















- Is there a person with a legitimate interest with whom the child can be placed? If yes, who? What is the person's connection to the child?

The court may order the parents or guardians of a child to provide the names and contact information for all persons with a legitimate interest to the local department of social services (LDSS). Va. Code § 16.1-229.1.

Prior to transferring temporary custody of a child to a person with a legitimate interest, the court must consider whether the person is:

- a. Willing and qualified to receive and care for the child;
- b. Willing to have a positive, continuous relationship with the child;
- c. Committed to providing a permanent, suitable home for the child; and
- d. Willing and has the ability to protect the child from abuse and neglect.

The court's order transferring custody should provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

To support parents' counsel, guardians ad litem, and Court Appointed Special Advocates in assisting the LDSS with the identification of relatives and fictive kin resources and supports, the Court Improvement Program, in collaboration with the Virginia Department of Social Services, has developed forms, Identification of Relatives and Fictive Kin and Relative and/or Fictive Kin Resources and Supports.

## KEY FINDINGS

- Whether the child is an Indian child as defined in 25 U.S.C. § 1903(4).
- If legal custody of the child is transferred, that there is no less drastic alternative than transfer of legal custody.
- If legal custody of the child is transferred to the LDSS:
  - Whether continued placement in the home would be contrary to the welfare of the child.
  - Whether reasonable efforts have been made to prevent removal or are not required pursuant to § 16.1-278.2.





## CHILD DEPENDENCY BENCHCARD

### INITIAL FOSTER CARE REVIEW HEARING

#### AUTHORITY

Virginia Code § 16.1-281

#### PURPOSE

To review and approve the foster care plan for a child placed in foster care.

#### TIMING

Not more than 60 days after:

- The child's initial foster care placement for a child placed through an agreement between the parents/guardians and local department of social services.
- The preliminary removal hearing, for a child alleged to have been abused or neglected.
- The hearing on the petition for relief of custody.
- The hearing held to dispose of a child in need of services, child in need of supervision, delinquency, or status offense petition at which the child is placed in foster care.

#### NEXT EVENT

- A foster care review hearing not more than 4 months after the date of this hearing. Va. Code § 16.1-282.
- A permanency planning hearing not more than 30 days after the date of this hearing if the court makes a finding that reasonable efforts to reunite are not required.
- A foster care review hearing not more than 6 months from the date of this hearing if the order entered approves the goal of another planned permanent living arrangement.
- An annual foster care review not more than 12 months from the date of this hearing if the order entered has the effect of achieving a permanent goal for the child.

#### APPLICABLE DISTRICT COURT FORM ORDERS

- DC-553, DISPOSITIONAL ORDER FOR UNDERLYING PETITION, FOSTER CARE PLAN
- DC-593, SUPPLEMENTAL SHEET
- DC-559, SUPPLEMENT TO ORDER TRANSFERRING CUSTODY

#### QUESTIONS TO CONSIDER

##### Indian Child Welfare Act:

- Is the child under the age of 18, unmarried and (i) a member of a federally recognized Indian tribe or (ii) eligible for membership in and the biological child of a member of a federally recognized Indian tribe?  
ICWA applies unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.

##### Parental participation in hearing, if parental rights have not been terminated:

- Are the parents in court? If not, why? (Addressing parents by their last name facilitates parental engagement.)
- Has counsel for the parents met with their clients since the date of the last hearing? If not, why?
- Do the parents understand the purpose of this hearing/why we are here today? If not, explain the purpose of the hearing to the parents.
- Do the parents have relatives or friends who should be involved in this matter?

##### Child participation in hearing:

- Is the child in court or participating in the hearing by other means (e.g., by phone or video)? If not, why?
- Has the guardian ad litem met with the child since the date of the last hearing? If not, why?  
District court form DC-540, GUARDIAN AD LITEM CERTIFICATION, should be filed with the court by the child's guardian ad litem prior to any dispositional hearing to certify compliance with the Standards to Govern the Performance of Guardians Ad Litem for Children. Va. Code § 16.1-274.
- Does the child understand the purpose of this hearing/why we are here today? If not, explain, in an age appropriate manner, the purpose of the hearing to the child.
- See court consultation requirements when foster care plan goal is permanent foster care or another planned permanent living arrangement.

##### Child safety and well-being:

- What is the specific issue that necessitated the child's entry into foster care?
- Can the child be returned home safely today? Would certain court ordered conditions and limitations allow the child to return home? If not, why?
- What are the physical, emotional, educational, and mental health needs of the child? What is the local department of social services (LDSS) doing to meet these needs?

## CHILD DEPENDENCY BENCHCARD INITIAL FOSTER CARE REVIEW HEARING

If the child is of school age, is it in the child's best interest to remain in his or her home school? If yes, what is the LDSS doing to keep the child in his or her home school? How is the child doing in school? Are the child's academic needs being met?

If the child has siblings who were removed from the home, are the child and siblings placed together? If not, what is the LDSS doing to place the child with his or her siblings? Is there a visitation plan with the siblings in place? If not, why?

What is the child's placement? How is the child doing in his/her current placement? Has the child's placement changed since the last hearing? If yes, how many times and why?

Before placing the child out-of-state, the LDSS must receive approval from Virginia's Interstate Compact on the Placement of Children (ICPC) office.

If the child's placement is not with a relative or fictive kin, what efforts are being made to identify maternal and paternal relatives and fictive kin resources and supports for the child?

To support parents' counsel, guardians ad litem, and Court Appointed Special Advocates in assisting the LDSS with the identification of relatives and fictive kin resources and supports, the Court Improvement Program, in collaboration with the Virginia Department of Social Services, has developed forms, Identification of Relatives and Fictive Kin and Relative and/or Fictive Kin Resources and Supports.

If placement is a qualified residential treatment program (also referred to as a QRTP), see Va. Code § 16.1-281.

#### Foster care plan development:

Were the parents involved in the development of the foster care plan? If not, why?

Was the child involved in the development of the foster care plan? If not, why?

What is the child's foster care plan goal?

What is the child's concurrent goal? If a concurrent goal has not been established, why not?

#### Permanency:

**If return home (reunification) is the foster care plan goal for the child:**

What steps has the LDSS taken to advance the goal?

What efforts have the parents made to complete the requirements outlined in the foster care plan? Are there any barriers impacting the parents' completion of the foster care plan requirements? If yes, what are the barriers that exist?

What services are in place to assist the parents with completing foster care plan requirements?

What is the anticipated date for achieving the goal?

Is visitation with the parents in the best interest of the child? If not, why?

Is there a plan to support parental participation in doctor appointments, school events, extracurricular activities, etc.? If not, why?

**If the concurrent goal or the foster care plan goal is:**

#### Custody to a relative (relative placement)

Why is this plan in the best interest of the child?

Has a relative to whom the court may consider transferring legal custody of the child been identified? Who is the relative? What is the relative's connection to the child (e.g. family relationship and emotional relationship)?

Prior to transferring custody of a child to a relative other than the child's prior family, the court must consider whether the person is:

- Willing and qualified to receive and care for the child;
- Willing to have a positive, continuous relationship with the child;
- Committed to providing a permanent, suitable home for the child; and
- Willing and has the ability to protect the child from abuse and neglect.

The court's order transferring custody should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

## CHILD DEPENDENCY BENCHCARD INITIAL FOSTER CARE REVIEW HEARING

- What is the anticipated date for achieving the goal?

**Adoption**

- Why is this plan in the best interest of the child?
- Has adoption been discussed with the child? If the child is age 14 or older, does the child object to parental rights being terminated? What are the child's concerns?

Parental rights may be terminated over the objection of a child age 14 or older if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion. Va. Code § 16.1-283.

- What steps are being taken to finalize the adoptive placement in a timely manner? Are there barriers to finalizing the adoptive placement? How are identified barriers being addressed?
- What is the anticipated date for achieving the goal?

**Permanent foster care**

- Is the child age 16 or older?
- Why is this plan in the best interest of the child?
- What efforts have the LDSS made, as of the date of this hearing, to return the child home or secure the child's placement with a fit and willing relative or adoptive parent?
- Does the child have a relationship with his/her parent(s)? If yes, was the parent involved in the planning for a permanent placement? Is there a visitation plan in place with the parents? If yes, what is the nature and frequency of the visitation?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**Another planned permanent living arrangement**

- Is the child age 16 or older?
- What is the severe and chronic emotional, physical or neurological disabling condition requiring long-term residential treatment?
- Why are the goals of return home, relative placement, adoption, and permanent foster care not in the child's best interest? What is at least one compelling reason why these goals are not achievable?
- Does the LDSS have, as of the date of this hearing, documentation of unsuccessful efforts to return the child home or to secure a placement with a fit and willing relative?
- Has a long-term residential treatment provider been identified?
- What is the anticipated length of time of the child's treatment?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**KEY FINDINGS**

- Whether reasonable efforts to reunite the child with his parents are not required under Va. Code § 16.1-281.
- If the effect of the order is to achieve a permanent goal by terminating parental rights, placing a child age 16 or older in permanent foster care, or directing the LDSS to provide independent living services to transition a child refugee or asylee age 16 or older from foster care, whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.
- Whether to approve or disapprove the child's foster care plan.



## CHILD DEPENDENCY BENCHCARD FOSTER CARE REVIEW HEARING

### AUTHORITY

Virginia Code § 16.1-282

### PURPOSE

To review the foster care plan for a child (1) who is placed through a parental placement agreement that has not yet been dissolved by the court, or (2) who is in the legal custody of the local department of social services and who has not had a petition to terminate parental rights granted, filed, or ordered to be filed, is not placed in permanent foster care, or, is age 16 or over and the child's plan is not independent living.

### TIMING

Not more than 4 months after the dispositional hearing held pursuant to § 16.1-281 to review and approve the initial foster care plan, unless at such hearing, the court made a finding that reasonable efforts to reunite are not required.

### NEXT EVENT

- A permanency planning hearing not more than 5 months from the date of this hearing, or not more than 30 days from the date of this hearing if a finding is made that reasonable efforts to reunite are not required.
- An annual foster care review not more than 12 months from the date of this hearing if the order entered has the effect of achieving a permanent goal for the child.
- A foster care review hearing not more than 6 months from the date of this hearing if the order entered approves the goal of another planned permanent living arrangement.

### APPLICABLE DISTRICT COURT FORM ORDERS

- DC-555, FOSTER CARE REVIEW ORDER
- DC-593, SUPPLEMENTAL SHEET
- DC-559, SUPPLEMENT TO ORDER TRANSFERRING CUSTODY

### QUESTIONS TO CONSIDER

#### Indian Child Welfare Act:

- Is the child under the age of 18, unmarried and (i) a member of a federally recognized Indian tribe or (ii) eligible for membership in and the biological child of a member of a federally recognized Indian tribe?

ICWA applies unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.

#### Parental participation in hearing, if parental rights have not been terminated:

- Are the parents in court? If not, why? (Addressing parents by their last name facilitates parental engagement.)
- Has counsel for the parents met with their clients since the date of the last hearing? If not, why?
- Do the parents understand the purpose of this hearing/why we are here today? If not, explain the purpose of the hearing to the parents.
- Do the parents have relatives or friends who should be involved in this matter?

#### Child participation in hearing:

- Is the child in court or participating in the hearing by other means (e.g., by phone or video)? If not, why?
- Has the guardian ad litem met with the child since the date of the last hearing? If not, why?  
District court form DC-540, GUARDIAN AD LITEM CERTIFICATION, should be filed with the court by the child's guardian ad litem prior to any dispositional hearing to certify compliance with the Standards to Govern the Performance of Guardians Ad Litem for Children. Va. Code § 16.1-274.
- Does the child understand the purpose of this hearing/why we are here today? If not, explain, in an age appropriate manner, the purpose of the hearing to the child.
- See court consultation requirements when foster care plan goal is permanent foster care or another planned permanent living arrangement.

#### Foster parent participation in hearing:

- Are the foster parents in court? If not, why?  
The Adoption and Safe Families Act requires foster parents be "provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child." These requirements do not include the right to standing as a party to the case. 42 U.S.C. 675(5)(G.).

**Child safety and well-being:**

- What is the specific issue that necessitated the child's entry into foster care? Have there been new issues identified that contribute to the decision to continue the child in foster care? Have these issues been addressed in the foster care plan?
- Can the child be returned home safely today? Would certain court ordered conditions and limitations allow the child to return home? If not, why?
- What are the physical, emotional, educational, and mental health needs of the child? What is the local department of social services (LDSS) doing to meet these needs?
- If the child is of school age, is it in the child's best interest to remain in his or her home school? If yes, what is the LDSS doing to keep the child in his or her home school? How is the child doing in school? Are the child's academic needs being met?
- If the child has siblings who were removed from the home, are the child and siblings placed together? If not, what is the LDSS doing to place the child with his or her siblings? Is visitation with the siblings in the best interest of the child? If not, why?
- What is the child's current placement? How is the child doing in his/her current placement? Has the child's placement changed since the last hearing? If yes, how many times and why?  
Before placing the child out-of-state, the LDSS must receive approval from Virginia's Interstate Compact on the Placement of Children (ICPC) office.
- If the child's placement is not with a relative or fictive kin, what efforts are being made to identify maternal and paternal relatives and fictive kin resources and supports for the child?  
To support parents' counsel, guardians ad litem, and Court Appointed Special Advocates in assisting the LDSS with the identification of relatives and fictive kin resources and supports, the Court Improvement Program, in collaboration with the Virginia Department of Social Services, has developed forms, Identification of Relatives and Fictive Kin and Relative and/or Fictive Kin Resources and Supports.

If placement is a qualified residential treatment program (also referred to as a QRTP), see Va. Code § 16.1-281.

**Foster care plan development:**

- Were the parents involved in the development of the foster care plan? If not, why?
- Was the child involved in the development of the foster care plan? If not, why?
- What is the child's foster care plan goal? Is this goal different from the initial goal? If yes, why?
- What is the child's concurrent goal? If a concurrent goal has not been established, why not?

**Permanency:****If return home (reunification) is the foster care plan goal for the child:**

- What steps has the LDSS taken to advance the goal?
- What efforts have the parents made to complete the requirements outlined in the foster care plan? Are there any barriers impacting the parents' completion of the foster care plan requirements? If yes, what are the barriers that exist?
- What services are in place to assist the parents with completing foster care plan requirements?
- What is the anticipated date for achieving the goal?
- Is visitation with the parents in the best interest of the child? If not, why?
- Is there a plan to support parental participation in doctor appointments, school events, extracurricular activities, etc.? If not, why?

**If the concurrent goal or the foster care plan goal is:****Custody to a relative (relative placement)**

- Why is this plan in the best interest of the child?
- What is the anticipated date for achieving the goal?

## CHILD DEPENDENCY BENCHCARD FOSTER CARE REVIEW HEARING

- Has a relative to whom the court may consider transferring legal custody of the child been identified? Who is the relative? What is the relative's connection to the child (e.g. family relationship and emotional relationship)?
- Prior to transferring custody of a child to a relative other than the child's prior family, the court must consider whether the person is:
- Willing and qualified to receive and care for the child;
  - Willing to have a positive, continuous relationship with the child;
  - Committed to providing a permanent, suitable home for the child; and
  - Willing and has the ability to protect the child from abuse and neglect.

The court's order transferring custody should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

**Adoption**

- Why is this plan in the best interest of the child?
- Has adoption been discussed with the child? If the child is age 14 or older, does the child object to parental rights being terminated? What are the child's concerns?
- Parental rights may be terminated over the objection of a child age 14 or older if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion. Va. Code § 16.1-283.
- What steps are being taken to finalize the adoptive placement in a timely manner? Are there barriers to finalizing the adoptive placement? How are identified barriers being addressed?
- What is the anticipated date for achieving the goal?

**Permanent foster care**

- Is the child age 16 or older?
- Why is this plan in the best interest of the child?
- What efforts have the LDSS made, as of the date of this hearing, to return the child home or secure the child's placement with a fit and willing relative or adoptive parent?
- Does the child have a relationship with his/her parent(s)? If yes, was the parent involved in the planning for a permanent placement? Is there a visitation plan in place with the parents? If yes, what is the nature and frequency of the visitation?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**Another planned permanent living arrangement**

- Is the child age 16 or older?
- What is the severe and chronic emotional, physical or neurological disabling condition requiring long-term residential treatment?
- Why are the goals of return home, relative placement, adoption, and permanent foster care not in the child's best interest? What is at least one compelling reason why these goals are not achievable?
- Does the LDSS have, as of the date of this hearing, documentation of unsuccessful efforts to return the child home or to secure a placement with a fit and willing relative?
- Has a long-term residential treatment provider been identified?
- What is the anticipated length of time of the child's treatment?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

## KEY FINDINGS

- Whether the child is an Indian child as defined in 25 U.S.C. § 1903(4).
- Whether reasonable efforts have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child.
- Whether reasonable efforts to reunite the child with his parents are not required under Va. Code § 16.1-281.
- Whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child, if the order entered has the effect of achieving a permanent goal for the child by terminating parental rights, placing the child in permanent foster care, or directing the LDSS to provide services to transition a child age 16 or older from foster care.
- Whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement, if the plan approved for the child is another planned permanent living arrangement. Va. Code § 16.1-282.1.
- Whether to approve or disapprove the child's foster care plan.



## CHILD DEPENDENCY BENCHCARD PERMANENCY PLANNING HEARING

### AUTHORITY

Virginia Code § 16.1-282.1

### PURPOSE

To establish a permanent goal for the child and either achieve the permanent goal or defer such action through approval of an interim plan for the child.

### TIMING

- Not more than 5 months after the date of the foster care review hearing.
- Not more than 10 months after the date of the hearing held pursuant to § 16.1-281 to review and approve the initial foster care plan.

### NEXT EVENT

- If an interim permanency plan is approved, a permanency planning hearing not more than 6 months from the date of this hearing.
- A foster care review hearing not more than 12 months from the date of this hearing, so long as the child remains in the custody of the local department of social services.
- A foster care review hearing not more than 6 months from the date of this hearing if the approved goal is another planned permanent living arrangement.

### APPLICABLE DISTRICT COURT FORM ORDERS

- DC-557, PERMANENCY PLANNING ORDER
- DC-558, PERMANENT FOSTER CARE PLACEMENT ORDER
- DC-559, SUPPLEMENT TO ORDER TRANSFERRING CUSTODY
- DC-593, SUPPLEMENTAL SHEET
- DC-531, ORDER FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

### QUESTIONS TO CONSIDER

#### Indian Child Welfare Act:

- Is the child under the age of 18, unmarried and (i) a member of a federally recognized Indian tribe or (ii) eligible for membership in and the biological child of a member of a federally recognized Indian tribe?

ICWA applies unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.

#### Parental participation in hearing:

- Are the parents in court? If not, why? (Addressing parents by their last name facilitates parental engagement.)
- Has counsel for the parent(s) met with their clients since the date of the last hearing? If not, why?
- Do the parents understand the purpose of this hearing/why we are here today? If not, explain the purpose of the hearing to the parents.
- Do the parents have relatives or friends who should be involved in this matter?

#### Child participation in hearing:

- Is the child in court or participating in the hearing by other means (e.g., by phone or video)? If not, why?
- Has the guardian ad litem met with the child since the date of the last hearing? If not, why?  
District court form DC-540, GUARDIAN AD LITEM CERTIFICATION, should be filed with the court by the child's guardian ad litem prior to any dispositional hearing to certify compliance with the Standards to Govern the Performance of Guardians Ad Litem for Children. Va. Code § 16.1-274.
- Does the child understand the purpose of this hearing/why we are here today? If not, explain, in an age appropriate manner, the purpose of the hearing to the child.

The court shall consult with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan for the child, unless the court finds that such consultation is not in the best interest of the child.

#### Foster parent participation in hearing:

- Are the foster parents in court? If not, why?

The Adoption and Safe Families Act requires foster parents be “provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child.” These requirements do not include the right to standing as a party to the case. 42 U.S.C. 675(5)(G.).



**Child safety and well-being:**

- What is the specific issue that necessitated the child's entry into foster care? Have there been new issues identified that contribute to the decision to continue the child in foster care? Have these issues been addressed in the foster care plan?
- Can the child be returned home safely today? Would certain court ordered conditions and limitations allow the child to return home? If not, why?
- What are the physical, emotional, educational, and mental health needs of the child? What is the local department of social services (LDSS) doing to meet these needs?
- If the child is of school age, is it in the child's best interest to remain in his or her home school? If yes, what is the LDSS doing to keep the child in his or her home school? How is the child doing in school? Are the child's academic needs being met?
- If the child has siblings who were removed from the home, are the child and siblings placed together? If not, what is the LDSS doing to place the child with his or her siblings? Is there a visitation plan with the siblings in place? If not, why?
- What is the child's current placement? How is the child doing in his/her current placement? Has the child's placement changed since the last hearing? If yes, how many times and why?  
Before placing the child out-of-state, the LDSS must receive approval from Virginia's Interstate Compact on the Placement of Children (ICPC) office.
- If the child's placement is not with a relative or fictive kin, what efforts are being made to identify maternal and paternal relatives and fictive kin resources and supports for the child?  
To support parents' counsel, guardians ad litem, and Court Appointed Special Advocates in assisting the LDSS with the identification of relatives and fictive kin resources and supports, the Court Improvement Program, in collaboration with the Virginia Department of Social Services, has developed forms, Identification of Relatives and Fictive Kin and Relative and/or Fictive Kin Resources and Supports.

If placement is a qualified residential treatment program (also referred to as a QRTP), see Va. Code § 16.1-281 E.

**Termination of parental rights:**

- Has the child been in foster care 15 of the most recent 22 months? If yes, has a petition to terminate parental rights been filed or has an exception to filing a petition to terminate parental rights been documented in the child's foster care plan?
- If an exception to filing a petition for termination of parental right has been documented, what is the exception?

**Foster care plan development:**

- Were the parents involved in the development of the foster care plan? If not, why?
- Was the child involved in the development of the foster care plan? If not, why?
- What is the child's foster care plan goal?
- What is the child's concurrent goal? If a concurrent goal has not been established, why not?

**Permanency:****If return home (reunification) is the foster care plan goal for the child:**

- What steps has the LDSS taken to advance the goal?
- What efforts have the parents made to complete the requirements outlined in the foster care plan? Are there any barriers impacting the parents' completion of the foster care plan requirements? If yes, what are the barriers that exist?
- What is the anticipated date for achieving the goal?
- Is visitation with the parents in the best interest of the child? If not, why?
- Is there a plan to support parental participation in doctor appointments, school events, extracurricular activities, etc.? If not, why?

**If the concurrent goal or the foster care plan goal is:****Custody to a relative (relative placement)**

- Why is this plan in the best interest of the child?
- What is the anticipated date for achieving the goal?

## CHILD DEPENDENCY BENCHCARD PERMANENCY PLANNING HEARING

- Is there a relative to whom the court may consider transferring legal custody of the child? Who is the relative? What is the relative's connection to the child (e.g. family relationship and emotional relationship)?

Prior to transferring custody of a child to a relative other than the child's prior family, the court must consider whether the person is:

- Willing and qualified to receive and care for the child;
- Willing to have a positive, continuous relationship with the child;
- Committed to providing a permanent, suitable home for the child; and
- Willing and has the ability to protect the child from abuse and neglect.

The court's order transferring custody should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

**Adoption**

- Why is this plan in the best interest of the child?
- Has adoption been discussed with the child? If the child is age 14 or older, does the child object to parental rights being terminated? What are the child's concerns?

Parental rights may be terminated over the objection of a child age 14 or older if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion. Va. Code § 16.1-283.

- Does the foster care plan document termination of parental rights as being in the child's best interest? If no, has an exception to filing a petition to terminate parental rights been documented in the foster care plan?
- What steps are being taken to finalize the adoptive placement in a timely manner? Are there barriers to finalizing the adoptive placement? How are identified barriers being addressed?
- What is the anticipated date for achieving the goal?

**Permanent foster care**

- Is the child age 16 or older?
- Why is this plan in the best interest of the child?
- What efforts has the LDSS made, as of the date of this hearing, to return the child home or secure the child's placement with a fit and willing relative or adoptive parent?
- Does the child have a relationship with his/her parent(s)? If yes, was the parent involved in the planning for a permanent placement? Is there a visitation plan in place? If yes, what is the nature and frequency of the visitation?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**Another planned permanent living arrangement**

- Is the child age 16 or older?
- What is the severe and chronic emotional, physical or neurological disabling condition requiring long-term residential treatment?
- Why are the goals of return home, relative placement, adoption, and permanent foster care not in the child's best interest? What is at least one compelling reason why these goals are not achievable?
- Does the LDSS have, as of the date of this hearing, documentation of unsuccessful efforts to return the child home or to secure a placement with a fit and willing relative?
- Has a long-term residential treatment provider been identified?
- What is the anticipated length of time of the child's treatment?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**KEY FINDINGS**

- Whether the child an Indian child as defined in 25 U.S.C. § 1903(4).
- Whether reasonable efforts have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child.
- Whether reasonable efforts to reunite the child with his parents are not required under Va. Code § 16.1-281.
- Whether reasonable efforts have been made to achieve the permanent goal identified in the foster care plan.
- Whether to approve or disapprove the child's foster care plan.

**If approving an interim permanency plan, also find:**

- When the goal is return home, whether: (i) the parent has made marked progress toward reunification with the child; (ii) the parent has maintained a close and positive relationship with the child; and (iii) the child is likely to return home in the near future, although it is premature to set an exact date at the time of this hearing.
- When return home is not the goal, whether: (i) marked progress is being made to achieve the permanent plan goal identified; and (ii) it is premature to set an exact date at the time of this hearing.



## CHILD DEPENDENCY BENCHCARD ANNUAL FOSTER CARE REVIEW HEARING

### AUTHORITY

Virginia Code § 16.1-282.2

### PURPOSE

To review the foster care plan for a child who remains in the legal custody of the local department of social services and who has had a petition to terminate parental rights granted, filed, or ordered to be filed, is placed in permanent foster care, or, is age 16 or over and the child's plan is independent living.

### TIMING

Annually for any child who remains in the legal custody of a local department of social services and

- (i) on whose behalf a petition to terminate parental rights has been granted, filed or ordered to be filed,
- (ii) who is placed in permanent foster care, or
- (iii) who is age 16 or over and for whom the plan is independent living.

### NEXT EVENT

- An annual foster care review hearing so long as the child remains in the custody of the local department of social services.
- A foster care review hearing not more than 6 months from the date of this hearing if the order entered approves the goal of another planned permanent living arrangement.

### APPLICABLE DISTRICT COURT FORM ORDERS

- DC-555, FOSTER CARE REVIEW ORDER
- DC-593, SUPPLEMENTAL SHEET

### QUESTIONS TO CONSIDER

#### Indian Child Welfare Act:

- Is the child under the age of 18, unmarried and (i) a member of a federally recognized Indian tribe or (ii) eligible for membership in and the biological child of a member of a federally recognized Indian tribe?  
ICWA applies unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.

#### Parental participation in hearing, if parental rights have not been terminated:

- Are the parents in court? If not, why? (Addressing parents by their last name facilitates parental engagement.)
- Has counsel for the parents met with their clients since the date of the last hearing? If not, why?
- Do the parents understand the purpose of this hearing/why we are here today? If not, explain the purpose of the hearing to the parents.
- Do the parents have relatives or friends who should be involved in this matter?

#### Child participation in hearing:

- Is the child in court or participating in the hearing by other means (e.g., by phone or video)? If not, why?
- Has the guardian ad litem met with the child since the date of the last hearing? If not, why?  
District court form DC-540, GUARDIAN AD LITEM CERTIFICATION, should be filed with the court by the child's guardian ad litem prior to any dispositional hearing to certify compliance with the Standards to Govern the Performance of Guardians Ad Litem for Children. Va. Code § 16.1-274.
- Does the child understand the purpose of this hearing/why we are here today? If not, explain, in an age appropriate manner, the purpose of the hearing to the child.
- See court consultation requirements when foster care plan goal is permanent foster care or another planned permanent living arrangement.

#### Foster parent participation in hearing:

- Are the foster parents in court? If not, why?  
The Adoption and Safe Families Act requires foster parents be "provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child." These requirements do not include the right to standing as a party to the case. 42 U.S.C. 675(5)(G.).

**Child safety and well-being:**

- What are the physical, emotional, educational, and mental health needs of the child? What is the local department of social services (LDSS) doing to meet these needs?
- If the child is of school age, is it in the child's best interest to remain in his or her home school? If yes, what is the LDSS doing to keep the child in his or her home school? How is the child doing in school? Are the child's academic needs being met?
- If the child has siblings who were removed from the home, are the child and siblings placed together? If not, what is the LDSS doing to place the child with his or her siblings? Is visitation with the siblings in the best interest of the child? If not, why?
- What is the child's current placement? How is the child doing in his/her current placement? Has the child's placement changed since the last hearing? If yes, how many times and why?

Before placing the child out-of-state, the LDSS must receive approval from Virginia's Interstate Compact on the Placement of Children (ICPC) office.

- If the child's placement is not with a relative or fictive kin, what efforts are being made to identify maternal and paternal relatives and fictive kin resources and supports for the child?  
To support parents' counsel, guardians ad litem, and Court Appointed Special Advocates in assisting the LDSS with the identification of relatives and fictive kin resources and supports, the Court Improvement Program, in collaboration with the Virginia Department of Social Services, has developed forms, Identification of Relatives and Fictive Kin and Relative and/or Fictive Kin Resources and Supports.  
If placement is a qualified residential treatment program (also referred to as a QRTP), see Va. Code § 16.1-281.

**Foster care plan development:**

- If foster care plan goal is permanent foster care, were the parents involved in the development of the foster care plan? If not, why?
- Was the child involved in the development of the foster care plan? If not, why?
- What is the child's foster care plan goal? Is this goal different from the previous goal? If yes, why?
- What is the child's concurrent goal? If a concurrent goal has not been established, why not?
- What is the child's current placement? How is the child doing in his/her current placement? Has the child's placement changed since the last hearing? If yes, how many times and why?

**Permanency:****If the foster care plan goal is:****Adoption**

- Why is this plan in the best interest of the child?
- Has adoption been discussed with the child? If the child is age 14 or older, does the child object to parental rights being terminated? What are the child's concerns?  
Parental rights may be terminated over the objection of a child age 14 or older if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion. Va. Code § 16.1-283.
- What steps are being taken to finalize the adoptive placement in a timely manner? Are there barriers to finalizing the adoptive placement? How are identified barriers being addressed?
- What is the anticipated date for achieving the goal?  
The LDSS will file an Adoption Progress Report with the court every 6 months from the date the goal of adoption is approved until the adoption is finalized. It is best practice for the LDSS to file the Adoption Progress Report to be heard with the petition for annual foster care review hearing to meet that 6 month reporting requirement.

**Permanent foster care**

- Is the child age 16 or older?
- Why is this plan in the best interest of the child?
- What services are being provided to the child and permanent foster care parents?
- Has there been a change in circumstances since entry of the order placing the child in permanent foster care? If yes, what?
- Does the child have a relationship with his/her parent(s)? If yes, was the parent involved in the planning for a permanent placement? Is there a visitation plan in place? If yes, what is the nature and frequency of the visitation?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**Another planned permanent living arrangement**

- Is the child age 16 or older?
- What is the severe and chronic emotional, physical or neurological disabling condition requiring long-term residential treatment?
- Why are the goals of return home, relative placement, adoption, and permanent foster care not in the child's best interest? What is at least one compelling reason why these goals are not achievable?
- Does the LDSS have, as of the date of this hearing, documentation of unsuccessful efforts to return the child home or to secure a placement with a fit and willing relative?
- Has a long-term residential treatment provider been identified?
- What is the anticipated length of time of the child's treatment?
- What is the LDSS doing to prepare the child to live independently?

*Required court consultation with the child: Va. Code § 16.1-282.1 provides that the court ask the child about his or her desired permanency outcome and make a judicial determination as to why return home, relative placement, and adoption are not in the child's best interest.*

**CHILD'S PREFERENCE OF POSSIBILITY OF RESTORATION OF PARENTAL RIGHTS**

- Does the child meet the criteria established in Va. Code § 16.1-283.2? If so, inquire of the guardian ad litem and LDSS whether the child has expressed a preference that the possibility of restoring the parental rights of his/her parent(s) be investigated.
- Has such a preference been expressed? If so, direct the LDSS or the child's guardian ad litem to conduct an investigation of the parent(s).

**KEY FINDINGS**

- Whether the child is an Indian child as defined in 25 U.S.C. § 1903(4).
- Whether reasonable efforts to reunite the child with his parents are not required under Va. Code § 16.1-281.
- Whether reasonable efforts have been made to place the child in a timely manner in accordance with the approved foster care plan that established a permanent goal for the child and to complete the steps necessary to finalize the permanent placement of the child.
- Whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement, if the plan approved for the child is another planned permanent living arrangement. Va. Code § 16.1-282.1.
- Whether to approve or disapprove the child's foster care plan.



Improving Court Practice  
for Children and Families

## COURT IMPROVEMENT PROGRAM

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