



Child Protection Services Pro Se Help Kit
Video Series

#9 – Out-of-Home Placement Plan (Case Plan)

Family Preservation Foundation, Inc.

- Hello, I'm Dwight Mitchell the founder of Family Preservation Foundation. Welcome to our Child Protection Services Pro Se Help Kit video series.
- I hope you enjoy the content and it allows you to better understand your rights and options while involved with CPS.

- After a 22-month battle, I successfully defeated Dakota County Social Services in Minnesota State court and had my children returned. Although filled with anguish, it was an education to say the least, and I will be passing on the benefit of my knowledge, and “Lessons Learned”, while cross referencing Minnesota State Statutes, and case law which is readily available on Google Scholar.

- I would like to advise you that I am not an attorney, licensed to practice law, nor am I providing legal services. I recommend you obtain your own attorney if possible and review my video in this series titled “Working with your Attorney”. This is a very important unit in our series, and will assist you in not being misguide like I was, by my attorney’s legal strategy, incompetence and/or greed.

- This video series is for education purposes only. I will go over the beginning, middle and the end of the CPS process and what you can do in your defense and fight against CPS! This will be hard work for you, and a lot of reading, but nothing worthwhile in life is free. The Minnesota templates I provide are examples only and must not be used as is.

- You must create your own court filings while acting in a Pro Se capacity. I do not have examples of everything, but ask other group members, because they may be able to help you. **BUT REMEMBER**, you are not allowed to stand in court and say that someone helped you, or told you to do it a certain way. You are doing this for yourself. You must read, review and submit court filings for yourself.

Overview of Developing Out-Of-Home Placement Plan (Case Plan)

Comprehensive Assessment of the Individual Needs of Parents and Child

- Assessing the needs based on the reason for placement
- Agency assessment –tools include safety assessment, strengths and needs assessment, and safety planning
- Formal assessments –chemical health, mental health assessments, parenting assessments, trauma assessments, physical/medical assessments, developmental assessments
- Collateral contacts –family members, school, other child welfare staff and service providers

OVERVIEW OF PROCESS



- Minn. Stat. §260C.212
- CHILDREN IN PLACEMENT., Subd. 1 Out-of-home placement; plan.
- (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order...
- (b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency **jointly with the parent or parents or guardian of the child...**

OVERVIEW OF PROCESS



- Developed in consultation with:
 - Child, as appropriate to child's age and capability
 - If child is 14+, up to two other support people chosen by child –agency may reject
- Child's guardian ad litem
- Child's tribe, if child is an Indian child
- Child's foster parent
- Relatives

Minn. Stat. 260C.212, subd. 1(b)

OVERVIEW OF PROCESS



- Must be signed by parent or legal custodian, GAL, child's tribe, agency, and child
- Refusal to sign - identify parts in disagreement
- Parent has a right to court appointed counsel in preparation of case plan
- How to proceed if attorney can't attend case plan development meeting

Minn. Stat. 260C.212, subd. 1(b) and (d)

Minn. R. Juv. Prot. Proc. 37.02, subd. 4(b):

- **Refusal to Participate in Development of Plan or Disagreement With Services.** When a parent or legal custodian refuses to participate in the preparation of the out-of-home placement plan **or disagrees with the services recommended** by the responsible social services agency, the agency shall notify the court of the services it will provide or efforts it will attempt under the plan notwithstanding the parent's refusal to cooperate or disagreement with the services...

Minn. R. Juv. Prot. Proc. 37.02, subd. 4(b):

- ... **Any party** may ask the court to modify the plan to require different or additional services. The court may approve the plan as presented by the agency or may modify the plan to require services requested. The court's approval of the plan shall be based upon the content of the petition or amended petition.

CONTENT OF OHPP (CASE PLAN)



- a. Specific reasons for placement of child, including a description of the problems or conditions that caused the child to be removed from home
- b. A description of the foster home selecting, including how it's the restrictive and most family-like setting available which is in close proximity to the home of the parent
- c. A description of how the placement is consistent with the child's best interests and special needs of the child

Minn. Stat. 260C.212, subd. 1(c)

CONTENT OF OHPP (CASE PLAN)



- d. A description of the specific services offered and provided by social services agency to prevent the child's removal
- e. 4. The specific actions to be taken by the parents to eliminate or correct the problems or conditions, observable behaviors that will demonstrate changed behavior, and the time period during which the actions are to be taken
- f. The specific services and reasonable efforts (or active efforts if Indian child) to be provided by social services agency to assist the parent to achieve a safe and stable home

CONTENT OF OHPP (CASE PLAN)



- g.** A description of any services or resources requested by the parents or legal custodian, child, foster parent since the child's placement and whether they were provided and, if not, reason for denial
- h.** Whether visitation is in the child's best interest and a detailed visitation plan for the child's parent(s), relatives, and siblings, if separated
- i.** When child can't return home, steps taken to finalize adoption or permanent transfer of permanent legal and physical custody, including relative search and use of adoption exchanges

CONTENT OF OHPP (CASE PLAN)



- j.** Specific efforts to ensure child's educational stability while in foster care, including the child's education records
- k.** Specific efforts by the agency to oversee child's medical and dental needs
- l.** Consequences of failure to comply with the written protective services plan.
- m.** A projected date for the quarterly reassessment.

“AND” Factor

- Description of problems or conditions in home of parent or parents necessitating removal of child
- Tasks parent must complete

“AND”

- Specific changes parent must make and sustain for specified timeframe for child to safely return home

APPROVAL OF OHPP (CASE PLAN)



- Description of problems or conditions in home of parent or parents necessitating removal of child
- OHPP must be filed with the court within 30 days of the child's removal from home
- Must be ordered by court either as presented or as modified after hearing
- Attorney should inform court of anything else the parent needs to be successful that's not in the OHPP
- Court can approve as is, modified, or rejected

CONTENT OF OHPP (CASE PLAN)



- Case workers might (inappropriately) develop the case plan without consulting with the parent or guardian and then present the parent or guardian with the finished product and ask for a signature indicating that the parent/guardian received the case plan
- If the parent/guardian refuses to sign the case plan, it is filed with the court without a signature and the parent/guardian is seen as uncooperative

- **Can be approved, but not ordered (unless parent agrees) until adjudication**

Minn. Stat. 260C.212, subd. (c), 14 (d)

If you are adjudicated at trial and ordered to participate in a case plan;

keep a journal and note book of everything requested in the case plan, all sessions attended, all visitation, and all home visits. Do nothing orally! Everything must be in writing. Video tape everything, Record all phone conversations. You do not need permission to record you own conversations.

APPROVAL OF OHPP (CASE PLAN)



- "a case plan that has been approved by the district court is presumptively reasonable." In re Welfare of Children of S.E.P., 744 N.W.2d 381, 388 (Minn.2008). We further concluded that "once a case plan has been approved by the court, the appropriate action for a parent who believes some aspect of the case plan to be unreasonable is to ask the court to change it, rather than to simply ignore it." Id.
- Arrange a meeting when presented with case plan to review and propose changes, if you have concerns, but don't sign it until after adjudication.
- **Bring a prompt motion to modify plan if you have concerns.**

APPROVAL OF OHPP (CASE PLAN)



- Ask your attorney if they are familiar with available services and what the practice of the Agency is with respect to the provision of services
- Different case workers may have different understandings about what the Agency is and is not able to pay for or provide
- Keep in mind that service providers that are not approved by the Agency may not “count” from the Agency’s perspective
- Do not use the Agency’s service providers before adjudication. They are paid by the Agency.
- After adjudication, if anything comes back negative get a second opinion from an independent licensed service provider.

Minn. R. Juv. Prot. Proc. 38.01 Social Services Court Reports – Generally, Subd. 1. Periodic Reports Required.

- The responsible social services agency shall submit periodic certified reports to the court regarding the child and family...
- Subd. 2. Timing of Filing and Service.
- The agency shall file the report with the court and serve it upon all parties **at least five (5) business days prior** to the hearing at which the report is to be considered.
- **The 5 days provides you with the opportunity to write and present to the court your opposition to the Social Workers report.**

Minn. R. Juv. Prot. Proc. 38.11 Reports to the Court by Child's Guardian ad Litem

Subdivision 1. Periodic Reports Required.

- The guardian ad litem for the child shall submit periodic certified written reports to the court.

Subd. 2. Timing of Filing and Service.

- The guardian ad litem shall file the report with the court and serve it upon all parties at least five (5) business days prior to the hearing at which the report is to be considered...
- **The 5 days provides you with the opportunity to write and present to the court your opposition to the GAL report.**

In relevant part, Social Worker reports should (Minn. R. Juv. Prot. Proc. 38.01, subd. 5):

- (e) identify progress made on the out-of-home placement plan or case plan;
- (f) address the safety, permanency, and well-being of the child
- (g) request orders

In relevant part, GAL reports should include (Minn. R. Juv. Prot. Proc. 38.11, subd. 5):

- a list of the resources or persons contacted who provided information;
- a list of the dates and types of contacts with the child;
- a list of all documents relied upon when generating the court report;
- a summary of information gathered regarding the child and family;
- a list of any issues of concern to the guardian ad litem; and
- a list of recommendations designed to address the concerns and advocate for the best interests of the child.

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- a list of the dates and types of contacts with the child;
- a list of all documents relied upon when generating the court report;
- a summary of information gathered regarding the child and family;
- a list of any issues of concern to the guardian ad litem; and
- a list of recommendations designed to address the concerns and advocate for the best interests of the child.

Best practice if you do not receive a copy of the reports 5 days prior to the hearing;

- Request a copy of the report from SW or GAL and file a copy of the request with the court.
- Object in court to the presentation / submission of the late report as a violation of court rules.
- Write and file a formal opposition to the court report stating any areas of concern in report (reports of non-compliance, etc.) and go over all recommendations;
- Never submit an oral motion if possible. Put everything in writing in case you need to file an appeal later in the process.

- Review hearing at least every 90 days
- Court reviews reports of social worker and guardian ad litem
- Purpose is to review parent's progress on case plan and services being provided by the agency (are they reasonable/active)

Juv. Prot. Rule 37

- Hearing must be held no later than 180 days after child's removal from home
- Court must review:
 - Parent's progress on case plan
 - Agency's provision of services to parent and whether that was reasonable/active efforts
 - Agency's reasonable/active efforts to finalize permanent plan for child
 - Whether parent is maintaining regular contact with child

- Court options:

1. Continue CHIPS for up to 6 additional months when:

- Parent has maintained regular contact with the child

AND

- Parent is making progress on OHPP

AND

- Child would benefit from ongoing relationship with parent

- Court options:

1. Direct county attorney to file permanency petition (TPR or TPLPC) within 30 days when:

- Parent has not maintained regular contact with the child

OR

- Parent is not making progress on OHPP

OR

- Child would not benefit from ongoing relationship with parent