to the court. Questions to be considered by the social worker include:

- What emotional impact is long-term out-of-home care (without permanency) having on this particular child?
- How continued out-of-home care has affected the parent/child bond?
- Who is the child emotionally attached to?
- Have the parents been offered a reasonable opportunity to improve the conditions that lead to placement? What has been the result? Have conditions changed?
- How long will it take for conditions to change enough for the child to go home?
- What is the likely harm to the child of waiting for that period of time?
- How likely is it that an alternative permanent plan can be completed by DCFS?

23.50 COURT PROCESS

Federal: P.L. 95-608.

State: RCW 13.32A.120 through 13.32A.200; and RCW 13.34.010 through 13.34.300.

23.51 Policy

23.52 Purpose of Service

A. The purpose of this section is to describe the legal requirements of the Juvenile Court Code. The Juvenile Court Code requires that child welfare staff participate in four court processes: (1) Alternative residential placement (ARP), (2) Dependency, (3) Guardianship, and (4) Termination of parental rights. The consent to place process may be used under some circumstances in lieu of the ARP or dependency processes.

B. One or more of these court processes may occur in the provision of the following child welfare programs: (1) Family Reconciliation Services (see Chapter 24); (2) Child Protective Services (see Chapter 26); (3) Crisis Residential Placement (see Chapter 31); (4) Child Foster Family Care (see Chapter 32); (5) Private Agency/Child Group Care (see Chapter 34); and (6) Adoption Services (see Chapter 36).

23.53 Alternative Residential Placement (ARP) (See RCW 13.32A.120 through 13.32A.200)

The purpose of the alternative residential placement process is to resolve disputes between parents and children as to where children may live outside the parents' home.

A. ARP Petition (see required outline in 23.80 C. 2.).

1. The parent or child may file a petition to approve an alternative residential placement (see RCW 13.32A.120).

2. A petition may be filed only within the county where the parent resides. (See RCW 13.32A.200.)

B. The service worker may file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances (see RCW 13.32A.140):

1. The child has been admitted to a crisis residential center or has been placed with a responsible person other than his/her parent, and:

a. The parent has been notified that the child was so admitted or placed;

b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

c. No agreement has been reached between the parent and the child as to where the child shall live;

d. No petition requesting approval of an alternative residential placement has been filed by either the child, parent, or legal custodian; and

e. The child has no suitable place to live other than the home of his/her parent.

f. Staff will make such notifications and place American Indian children as required under 23.60.

2. The child has been admitted to a crisis residential center and:

   a. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

   b. The staff, after searching with due diligence, have been unable to contact the parent of such child;

   c. The child has no suitable place to live other than the home of his/her parent;

   d. The required notifications have been made for American Indian children and the service worker/Local Indian Child Welfare Advisory Committee (LICWAC) have reached agreement as to appropriate placement for the child. (See 23.60.)

3. An agreement between parent and child made regarding an alternative residential placement is no longer acceptable to parent or child, and:

   a. The party to whom the arrangement is no longer acceptable has so notified the department;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

   c. No new agreement between parent and child as to where the child shall live has been reached;

   d. No petition requesting approval of an alternative residential placement has been filed by either the child or the parent; and

   e. The child has no suitable place to live other than the home of his/her parent.

   f. Refer to 23.60 when working with American Indian/Alaskan Native children.

C. When the department files a petition for alternative residential placement the state will be represented as provided for in RCW 13.04.093.

D. Child/Parent Filing Petition (see RCW 13.32A.150).

1. A child or child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home if no agreement can be reached about placement or returning to the home.

2. The service worker shall, when requested, assist either a parent or child in filing the petition, i.e., explain procedures, help in initiating telephone contacts, etc.

3. The petition shall only ask that the placement of a child outside the home of his/her parent be approved.

4. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his/her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

E. Procedures Prior to Fact-Finding Hearing (see RCW 13.32A.160).

When a proper petition is filed (see RCW 13.32A.120, 13.32A.140, or 13.32A.150), the juvenile court will:

1. Schedule a date for a fact-finding hearing and notify the parent and child of such date;

2. Notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him/her by the court;

3. Appoint legal counsel for the child;

4. Inform the child and his/her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and

5. Notify all parties of their right to present evidence at the fact-finding hearing.

F. Placement of Child (see RCW 13.32A.160(2)).

1. Upon filing of an Alternative Residential Placement Petition, the child may be placed, if not already placed, by the service worker in a crisis residential center, foster family care home, group home facility or any other suitable, licensed (or determined exempt from licensing) residence as determined by the service worker.

2. If the child has been placed in a foster family care home or group care facility, the child will remain there, or in any other suitable residence as determined by the service worker, pending resolution of the alternative residential placement petition by the court.

3. Any placement may be reviewed by the court upon the request of the juvenile or the juvenile's parent within three court days of the request.

4. The department may authorize emergency medical or dental treatment for a child in placement. (See RCW 13.32A.140.)

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

G. Fact-Finding Hearing (see RCW 13.32A.170(1)).

1. The court will hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children.

2. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel.

3. The court may approve an order stating that the child shall be placed in a residence other than the home of his/her parent only if it is established by a preponderance of evidence that:

   a. The petition is not capricious;

   b. The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict; and

   c. The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home.

4. The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

H. Court's Approval or Denial of ARP Petition (see RCW 13.32A.170(4)).

1. If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons will be filed by the court.

2. If the court denies a petition requesting that a child be placed in a residence other than the home of his/her parent, the court will enter an order requiring that the child remain at or return to the home of his/her parent.

3. If the court denies the petition, the court will impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services. (See RCW 13.32A.170(5).)

4. A child who fails to comply with a court order directing that the child remain at or return to the home of his/her parent shall be subject to contempt proceedings. (See 23.53 N. below) but only if the noncompliance occurs within ninety calendar days after the day of the order. (See RCW 13.32A.170(6).)

I. Fact-Finding Court Order (see RCW 13.32A.170(2)).

1. The order approving out-of-home placement will direct the department to submit a disposition plan for a.three-month placement of the child that is designed to reunite the family and resolve the family conflict.

2. In making the order, the court may further direct the department to make recommendations as to:

   a. Which agency or person should have physical custody of the child, and

   b. Which parental powers should be awarded to such agency or person, and

   c. Parental visitation rights.

3. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

J. Procedures Prior to Disposition Hearing (see RCW 13.32A.170(3)).

1. The hearing to consider the recommendations of the department for a three-month disposition plan is set by the court no later than fourteen days after the approval of the court of a petition to approve alternative residential placement.

2. Each party is notified by the court of the time and place of such disposition hearing.

3. Departmental disposition planning for American Indian children will be consistent with the recommendations of the LICWAC.

K. Disposition Hearing (See RCW 13.32A.180 and required outline in 23.80 C. 7).

1. At a dispositional hearing held to consider the three-month dispositional plan presented by the department, the court will consider all recommendations included in the plan. The service worker shall also present to the court the LICWAC recommendations if the department's recommendations are inconsistent with those of the LICWAC and the petition will so state.

2. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify the plan and will make its dispositional order for a three-month out-of-home placement for the child.

3. The court dispositional order will specify:

   a. The person or agency with whom the child is to be placed, and

   b. Those parental powers which will be temporarily awarded to the agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights.

4. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed foster family care homes.

5. No placement made as a result of a dispositional hearing may be in a juvenile correctional institution or facility as defined in Section 103, PL 93-415 Juvenile Justice and Delinquency Prevention Act of 1974 (i.e., "any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses").

L. Dispositional Court Order (see RCW 13.32A.190(1)).

Upon making a dispositional order, the court will:

1. Schedule the matter on the calendar for review within three months, and

2. Advise the parties of the date, and

3. Appoint legal counsel and/or a legal guardian ad litem to represent the child at the review hearing, and

4. Advise parents of their right to be represented by legal counsel at the review hearing, and

5. Notify the parties of their rights to present evidence at the hearing.

6. Where resources are available, encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

M. Review Hearing (see RCW 13.32A.190(2) and required outline in 23.80 C. 7).

At the review hearing:

1. The court will approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval. The court shall determine whether reasonable efforts have been made to reunify the family and make it possible for the child to return home.

2. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious.

3. If out-of-home placement is continued, the court may modify the dispositional plan.

4. Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court will order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court will enter an order requiring that the child return to the home of the child's parent.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

N. Contempt (see chapter 13.22A RCW).

1. Contempt proceedings can be instituted by the court on its own initiative or when a motion for contempt is made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order.

2. Failure by a party to comply with an order entered under this chapter is contempt of court as provided in RCW 7.21.

3. Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

4. A child found in contempt under this section may be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

5. The procedure in a contempt proceeding held under this section is governed by RCW 7.21.010 through 7.21.070.

O. Support Payments (see chapter 13.32A RCW).

1. In any proceeding in which the court approves an alternative residential placement, the court will inquire into the ability of parents to contribute to the child's support.

2. If the court finds that the parents are able to contribute to the support of the child, the court will order them to make such support payments as the court deems equitable.

3. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders.

4. However, payments will not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child.

5. All orders of support entered in a proceeding approving alternative residential placement shall be in compliance with the provisions of RCW 26.23.050 relating to child support orders.

6. Recommendations to the court to establish, raise, lower, release, or forgive support payments for a child in placement may be made only by the staff of the Office of Support Enforcement (OSE) (see WAC 388-70-028).

23.54 Dependency Petition Process (see RCW 13.34.030 through 13.34.130).

A. A dependency petition (see Outline #1 and DSHS 09-428, Rev. 5/81, in 23.99) is filed after all other reasonably possible attempts to help correct the problem have been exhausted and if the child is in imminent danger or the parents refuse or are unable to immediately make changes adequate to protect the child.

B. It will be the duty of the attorney general to handle contested dependency cases brought by the department and, to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship. (In Class 1-9 counties the attorney general may contract with the prosecuting attorney of the county to perform paid duties of the attorney general.)

C. A petition to the juvenile court to have a child declared dependent is made in accordance with RCW 13.34.030. The petition may only be filed in the county of the parent(s) residence, the child's residence, or where the child is physically present. A petition must allege that a child:

1. Is abandoned, that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

2. Is abused or neglected as defined in Chapter 26.44 RCW; or

3. Has no parent, guardian, or custodian willing and capable of caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

4. Has a developmental disability, and DSHS and the parents (guardian or legal custodian) determine that services appropriate to the child's needs cannot be provided in the home.

D. If a child is alleged to be dependent and if a child's health, safety, and welfare will be seriously endangered if he/she is not taken into custody, a service worker should file a petition and request a court order that the child be taken into custody. If the court enter such an order, the court may direct a law enforcement officer, a probation counselor, or a child protective services official to take the child into custody. (See RCW 13.34.050.)

E. DSHS caseworkers have a duty under law to report possible crimes to a law enforcement agency or the county prosecutor, in accordance with RCW 26.44.020 and 26.44.040. Such a duty is not fulfilled by filing a dependency petition or by reporting a possible crime to the juvenile court.

F. CPS must make reasonable efforts to notify the child's parents as soon as possible and in no event more than 24 hours after the child is taken into custody pursuant to a court order or after CPS is notified of a law enforcement pickup. The notice may be given by any means reasonably certain of notifying the parents including written, telephonic, or in person oral notification. If the initial notification is provided by means other than writing, CPS must make reasonable efforts to also provide written notification. The written notification shall be contained in the Parent Guide to CPS booklet which has been distributed to the local DCFS office. (See RCW 13.34.060(2).)

G. Upon receipt of the written notice, the parents must acknowledge such notice by signing a receipt contained in the Parents Guide to CPS booklet. If the parent does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall then be made part of the juvenile court file in the case. If after making reasonable efforts to provide notification, CPS is unable to determine the parents' whereabouts, notice shall be delivered or sent to the parents' last known address. (See RCW 13.34.060(2).)

H. When it is necessary to petition the juvenile court regarding a child, the child's parents shall be informed of the reasons for the petition and helped to understand and participate in the court process. Such assistance should include helping the family to understand the need for and right to legal counsel. (See RCW 13.34.090.)

I. Refer to the 23-60 when working with American Indian/Alaskan Native children.

23.55 Juvenile Court Hearings and Reports

The service worker may be required to submit written reports, attend, and present testimony at the following hearings:

A. Shelter Care Hearing

1. A child taken into custody by a service worker prior to the hearing is to be placed in a receiving home/foster home licensed by the department or in a home not required to be licensed. (See RCW 13.34.060(1).)

2. A shelter care hearing must be held within 72 hours (excluding Saturdays, Sunday and holidays) after a child is taken into custody under the authority of a court order for emergency pickup or after a law enforcement pickup. Any parental waiver of the hearing must be made while the parents are present in court. (See RCW 13.34.060(1).)

3. At the shelter care hearing, the court must hear evidence and enter findings about the notice given to the parents and the efforts made by the case worker to provide notification. Case worker must testify about the reasonableness of his or her efforts to provide notification to the parents. (See RCW 13.34-060.)

4. The court must appoint legal counsel for indigent parents unless the parent waives the right to counsel in court. Notice and Summons issued by the court must contain information about the right to counsel and the procedure for securing appointed counsel. (See RCW 13.34.070.)

5. At the shelter care hearing, the court must consider the specific services that have been provided to the parents before making a finding that reasonable efforts have been made to prevent or eliminate the need for out-of-home placement. (See RCW 13.34.060.)

6. Parents who for good cause are unable to attend the initial shelter care hearing may request that a subsequent hearing be scheduled. The hearings must be held within 72 hours (excluding Saturdays, Sundays, and holidays) of the parents' request. The court clerk is required to notify all other parties of the hearing. (See RCW 13.34.060.)

7. An order for shelter care may not continue for more than 30 days unless reauthorized by the court. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. (See RCW 13.34.060.)

8. Any report of modification request submitted to the court for American Indian Children will be developed in consultation with the LICWAC and the court will be informed of any conflict between the worker and LICWAC recommendations. (See 23-60.)

9. Requests for discovery. Copies of DSHS agency records to which parent have legal access under disclosure and discovery rules must be provided to the parent or his or her legal counsel within 20 days after the department receives a written request for such records. The records must also be provided to the parents or legal counsel prior to the shelter care hearing. In addition to the materials that are already exempt from disclosure under RCW 13.50, DSHS must also delete the name and identifying information regarding child abuse referents. (See RCW 13.34.090 and 13.50.010.)

10. If a parent or other party in a case is represented by legal counsel, an order cannot be provided to the parent or party for his or her signature without prior notice and provision of the order to that party's counsel. (See RCW 13.34.090.)

B. Dependency Fact-Finding Hearing

1. Notice of fact-finding hearings must be provided no later than fifteen days prior to the hearing.

Note: See written changes on page 32.

C. Support for Dependent Children (see RCW 13.34.160)

Note: See written changes on page 32.

D. Disposition Hearing (see required outline in 23.99 C. 5)

1. The service worker shall be required to attend and may be required to present testimony. If the department filed the petition, then the service worker must prepare the following reports (listed as D. 2., 3. and 4. below) for the court. In other situations reports will be prepared/provided to juvenile probation staff according to DCFS/juvenile court agreements. (See RCW 13.34.110, 13.34.120, 13.34.130, and Manual G, 23.80.) This study is included in the DSHS 15-209, Individual Service Plan which is submitted to the court.

2. Social Study (see RCW 13.34.120 (1)). The service worker must give close attention to the requirements of this report and the needed information. This report is a written evaluation of matters relevant to the disposition of the case. The study and all social records will be made available to the court, including facts relating to the child's cultural heritage, particularly LICWAC recommendations and those of the parent and child, if of significant age, the tribe's request for intervention and transfer of jurisdiction to tribal court.

3. Predisposition Study (see RCW 13.34.120 (2)). The service worker must be familiar with specific requirements of this report. These requirements may be included when completing the Individual Service Plan, DSHS 15-209, if this form is accepted by the local juvenile court for dispositional hearings. If it is not, then the workers report shall include the following information in the alternative format described within this chapter. This report relates to the specific issue of whether or not the child should remain in the home and shall contain:

   a. A statement of the specific harm to the child that intervention is designed to alleviate;

   b. A description of the specific programs for the parent(s) and child that are needed in order to prevent serious harm to the child including why they will be useful, their availability, and the plan for ensuring their delivery;

   c. Why the child cannot be protected in the home--including past efforts to work with the parent and child in the home; treatment programs which have been considered and rejected, and the parents' attitude toward placement;

   d. The likely harm the child will suffer as a result of removal, including the parent-child attachment and meaning of separation and loss to both;

   e. Steps to be taken to minimize harm to the child that may result because of separation; and

f. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

g. Placement of an American Indian child will be done in accordance with Chapter 1.04 and 32.33 of Manual G.

4. Agency Placement Plan (see RCW 13.34.130(2)).

a. Agency Report

This report is completed on the DSHS 15-209, ISP the DSHS 15-209A Health and Education Record and includes:

(1) Where the child will be placed;

(2) Steps to eventually return the child to the home;

(3) Actions to maintain child-parent ties;

(4) Services the parents will be offered to enable them to resume custody;

(5) What requirements the parents must meet in order to resume custody.

(6) A time limit for each service plan and parental requirement.

(7) A listing of the child's current health and education record, listing medication and known medical/education or emotional problems.

b. Agency Responsibility

(1) The agency charged with supervising a child in placement shall provide all reasonable services available within the agency or community or those which the department has existing contracts to purchase.

(2) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must begin in order to resume custody, and a time limit for each service plan and parental requirement.

(3) The agency shall be required to encourage the maximum parent child contact possible including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety or welfare.

(4) A current and ongoing record of the child's Health and Education needs will be maintained (DSHS 15-209A) this record will be completed within 30 days of placement and attached to the ISP. Copies of this record will be provided to the caregiver at the point of any placement and will be updated at that time as will as at the time of the update of the ISP.

(5) The child shall be placed as close to the child's home and school as possible, preferably in the child's own neighborhood, unless the court finds that placement at greater distance is necessary to promote the child's or parents' well-being.

(6) The placement agency will report to the court and appropriate tribal government or urban American Indian organization if it is unable to provide such services.

E. Six-Month Review Hearings (See 23.99 C. 6. for required form, DSHS 15-209, Individual Service Plan.)

1. The service worker may be required to give testimony and enter an updated ISP to the court outlining: what services have been provided or offered; cooperation and visitation of the parents, whether additional services are needed to facilitate the child's return to his/her parents; and when the child's return can be expected. (See RCW 13.34.130 (4) and RCW 13.34.180.)

2. For American Indian children the service worker shall also report use of urban American Indian organization/tribal services provided, if any, and LICWAC recommendations in relation to the service plan and, if LICWAC recommendations and the service worker's plan conflict, the report shall so state and justify why Committee recommendations were not taken into consideration if they were not.

23.56 Termination of Parental Rights

A. Termination Petition (see required outline in 23.99).

1. A petition to terminate a parent/child relationship may be filed in the juvenile court when:

   a. A child has been removed from the custody of a parent pursuant to a finding of dependency and a dispositional order has been entered pursuant to RCW 13.34.130; and

   b. The child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

   c. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

   d. There is little likelihood that the conditions will be remedied so the child can be returned to the care of the parents.

2. A petition may also be filed:

   If a judge has ordered a child removed from his or her home after a dispositional hearing, the judge may order that a termination petition be filed if he or she finds it is recommended by DSHS or the supervising agency that it is in the best interest of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

   a. Conviction of the parent of rape of the child in the first, second or third degree as defined in RCW 9A.44.073, 9A.44.076 and 9A.44.079;

   b. Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

   c. Conviction of the parent of assault to the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

d. Conviction of the parent of murder, manslaughter or homicide by abuse of the child's other parent, sibling or another child;

e. A finding by the court that a parent is a sexually violent predator;

f. Failure of the parent to complete available treatment ordered under the laws of Washington or of another state where such a failure has resulted in a prior termination of parental rights to another child and the parent has failed to make significant change in the interim.

B. Voluntary Termination

The juvenile courts are authorized to terminate parental rights voluntarily under RCW 26.33. Social workers should use the forms found in § 23.80 relating to relinquishment of parental rights. It is important to use the most recently revised forms whenever handling a voluntary relinquishment. If out of date forms are used rather than the most recent forms, the relinquishment may not be legally binding. Special procedures will apply when handling the voluntary termination of an Indian child. Discussion of these procedures is included below.

1. Petitions for voluntary termination of parental rights may be initiated for either an unborn or born child. The hearing on the petitions for relinquishment or termination cannot occur until at least 48 hours after the birth of the child. (See below for relinquishments relating to Indian children.)

2. In considering a petition for termination of parental rights based on a voluntary consent to adoption by a parent, the judge will review whether the consent was genuinely voluntary and whether the termination of parental rights is in the best interests of the child.

   a. To ensure that parental consent is genuine, the parents should never be coerced into relinquishing parental rights during the termination process. The social worker should take care to inform the parent that any relinquishment is voluntary throughout this process.

   b. If the parent has an attorney, that attorney must be involved in the legal process of termination of parental rights. Never work with a parent to secure a relinquishment and consent to adoption without the involvement of the parent's attorney.

3. PARENTS UNDER AGE 18. If any parent seeking to relinquish his or her parental rights is under age 18, a guardian ad litem (GAL) must be appointed for that person prior to relinquishment and termination of parental rights. If a social worker learns that a parent is under 18, he or she should ensure that a hearing is set to have a guardian ad litem appointed for the parent before taking any other legal action to proceed with a voluntary termination. If a GAL is not appointed, there is a high likelihood that the termination will be overturned. The guardian ad litem for a parent or alleged father shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action. (RCW 26.33.070)

4. RELINQUISHMENT OF PARENTAL RIGHTS TO AN INDIAN CHILD. Special procedures and rules apply to the relinquishment and termination of parental rights of an Indian child. The most important rules are as follows:

   a. If the child who is the subject of the relinquishment is an Indian child, the petition and consent to adoption shall not be signed by the child's parents until at least ten days after the child's birth. A consent to adoption must be recorded in the presence of a judge in order to be valid. Social workers should never accept a consent from the parent of an Indian child unless such consent is accepted in court.

   b. Notice of any hearing on a petition for relinquishment or termination must be served on the child's tribe. If the tribe does not receive notice, there is a high likelihood that any relinquishment or order of termination will be overturned. (RCW 26.33.090)

   c. Consent to the adoption of an Indian child may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may also be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of consent may be delivered or mailed to the Clerk of the Court or made orally to a judge who shall certify that such a revocation took place. (RCW 26.33.090)

c. It appears that a placement of more than three months is needed.

3. When a request for a voluntary placement involves an American Indian child, see Section 23.60 for procedures.

B. Procedures for handling voluntary placements are found in Chapters 32 and 34.

23.59 Other Juvenile Court Related Responsibilities

The service worker may be asked to or decide to perform other duties in relation to working with the juvenile court.

A. A "DSHS Social Worker" may be required by the court to serve summons (RCW 13.34.070) to any person the court determines to be a proper or necessary person to the proceedings.

B. If a petition is filed and the court finds reasonable grounds, the juvenile court judge may enter an order directing a service worker to take a child into custody (RCW 13.34.050).

C. The juvenile court may require the service worker to bring a child who is in the department's physical or temporary custody to a shelter care hearing (see RCW 13.34.050 through 13.34.070).

D. A service worker may ask the court to appoint a guardian ad litem for a child who is alleged to be subject to a child abuse/neglect (see RCW 26.44.053(1) and RCW 13.34.100).

E. In all cases, when there is an existing court order for placement of the child outside of the home, a change in the court order must be obtained prior to placing the child back in the home. An order of the court may be changed, modified, or set aside only by the juvenile court judge (RCW 13.34.150). A service worker may request modification of a court order at any time.

F. If a child has been returned to the home of the parent but continues to be dependent, the Social Worker is required to obtain a court order, Consent to Place or an authorization for emergency placement from law enforcement in order to place the child back into foster care. At the point of placement a new "placement episode" begins

G. The service worker is responsible for making review reports or other reports as ordered by the court.

G. When a child has been declared to be dependent, placed out of the home, and then is returned to the home after an out-of-the-home placement, the supervision by the service worker shall continue for a period of at least six months. At that time there shall be a hearing on the need for continued intervention. (See Chapter 13.34.130 RCW.) The service worker must provide for the continued supervision or arrange for and/or monitor that service. The intensity of that service is to be determined by the service worker and/or juvenile court order.

Note: This section shall remain in effect until final implementation of the Indian Child Welfare Manual. After the manual has been implemented, refer to it to answer Indian child welfare questions.

23.60 Indian Child Welfare

Policy/Procedure for LICWAC/Administrative Reviews

This section is an extension of WAC 388-70-091, 092, 093, 095, 450, 600, 615, 620, 640, 73-044, RCW 13.34.25, P.L. 95-608, HB 480, P.L. 96-272, current Child Protective Team Mandates; and the DCFS Manual, chapter 1.04. and 23.38.

WAC 388-70-600

Local Indian Child Welfare Advisory Committee - Purpose

The intent of WAC 388-70-096, 388-70-450, and 388-70-600 to 640 is to ensure protection of the Indian identity of Indian children, protecting Tribal rights pertaining to Indian Child Welfare, and the maximum utilization of available Indian resources for Indian children to assist in the preservation of Indian families.

It is also the intent of the LICWAC to assist social workers in evaluation of risk to Indian children and make appropriate recommendations to ensure that the safety of Indian children, the preservation of Indian heritage, are primary focuses of the Department and the Committee.

To ensure the realization of this intent, information about EACH current and future case involving Indian children, for whom the Department and Private Agencies have a responsibility for, shall be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC for staffing according to the Department procedures.

All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC, per Regional procedures, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, the Director of DCFS. This public and private partnership, utilizing Indian community representatives in the review process emphasizes that the problem of abused and neglected children is a community problem and their well-being is a community responsibility.

A. Definition of Indian Child:

1. An enrolled Indian:

   a. Any person who is enrolled or eligible for enrollment in a federally recognized tribe;

   b. Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior;

   c. An Eskimo, Aleut, or other Alaskan Native.

2. A Canadian Indian: Any person who is a member of a treaty tribe, Metis community, or non-status Indian community from Canada.

3. An unenrolled Indian: A person considered to be an Indian by a federally or non-federally recognized Indian tribe or urban Indian/Alaskan Native community organization.

B. Purpose of LICWAC:

1. The primary focus of the LICWAC is to review caseworkers evaluation of risk to Indian children so that appropriate case plans are implemented to ensure the safety of Indian children and the maintenance of their Indian heritage.

2. To ensure that Indian children are connected to their own Tribes and families through early notification to Tribes as mandated by the Indian Child Welfare Act and by following notification mandated by the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, the Tribal - State Indian Child Welfare Agreement, and DCFS LICWAC regulations.

3. To assist the DCFS to involve Tribal governments and Indian organizations in case planning for Indian children.

4. To encourage increased participation of families, foster parents, and children in the review process. (See H.)

5. To ensure that culturally relevant resources are offered to Indian children and their families to expedite reunification efforts, including in-home family support services; and to assist the department in developing these resources.

6. To ensure that Indian children are placed in culturally relevant placements following the placement preferences of the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, DCFS LICWAC regulations, and the Tribal State Indian Child Welfare Agreement.

7. To act as a multi-disciplinary resource team for DCFS caseworkers in developing and advocating for culturally relevant case plans for Indian children and their families.

8. To support Tribal sovereignty with its right of eminent domain, and to support the efforts of Tribes in obtaining self-determination in Indian Child Welfare matters.

9. To advocate for the needs of caseworkers carrying Indian cases, recognizing the additional mandated requirements of these cases, to seek equitability for these workers within the Department. Ensure LICWAC's participation in the development and monitoring of all DCFS case plans for Indian children.

C. Functions of LICWAC:

1. To review the case of each Indian child receiving services from a DCFS program or private child placing agency. All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or the Department's LICWAC, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Review DCFS/private agency staff's assessment of risk and development of culturally relevant case plans for Indian Children.

3. Act as the Administrative Review team for all Indian cases requiring an Administrative review, except where alternate active agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established Administrative Boards when Indian cases are presented.)

4. Act as the Child Protective Team for all Indian cases fitting the criteria of a CPT case, except where alternative agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established CPT committees when Indian cases are presented.)

5. Requires the Regional DCFS Administrator to initiate reviews of case plans that the LICWAC believe to be detrimental to the best interest of Indian children.

6. Acts in an advisory capacity to the Regional DCFS Administrator regarding the Division's development, implementation, and monitoring of rules related to FRS, CWS, CPS, and adoption services to Indian children and their families.

7. LICWAC will act as an "Expert Witness" for Indian children in cases where Tribal representatives are unavailable.

D. LICWAC Membership Criteria:

1. Members shall be American Indian or Canadian Indian or Native Alaskan who are familiar with the special needs of Indian children residing within DCFS catchment area.

   a. Police Checks may be made on all applicants, per Regional procedures.

   b. Members are to be responsible community members who:

      - have a genuine interest in the welfare of children;
      - don't abuse alcohol/drugs;
      - don't have any convictions or felonies relating to offenses against children.

   c. Members are to have an understanding of community resources for Indian children and their families.

   d. Members must be willing to participate in mandatory training. The LICWAC may appoint non-Indian resource persons as ex-officio, non-voting members, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Persons interested in serving on the LICWAC but are not tribal designated representatives shall:

   Obtain an "Application for Advisory Body Appointment" from the LICWAC chairperson or DCFS LICWAC Liaison. Upon completion of the application, applicants may attach a current resume and two reference letters and return to the DCFS LICWAC Liaison.

3. Tribes and Indian organizations may submit their designated representatives to participate on the LICWAC in the usual manner.

4. The Liaison will review the application with the committee for discussion and approval. The committee shall review all applications and make selection to be sent to the Regional Administrator for appointment.

   The Application process may include a personal interview with the LICWAC members.

5. Once the appointment to the committee is made, termination will occur only if the member resigns, consistently misses meetings, or a determination is made after input from the LICWAC, Tribes, and off-reservation Indian organizations that an individual is not suitable to continue to serve on the LICWAC committee. If a member is found to act in a manner that is in direct contradiction with the goals and philosophy of the LICWAC, his/her seat will immediately be vacated. The Regional Administrator will make the official termination of the above applicant except where an alternative active agreement applies by the LICWAC expert.

   NOTE: Indian staff of DCFS' with LICWAC approval, are authorized to act in a consultant capacity for cases carried by a private agency.

E. Regional DCFS LICWAC Liaison:

1. The regional LICWAC Liaison is to be selected and designated as a result of a collaborative effort of the LICWAC and the Regional Administrator and is responsible for providing staff support to the LICWAC and coordinating functions of LICWAC.

2. The functions of the LICWAC Liaison include:

   a. Upon concurrent appointment by the Regional Administrator and the LICWAC, the Liaison (in conjunction with the LICWAC chairperson and DCFS Indian staff) will provide mandatory training and orientation to new members in the following areas:

      - Volunteer liability - each LICWAC member is to sign a DSHS Volunteer Registration Form.
      - Confidentiality - each LICWAC member will sign the CFS Volunteer Registration form committing to the maintenance of client confidentiality.
      - Mileage reimbursement arrangements.
      - Volunteer registration of all LICWAC members.
      - Staffing process according to the Regional LICWAC policy and procedures.
      - DCFS programs and processes.
      - Indian Child Welfare Act - P.L. 95-608.
      - Age requirements of P.L. 96-272 - Title IV-B-Periodic Reviews.
      - H.B. 480 - Washington State Indian Child Welfare Act.

- Department's Risk Assessment Matrix.
- Reporting law.

b. Schedules and coordinates case staffings, CPT staffings, Administrative Reviews, and regular LICWAC meetings.

c. Ensures that minutes on all cases staffed by LICWAC are recorded in a timely manner, and that copies of the minutes are retained in a central file and in case records, readily available for LICWAC review.

d. Develops, updates, and approves on an annual basis, working agreements with private child placing agencies within the Region regarding the provisions of Indian Child Welfare services that comply with the Indian Child Welfare Act of 1978. Monitors that the agreements and provisions of the Indian Child Welfare Act of 1978 are being followed.

e. Identifies training opportunities and ensures that LICWAC members and private agency staff are included in DCFS and other ICW trainings related to the delivery of Indian Child Welfare services, i.e., DCFS Training Academy, Risk Assessment, and trainings sponsored by Indian programs.

f. Ensures that appropriate material be mailed by DCFS Clerical staff to all LICWAC members and designated private agency staff.

g. Authorizes mileage for LICWAC members and consultants.

h. Identifies and advocates for the special unmet needs of Indian children and their families that may relate to barriers to timely family reunification efforts.

F. Cases Mandated to be Reviewed by LICWAC:

1. All DCFS and private agency Indian cases are to be reviewed by either a Tribal Indian Child Welfare Committee, or by the LICWAC except where LICWAC has an approved alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

STAFFING PRIORITIES:

a. Child Protective Team Staffings - any case in which a child has been determined by a community professional or physician to have been physically or sexually abused and the case plan is not to place the child out of the home, or to return a child home from foster care contrary to professional advice. Where LICWACs are not providing CPT staffings, a minimum of two LICWAC representatives are to sit on the established CPT committee.

b. Administrative Reviews - cases where no DEPENDENCY REVIEW has occurred within six months from the date of placement.

c. Non-Indian Placements - any Indian case where an Indian child has been placed in a non-Indian placement resource.

d. Private Agency case staffings - all Indian cases where a private agency has responsibility or custody.

e. Voluntary Placements - cases in which the parent's have voluntarily placed their child in the custody of DCFS or a private Child Placing Agency.

f. Permanency Planning reviews - cases where the plan is to terminate parental rights, pursue guardianship, maintain a child in long-term foster care placement, or pursue an adoptive placement.

g. Any other Indian cases.

G. Quorum for LICWAC Staffings/Reviews:

1. A quorum for an Administrative Review, permanency planning staffing, non-Indian placement case, or private agency case review shall consist of no less than three (3) LICWAC members except where an alternate agreement exists.

2. A quorum for a CPT staffing shall consist of no less than five (5) LICWAC members representing the following disciplines:

a. Medical
b. Law Enforcement/Legal
c. Alcohol/Drug
d. Social Services
e. Educational

H. Notification for Reviews/Staffing:

1. Administrative Reviews: Notification to all interested parties, parents, child over 13, GAL, foster parents, attorneys and therapists - needs to be made in writing fourteen (14) days in advance; or in an emergency, notice can be made by personal contact by the caseworker.

2. CPT staffings or emergency staffings are to be scheduled with a minimum of 24 hours advance verbal notice to LICWAC members, followed by immediate written notice.

3. Initial cases for LICWAC are to be scheduled at the next regularly scheduled LICWAC meeting after assignment of an Indian case, except where the LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

4. LICWAC staffings shall occur regularly, but not less than once every six (6) months.

I. Who can Request a Staffing:

1. Requests by a worker for a staffing can be made verbally or in writing to the Liaison or Chairperson.

2. In regions that have an alternate agreement with the Department, staffings are initiated according to that agreement.

J. Who can Attend a Staffing:

1. The social worker shall always be the primary presenter and shall be in attendance.

2. All appointed and registered LICWAC members.

3. Parents.

4. Child(ren) - usually over 13 years of age.

5. Foster parents.

6. Tribal Representatives.

7. Guardian Ad Litems.

8. Attorneys.

9. Other resource persons necessary for additional information.

K. Relationships or Conflicts of Interest:

LICWAC members who are expressly familiar or involved in another capacity with the parties being reviewed shall state their role/relationship prior to the review. They shall give in-put on the situation, but refrain from being involved in making any recommendations if:

1. They are related (up to the specified degree of second cousin).

2. They work for a private agency providing placement services to the family.

3. Upon discussion, it is determined that they are in an advocacy role with one or more individuals in the family.

L. Staffing Dates:

If a significant change occurs in the plan or with the case, it must be restaffed at the next LICWAC review prior to any court hearings to ensure that the recommendations of the LICWAC are followed.

M. Staff Protocol:

1. The DCFS Supervisor will screen all Indian cases and request the appropriate type of staffing for each case.

2. The social worker completes a current ISP (DSHS 15-209) for use in the staffing to be given to the liaison five days in advance of the staffing.

   a. For CPT cases the police report may be used in lieu of the ISP for the initial staffing.

3. The clerical support staff of DCFS will make at least three (3) copies of the ISP and distributes them for review at the staffing.

4. The DCFS case record shall be available: all psychological reports, all medical reports, counseling reports, professional correspondence, police reports, pictures, and all court reports.

5. The ISP, including attachment A, must have the supervisor's signature indicating that the supervisor concurs with the presented plan.

6. The Chairperson will open each meeting with an announcement that members are to declare relationships or involvements as cases are presented.

7. The ISP/Police Report is reviewed along with any other pertinent material and discussion takes place along with questions regarding the history of the case, services being offered and provided, progress being made, barriers to reunification, and time-frames as to when the permanent plan is most likely to be accomplished.

8. The LICWAC Liaison documents all recommendations clearly on the Administrative Review Form (DSHS 05-203) or a LICWAC Staffing Form that includes all the documented recommendations.

9. The recommendations are read by the LICWAC Chairperson or secretary, and all LICWAC members vote or otherwise concur with the recommendations made to be incorporated into the case plan and then sign the form.

10. The caseworker is to review the written LICWAC recommendations at that point. If the caseworker is in agreement with the LICWAC recommendations and plans to implement those recommendations as part of the case plan, the caseworker then signs the form. If the caseworker is not in agreement with the LICWAC recommendations, the caseworker must not sign the form. The caseworker must advise the LICWAC at that time of his/her points of disagreement. Further discussion and mediation can take place regarding the disputed recommendations. However, the staffing cannot be recessed until the caseworker has either signed the LICWAC Staffing Form or an impasse declared, unless a time-limited recess has been mutually agreed upon by the LICWAC and the caseworker. Such recesses are to be in restricted use.

11. If after mediation and discussion the disagreement is not resolved, and the majority of LICWAC members vote to pursue the impasse, the impasse procedures will be initiated.

N. Impasse Procedures:

1. If the social worker does not agree with the LICWAC recommendations, and the majority of LICWAC members have voted to proceed, the following impasse procedures will be initiated:

   a. Within 24 hours the LICWAC Liaison will notify the Regional Administrator, Area Manager, Supervisor, Social worker, LICWAC Representatives, and the Office of Indian Affairs that it is necessary to conduct an impasse staffing. All CPT cases will be reviewed within 48 hours.

   b. If the LICWAC considers the child involved in the case to be in imminent danger or at serious risk, the CPT guidelines will be enforced so that the child will be placed out of danger until a staffing with the Regional Administrator has been held within 24 hours.

c. If a court hearing is imminent, the department is to request that the AAG seek a continuance to provide additional time to reconcile differences unless a party other than DCFS disagrees.

d. If the court hearing is not rescheduled, an impasse staffing will need to be held within the 24 hour time-frame.

e. If the impasse is not resolved at the regional level, after notification by the LICWAC Chairperson or Liaison, the Division Director will review the case within 24 hours.

f. If the impasse is not resolved at the Division level, the Assistant Secretary for DCFS will be notified within 24 hours to schedule another meeting.

g. If the impasse is not resolved at the Assistant Secretary's level, the Secretary for DCFS will be notified within 24 hours to schedule another meeting, and shall make the final determination.

O. Disciplinary and Corrective Action:

Any situation in which a social worker WILLFULLY REFUSES to abide by the policies established for LICWAC shall be handled in a manner consistent with personnel policy 545 and 546 and the provisions of the Merit System Rules for employee disciplinary action.

23.61 Privacy and Security of Records

A. Any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship, (the juvenile, his/her parents or attorney) may, upon request, make inquiry to the department as to the existence and content of custody or care records. The inquiries shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, location of the contact and the purpose of the request.

B. The department will make a written response to the inquiry within 10 calendar days after receipt. The department will give priority to expedite processing inquiries which involve litigation. The department will provide to the juvenile, his/her parent(s), or attorney making the inquiry information regarding the location, nature, and content of the records in the department's possession except:

1. If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his/her parents, the agency may withhold the information subject to the order of the court. If the court determines that limited release of the information is appropriate, the court may specify terms and conditions for release of the information; or

2. If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has the legal right to receive these services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

C. See Chapter 01 for additional policy on confidentiality of information.

23.99 REQUIRED FORMS AND INSTRUCTIONS

A. The following specific forms used for voluntary termination of parental rights are located in Chapter 99, Forms.

1. DSHS 09-466 Order of Service and Publication (12/79)
2. DSHS 09-467 Notice of Hearing re Petition and Intent (12/79)
3. DSHS 09-468 Publication Notice (12/79)
4. DSHS 09-469 Affidavit of Personal Service (12/79)
5. DSHS 09-470 Affidavit in Support of Service by Publication (5/80)
6. DSHS 09-471 Affidavit of Publication (12/79)
7. DSHS 09-473 Findings, Conclusions, and Order (3/80)
8. DSHS 09-474 Petition for Termination of Parent-Child Relationship (12/79)
9. DSHS 09-476 Petition for Termination of Relationship: Parent-Unborn Child (12/79)
10. DSHS 09-477 Consent to Termination (12/79)
11. DSHS 09-478 Waiver of Right to Receive Notice and Appearance (12/79)
12. DSHS 09-479 Authorization to Release Information (12/79)
13. DSHS 09-480 Order of Service and Publication (12/79)
14. DSHS 09-481 Notice of Petition and Intent to Release Custody or Consent to Adoption (12/79)
15. DSHS 09-482 Motion and Order Appointing Guardian ad Litem for Minor Parent (4/80)
16. DSHS 09-552 Voluntary Termination Information/Referral (12/80)

B. The following specific forms, instructions and guidelines used in cases involving Indian Child Welfare as referenced in 23.60 are included in Chapter 99, Forms.

1. DSHS 09-534 Letter to Parent and/or Indian Custodian (12/80)
2. DSHS 09-535 Letter to Tribe - Notification (12/80)
3. DSHS 09-536 Letter to Bureau of Indian Affairs (12/80)
4. DSHS 09-537 Letter to Canadian Indian Band (12/80)
5. DSHS 09-538 Letter to Canadian Indian Parent (12/80)
6. DSHS 09-539 Letter to Tribe - Enrollment Status (12/80)
7. DSHS 09-540 Letter to Bureau of Indian Affairs - Tribal Affiliations (12/80)
8. DSHS 09-541 Notice to Indian Tribe, Band or Nation (12/80)
9. DSHS 09-542 Notice of Intervention and Request for Continuance (12/80)
10. DSHS 09-543 Notice to Parent and/or Indian Custodian (12/80)
11. DSHS 09-544 Request for Continuance (12/80)
12. DSHS 09-545 Notice to Secretary of United States Department of Interior Regarding an Indian Child (12/80)
13. DSHS 09-546 Certificate of Presiding Judge (12/80)
14. DSHS 09-547 Motion to Transfer Jurisdiction to Indian Tribe (3/81)
15. DSHS 09-547A Order to Transfer Jurisdiction to Indian Tribe (3/81)
16. DSHS 09-548 Motion for the Tribal Court to Accept Jurisdiction (3/81)

CHAPTER 23 -- PERMANENCY PLANNING: CASE PLANNING, CASE REVIEW AND THE JUVENILE COURT PROCESS

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23.00 INTRODUCTION

23.01 Purpose and Scope

The division meets legal requirements for permanency planning, case planning and case review to children and families according to several different methods. This chapter contains policy and procedure governing permanency planning, the writing of case plans and court reports. Additionally, this chapter describes juvenile court, administrative case review, and citizen case review.

23.02 Authority

Public Law 96-272 of 1980, Child Welfare and Adoption Assistance Act

Public law 96-272 provides funds to states for services to children if the state maintains compliance with several requirements for permanency planning, case plans and case review procedures. These procedures are designed to ensure that each child will have a safe, permanent home as quickly as possible. PL 96-272 requires that:

- States maintain a state-wide information system, that can track all children in out-of-home care.
- Detailed case plans (Individual Service Plans) be completed no later than 60 days of a placement episode, at six months and every six months thereafter for all children in out-of-home care.
- Detailed case reviews ("periodic reviews") occur for each child in out-of-home care every six months.
- Court hearings that make a determination regarding the permanent plan for the child occur by the 18th month that the child is out-of-home and periodically thereafter (every 12 months in Washington State).
- Revised Code of Washington (RCW)

  Washington State law mandates development of case plans and requires case review.

  Chapter 13.34.120(1) and 13.34.120(2)

  Chapter 13.34.130(2) and 13.34.130(2)(a)

The statute requires that:

- The agency having temporary custody of the child shall "provide the court with a specific plan" that specifies "where the child will be placed," what steps will be taken to return the child home and actions taken to maintain parent-child ties." The agency must also specify services to be offered to assist parents to resume custody.

23.03 Definitions

- Substitute care: Placement of a child outside of the home of the child's natural parent, legal guardian or legally established adoptive parent related to the provision of child welfare services in accordance with 74.13 RCW.

- Placement Episode means the period of time that begins with the date the child was removed from the home of the parent or legal custodian for the purposes of placement in substitute care and continues until the child returns home or an adoption decree or guardianship order is entered.

- Dependency: Established when a person under the age of 18 is found by the court to be:

  1. Abandoned,

  2. Abused or neglected, such that the child is in serious danger of harm.

  3. Without a parent, guardian, or legal custodian willing and capable of adequately caring for the child such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development, or

  4. Developmentally disabled and the child's parent, guardian, or legal custodian with DSHS/DCFS has determined that services appropriate to the child's needs cannot be provided in the home.

- Alternative Residential Placement (ARP): Placement begins when a petition filed by a child or his/her parent is approved by the court for alternative residential placement. The hearing on the petition will be on the question of the child's placement. The court will approve the placement in which the child resides, when either the parent or child wishes the child to reside or in a much more secure facility as deemed necessary.

- Individual Service Plan (ISP): the Individual Service Plan is completed for each child in care by the 30th day of the initial placement episode, by sixth month from the date of placement, and every six months thereafter. The ISP provides information regarding the entire case plan for a child and his/her family. It enables the reviewing body to make informed conclusions and recommendations regarding the child's future status, and reviews the progress already made towards achieving a permanent plan for the child. The ISP provides information to the juvenile court and documents the requirements of Public Law 96-272 for a written case plan. It also provides a written report for Administrative reviews, case conferences, LICWAC (Local Indian Child Welfare Advisory Committee) reviews, Child Protective team reviews, and is used to obtain approval for group care placement.

- Periodic Review: A review of a child's case plan held every six months when the child is in out-of-home substitute care that meets federal and state law for periodic review.

- Dispositional Hearing:

  a. Federal Definition: A hearing held by the juvenile court by 18 months of placement that makes a determination regarding the future status (permanent plan) of the child.

  b. State Definition: A hearing held by the juvenile court following a fact finding hearing that determines the immediate placement and case plan for the child.

- Shelter Care Hearing: A brief hearing held by the juvenile court after the filing of a dependency petition but before a child has been found dependent that allows the court to examine the need for shelter care.

- Dependency Petition: A written statement which contains factual allegations, requests that the court take specific action, and recites the legal basis for such action.

- Dependency Review: A hearing designed to examine what has happened in the case since the last court hearing. At a minimum, dependency cases must be reviewed every six months. The hearing allows all parties to present recommendations regarding the future course of the case. The court will examine the extent of the parties compliance with the dispositional plan and, if necessary, the dispositional plan may be modified by the court.

- ARP Review: A hearing designed to examine what has happened in the case since the alternative residential placement petition was approved. ARP reviews are held at three months of placement. Out-of-home placement may not be continued past 180 days from the day the review hearing commenced, and the court must order that the child be returned to the home of the parent at the expiration of the placement.

- Termination of Parental Rights: Permanent severance of the legal relationship between a parent and child. All rights, powers, privileges, immunities, duties, and obligations, including rights to custody, control, visitation, and support are extinguished. Any support obligation existing prior to the effective date of the termination order is not affected by the termination. The rights of one parent may be terminated without affecting the rights of the other.

- Dependency Guardianship: A procedure available through juvenile court whereby someone other than the child's parent is designated by the court to care for a dependent child and exercise, in most respects, the rights and responsibilities of a parent. A guardianship is a means of providing the child with stability and permanence in his/her placement while removing the need for the active agency supervision and six month court reviews otherwise required when a child has been found dependent. Although the parental rights of the child's natural parent are not permanently terminated as the result of a guardianship, such rights are severely limited.

- Adoption: Adoption is a legal and social process provided for by law, to establish the legal relationship of child and parent when they are not so related by birth. Adoption services provide opportunities for children to achieve permanent, nurturing families.

- Termination of Publication Hearing: If the court orders publication of notice, the court will set a date to return to court to verify whether anyone responded to the notice. The date is routinely referred to as the "TOP" date.

  Publication must occur on three successive weeks. The first publication must occur at least 25 days before the termination of publication date. Because the process of receiving verification back from the newspaper requires extra time, the entire process takes approximately seven weeks. For that reason, TOP is usually set for 60 days after the date that publication is ordered.

  The termination of publication day may be set before, after, or at the same time as the Fact-Finding date, but the court may not enter an order regarding the individual to whom publication has been ordered until the termination of publication occurs.

- Default: When a person fails to answer a petition within the time allowed or fails to appear in court at the required time, an order may then be entered finding the person to be in default and granting the relief requested by the opposing party.

- Continuance: Postponing a hearing. The court will set the matter for a later date.

23.10 POLICY - PERMANENCY PLANNING

- All children, regardless of age, ethnicity, or disability, are entitled to a permanent home.

- The Case Permanency Plan means the plan mandated by Public Law 96-272. This plan shall ensure that no child is placed in foster care who can effectively be protected in the child's own home; and that when removal is necessary, reunification be attempted before any other permanent plan is sought.

- The permanency plan shall begin when the department begins working with the child's family and shall outline specific goals that will ensure that the child is placed and maintained in a permanent family situation as quickly as possible. If it is necessary to place a child temporarily, the case permanency plan shall be founded on a family assessment and include a statement of how the child's special needs will be met in the least restrictive, most family-like setting available that is in the closest possible proximity to the child's family.

THE ONLY ACCEPTABLE PERMANENT PLACEMENTS PLANS ARE:

1. Maintaining a child at home.

2. Relative placement with written permanency agreement.

3. Relative guardianship.

4. Adoption.

5. Foster parent guardianship.

6. Family Foster care with written permanency agreement.

23.11 Purpose of Service and Statement of Philosophy - Out-of-Home Care

The purpose of out-of-home care services is to provide children a temporary, protective, nurturing home when a child's family is unable to provide basic protection care and nurture for a child. Preventative service alternatives are offered in order to help maintain the family unit prior to any consideration of out-of-home placement. When placement is necessary, reunification services are immediately initiate to expedite the child's return home before any other permanent plan of care is considered. Out-of-home care is viewed as a short-term service solution to an emergent situation.

Permanency planning begins at the time DCFS begins working with a child and the child's family, and continues throughout the service period until permanency is achieved. Permanency planning and follow-through are essential to reducing/eliminating the negative effects that separation from family has on every child.

The underlying goal is to provide each child with a permanent family, capable of providing protection, care, and nurture as expeditiously as possible.

The philosophy of substitute out-of-home care services is:

- Children have a right to a stable, permanent home as quickly as possible.
- Children have a right to be raised by their birth parents when their parents are able to do so in a minimally adequate manner.
- Children who come to the attention of the child welfare system generally have parents who care about them, want what is best for them, and who with help, can assume responsibility and provide adequate care for their children.
- Immediately available intensive service(s) can assist most parents in improving their capacity to carry out and resume their responsibilities as parents.
- Children have a right to a stable, permanent home by means of adoption, or other plan for permanency, when their parents are unable or unwilling to improve their ability to function as adequate parents within 18 months of the beginning of the placement.

23.12 Service Description

A. Out-of-home care is a temporary substitute for the child whose family is unable to minimally provide for the child's care. This could include relative care, foster care, group care or institutional or hospital care. The most common reason for placement is that the child would be at risk of serious abuse or neglect if left at home as determined by DCFS risk assessment protocol. A child might also be placed temporarily due to extreme conflict with his/her parents. In a few cases placement may be due solely to the child's own physical and/or psychological problems. Except in rare instances, out-of-home care is neither a goal nor a plan for permanence for the child.

B. Out-of-home care service includes:

1. A full assessment of the individual child and family situation.

2. Counseling and preventive services to the child, parent(s)/guardian(s), relative(s) to reinforce and maintain the family unit whenever possible.

3. Placement and supervision of children who cannot remain in their own family homes after all reasonable efforts have been made to provide services to maintain the family unit.

4. Specialized placements for children with special needs.

5. Post-placement counseling and reunification services to the child, parent(s)/guardian(s), relative(s) to return the child home or to place child in an alternate permanent family situation.

6. Medical, psychological/psychiatric, and other specialized services as needed.

23.13 General Policies

A. Foster Care Teams

1. Parent Involvement

Whenever possible, the child's parents will be involved in the decision to place their child prior to removing the child from his/her home.

Parents will actively participate in the development of an individual service plan (ISP) to ensure expedient remediation of risk factors to facilitate the child's timely return home. Social workers are encouraged to develop the ISP in a family in-person conference, as workloads permit. All parents whose location are known must be provided with a copy of the ISP.

2. Social Worker Role

Social Workers have primary responsibility to coordinate the case planning efforts of all persons working on behalf of the child. This includes developing goals with the biological parents that will strengthen the family, and provide the means of achieving these goals. The foster care provider/agency will be given information and resources to assist with the stability of the placement and to meet the needs of the child. The Social Worker will work with the placement family/agency and with the other professionals involved in the case to support the permanent plan for the child.

3. Foster Care Provider Role

Foster care providers are responsible for the protection, care and nurture of the child in placement. Foster care providers may, if appropriate and agreed to by provider, participate in the development of the service plan for the child and his/her family; assist in family visitation, including monitoring; and model effective parenting behavior for the natural family.

4. Indian Tribes/Bands

Indian tribes/bands have a substantial legal and social interest in those children who are members/eligible for membership in the tribe/band. In cases involving Indian children the child's tribe/band is a primary resource for identifying appropriate placement options and for service plan development/implementation. (See DSHS Indian Child Welfare Manual for specific instructions.)

5. Other Professionals

Professional members of the medical, educational, tribal psychological, and legal community work in accordance with the individual service plan (ISP) to provide services which support the child and his/her family moving toward permanency. These professionals share their recommendation with the social worker through written reports or network staffings.

6. Child

Many children who enter the foster care system are willing and able to participate in the individual service plan by sharing their needs and feelings. Although not in a decision-making position, their input needs to be heard, acknowledged, and responded to by DCFS. Adolescent children <u>particularly</u> should be involved in planning.

B. Preventive/Reunification Services

Prior to a child being placed out of home, a full assessment of the individual child and family is required, and it must be clearly ascertained that the child's needs cannot be met through available services provided in his/her own home or relative's home. Reasonable efforts must be made to prevent placement and to make it possible for the child to return to his/her own home. (See 23.20 for Reasonable Efforts Policy to Placement.)

C. Parent Involvement

Whenever possible, the child's parent(s)/guardian(s) will be involved in the decision to place, or not to place, their child, prior to removing the child from his/her home.

D. Minimum Possible Number of Placements

In order to provide stability to the child in out-of-home care, the placement selection will be made with a view toward the fewest possible placements for each child. If possible, the initial placement should be viewed as potentially the only placement for the child. The use of short-term interim placements (30 days maximum) to protect a child's health or safety while the placement of choice is being arranged is not a violation of this principle.

E. Preservation of Family Relationships

Efforts shall be made to place the child in close proximity to the parent(s)/guardian(s) home and the child's current school consistent with the best interests and special needs of the child. Placement selection will attempt to preserve the family relationships of the child. Frequency of visitation of the child in foster care by the parent(s) is directly related to the length of stay in foster care. Generally, the more frequent the visitation, the more likely the child will return home.

F. Long-Range Plan

The ultimate or long-range plan for the child (return home, adoption, placement with relative, guardianship, or in limited situations, long-term foster care) will be the primary consideration in the type and location of both initial and subsequent placements. Any temporary placement should be chosen with a view toward preparing the child for the long-range placement plan. (See Section 23.14 for permanency planning priorities.)

G. Relative Placement

RCW 13.34.130(b) states that unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child would be hindered, children will be placed with relatives.

1. The definition of relatives includes: grandparents, brothers, sisters, stepbrothers, stepsisters uncles, aunts or first cousins with whom the child has a relationship and is comfortable. The relative needs to be willing and available to care for the child.

2. Efforts shall be made whenever possible and appropriate to place the child with a relative when the child cannot return to his/her natural family. This should include thorough relative searches early in the DCFS involvement in the family, and periodically throughout the child's placement in out-of-home care.

3. A criminal background check should be done on all relatives being considered as a placement option for the child. (Refer to Chapter 6.)

4. When a child is placed temporarily with a relative in lieu of foster care, casework services should be provided the same as for all out-of-home care. (See Chapter 32.33.) Relative placements must meet all case planning and case review requirements described in this chapter.

H. Permanent Family at Earliest Possible Date

Time is a critical factor in the temporary placement of children. The long-range placement plan is to be achieved at the earliest possible date. If the plan is to return the child home, selection of placement resources shall facilitate and support return home within weeks, if possible. (See Section 23.14 for permanency planning priorities.)

I. Child's Previous Placement History

Careful attention is to be given to the child's previous placement history when selecting a temporary or permanent home for a child. Prior placement history may indicate a need for prompt action to achieve permanency, a need for more or less structure, an inability to relate to parental figures, or other factors which should be considered in placement selection.

J. Needs of the Child and Placement Resources

Efforts shall be made to place the child in the least restrictive (most family-like) setting available consistent with the best interests and special needs of the child. Placement selection must consider the needs of a child for specialized services and the accessibility of those services. For example, a child in need of special education services should not be placed where such services are not available. Similarly, the child in need of specialized medical treatment or services is to be placed where such services are available and reasonably accessible to the child.

K. Case Plans (ISP)

For each child in out-of-home care, there must be a case plan which is time-limited, goal-oriented, and routinely involves the child, parent(s)/guardian(s), and foster parent(s). The case plan is also intended to serve as a written agreement between the agency, the parent(s), child, and foster parent(s). (See ISP procedures, Chapter 23.99.) This case plan also includes a Health and Education Record which is updated with all ISP's and also at the point of any change of placement.

L. Court Involvement

Foster care required beyond six months must be authorized by a court order, or through an Exception to Policy utilizing an Alternative Administrative Review or Citizens Review as appropriate. (See Chapter 23.42 & 43 for Alternative Administrative Review and Citizens Review procedures.)

23.14 Service Priorities

A. Mandatory Services

1. Providing assessment and counseling to child, parent(s), guardian(s), relative(s) to develop a plan for meeting child's needs without placement if possible.

2. Providing/arranging counseling/preventive services to child, parent(s)/guardian(s), relative(s) to prevent placement.

3. Evaluating need for out-of-home placement.

4. Arranging for placement of children into homes of relatives, receiving homes, and family foster homes when out-of-home care cannot be prevented.

5. Determining source of funding for foster care maintenance payments and medical services.

6. Providing/arranging counseling/reunification services to child, parent(s)/guardian(s), relative(s) to return child home or to place child in an alternate permanent care situation.

7. Providing consultative and support services to foster parents to assist with maintaining the foster placement, to prevent a more restrictive placement of the foster child, and to achieve the Individual Service Place (ISP) for permanency.

8. Monitoring of placement to ensure quality of care.

23.20 REASONABLE EFFORTS TO PREVENT PLACEMENT AND RETURN CHILDREN HOME

Legal Basis

- Federal Law 96-272, 42 U.S.C. sec 671(1)(15) 42 U.S.C. sec 672(a)(1).
- Federal Regulations, Title 45, Part 1356.51.
- Chapter 13:34 Revised Code of Washington.

Purpose and Scope of Policy

Federal and state law require that children only be removed from their own homes when reasonable efforts to keep them safely at home are not possible. This body of law recognizes that children may be emotionally harmed if separated from their parents and that parental custody should only be interfered with by the state when no other alternative is reasonably available to protect the child at home. Following placement, these laws recognize that the state child welfare agency should facilitate planning to make it possible to eliminate the need for placement. Reasonable efforts need to be made by the child placing agency responsible for the child. It has an obligation to make reasonable efforts to prevent the need for out of home care. If placement is necessary the agency is responsible for providing reasonable efforts to return the child home as soon as possible.

Child safety and emergency removal may preclude attempts at reasonable efforts. Federal regulations allow the juvenile court to determine that it is reasonable not to make reasonable efforts in those circumstances. DCFS should carefully document what caused the emergency such that reasonable efforts could not be made.

"Reasonable efforts" do not mean that a laundry-list of all services in the community be offered to a family. Services should be carefully chosen to be responsive to a particular family's needs. Offering a "shotgun" list of services without careful planning may be as ineffective as offering no services at all. When available, services should be offered in the family's own home at times appropriate to the family's schedule and needs.

The Scope of Reasonable Efforts to Prevent Placement Includes:

- A comprehensive assessment of the entire family situation,
- A Risk Assessment based on current agency protocol,
- A determination of what services would be appropriate for the family,
- Consideration and involvement of parental opinion in determining what services should be pursued,
- Consideration of cultural issues, including availability of planning and services offered in the native language and culture of the family,
- Consideration of the distance of the family from services and transportation available to the family,
- Consideration of financial ability to pay for services (both DCFS and family),
- Development of specific timelines for demonstration of parental change,
- Development of parental-agency contracts and/or written case plan with parents,
- Decisions on use of court action to mandate services to prevent the placement of the child,
- Regular review of parent-agency contracts and case plans by social workers, supervisors and (if court-ordered), the juvenile court.

The Scope of Reasonable Efforts to Return a Child Home Includes:

Following placement of the child into substitute care, the Social Worker must offer reunification services to the family in an attempt to eliminate the need for placement.

Reasonable effort to reunify a family should take the following factors into account:

- Visitation between parent and child should be as frequent as possible if visitation is not harmful to the child or prohibited by court order,
- Services offered should be geographically accessible to the family,
- Services offered should be responsive to the family's cultural background and native language,
- Placement of the child should be the closest to the family home that meets the needs of the child,

- Parental opinion should be considered in the development of all case plans,
- Clear timeframes should be placed on the completion of services,
- Case plans should be monitored and reviewed regularly by courts, citizen review boards and administrative review boards as required by state and federal law.
- Efforts made to offer/provide services, and outcomes of services should be carefully described in updated case plans.
- Families should be reassessed at least every six months to evaluate the continuing risk to the child if the child were returned home.

Outcomes of Unsuccessful Reasonable Efforts

The DCFS social worker should carefully weigh the potential harm to a child of continuing seemingly unsuccessful efforts to return the child home. Even six months in out-of-home care is a long time in the life of a child. Eighteen months is a very long time for a child to be without a permanent family. The social worker should modify the permanent plan to seek another permanent outcome when reasonable efforts have been unsuccessful. Often this is apparent by six months following dependency. In very few circumstances should workers continue with a goal of return to the home following 18 months of placement.

Long-term out-of-home care without permanency is usually harmful to children. Reasonable efforts requirements do not preclude that social workers must sometimes make recommendations to the court that the parent(s) do not appear capable of change within the time-frames required by a developing child.

23.30 CASE PLANNING REQUIREMENTS

23.31 Types and Uses of Case Plans and Court Reports

Types

- Individual Service Plan Summary Assessment Form (DSHS 15-209(X)) for Children in Placement which must include the Health and Education Record (DSHS 15-209A).

The ISP is the complete case plan for all children in out-of-home care. Its primary purpose is providing goal-orientated, time-limited case planning for each child and his/her family so that he/she obtains and is maintained in a safe permanent home as soon as possible.

The ISP serves as a blueprint for what DCFS expects to happen in a case. It outlines how the child will be cared for in substitute care and what DCFS expects of the agency, parents and child. It also maintains an ongoing record the child's health and education needs.

Uses and Time Frames Required for Completion of the Individual Service Plan and Health and Education Record

When a child is in out-of-home care the social worker completes or updates the ISP at or before:

- By the 30th day of the placement episode of a child, at six months, and periodically thereafter at six month intervals.
- Six months following the completion of the preceding ISP.
- If the ISP is completed earlier than required the next ISP is due no later than six months from the last one completed.
- The Health and Education form, which is to be attached to the ISP and kept in the legal section of the case record will be updated at the time of any ISP update. In addition it will be updated at the point of any placement change. A copy of the form is always provided to the caregiver at the time of placement, and the time of update.

Social workers also use the ISP as the report to the court in most regions. It is used as the primary source of information for many staffings and case reviews.

The social worker submits the ISP in the following situation:

- For all court permanency planning and review hearings,
- To obtain approval to place a child in group care,
- For administrative reviews,
- For citizen reviews,
- For LICWAC staffings.

23.32 Policy Governing Case Plans for Children in Out-of Home Care

The DCFS social worker, private agency or tribe having physical custody of a child shall complete the DSHS 15-209, Individual Service Plan, for all children in out-of-home care who are in the temporary or permanent legal custody of DCFS. Individual Service Plans should be developed after a comprehensive family assessment has been completed by the DCFS social worker. Families have a right to know what the comprehensive case plan is for their child and family. Failure to establish ISPs in a timely manner may contribute to parental resistance to involvement in services needed to return a child home.

Consultation on the ISP

The social worker develops the ISP after consulting with the parents of the child. This consultation with the parents will be conducted in person if possible.

Individual Service Plans should clearly describe what is necessary to be accomplished before the permanency plan is completed. Whenever possible, all activities planned for parents, children foster parents and DCFS shall be described as specifically as possible. For example: "Mother will start out-patient drug treatment at Community Drug Service Agency by October 1, 1989 and will complete treatment by January 30, 1990." "DCFS will complete a home study on Jane Doe by December 30, 1989." "Child will attend tutoring session at Lincoln School four times by December 1989."

23.40 CASE REVIEW REQUIREMENTS FOR CHILDREN IN OUT-OF-HOME CARE

23.41 Type of Case Review, Periodic Review - Federal Law

Federal law requires that each child in substitute care have a full case review at least every six months from the beginning date of the placement episode. This may be accomplished in a court review hearing or through a citizen or administrative review.

State Law - Court Review

State law requires that the case of every dependent be reviewed by the juvenile court every six months from the date of the establishment of dependency or the date of the placement of the child, whichever comes first. Children who are in placement as a result of an ARP dispositional hearing must be reviewed by the court three months after an ARP dispositional hearing.

Social workers usually meet federal requirements for periodic (six-month) review of children in substitute care through one of the following:

- Court review hearings,
- Administrative reviews.

Other types of court hearings or internal staffings may sometimes meet federal requirements for periodic review if:

- Parent(s) of the child have been invited to the review or staffing, and
- One person on the reviewing body is not directly responsible for developing and implementing the case plan.
- The review addresses the content of the periodic review

Content of Periodic Reviews

Periodic reviews cover the entire case plan for the child. They should include a review of:

- The ISP,
- The appropriateness of the type of placement and the permanent plan,
- The reason(s) placement is necessary,
- Parental compliance with the case plan, and progress towards permanency,
- The projected date that the permanent plan will be completed,
- Whether parents have been notified and/or involved in agency decision making especially as it relates to changes in visitation, placement, and the child's legal status.

23.42 Administrative Case Review

Regional administrators shall establish an administrative review system to ensure that federal requirements for periodic review are met.

Administrative Review Coordinators:

Each region shall appoint an administrative review coordinator. The administrative review coordinator is responsible for:

- Establishing and maintaining administrative review teams,
- Establishing a scheduling system for review,
- Seeing that reviews are conducted within state and federal guidelines and timeframes,
- Liaison with state office,
- Preparing monthly reports on the status of the review system, and
- Establishing training for staff and volunteers.

Administrative Review Teams/Composition

Administrative review teams shall be composed of at least three persons. One member must not be in the chain of command of the social worker responsible for the case. These people may be:

- DCFS staff or trained citizen volunteers who have signed oaths of confidentiality.

- Cases involving Indian children shall be administratively reviewed as provided in the DCFS Indian Child Welfare Manual, Chapter 07.60.

Administrative review must occur in the following situations:

- Court procedures or hearings have not met the federal guidelines or timeframes for periodic review,

- The social worker requests a voluntary placement extension beyond six months.

Additionally, administrative review may be used for other purposes as determined by the regional administrator.

Administrative Review/Process Notice:

At least 14 days prior to an Administrative Review the social worker shall send written notice of the date, time and place of review to:

- Parents

- Children over the age of 12

- Child's tribe (see DCFS Indian Child Welfare Manual for definition of tribe)

If an emergency review must occur to meet federal timeframes, the Regional Administration Review Coordinator may waive the above notice requirements. In these cases the social worker shall notify the above persons by phone or in person of their right to attend the review. Documentation of notice to parents is made on the Administrative Review Hearing Form by the Administrative Review Chairman.

The social worker or Administrative Review Chairman may invite other people to the review. However, with the exception of the guardian ad litem and parents' attorney, parents must give written parental consent to the attendance of others at the reviews.

Foster care providers often have valuable information about the child's daily life, medical, educational and emotional condition. Social workers should encourage birth parents to allow foster parents to attend. If a parent refuses such permission, the foster care provider may be invited into the review only for the purpose of giving information about the child's adjustment to out-of-home care and to give the reviewers information on the child's current condition. In this situation, the foster parent does not attend the entire review so that birth parents right to privacy is protected.

Recommendations from Review:

The Administrative Review Coordinator or Review Board Chair completes the Administrative Review Form, DSHS 05-203, after the review. The Administrative Review Coordinator sends copies of the DSHS 05-203 to:

- The parents of the child,
- The DCFS social worker for the child,
- Children over 12 subject to the review,
- The Indian child's tribe, and
- The private agency social worker responsible for placement of the child.

23.43 Citizen Review Boards

Purpose and Scope

The 1989 Legislature established pilot projects on citizen review in one or more Class 1 Counties in the state to improve accountability for permanency planning for children in out-of-home care. These pilot projects will be administered through the Office of the Administrator for the Courts through contracts with local juvenile courts. All dependent children who are in placement and children in placement as a result of voluntary placement agreements are subject to citizen review in selected pilot sites. Children who are not in out-of-home care and children in out-of-home care as a result of an ARP are not subject to citizen review.

Citizen review sites have significantly different requirements for court review than non-citizen review counties. Citizen review replaces some court reviews in pilot sites. Citizen review occurs at three months, six months, 12 months and annually thereafter during the child's placement episode. Reviews are scheduled by the juvenile court citizen review board.

DCFS Attendance at Citizen Review

DCFS social workers responsible for the child's case plan shall attend citizen reviews. If this employee is not available, DCFS shall require another employee who is knowledgeable about the case plan to attend the review. If the child is in private agency placement, the private agency case worker should also attend the review.

DCFS Preparation for Citizen Review

The social worker shall send a copy of the written parental consent to the local citizen review board within 30 days of placement when a child is placed in out-of-home care without court action. (When a child is placed by court order, the court is legally required to notify the citizen review board.)

The social worker shall send copies of the Individual Service Plan, DSHS 15-209, to the citizen review board at least 14 days prior to any scheduled citizen review.

DCFS Response to Citizen Review Recommendations

Citizen Review Board findings are advisory in nature to DCFS. However, should a board decide that DCFS' ability to complete board recommendations is unacceptable to the board, the board, by statute, may request that a court review hearing be scheduled to resolve the matter.

Following a citizen review, the review board will send a copy of its findings to the DCFS social worker. If the social worker, following consultation with his/her supervisor is unable or unwilling to implement the citizen review board findings, the social worker will prepare an implementation report within ten working days describing:

- Reasons why DCFS is unwilling or unable to implement the recommendations, and
- The case plan DCFS does intend to implement.

The DCFS Implementation Report format shall be established by DCFS Regional Offices in cooperation with pilot citizen review boards.

23.44 Permanency Planning Hearings

Both federal and state law require that the juvenile court make a determination regarding the future status of the child by 18 months of the child's placement episode. Following that hearing, state law requires the court must annually, thereafter, hold permanency planning hearings to make further determinations about the permanency plan. In addition, six month periodic review hearings continue to occur as long as the child remains dependent unless a guardianship has been established.

DCFS Preparation for Permanency Planning Hearings

DCFS submits an updated Individual Service Plan, DSHS 15-209 to the juvenile court prior to the permanency planning hearing. This report should be submitted within timeframes established by regional policy.

The ISP submitted for a permanency planning hearing shall clearly delineate the DCFS recommendations for permanency planning. Research indicates that any child who has been in out-of-home care for 18 continuous months is increasingly unlikely to return home. Eighteen months in placement is a very long time in the life of a child.

While it is always necessary when updating the ISP to review the parents' progress towards improving the conditions leading to the child's placement in out-of-home care, it is particularly important that a careful review of the permanency plan occur at the 18 month point. If, at this point, DCFS is still recommending to the court that eventual return home will occur, DCFS should carefully describe to the court how this view is consistent with the child's right to early achievement of a safe, permanent home. DCFS should carefully consider all alternative permanency plans before making a recommendation on permanency to the court. Questions to be considered by the social worker include:

- What emotional impact is long-term out-of-home care (without permanency) having on this particular child?
- How continued out-of-home care has affected the parent/child bond?
- Who is the child emotionally attached to?
- Have the parents been offered a reasonable opportunity to improve the conditions that lead to placement? What has been the result? Have conditions changed?
- How long will it take for conditions to change enough for the child to go home?
- What is the likely harm to the child of waiting for that period of time?
- How likely is it that an alternative permanent plan can be completed by DCFS?

23.50 COURT PROCESS

Federal: P.L. 95-608.

State: RCW 13.32A.120 through 13.32A.200; and RCW 13.34.010 through 13.34.300.

23.51 Policy

23.52 Purpose of Service

A. The purpose of this section is to describe the legal requirements of the Juvenile Court Code. The Juvenile Court Code requires that child welfare staff participate in four court processes: (1) Alternative residential placement (ARP), (2) Dependency, (3) Guardianship, and (4) Termination of parental rights. The consent to place process may be used under some circumstances in lieu of the ARP or dependency processes.

B. One or more of these court processes may occur in the provision of the following child welfare programs: (1) Family Reconciliation Services (see Chapter 24); (2) Child Protective Services (see Chapter 26); (3) Crisis Residential Placement (see Chapter 31); (4) Child Foster Family Care (see Chapter 32); (5) Private Agency/Child Group Care (see Chapter 34); and (6) Adoption Services (see Chapter 36).

23.53 Alternative Residential Placement (ARP) (See RCW 13.32A.120 through 13.32A.200)

The purpose of the alternative residential placement process is to resolve disputes between parents and children as to where children may live outside the parents' home.

A. ARP Petition (see required outline in 23.80 C. 2.).

1. The parent or child may file a petition to approve an alternative residential placement (see RCW 13.32A.120).

2. A petition may be filed only within the county where the parent resides. (See RCW 13.32A.200.)

B. The service worker may file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances (see RCW 13.32A.140):

1. The child has been admitted to a crisis residential center or has been placed with a responsible person other than his/her parent, and:

a. The parent has been notified that the child was so admitted or placed;

b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

c. No agreement has been reached between the parent and the child as to where the child shall live;

d. No petition requesting approval of an alternative residential placement has been filed by either the child, parent, or legal custodian; and

e. The child has no suitable place to live other than the home of his/her parent.

f. Staff will make such notifications and place American Indian children as required under 23.60.

2. The child has been admitted to a crisis residential center and:

   a. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

   b. The staff, after searching with due diligence, have been unable to contact the parent of such child;

   c. The child has no suitable place to live other than the home of his/her parent;

   d. The required notifications have been made for American Indian children and the service worker/Local Indian Child Welfare Advisory Committee (LICWAC) have reached agreement as to appropriate placement for the child. (See 23.60.)

3. An agreement between parent and child made regarding an alternative residential placement is no longer acceptable to parent or child, and:

   a. The party to whom the arrangement is no longer acceptable has so notified the department;

   b. Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

   c. No new agreement between parent and child as to where the child shall live has been reached;

   d. No petition requesting approval of an alternative residential placement has been filed by either the child or the parent; and

   e. The child has no suitable place to live other than the home of his/her parent.

   f. Refer to 23.60 when working with American Indian/Alaskan Native children.

C. When the department files a petition for alternative residential placement the state will be represented as provided for in RCW 13.04.093.

D. Child/Parent Filing Petition (see RCW 13.32A.150).

1. A child or child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home if no agreement can be reached about placement or returning to the home.

2. The service worker shall, when requested, assist either a parent or child in filing the petition, i.e., explain procedures, help in initiating telephone contacts, etc.

3. The petition shall only ask that the placement of a child outside the home of his/her parent be approved.

4. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his/her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

E. Procedures Prior to Fact-Finding Hearing (see RCW 13.32A.160).

When a proper petition is filed (see RCW 13.32A.120, 13.32A.140, or 13.32A.150), the juvenile court will:

1. Schedule a date for a fact-finding hearing and notify the parent and child of such date;

2. Notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him/her by the court;

3. Appoint legal counsel for the child;

4. Inform the child and his/her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and

5. Notify all parties of their right to present evidence at the fact-finding hearing.

F. Placement of Child (see RCW 13.32A.160(2)).

1. Upon filing of an Alternative Residential Placement Petition, the child may be placed, if not already placed, by the service worker in a crisis residential center, foster family care home, group home facility or any other suitable, licensed (or determined exempt from licensing) residence as determined by the service worker.

2. If the child has been placed in a foster family care home or group care facility, the child will remain there, or in any other suitable residence as determined by the service worker, pending resolution of the alternative residential placement petition by the court.

3. Any placement may be reviewed by the court upon the request of the juvenile or the juvenile's parent within three court days of the request.

4. The department may authorize emergency medical or dental treatment for a child in placement. (See RCW 13.32A.140.)

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

G. Fact-Finding Hearing (see RCW 13.32A.170(1)).

1. The court will hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children.

2. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel.

3. The court may approve an order stating that the child shall be placed in a residence other than the home of his/her parent only if it is established by a preponderance of evidence that:

   a. The petition is not capricious;

   b. The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict; and

   c. The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home.

4. The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

H. Court's Approval or Denial of ARP Petition (see RCW 13.32A.170(4)).

1. If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons will be filed by the court.

2. If the court denies a petition requesting that a child be placed in a residence other than the home of his/her parent, the court will enter an order requiring that the child remain at or return to the home of his/her parent.

3. If the court denies the petition, the court will impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services. (See RCW 13.32A.170(5).)

4. A child who fails to comply with a court order directing that the child remain at or return to the home of his/her parent shall be subject to contempt proceedings. (See 23.53 N. below) but only if the noncompliance occurs within ninety calendar days after the day of the order. (See RCW 13.32A.170(6).)

I. Fact-Finding Court Order (see RCW 13.32A.170(2)).

1. The order approving out-of-home placement will direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict.

2. In making the order, the court may further direct the department to make recommendations as to:

   a. Which agency or person should have physical custody of the child, and

   b. Which parental powers should be awarded to such agency or person, and

   c. Parental visitation rights.

3. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

J. Procedures Prior to Disposition Hearing (see RCW 13.32A.170(3)).

1. The hearing to consider the recommendations of the department for a three-month disposition plan is set by the court no later than fourteen days after the approval of the court of a petition to approve alternative residential placement.

2. Each party is notified by the court of the time and place of such disposition hearing.

3. Departmental disposition planning for American Indian children will be consistent with the recommendations of the LICWAC.

K. Disposition Hearing (See RCW 13.32A.180 and required outline in 23.80 C. 7).

1. At a dispositional hearing held to consider the three-month dispositional plan presented by the department, the court will consider all recommendations included in the plan. The service worker shall also present to the court the LICWAC recommendations if the department's recommendations are inconsistent with those of the LICWAC and the petition will so state.

2. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify the plan and will make its dispositional order for a three-month out-of-home placement for the child.

3. The court dispositional order will specify:

   a. The person or agency with whom the child is to be placed, and

   b. Those parental powers which will be temporarily awarded to the agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights.

4. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed foster family care homes.

5. No placement made as a result of a dispositional hearing may be in a juvenile correctional institution or facility as defined in Section 103, PL 93-415 Juvenile Justice and Delinquency Prevention Act of 1974 (i.e., "any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses").

L. Dispositional Court Order (see RCW 13.32A.190(1)).

Upon making a dispositional order, the court will:

1. Schedule the matter on the calendar for review within three months, and

2. Advise the parties of the date, and

3. Appoint legal counsel and/or a legal guardian ad litem to represent the child at the review hearing, and

4. Advise parents of their right to be represented by legal counsel at the review hearing, and

5. Notify the parties of their rights to present evidence at the hearing.

6. Where resources are available, encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

M. Review Hearing (see RCW 13.32A.190(2) and required outline in 23.80 C. 7).

At the review hearing:

1. The court will approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval. The court shall determine whether reasonable efforts have been made to reunify the family and make it possible for the child to return home.

2. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious.

3. If out-of-home placement is continued, the court may modify the dispositional plan.

4. Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court will order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court will enter an order requiring that the child return to the home of the child's parent.

5. Refer to 23.60 when working with American Indian/Alaskan Native children.

N. Contempt (see chapter 13.22A RCW).

1. Contempt proceedings can be instituted by the court on its own initiative or when a motion for contempt is made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order.

2. Failure by a party to comply with an order entered under this chapter is contempt of court as provided in RCW 7.21.

3. Contempt under this section is punishable by a fine of up to one hundred dollars and imprisonment for up to seven days, or both.

4. A child found in contempt under this section may be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

5. The procedure in a contempt proceeding held under this section is governed by RCW 7.21.010 through 7.21.070.

O. Support Payments (see chapter 13.32A RCW).

1. In any proceeding in which the court approves an alternative residential placement, the court will inquire into the ability of parents to contribute to the child's support.

2. If the court finds that the parents are able to contribute to the support of the child, the court will order them to make such support payments as the court deems equitable.

3. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders.

4. However, payments will not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child.

5. All orders of support entered in a proceeding approving alternative residential placement shall be in compliance with the provisions of RCW 26.23.050 relating to child support orders.

6. Recommendations to the court to establish, raise, lower, release, or forgive support payments for a child in placement may be made only by the staff of the Office of Support Enforcement (OSE) (see WAC 388-70-028).

23.54 Dependency Petition Process (see RCW 13.34.030 through 13.34.130).

A. A dependency petition (see Outline #1 and DSHS 09-428, Rev. 5/81, in 23.99) is filed after all other reasonably possible attempts to help correct the problem have been exhausted and if the child is in imminent danger or the parents refuse or are unable to immediately make changes adequate to protect the child.

B. It will be the duty of the attorney general to handle contested dependency cases brought by the department and, to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship. (In Class 1-9 counties the attorney general may contract with the prosecuting attorney of the county to perform paid duties of the attorney general.)

C. A petition to the juvenile court to have a child declared dependent is made in accordance with RCW 13.34.030. The petition may only be filed in the county of the parent(s) residence, the child's residence, or where the child is physically present. A petition must allege that a child:

1. Is abandoned, that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

2. Is abused or neglected as defined in Chapter 26.44 RCW; or

3. Has no parent, guardian, or custodian willing and capable of caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

4. Has a developmental disability, and DSHS and the parents (guardian or legal custodian) determine that services appropriate to the child's needs cannot be provided in the home.

D. If a child is alleged to be dependent and if a child's health, safety, and welfare will be seriously endangered if he/she is not taken into custody, a service worker should file a petition and request a court order that the child be taken into custody. If the court enter such an order, the court may direct a law enforcement officer, a probation counselor, or a child protective services official to take the child into custody. (See RCW 13.34.050.)

E. DSHS caseworkers have a duty under law to report possible crimes to a law enforcement agency or the county prosecutor, in accordance with RCW 26.44.020 and 26.44.040. Such a duty is not fulfilled by filing a dependency petition or by reporting a possible crime to the juvenile court.

F. CPS must make reasonable efforts to notify the child's parents as soon as possible and in no event more than 24 hours after the child is taken into custody pursuant to a court order or after CPS is notified of a law enforcement pickup. The notice may be given by any means reasonably certain of notifying the parents including written, telephonic, or in person oral notification. If the initial notification is provided by means other than writing, CPS must make reasonable efforts to also provide written notification. The written notification shall be contained in the Parent Guide to CPS booklet which has been distributed to the local DCFS office. (See RCW 13.34.060(2).)

G. Upon receipt of the written notice, the parents must acknowledge such notice by signing a receipt contained in the Parents Guide to CPS booklet. If the parent does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall then be made part of the juvenile court file in the case. If after making reasonable efforts to provide notification, CPS is unable to determine the parents' whereabouts, notice shall be delivered or sent to the parents' last known address. (See RCW 13.34.060(2).)

H. When it is necessary to petition the juvenile court regarding a child, the child's parents shall be informed of the reasons for the petition and helped to understand and participate in the court process. Such assistance should include helping the family to understand the need for and right to legal counsel. (See RCW 13.34.090.)

I. Refer to the 23-60 when working with American Indian/Alaskan Native children.

23.55 Juvenile Court Hearings and Reports

The service worker may be required to submit written reports, attend, and present testimony at the following hearings:

A. Shelter Care Hearing

1. A child taken into custody by a service worker prior to the hearing is to be placed in a receiving home/foster home licensed by the department or in a home not required to be licensed. (See RCW 13.34.060(1).)

2. A shelter care hearing must be held within 72 hours (excluding Saturdays, Sunday and holidays) after a child is taken into custody under the authority of a court order for emergency pickup or after a law enforcement pickup. Any parental waiver of the hearing must be made while the parents are present in court. (See RCW 13.34.060(1).)

3. At the shelter care hearing, the court must hear evidence and enter findings about the notice given to the parents and the efforts made by the case worker to provide notification. Case worker must testify about the reasonableness of his or her efforts to provide notification to the parents. (See RCW 13.34-060.)

4. The court must appoint legal counsel for indigent parents unless the parent waives the right to counsel in court. Notice and Summons issued by the court must contain information about the right to counsel and the procedure for securing appointed counsel. (See RCW 13.34.070.)

5. At the shelter care hearing, the court must consider the specific services that have been provided to the parents before making a finding that reasonable efforts have been made to prevent or eliminate the need for out-of-home placement. (See RCW 13.34.060.)

6. Parents who for good cause are unable to attend the initial shelter care hearing may request that a subsequent hearing be scheduled. The hearings must be held within 72 hours (excluding Saturdays, Sundays, and holidays) of the parents' request. The court clerk is required to notify all other parties of the hearing. (See RCW 13.34.060.)

7. An order for shelter care may not continue for more than 30 days unless reauthorized by the court. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. (See RCW 13.34.060.)

8. Any report of modification request submitted to the court for American Indian Children will be developed in consultation with the LICWAC and the court will be informed of any conflict between the worker and LICWAC recommendations. (See 23-60.)

9. Requests for discovery. Copies of DSHS agency records to which parent have legal access under disclosure and discovery rules must be provided to the parent or his or her legal counsel within 20 days after the department receives a written request for such records. The records must also be provided to the parents or legal counsel prior to the shelter care hearing. In addition to the materials that are already exempt from disclosure under RCW 13.50, DSHS must also delete the name and identifying information regarding child abuse referents. (See RCW 13.34.090 and 13.50.010.)

10. If a parent or other party in a case is represented by legal counsel, an order cannot be provided to the parent or party for his or her signature without prior notice and provision of the order to that party's counsel. (See RCW 13.34.090.)

B. Dependency Fact-Finding Hearing

1. Notice of fact-finding hearings must be provided no later than fifteen days prior to the hearing.

Note: See written changes on page 32.

C. Support for Dependent Children (see RCW 13.34.160)

Note: See written changes on page 32.

D. Disposition Hearing (see required outline in 23.99 C. 5)

1. The service worker shall be required to attend and may be required to present testimony. If the department filed the petition, then the service worker must prepare the following reports (listed as D. 2., 3. and 4. below) for the court. In other situations reports will be prepared/provided to juvenile probation staff according to DCFS/juvenile court agreements. (See RCW 13.34.110, 13.34.120, 13.34.130, and Manual G, 23.80.) This study is included in the DSHS 15-209, Individual Service Plan which is submitted to the court.

2. Social Study (see RCW 13.34.120 (1)). The service worker must give close attention to the requirements of this report and the needed information. This report is a written evaluation of matters relevant to the disposition of the case. The study and all social records will be made available to the court, including facts relating to the child's cultural heritage, particularly LICWAC recommendations and those of the parent and child, if of significant age, the tribe's request for intervention and transfer of jurisdiction to tribal court.

3. Predisposition Study (see RCW 13.34.120 (2)). The service worker must be familiar with specific requirements of this report. These requirements may be included when completing the Individual Service Plan, DSHS 15-209, if this form is accepted by the local juvenile court for dispositional hearings. If it is not, then the workers report shall include the following information in the alternative format described within this chapter. This report relates to the specific issue of whether or not the child should remain in the home and shall contain:

   a. A statement of the specific harm to the child that intervention is designed to alleviate;

   b. A description of the specific programs for the parent(s) and child that are needed in order to prevent serious harm to the child including why they will be useful, their availability, and the plan for ensuring their delivery;

   c. Why the child cannot be protected in the home--including past efforts to work with the parent and child in the home; treatment programs which have been considered and rejected, and the parents' attitude toward placement;

   d. The likely harm the child will suffer as a result of removal, including the parent-child attachment and meaning of separation and loss to both;

   e. Steps to be taken to minimize harm to the child that may result because of separation; and

f. Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

g. Placement of an American Indian child will be done in accordance with Chapter 1.04 and 32.33 of Manual G.

4. Agency Placement Plan (see RCW 13.34.130(2)).

a. Agency Report

This report is completed on the DSHS 15-209, ISP the DSHS 15-209A Health and Education Record and includes:

(1) Where the child will be placed;

(2) Steps to eventually return the child to the home;

(3) Actions to maintain child-parent ties;

(4) Services the parents will be offered to enable them to resume custody;

(5) What requirements the parents must meet in order to resume custody.

(6) A time limit for each service plan and parental requirement.

(7) A listing of the child's current health and education record, listing medication and known medical/education or emotional problems.

b. Agency Responsibility

(1) The agency charged with supervising a child in placement shall provide all reasonable services available within the agency or community or those which the department has existing contracts to purchase.

(2) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must begin in order to resume custody, and a time limit for each service plan and parental requirement.

(3) The agency shall be required to encourage the maximum parent child contact possible including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety or welfare.

(4) A current and ongoing record of the child's Health and Education needs will be maintained (DSHS 15-209A) this record will be completed within 30 days of placement and attached to the ISP. Copies of this record will be provided to the caregiver at the point of any placement and will be updated at that time as will as at the time of the update of the ISP.

(5) The child shall be placed as close to the child's home and school as possible, preferably in the child's own neighborhood, unless the court finds that placement at greater distance is necessary to promote the child's or parents' well-being.

(6) The placement agency will report to the court and appropriate tribal government or urban American Indian organization if it is unable to provide such services.

E. Six-Month Review Hearings (See 23.99 C. 6. for required form, DSHS 15-209, Individual Service Plan.)

1. The service worker may be required to give testimony and enter an updated ISP to the court outlining: what services have been provided or offered; cooperation and visitation of the parents, whether additional services are needed to facilitate the child's return to his/her parents; and when the child's return can be expected. (See RCW 13.34.130 (4) and RCW 13.34.180.)

2. For American Indian children the service worker shall also report use of urban American Indian organization/tribal services provided, if any, and LICWAC recommendations in relation to the service plan and, if LICWAC recommendations and the service worker's plan conflict, the report shall so state and justify why Committee recommendations were not taken into consideration if they were not.

23.56 Termination of Parental Rights

A. Termination Petition (see required outline in 23.99).

1. A petition to terminate a parent/child relationship may be filed in the juvenile court when:

   a. A child has been removed from the custody of a parent pursuant to a finding of dependency and a dispositional order has been entered pursuant to RCW 13.34.130; and

   b. The child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

   c. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

   d. There is little likelihood that the conditions will be remedied so the child can be returned to the care of the parents.

2. A petition may also be filed:

   If a judge has ordered a child removed from his or her home after a dispositional hearing, the judge may order that a termination petition be filed if he or she finds it is recommended by DSHS or the supervising agency that it is in the best interest of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

   a. Conviction of the parent of rape of the child in the first, second or third degree as defined in RCW 9A.44.073, 9A.44.076 and 9A.44.079;

   b. Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

   c. Conviction of the parent of assault to the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

d. Conviction of the parent of murder, manslaughter or homicide by abuse of the child's other parent, sibling or another child;

e. A finding by the court that a parent is a sexually violent predator;

f. Failure of the parent to complete available treatment ordered under the laws of Washington or of another state where such a failure has resulted in a prior termination of parental rights to another child and the parent has failed to make significant change in the interim.

B. Voluntary Termination

The juvenile courts are authorized to terminate parental rights voluntarily under RCW 26.33. Social workers should use the forms found in § 23.80 relating to relinquishment of parental rights. It is important to use the most recently revised forms whenever handling a voluntary relinquishment. If out of date forms are used rather than the most recent forms, the relinquishment may not be legally binding. Special procedures will apply when handling the voluntary termination of an Indian child. Discussion of these procedures is included below.

1. Petitions for voluntary termination of parental rights may be initiated for either an unborn or born child. The hearing on the petitions for relinquishment or termination cannot occur until at least 48 hours after the birth of the child. (See below for relinquishments relating to Indian children.)

2. In considering a petition for termination of parental rights based on a voluntary consent to adoption by a parent, the judge will review whether the consent was genuinely voluntary and whether the termination of parental rights is in the best interests of the child.

   a. To ensure that parental consent is genuine, the parents should never be coerced into relinquishing parental rights during the termination process. The social worker should take care to inform the parent that any relinquishment is voluntary throughout this process.

   b. If the parent has an attorney, that attorney must be involved in the legal process of termination of parental rights. Never work with a parent to secure a relinquishment and consent to adoption without the involvement of the parent's attorney.

3. PARENTS UNDER AGE 18. If any parent seeking to relinquish his or her parental rights is under age 18, a guardian ad litem (GAL) must be appointed for that person prior to relinquishment and termination of parental rights. If a social worker learns that a parent is under 18, he or she should ensure that a hearing is set to have a guardian ad litem appointed for the parent before taking any other legal action to proceed with a voluntary termination. If a GAL is not appointed, there is a high likelihood that the termination will be overturned. The guardian ad litem for a parent or alleged father shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action. (RCW 26.33.070)

4. RELINQUISHMENT OF PARENTAL RIGHTS TO AN INDIAN CHILD. Special procedures and rules apply to the relinquishment and termination of parental rights of an Indian child. The most important rules are as follows:

   a. If the child who is the subject of the relinquishment is an Indian child, the petition and consent to adoption shall not be signed by the child's parents until at least ten days after the child's birth. A consent to adoption must be recorded in the presence of a judge in order to be valid. Social workers should never accept a consent from the parent of an Indian child unless such consent is accepted in court.

   b. Notice of any hearing on a petition for relinquishment or termination must be served on the child's tribe. If the tribe does not receive notice, there is a high likelihood that any relinquishment or order of termination will be overturned. (RCW 26.33.090)

   c. Consent to the adoption of an Indian child may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may also be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of consent may be delivered or mailed to the Clerk of the Court or made orally to a judge who shall certify that such a revocation took place. (RCW 26.33.090)

d. Social workers who take a relinquishment and consent to an adoption from the parent of an Indian child must use a different form from that used with non-Indian children when processing a voluntary termination. This form is listed in § 23.80 of this manual. Social workers must take care to use the correct form when taking a relinquishment. The Indian child relinquishment and consent to adoption form includes important information about the parent's legal rights which must be reviewed by the parents before consenting to an adoption. If the social worker has any questions about this process, he or she should get legal advice before proceeding.

5. The final implementation of the Indian Child Welfare Manual is pending at the time of printing of this section. Once the Indian Child Welfare Manual has been implemented, social workers must refer to it to answer Indian child welfare questions. This manual will include specific directions regarding procedures and laws affecting Indian children.

23.57 Guardianship (See RCW 13.34.230 and guideline in 23.80)

A. Filing Guardianship Petition

1. Any party to a dependency, including the supervising agency, may file a petition in juvenile court requesting that guardianship be established for a dependent child. (13.34.23a.)

2. The Department of Social and Health Services will receive notice of any guardianship proceedings and have the right to intervene in the proceedings. (13.34.230)

3. The department or voluntary agency may initiate action on a guardianship petition, and are not dependent on securing advance approval by the court to do so.

4. There are demonstrable advantages to the child for the relative, foster parent, or other individual, to have guardianship as opposed to a permanent foster care arrangement in which the department retains supervision.

5. When DSHS initiates or is a party to the petition for guardianship in a child's behalf, the following procedures apply:

a. The petition should specify that guardianship of the child shall go to the guardian (i.e., relative, foster parent or other individual);

b. The service worker will request the court to identify the rights and responsibilities of the guardian in the court order of guardianship; the rights and responsibilities to be addressed shall include but not be limited to:

(1) Medical services,
(2) Consent to marriage,
(3) Enlistment in military services,
(4) Visitation between biological parents and child.

c. The service worker shall make recommendations to the court regarding what, if any, supervision the agency should provide.

B. Guardianship Court Hearing

1. At the hearing on a guardianship petition, all parties have the right to present evidence and cross examine witnesses.

2. The rules of evidence apply to the conduct of the hearing.

3. A guardianship may be established if the court finds by a preponderance of the evidence that:

a. The child has been found to be a dependent child under RCW 13.34.030)2);

b. A dispositional order has been entered pursuant to RCW 13.34.130;

c. The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

d. The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

e. There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

f. A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

C. Guardianship Court Order

1. If the court has made a finding, it will enter an order establishing a guardianship for the child. The order will:

   a. Appoint a person or agency to serve as guardian;

   b. Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian will not have the authority to consent to the child's adoption;

   c. Specify an appropriate frequency of visitation between the parent and the child; and

   d. Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

2. Any party may seek a modification of the guardianship order under RCW 13.34.150.

3. Establishment of a guardianship does not preclude a guardian from receiving foster care payments.

4. An established guardianship is not subject to the review hearing requirements of RCW 13.34.130.

5. Any person over the age of 21 years who is not otherwise disqualified by a - c below, any nonprofit corporation or any Indian tribe may be appointed the guardian of a child. No person is qualified to serve as a guardian who:

   a. Is of unsound mind;

   b. Has been convicted of a felony or misdemeanor involving moral turpitude; or

   c. Is a person whom the court finds unsuitable.

D. Departmental Responsibilities

1. The homes of guardians to which the department makes payment must be certified as meeting licensing requirements as per WAC 388-73-020.

2. The department's rules and procedures regarding the certification and supervision of the home for licensing purposes (see Manual G, Chapter 06) must be followed in spite of the fact that the court may have relieved the department of responsibility to supervise the child.

3. Guardianship of a child, under RCW 13.34.231 & .232 does not disentitle a guardian from continued eligibility to receive foster care payment.

4. Where a court order relieves the department of providing supervision for a child and that child's care had previously been AFDC-FC funded, the source of funds must be changed to state funds (see Chapter 33).

5. When a foster care payment continues to the guardian, the service worker remains responsible to perform the six-month SSPS review to:

   a. Ensure the child's continued eligibility for foster care payment (use SSPS service code 3210); and

   b. Update the circumstances of the guardianship arrangement.

6. Establishment of guardianship eliminates the automatic six-month review in Juvenile Court. However, if the service worker finds that the guardianship has failed or is terminated, i.e., death of the guardian or other reason, the case should be brought before the Juvenile Court to review the status of the child.

7. A child found to be dependent under RCW 13.34.030(2) remains under the court's jurisdiction, (i.e., dependency continues) even after a legal guardianship is established.

8. Appointment of guardianship for American Indian children will follow procedures in 23.38 F.

23.58 Consent to Place

A. If a child and a parent cannot agree to the child's return home, but do agree to the child's placement out of the home, or when a parent is unable to care for a child of any age, the parent(s)/guardian may request a voluntary placement.

   1. Children may be accepted for voluntary family foster care or group care placement only when the parent(s) have signed a DSHS 09-004(X), Placement Authorization and Acknowledgment, and when one or more of the out-of-home placement criteria listed in Manual G, Chapter 32.13 I. exists.

   2. Court intervention shall be sought in spite of parent(s) willingness to place the child voluntarily when:

      a. The circumstances of the family situation warrants the filing of a dependency petition, or

      b. There is not a responsible plan to remedy the situation which necessitated the placement, or

c. It appears that a placement of more than three months is needed.

3. When a request for a voluntary placement involves an American Indian child, see Section 23.60 for procedures.

B. Procedures for handling voluntary placements are found in Chapters 32 and 34.

23.59 Other Juvenile Court Related Responsibilities

The service worker may be asked to or decide to perform other duties in relation to working with the juvenile court.

A. A "DSHS Social Worker" may be required by the court to serve summons (RCW 13.34.070) to any person the court determines to be a proper or necessary person to the proceedings.

B. If a petition is filed and the court finds reasonable grounds, the juvenile court judge may enter an order directing a service worker to take a child into custody (RCW 13.34.050).

C. The juvenile court may require the service worker to bring a child who is in the department's physical or temporary custody to a shelter care hearing (see RCW 13.34.050 through 13.34.070).

D. A service worker may ask the court to appoint a guardian ad litem for a child who is alleged to be subject to a child abuse/neglect (see RCW 26.44.053(1) and RCW 13.34.100).

E. In all cases, when there is an existing court order for placement of the child outside of the home, a change in the court order must be obtained prior to placing the child back in the home. An order of the court may be changed, modified, or set aside only by the juvenile court judge (RCW 13.34.150). A service worker may request modification of a court order at any time.

F. If a child has been returned to the home of the parent but continues to be dependent, the Social Worker is required to obtain a court order, Consent to Place or an authorization for emergency placement from law enforcement in order to place the child back into foster care. At the point of placement a new "placement episode" begins

G. The service worker is responsible for making review reports or other reports as ordered by the court.

G. When a child has been declared to be dependent, placed out of the home, and then is returned to the home after an out-of-the-home placement, the supervision by the service worker shall continue for a period of at least six months. At that time there shall be a hearing on the need for continued intervention. (See Chapter 13.34.130 RCW.) The service worker must provide for the continued supervision or arrange for and/or monitor that service. The intensity of that service is to be determined by the service worker and/or juvenile court order.

Note: This section shall remain in effect until final implementation of the Indian Child Welfare Manual. After the manual has been implemented, refer to it to answer Indian child welfare questions.

23.60 Indian Child Welfare

Policy/Procedure for LICWAC/Administrative Reviews

This section is an extension of WAC 388-70-091, 092, 093, 095, 450, 600, 615, 620, 640, 73-044, RCW 13.34.25, P.L. 95-608, HB 480, P.L. 96-272, current Child Protective Team Mandates; and the DCFS Manual, chapter 1.04. and 23.38.

WAC 388-70-600

Local Indian Child Welfare Advisory Committee - Purpose

The intent of WAC 388-70-096, 388-70-450, and 388-70-600 to 640 is to ensure protection of the Indian identity of Indian children, protecting Tribal rights pertaining to Indian Child Welfare, and the maximum utilization of available Indian resources for Indian children to assist in the preservation of Indian families.

It is also the intent of the LICWAC to assist social workers in evaluation of risk to Indian children and make appropriate recommendations to ensure that the safety of Indian children, the preservation of Indian heritage, are primary focuses of the Department and the Committee.

To ensure the realization of this intent, information about EACH current and future case involving Indian children, for whom the Department and Private Agencies have a responsibility for, shall be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC for staffing according to the Department procedures.

All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or a Department LICWAC, per Regional procedures, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, the Director of DCFS. This public and private partnership, utilizing Indian community representatives in the review process emphasizes that the problem of abused and neglected children is a community problem and their well-being is a community responsibility.

A. Definition of Indian Child:

1. An enrolled Indian:

   a. Any person who is enrolled or eligible for enrollment in a federally recognized tribe;

   b. Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior;

   c. An Eskimo, Aleut, or other Alaskan Native.

2. A Canadian Indian: Any person who is a member of a treaty tribe, Metis community, or non-status Indian community from Canada.

3. An unenrolled Indian: A person considered to be an Indian by a federally or non-federally recognized Indian tribe or urban Indian/Alaskan Native community organization.

B. Purpose of LICWAC:

1. The primary focus of the LICWAC is to review caseworkers evaluation of risk to Indian children so that appropriate case plans are implemented to ensure the safety of Indian children and the maintenance of their Indian heritage.

2. To ensure that Indian children are connected to their own Tribes and families through early notification to Tribes as mandated by the Indian Child Welfare Act and by following notification mandated by the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, the Tribal - State Indian Child Welfare Agreement, and DCFS LICWAC regulations.

3. To assist the DCFS to involve Tribal governments and Indian organizations in case planning for Indian children.

4. To encourage increased participation of families, foster parents, and children in the review process. (See H.)

5. To ensure that culturally relevant resources are offered to Indian children and their families to expedite reunification efforts, including in-home family support services; and to assist the department in developing these resources.

6. To ensure that Indian children are placed in culturally relevant placements following the placement preferences of the Indian Child Welfare Act of 1978, Washington State Indian Child Welfare laws, DCFS LICWAC regulations, and the Tribal State Indian Child Welfare Agreement.

7. To act as a multi-disciplinary resource team for DCFS caseworkers in developing and advocating for culturally relevant case plans for Indian children and their families.

8. To support Tribal sovereignty with its right of eminent domain, and to support the efforts of Tribes in obtaining self-determination in Indian Child Welfare matters.

9. To advocate for the needs of caseworkers carrying Indian cases, recognizing the additional mandated requirements of these cases, to seek equitability for these workers within the Department. Ensure LICWAC's participation in the development and monitoring of all DCFS case plans for Indian children.

C. Functions of LICWAC:

1. To review the case of each Indian child receiving services from a DCFS program or private child placing agency. All cases are to be referred to either a Tribal Indian Child Welfare Advisory Committee or the Department's LICWAC, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Review DCFS/private agency staff's assessment of risk and development of culturally relevant case plans for Indian Children.

3. Act as the Administrative Review team for all Indian cases requiring an Administrative review, except where alternate active agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established Administrative Boards when Indian cases are presented.)

4. Act as the Child Protective Team for all Indian cases fitting the criteria of a CPT case, except where alternative agreement exists. (Where LICWACs are not acting in this capacity, a minimum of two LICWAC representatives are to sit on the established CPT committees when Indian cases are presented.)

5. Requires the Regional DCFS Administrator to initiate reviews of case plans that the LICWAC believe to be detrimental to the best interest of Indian children.

6. Acts in an advisory capacity to the Regional DCFS Administrator regarding the Division's development, implementation, and monitoring of rules related to FRS, CWS, CPS, and adoption services to Indian children and their families.

7. LICWAC will act as an "Expert Witness" for Indian children in cases where Tribal representatives are unavailable.

D. LICWAC Membership Criteria:

1. Members shall be American Indian or Canadian Indian or Native Alaskan who are familiar with the special needs of Indian children residing within DCFS catchment area.

   a. Police Checks may be made on all applicants, per Regional procedures.

   b. Members are to be responsible community members who:

      - have a genuine interest in the welfare of children;
      - don't abuse alcohol/drugs;
      - don't have any convictions or felonies relating to offenses against children.

   c. Members are to have an understanding of community resources for Indian children and their families.

   d. Members must be willing to participate in mandatory training. The LICWAC may appoint non-Indian resource persons as ex-officio, non-voting members, except where LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

2. Persons interested in serving on the LICWAC but are not tribal designated representatives shall:

   Obtain an "Application for Advisory Body Appointment" from the LICWAC chairperson or DCFS LICWAC Liaison. Upon completion of the application, applicants may attach a current resume and two reference letters and return to the DCFS LICWAC Liaison.

3. Tribes and Indian organizations may submit their designated representatives to participate on the LICWAC in the usual manner.

4. The Liaison will review the application with the committee for discussion and approval. The committee shall review all applications and make selection to be sent to the Regional Administrator for appointment.

   The Application process may include a personal interview with the LICWAC members.

5. Once the appointment to the committee is made, termination will occur only if the member resigns, consistently misses meetings, or a determination is made after input from the LICWAC, Tribes, and off-reservation Indian organizations that an individual is not suitable to continue to serve on the LICWAC committee. If a member is found to act in a manner that is in direct contradiction with the goals and philosophy of the LICWAC, his/her seat will immediately be vacated. The Regional Administrator will make the official termination of the above applicant except where an alternative active agreement applies by the LICWAC expert.

NOTE: Indian staff of DCFS' with LICWAC approval, are authorized to act in a consultant capacity for cases carried by a private agency.

E. Regional DCFS LICWAC Liaison:

1. The regional LICWAC Liaison is to be selected and designated as a result of a collaborative effort of the LICWAC and the Regional Administrator and is responsible for providing staff support to the LICWAC and coordinating functions of LICWAC.

2. The functions of the LICWAC Liaison include:

a. Upon concurrent appointment by the Regional Administrator and the LICWAC, the Liaison (in conjunction with the LICWAC chairperson and DCFS Indian staff) will provide mandatory training and orientation to new members in the following areas:

- Volunteer liability - each LICWAC member is to sign a DSHS Volunteer Registration Form.
- Confidentiality - each LICWAC member will sign the CFS Volunteer Registration form committing to the maintenance of client confidentiality.
- Mileage reimbursement arrangements.
- Volunteer registration of all LICWAC members.
- Staffing process according to the Regional LICWAC policy and procedures.
- DCFS programs and processes.
- Indian Child Welfare Act - P.L. 95-608.
- Age requirements of P.L. 96-272 - Title IV-B-Periodic Reviews.
- H.B. 480 - Washington State Indian Child Welfare Act.

- Department's Risk Assessment Matrix.
- Reporting law.

b. Schedules and coordinates case staffings, CPT staffings, Administrative Reviews, and regular LICWAC meetings.

c. Ensures that minutes on all cases staffed by LICWAC are recorded in a timely manner, and that copies of the minutes are retained in a central file and in case records, readily available for LICWAC review.

d. Develops, updates, and approves on an annual basis, working agreements with private child placing agencies within the Region regarding the provisions of Indian Child Welfare services that comply with the Indian Child Welfare Act of 1978. Monitors that the agreements and provisions of the Indian Child Welfare Act of 1978 are being followed.

e. Identifies training opportunities and ensures that LICWAC members and private agency staff are included in DCFS and other ICW trainings related to the delivery of Indian Child Welfare services, i.e., DCFS Training Academy, Risk Assessment, and trainings sponsored by Indian programs.

f. Ensures that appropriate material be mailed by DCFS Clerical staff to all LICWAC members and designated private agency staff.

g. Authorizes mileage for LICWAC members and consultants.

h. Identifies and advocates for the special unmet needs of Indian children and their families that may relate to barriers to timely family reunification efforts.

F. <u>Cases Mandated to be Reviewed by LICWAC</u>:

1. All DCFS and private agency Indian cases are to be reviewed by either a Tribal Indian Child Welfare Committee, or by the LICWAC except where LICWAC has an approved alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

STAFFING PRIORITIES:

a. Child Protective Team Staffings - any case in which a child has been determined by a community professional or physician to have been physically or sexually abused and the case plan is not to place the child out of the home, or to return a child home from foster care contrary to professional advice. Where LICWACs are not providing CPT staffings, a minimum of two LICWAC representatives are to sit on the established CPT committee.

b. Administrative Reviews - cases where no DEPENDENCY REVIEW has occurred within six months from the date of placement.

c. Non-Indian Placements - any Indian case where an Indian child has been placed in a non-Indian placement resource.

d. Private Agency case staffings - all Indian cases where a private agency has responsibility or custody.

e. Voluntary Placements - cases in which the parent's have voluntarily placed their child in the custody of DCFS or a private Child Placing Agency.

f. Permanency Planning reviews - cases where the plan is to terminate parental rights, pursue guardianship, maintain a child in long-term foster care placement, or pursue an adoptive placement.

g. Any other Indian cases.

G. Quorum for LICWAC Staffings/Reviews:

1. A quorum for an Administrative Review, permanency planning staffing, non-Indian placement case, or private agency case review shall consist of no less than three (3) LICWAC members except where an alternate agreement exists.

2. A quorum for a CPT staffing shall consist of no less than five (5) LICWAC members representing the following disciplines:

a. Medical
b. Law Enforcement/Legal
c. Alcohol/Drug
d. Social Services
e. Educational

H. Notification for Reviews/Staffing:

1. Administrative Reviews: Notification to all interested parties, parents, child over 13, GAL, foster parents, attorneys and therapists - needs to be made in writing fourteen (14) days in advance; or in an emergency, notice can be made by personal contact by the caseworker.

2. CPT staffings or emergency staffings are to be scheduled with a minimum of 24 hours advance verbal notice to LICWAC members, followed by immediate written notice.

3. Initial cases for LICWAC are to be scheduled at the next regularly scheduled LICWAC meeting after assignment of an Indian case, except where the LICWAC has an alternate agreement with the Regional Administrator, and the agreement has been approved by the Office of Indian Affairs, and the Director of DCFS.

4. LICWAC staffings shall occur regularly, but not less than once every six (6) months.

I. Who can Request a Staffing:

1. Requests by a worker for a staffing can be made verbally or in writing to the Liaison or Chairperson.

2. In regions that have an alternate agreement with the Department, staffings are initiated according to that agreement.

J. Who can Attend a Staffing:

1. The social worker shall always be the primary presenter and shall be in attendance.

2. All appointed and registered LICWAC members.

3. Parents.

4. Child(ren) - usually over 13 years of age.

5. Foster parents.

6. Tribal Representatives.

7. Guardian Ad Litems.

8. Attorneys.

9. Other resource persons necessary for additional information.

K. Relationships or Conflicts of Interest:

LICWAC members who are expressly familiar or involved in another capacity with the parties being reviewed shall state their role/relationship prior to the review. They shall give in-put on the situation, but refrain from being involved in making any recommendations if:

1. They are related (up to the specified degree of second cousin).

2. They work for a private agency providing placement services to the family.

3. Upon discussion, it is determined that they are in an advocacy role with one or more individuals in the family.

L. Staffing Dates:

If a significant change occurs in the plan or with the case, it must be restaffed at the next LICWAC review prior to any court hearings to ensure that the recommendations of the LICWAC are followed.

M. Staff Protocol:

1. The DCFS Supervisor will screen all Indian cases and request the appropriate type of staffing for each case.

2. The social worker completes a current ISP (DSHS 15-209) for use in the staffing to be given to the liaison five days in advance of the staffing.

   a. For CPT cases the police report may be used in lieu of the ISP for the initial staffing.

3. The clerical support staff of DCFS will make at least three (3) copies of the ISP and distributes them for review at the staffing.

4. The DCFS case record shall be available: all psychological reports, all medical reports, counseling reports, professional correspondence, police reports, pictures, and all court reports.

5. The ISP, including attachment A, must have the supervisor's signature indicating that the supervisor concurs with the presented plan.

6. The Chairperson will open each meeting with an announcement that members are to declare relationships or involvements as cases are presented.

7. The ISP/Police Report is reviewed along with any other pertinent material and discussion takes place along with questions regarding the history of the case, services being offered and provided, progress being made, barriers to reunification, and time-frames as to when the permanent plan is most likely to be accomplished.

8. The LICWAC Liaison documents all recommendations clearly on the Administrative Review Form (DSHS 05-203) or a LICWAC Staffing Form that includes all the documented recommendations.

9. The recommendations are read by the LICWAC Chairperson or secretary, and all LICWAC members vote or otherwise concur with the recommendations made to be incorporated into the case plan and then sign the form.

10. The caseworker is to review the written LICWAC recommendations at that point. If the caseworker is in agreement with the LICWAC recommendations and plans to implement those recommendations as part of the case plan, the caseworker then signs the form. If the caseworker is not in agreement with the LICWAC recommendations, the caseworker must not sign the form. The caseworker must advise the LICWAC at that time of his/her points of disagreement. Further discussion and mediation can take place regarding the disputed recommendations. However, the staffing cannot be recessed until the caseworker has either signed the LICWAC Staffing Form or an impasse declared, unless a time-limited recess has been mutually agreed upon by the LICWAC and the caseworker. Such recesses are to be in restricted use.

11. If after mediation and discussion the disagreement is not resolved, and the majority of LICWAC members vote to pursue the impasse, the impasse procedures will be initiated.

N. Impasse Procedures:

1. If the social worker does not agree with the LICWAC recommendations, and the majority of LICWAC members have voted to proceed, the following impasse procedures will be initiated:

   a. Within 24 hours the LICWAC Liaison will notify the Regional Administrator, Area Manager, Supervisor, Social worker, LICWAC Representatives, and the Office of Indian Affairs that it is necessary to conduct an impasse staffing. All CPT cases will be reviewed within 48 hours.

   b. If the LICWAC considers the child involved in the case to be in imminent danger or at serious risk, the CPT guidelines will be enforced so that the child will be placed out of danger until a staffing with the Regional Administrator has been held within 24 hours.

c. If a court hearing is imminent, the department is to request that the AAG seek a continuance to provide additional time to reconcile differences unless a party other than DCFS disagrees.

d. If the court hearing is not rescheduled, an impasse staffing will need to be held within the 24 hour time-frame.

e. If the impasse is not resolved at the regional level, after notification by the LICWAC Chairperson or Liaison, the Division Director will review the case within 24 hours.

f. If the impasse is not resolved at the Division level, the Assistant Secretary for DCFS will be notified within 24 hours to schedule another meeting.

g. If the impasse is not resolved at the Assistant Secretary's level, the Secretary for DCFS will be notified within 24 hours to schedule another meeting, and shall make the final determination.

O. Disciplinary and Corrective Action:

Any situation in which a social worker WILLFULLY REFUSES to abide by the policies established for LICWAC shall be handled in a manner consistent with personnel policy 545 and 546 and the provisions of the Merit System Rules for employee disciplinary action.

23.61 Privacy and Security of Records

A. Any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship, (the juvenile, his/her parents or attorney) may, upon request, make inquiry to the department as to the existence and content of custody or care records. The inquiries shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, location of the contact and the purpose of the request.

B. The department will make a written response to the inquiry within 10 calendar days after receipt. The department will give priority to expedite processing inquiries which involve litigation. The department will provide to the juvenile, his/her parent(s), or attorney making the inquiry information regarding the location, nature, and content of the records in the department's possession except:

1. If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his/her parents, the agency may withhold the information subject to the order of the court. If the court determines that limited release of the information is appropriate, the court may specify terms and conditions for release of the information; or

2. If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has the legal right to receive these services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

C. See Chapter 01 for additional policy on confidentiality of information.

23.99 REQUIRED FORMS AND INSTRUCTIONS

A. The following specific forms used for voluntary termination of parental rights are located in Chapter 99, Forms.

1. DSHS 09-466 Order of Service and Publication (12/79)
2. DSHS 09-467 Notice of Hearing re Petition and Intent (12/79)
3. DSHS 09-468 Publication Notice (12/79)
4. DSHS 09-469 Affidavit of Personal Service (12/79)
5. DSHS 09-470 Affidavit in Support of Service by Publication (5/80)
6. DSHS 09-471 Affidavit of Publication (12/79)
7. DSHS 09-473 Findings, Conclusions, and Order (3/80)
8. DSHS 09-474 Petition for Termination of Parent-Child Relationship (12/79)
9. DSHS 09-476 Petition for Termination of Relationship: Parent-Unborn Child (12/79)
10. DSHS 09-477 Consent to Termination (12/79)
11. DSHS 09-478 Waiver of Right to Receive Notice and Appearance (12/79)
12. DSHS 09-479 Authorization to Release Information (12/79)
13. DSHS 09-480 Order of Service and Publication (12/79)
14. DSHS 09-481 Notice of Petition and Intent to Release Custody or Consent to Adoption (12/79)
15. DSHS 09-482 Motion and Order Appointing Guardian ad Litem for Minor Parent (4/80)
16. DSHS 09-552 Voluntary Termination Information/Referral (12/80)

B. The following specific forms, instructions and guidelines used in cases involving Indian Child Welfare as referenced in 23.60 are included in Chapter 99, Forms.

1. DSHS 09-534 Letter to Parent and/or Indian Custodian (12/80)
2. DSHS 09-535 Letter to Tribe - Notification (12/80)
3. DSHS 09-536 Letter to Bureau of Indian Affairs (12/80)
4. DSHS 09-537 Letter to Canadian Indian Band (12/80)
5. DSHS 09-538 Letter to Canadian Indian Parent (12/80)
6. DSHS 09-539 Letter to Tribe - Enrollment Status (12/80)
7. DSHS 09-540 Letter to Bureau of Indian Affairs - Tribal Affiliations (12/80)
8. DSHS 09-541 Notice to Indian Tribe, Band or Nation (12/80)
9. DSHS 09-542 Notice of Intervention and Request for Continuance (12/80)
10. DSHS 09-543 Notice to Parent and/or Indian Custodian (12/80)
11. DSHS 09-544 Request for Continuance (12/80)
12. DSHS 09-545 Notice to Secretary of United States Department of Interior Regarding an Indian Child (12/80)
13. DSHS 09-546 Certificate of Presiding Judge (12/80)
14. DSHS 09-547 Motion to Transfer Jurisdiction to Indian Tribe (3/81)
15. DSHS 09-547A Order to Transfer Jurisdiction to Indian Tribe (3/81)
16. DSHS 09-548 Motion for the Tribal Court to Accept Jurisdiction (3/81)