

COMMITTED TO DCS

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SUMMARY

After making the appropriate findings and adjudicating the child a delinquent or unruly child, the court may commit the child into DCS custody. The child may be committed for an indefinite time or, if certain conditions exist, a determinate amount of time. TCA 37-1-102 defines foster care as follows:

(17) "Foster care" means the temporary placement of a child in the custody of the department of children's services or any agency or institution, whether public or private, for care outside the home of a parent or relative, by blood or marriage, of the child, whether the placement is by court order, voluntary placement agreement, surrender of parental rights or otherwise;

Within 30 days of the date of foster care placement, DCS shall prepare a plan for the child and submit the plan to the court, so the court can modify or approve the plan within 60 days.

Within ninety (90) days of the date of foster care placement and no less often than every six (6) months thereafter for so long as the child remains in foster care, the court or foster care review board shall review the plan for each child in foster care.

A child committed for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months. Notification of the home placement supervision is provided to the Court 15 days before placement.

If the child violates aftercare, DCS will file a Violation Petition, which will be scheduled for hearing within 7 days of the filing of the violation petition.

COMMITMENT

To commit a child to DCS custody upon adjudication, the court must find that continuation of the child in the home is contrary to the best interests and welfare of the child for specific reasons, there is no less restrictive alternative removal of the child from the home that will reduce the risk of flight or of serious physical harm to the child or to others as well as:

For a delinquent offense:

- Current offense is a felony
- Current offense is misdemeanor AND child previously adjudicated 2 or more times
- Child is in imminent risk

For an unruly offense:

- Child previously adjudicated in 2 or more cases
- Child is in imminent risk

The court can then order the child committed to DCS custody for an indefinite time or a determinate period of time.

Add Requirement

For an indefinite period of time, a requirement of DCS Commitment – Delinquent/Unruly is added with a scheduled end date in 6 months.

- Requirements Top Add				
Assigned	Requirement	Start	Status	Status date
1/1/2019	DCS Commitment - Delinquent/Unruly	1/1/2019 280 days		

For a determinate period of time, a requirement of DCS Commitment – Determinate is added. The order will ask you “for a determinate period of...” which will be added to the notes section of this requirement.

- Requirements Top Add				
Assigned	Requirement	Start	Status	Status date
1/1/2019	DCS Commitment - Determinate	1/1/2019 280 days		

Add Case Status

When this disposition is entered, a case status of Disposition; Committed to DCS is automatically added.

- Case status history Close case Top
1/1/2019 - Disposition; DCS Commitment
1/1/2019 - Adjudicated; Delinquent Child
12/27/2018 - Case Filed

Add Deadline

A deadline is added to remind you to check the status of this child in 180 days.
A deadline is also added for foster care review board in 90 days.

- Open Deadlines for Sumner County Juvenile Court
7/1/2019 1:08:07 PM - Check 6 month Status
4/1/2019 9:45:09 AM - Foster Care Review Board due

Hearing to Ratify the Permanency Plan

Within 30 days of being placed in DCS Custody, DCS should prepare a Family Permanency Plan. Such plan shall include a goal for each child of:

- Return of the child to parent/guardian;
- Permanent placement of the child with a fit and willing relative or relatives of the child;
- Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;
- Permanent guardianship; or
- A planned permanent living arrangement.

The court must review the proposed plan, make any necessary modifications and ratify or approve the plan within 60 days of the placement.

Add Permanency Event

Add the event type "Ratification Hearing on Permanency Plan." *****

- Last 20 Events Top			
Event date/time	Event type	Court	Disposition
6/17/2019 9:00 AM	Review Hearing	Judge Howard	Cancelled
4/1/2019 9:00 AM	Foster Care Review Board	FCRB	Completed
3/1/2019 9:00 AM	Ratification / Permanency Hearing	Judge Howard	Heard by Judge
1/1/2019 9:00 AM	Adjudicatory/Dispositional Hearing	Judge Howard	Heard by Judge

Add Permanency Requirement

Following the Ratification/Permanency Hearing, if DCS prepares the Order, you can do a "Delinquent/Unruly Return From Court" document or if you already have the order, do a "Scanned Delinquent/Unruly Order" and say yes to update the case. It will prompt you to select the permanency plans that were ratified or approved at that hearing. It will then automatically add the permanency plan requirement for the child. If you create the order for this type of hearing, the "Permanency Plan Ratification/Review Order" will also add these permanency requirements.

- Requirements Top		
Assigned	Requirement	Start
3/1/2019	Permanency Plan - Reunification	3/1/2019 224 days
3/1/2019	Permanency Plan - Relative Placement	3/1/2019 224 days

Foster Care Review Board

Within ninety (90) days of the date of foster care placement and no less often than every six (6) months thereafter for so long as the child remains in foster care, the court or foster care review board shall review the plan for each child in foster care.

Add an Event

Add a Foster Care Review Board event. When this event is "disposed of" it will close the Foster care review board deadline and add another one in 180 days.

- Last 20 Events Top			
Event date/time	Event type	Court	Disposition
6/17/2019 9:00 AM	Review Hearing	Judge Howard	
4/1/2019 9:00 AM	Foster Care Review Board	FCRB	Completed
3/1/2019 9:00 AM	Ratification / Permanency Hearing	Judge Howard	Heard by Judge
1/1/2019 9:00 AM	Adjudicatory/Dispositional Hearing	Judge Howard	Heard by Judge

Released on Home Placement Supervision

If the child is released on home placement supervision before being released the DCS should file a "Release to Home Placement Request" Form. The first 30 days of this placement are considered a trial home pass with DCS retaining legal custody of the child. After the 30 days the child shall automatically continue on home placement supervision (aftercare) status until the court orders the child discharged.

Add a Requirement

If a trial home visit is started, the "Delinquent/Unruly Return from Court" document will add the requirement with a scheduled end date in 30 days.

- Requirements Top Add				
Assigned	Requirement	Start	Status	Status date
6/1/2019	Trial Home Visit	6/1/2019 130 days		
1/1/2019	DCS Commitment - Delinquent/Unruly	1/1/2019 280 days		

Violation of Trial Home Pass

(2) No such court permission is required during the trial home pass and the department is authorized to remove the child from the home, but only if the child cannot be located by the designee after documented efforts to locate the child or a new petition has been filed alleging the child has committed a delinquent offense arising from a separate incident from the original petition. A notice of such removal and disruption of the trial home pass shall be filed with the court within ten (10) days as a violation allegation or other appropriate petition or motion and the legal custody of the department is not terminated. A review hearing on such action shall be held within thirty (30) days of such filing.

Violation of Home Placement Supervision (Aftercare)

(d) (1) (A) If the designee of the department supervising a delinquent child on home placement supervision has reasonable cause to believe that such child has violated the conditions of home placement supervision in an important respect after the trial home pass has ended, the designee may file a petition alleging a violation of home placement supervision;

(B) The court may require that the child be placed in detention pending adjudication of the petition, but only in accordance with § 37-1-114. The department is prohibited from taking the child into custody until the court finds that the child has violated conditions of the home placement supervision by incurring an adjudication of delinquency for a new offense that meets the eligibility criteria for commitment to the department under § 37-1-131(a)(4) and the court terminates the home placement supervision.

(e) The juvenile court that committed the delinquent child to the department retains jurisdiction to determine allegations of violation of home placement supervision. Such court shall schedule a hearing within seven (7) days of the time the petition is filed alleging a violation of home placement supervision and cause written notice to be served on the child, the child's parent or parents, guardian, or other custodian, and the department's designee a reasonable time before the hearing.

Add an Incident

Add a violation incident with the referring agency being DCS. This will automatically add the Filed Statute so you can see the issue before the court.

- Case related incidents [Top](#)

10/14/2019 6:57:57 AM - Violation referred by Department of Children Services

1 - Violation of Home Placement Supervision/Aftercare (TCA 37-1-137), a Violation

- Filed statutes [Top](#)

[Get from](#)

Count	Petition	Plea	Disposition
1 - Aggravated Assault (TCA 39-13-102), a Felony; Filed 12/17/2018		Guilty	Guilty
2 - Violation of Home Placement Supervision/Aftercare (TCA 37-1-137), a Violation; Filed 10/14/2019			Open

Add an Event

Schedule the violation petition for hearing.

- Last 20 Events [Top](#)

[Add](#)

Event date/time	Event type	Court	Disposition
10/15/2019 8:30 AM	Violation Hearing	Judge Howard	
10/10/2019 9:44:57 AM	Foster Care Review Board	FCRB	Completed
6/17/2019 9:00 AM	Review Hearing	Judge Howard	Heard by Judge

Releasing from DCS Custody

37-1-137 (g) (1) The commissioner or the commissioner's designee may discharge a child placed on state probation pursuant to § 37-1-131(a)(2)(A) or under home placement supervision status by the department after legal custody ends pursuant to subdivision (c)(1)(C) and thereby terminate supervision of the child by the department. Notification of discharge of a child shall be made in writing to the committing court at least fifteen (15) days prior to the proposed discharge. Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the discharge from home placement supervision status of the department or from state probation, and such supervision by the department shall terminate.

Close the requirements:

Once the judge has signed a DCS Discharge Order, you can close the DCS Commitment requirement with a status of released. If there is a Trial Home Visit requirement, that can be closed with a status of Successfully Completed.

- Requirements Top				
Assigned	Requirement	Start	Status	Status date
6/1/2019	Trial Home Visit	6/1/2019	Successfully Completed	10/8/2019
1/1/2019	DCS Commitment - Delinquent/Unruly	1/1/2019	Released	10/8/2019

Add a Case status:

You can close the case with a case status of Closed, with a Complied with Court Orders reason.

- Case status history Close case Top
10/8/2019 - Closed; Complied with Court Orders
1/1/2019 - Disposition; DCS Commitment
1/1/2019 - Adjudicated; Delinquent Child
12/27/2018 - Case Filed

SAMPLE QUEST ORDERS

IN THE JUVENILE COURT OF SUMNER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 83SCJ-2019-JR-10

Laura Ingalls - DOB 3/23/2006 AGE 13 years

A child under 18 years of age
(at the time of the offense)

CHARGE(S): Case 4, Count 1 - Aggravated Assault (TCA 39-13-102), a Felony

ADJUDICATORY/DISPOSITIONAL ORDER

This matter came on to be heard on 29th day of August, 2019, before the Honorable David R. Howard, upon petition filed alleging the above offense(s).

Those present were Laura Ingalls, Caroline Ingalls (Mother), Charles Ingalls (Father) and Charles Ray (Public Defender for Laura Ingalls).

The Court, having considered the testimony and evidence presented and the entire record, finds as follows:

1. The child was advised of the charge(s) against her and of her rights, pursuant to Rule 205 of the Rules of Juvenile Practice and Procedure, including the right to appeal this matter. The Court finds that the meaning and effect of these rights have been fully explained to the child.
2. The child requested appointed counsel to represent her in this matter.
3. It appearing, based upon the affidavit of indigency filed in this cause, and after due inquiry made, that the parent, guardian or legal custodian(s) is/are indigent and thereby the child qualifies for appointed legal counsel pursuant to T.C.A. § 37-1-126 and/or S.Ct. Rule 13, Sec. 1.
4. The Public Defender is appointed to represent the child in this matter.
5. The child entered a plea of guilty to the following offense(s) after having waived her rights to a trial of this matter in writing in a separate document: **Aggravated Assault (TCA 39-13-102), a Felony.**
6. Continuation of the child in the home is contrary to the best interests and welfare of the child for the following reasons: The parents are unable to control the child.
7. There is no less restrictive alternative removal of the child from the home that will reduce the risk of flight or of serious physical harm to the child or to others.
8. Reasonable efforts were made to prevent the child's removal from the home, which include: Community Service Work, Family Crisis Intervention, Mentoring Services, Psychological evaluation for Laura, and Restitution.
9. There is proof beyond a reasonable doubt that the child is a delinquent child, and the Court has determined that the child is in need of treatment and rehabilitation.
10. The current offense(s) for which the child has been adjudicated delinquent and is subject to disposition would constitute a felony if committed by an adult.

It is, therefore, **ORDERED, ADJUDGED AND DECREED** that:

1. The child is found guilty by the Court of the following offense(s): **Aggravated Assault (TCA 39-13-102), a Felony.**

2. The child is a **DELINQUENT** child and is in need of treatment and rehabilitation within the meaning of Title 37, Chapter 1, Part 1, of Tennessee Code Annotated, for the reasons set forth above.
3. That Laura Ingalls is removed from the custody of Charles Ingalls (Father - Legal Custody) and committed to the State of Tennessee, Department of Children's Services for a period not to exceed six (6) months. Temporary custody of the child, Laura Ingalls, is hereby awarded to the State of Tennessee, Department of Children's Services, with the authority granted under T.C.A. § 37-1-140, including the authority to consent to any ordinary or necessary medical, surgical, hospital, psychological, psychiatric, institutional or education care.
4. The Court further orders that all state, county, or local agencies with information or records relevant to the child's situation, including any public or private medical or mental health treatment resources and all educational facilities, shall release such information or records as are necessary for the management of this case to the Department of Children's Services.
5. This matter shall be scheduled for **Review Hearing on September 17, 2019 at 9:00 AM**. The child and parent, guardian, or legal custodian(s) shall appear.

IN THE JUVENILE COURT OF SUMNER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 83SCJ-2019-JR-10

Laura Ingalls - DOB 3/23/2006 AGE 13 years

A child under 18 years of age
(at the time of the offense)

CHARGE(S): Case 4, Count 2 - Violation of Home Placement Supervision/Aftercare (TCA 37-1-137), a Violation

VIOLATION OF DCS HOME PLACEMENT SUPERVISION (AFTERCARE) ORDER

This matter came on to be heard on 15th day of October, 2019, before the Honorable David R. Howard, upon a violation of home placement supervision petition filed by Deronika Womack.

Those present were Laura Ingalls, Caroline Ingalls (Mother), Charles Ingalls (Father) and Deronika Womack (DCS-CPS).

The Court, having considered the testimony and evidence presented and the entire record, finds as follows:

1. The child was advised of the charge(s) against her and of her rights, pursuant to Rule 205 of the Rules of Juvenile Practice and Procedure, including the right to appeal this matter. The Court finds that the meaning and effect of these rights have been fully explained to the child.
2. The child executed a Waiver of Right to Counsel with written waiver duly filed.
3. The child entered a plea of guilty to the Violation of Home Placement Supervision/Aftercare after having waived her rights to a trial of this matter in writing in a separate document.
4. The Court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the Department of Children's Services in that the child is engaging in activities that place the child in danger.
5. The Court finds the child meets the criteria for recommitment to the Department of Children's Services and the home supervision shall be terminated.
6. Continuation of the child in the home is contrary to the best interests and welfare of the child for the following reasons: The parents are unable to control the child.
7. There is no less restrictive alternative removal of the child from the home that will reduce the risk of flight or of serious physical harm to the child or to others.
8. Reasonable efforts were made to prevent the child's removal from the home, which include: Community Intervention Services, Counseling/Outpatient, and Drug & alcohol counseling for child.

It is, therefore, **ORDERED, ADJUDGED AND DECREED** that:

1. **The child is recommitted** to the State of Tennessee, Department of Children's Services for a period not to exceed six (6) months. Temporary custody of the child, Laura Ingalls, is hereby awarded to the State of Tennessee, Department of Children's Services, with the authority granted under T.C.A. § 37-1-140, including the authority to consent to any ordinary or necessary medical, surgical, hospital, psychological, psychiatric, institutional or education care.
2. The Court further orders that all state, county, or local agencies with information or records relevant to the child's situation, including any public or private medical or mental health treatment resources and all

educational facilities, shall release such information or records as are necessary for the management of this case to the Department of Children's Services.

ENTERED this 14th day of October, 2019.

David R. Howard

The Honorable David R. Howard

Juvenile Court Judge

(T.C.A. § 16-1-115)

CERTIFICATION OF SERVICE

AOC Forms

IN THE JUVENILE COURT OF _____ COUNTY, TENNESSEE

IN THE MATTER OF:

DOB: _____

CASE NO. _____
A Child Under the Age of 18 Years

**ADJUDICATORY/DISPOSITIONAL ORDER
CUSTODY TO THE DEPARTMENT OF CHILDREN'S SERVICES**

This matter came on to be heard on _____ day of _____, 20____, before the Honorable _____, upon a petition filed by _____ alleging the following offense(s): _____

Present for the hearing were the child, _____, petitioner _____, parent(s)/guardian/custodian _____, attorney for the child, _____, District Attorney or ADA, representing the State of Tennessee _____, other participant(s), _____.

The Court, having considered the testimony and evidence presented and the entire record, finds as follows:

The child was advised of the charge(s) against him/her and of his/her rights, pursuant to Rule 205 of the Rules of Juvenile Practice and Procedure, including the right to appeal this matter. The Court finds that the meaning and effect of these rights have been fully explained to the child.

- The child has waived his /her right to an attorney in writing in a separate document.
- The child entered a plea of *not guilty* to the following offense(s): _____

The child entered a plea of *guilty* to the following offense(s) after having waived his/her rights to a trial of this matter in writing in a separate document: _____

There is proof beyond a reasonable doubt that the child is a **delinquent child**, and the court has determined that the child is in need of treatment and rehabilitation; **AND**

- The current offense(s) for which the child has been adjudicated delinquent and is subject to disposition **would constitute a felony** if committed by an adult.

The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a **misdemeanor if committed by an adult; AND the child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute either a felony or misdemeanor** if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor.

The court finds by clear and convincing evidence that **the child is in imminent risk** of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the Department of Children's Services in that _____

There is clear and convincing evidence that the child is an **unruly child**, and the court has determined that the child is in need of treatment and rehabilitation; **AND**

The child has **previously been adjudicated for two (2) or more offenses arising from separate incidents that would constitute an unruly offense, or a felony or misdemeanor** if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor.

The court finds by clear and convincing evidence that **the child is in imminent risk** of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the Department of Children's Services in that _____

This matter was referred to the **juvenile-family crisis intervention** program and it has been certified in writing through sworn testimony that no other less drastic measure other than court intervention exists, pursuant to T.C.A. § 37-1-168.

The Court further finds the continuation of the child in the home is contrary to the welfare of the child, is not in the child's best interest, and there is no less drastic alternative to removal based on the following facts: ____

The Court further finds:

Reasonable efforts were made to prevent the child's removal from the home, which include:

Mental health counseling for child/children Mental health counseling for parent

- Drug & alcohol counseling for child/children
- Parenting classes
- Community Intervention Services (CIS)
- Tutoring or Special Education Services
- Mentoring Services
- Restitution
- Day Treatment for _____
- Intensive Probation
- Non-Custodial Assessment
- Intensive in-home case management
- Sexual perpetrator treatment for _____
- Residential Treatment for _____
- Locating absent parent(s)

- Drug & alcohol counseling for parent
- Psychological evaluation for _____
- Family Crisis Intervention
- Victim Offender Services, i.e. VORP
- Structured After-School/Summer Activities
- Community Service Work
- Probation/Aftercare
- Intensive Case Management
- Home Ties
- Sexual abuse treatment for child
- Homemaker services
- Locating relatives
- Other (specify)

(Detailed information)

It was reasonable to make no efforts to maintain the child in the home based on an assessment of the family and the child's circumstances that include: _____

Reasonable efforts to prevent removal were not required because:

this court or another court of competent jurisdiction has previously determined that the parent has subjected the child(ren), or any sibling or half-sibling or any other child residing temporarily or permanently in the home, to aggravated circumstances as defined in T.C.A. §36-1-102.

the parent has been convicted in a criminal court of one of the felony crimes against a child specified in T.C.A. §37-1-166(g)(4).

the parental rights of the parent to a sibling or half-sibling have been terminated involuntarily.

The Department of Children's Services failed to provide reasonable efforts to prevent the child's removal from the home.

It appearing to the Court that the following is the best interest of the child and the public.

IT IS THEREFORE ORDERED:

1. The child is found guilty by the Court of the following offense(s): _____

2. The child is a delinquent child and is in need of treatment and rehabilitation within the meaning of Title 37, Chapter 1, Part 1, of Tennessee Code Annotated, for the reasons set forth above.

The child is an unruly child and is in need of treatment and rehabilitation within the meaning of Title 37,

Chapter 1, Part 1, of Tennessee Code Annotated, for the reasons set forth above.

3. That temporary custody of the child, _____ is hereby awarded to the State of Tennessee, Department of Children’s Services, with the authority granted under T.C.A. 37-1-140, including the authority to consent to any ordinary or necessary medical, surgical, hospital, psychological, psychiatric, institutional or education care.

4. That all state, county, or local agencies with information or records relevant to the child’s situation, including any public or private medical or mental health treatment resources and all educational facilities, shall release such information or records as are necessary for the management of this case to the Department of Children’s Services and to any authorized representatives of the case management team of a community services agency under T.C.A. 37-5-301 et seq. which is providing coordination of care and services with the Department of Children’s Services.

5. This matter is set for a _____ hearing on _____.

6. _____

ENTERED this the _____ day of _____, 20__

Judge/Magistrate

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the order has been delivered by U.S. mail, by personal service, by email or facsimile if service is so accepted, to the individuals listed below this _____ day of _____, 20__:

IN THE JUVENILE COURT OF _____ COUNTY, TENNESSEE

IN THE MATTER OF:

DOB: _____

CASE NO. _____
A Child Under the Age of 18 Years

VIOLATION OF DCS HOME PLACEMENT SUPERVISION (AFTERCARE)

This matter came on to be heard on _____ day of _____, 20____, before the Honorable _____, upon a violation of home placement supervision petition(s) filed by _____

Present for the hearing were the child, _____, petitioner, _____, parent(s)/guardian/custodian, _____, attorney for the child, _____, other participant(s), _____.

The Court, having considered the testimony and evidence presented and the entire record, finds as follows:

The child was advised of the charge(s) against him/her and of his/her rights, pursuant to Rule 205 of the Rules of Juvenile Practice and Procedure, including the right to appeal this matter. The Court finds that the meaning and effect of these rights have been fully explained to the child.

The child has waived his /her right to an attorney in writing in a separate document.

The child entered a plea of guilty not guilty to the violation of the home placement supervision petition(s).

The Court finds by a preponderance of the evidence that the child violated the home placement supervision in that (ONLY IF BEING PLACED IN DCS CUSTODY FOR VIOLATION OF AFTERCARE)

the child has been adjudicated of a new offense(s) eligible for commitment pursuant to T.C.A. § 37-1-131(a)(4), specifically the offense(s) of _____, which offense(s):

would constitute a felony if committed by an adult.

would constitute a misdemeanor if committed by an adult; AND the child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute either a felony or misdemeanor if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor.

the child _____.

The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the Department of Children's Services in that _____

The Court finds the child violated the home placement supervision and the child shall be allowed to resume the conditions of home placement supervision the conditions of home placement supervision shall be modified as follows: _____

The Court finds the child did not violate the home placement supervision and the child shall be allowed to resume the conditions of home placement supervision.

The Court finds the child meets the criteria for recommitment to the Department of Children's Services and the home supervision shall be terminated.

The Court further finds the continuation of the child in the home is contrary to the welfare of the child, is not in the child's best interest, and there is no less drastic alternative to removal based on the following facts: __

The Court further finds:

Reasonable efforts were made to prevent the child's removal from the home, which include:

- | | |
|---|--|
| <input type="checkbox"/> Mental health counseling for child/children | <input type="checkbox"/> Mental health counseling for parent |
| <input type="checkbox"/> Drug & alcohol counseling for child/children | <input type="checkbox"/> Drug & alcohol counseling for parent |
| <input type="checkbox"/> Parenting classes | <input type="checkbox"/> Psychological evaluation for _____ |
| <input type="checkbox"/> Community Intervention Services (CIS) | <input type="checkbox"/> Family Crisis Intervention |
| <input type="checkbox"/> Tutoring or Special Education Services | <input type="checkbox"/> Victim Offender Services, i.e. VORP |
| <input type="checkbox"/> Mentoring Services | <input type="checkbox"/> Structured After-School/Summer Activities |
| <input type="checkbox"/> Restitution | <input type="checkbox"/> Community Service Work |
| <input type="checkbox"/> Day Treatment for _____ | <input type="checkbox"/> Probation/Aftercare |
| <input type="checkbox"/> Intensive Probation | <input type="checkbox"/> Intensive Case Management |
| <input type="checkbox"/> Non-Custodial Assessment | <input type="checkbox"/> Home Ties |
| <input type="checkbox"/> Intensive in-home case management | <input type="checkbox"/> Sexual abuse treatment for child |
| <input type="checkbox"/> Sexual perpetrator treatment for _____ | <input type="checkbox"/> Homemaker services |
| <input type="checkbox"/> Residential Treatment for _____ | <input type="checkbox"/> Locating relatives |
| <input type="checkbox"/> Locating absent parent(s) | <input type="checkbox"/> Other (specify) |

(Detailed information)

It was reasonable to make no efforts to maintain the child in the home based on an assessment of the family and the child's circumstances that include: _____

Reasonable efforts to prevent removal were not required because:

this court or another court of competent jurisdiction has previously determined that the parent has subjected the child(ren) or any sibling or half-sibling or any other child residing temporarily or permanently in the home, to aggravated circumstances as defined in T.C.A. §36-1-102.

the parent has been convicted in a criminal court of one of the felony crimes against a child specified in T.C.A. §37-1-166.

the parental rights of the parent to a sibling or half-sibling have been terminated involuntarily.

The Department of Children's Services failed to provide reasonable efforts to prevent the child's removal from the home.

Temporary custody of the child, _____, is hereby awarded to the State of Tennessee, Department of Children's Services, with the authority granted under T.C.A. 37-1-140, including the authority to consent to any ordinary or necessary medical, surgical, hospital, psychological, psychiatric, institutional or education care and home placement supervision is hereby terminated.

The Court further orders that all state, county, or local agencies with information or records relevant to the child's situation, including any public or private medical or mental health treatment resources and all educational facilities, shall release such information or records as are necessary for the management of this case to the Department of Children's Services.

Temporary custody of the child, _____, is hereby awarded to _____, who shall have the authority granted under T.C.A. 37-1-140, including the authority to consent to any ordinary or necessary medical, surgical, hospital, psychological, psychiatric, institutional or education care.

This matter is set for a _____ hearing on _____

ALL OF WHICH IS ORDERED, ADJUDGED AND DECREED.

ENTERED this the _____ day of _____, 20__

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the order has been delivered by U.S. mail, by personal service, by email or facsimile if service is so accepted, to the individuals listed below this _____ day of _____, 20__:

STATUTES

37-1-131. Delinquent child -- Disposition -- Restitution.

(a) If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation and welfare:

(4)

(A) Subject to the restrictions of § 37-1-129(c) and this subdivision (a)(4), **commit the child to the department of children's services**, which commitment shall not extend past the child's nineteenth birthday;

(B) A child is eligible for commitment to the department only if:

(i) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a felony if committed by an adult;

(ii)

(a) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a misdemeanor if committed by an adult; and

(b) The child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute either a felony or misdemeanor if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor; or

(iii)

(a) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department; and

(b) A child placed in the custody of the department under this subdivision (a)(4)(B)(iii) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(1) The child needs treatment or services that are available only if the child is in custody; and

(2) The treatment or services the child needs are evidence-based and will be provided by a qualified provider;

37-1-132. Unruly child -- Disposition. [Effective on July 1, 2019. See version effective until July 1, 2019.]

(a) If the child is found to be an unruly child, the court may make such disposition as authorized by this section or § 37-1-131(a)(1), (a)(2), (a)(7), or (b) that is best suited to such child's treatment. **However, no child found to be an unruly child may be placed on probation under the supervision of the department, unless such child is found to also be a delinquent child or is found to have committed a violation of a valid court order as provided for in the Appendix to the Tennessee Rules of Juvenile Procedure.** No county government shall be required to increase local funding to implement this provision. The court has the additional dispositional alternative of ordering the department to provide non-custodial services to a child found to be unruly.

(b) (1) An unruly child is eligible for commitment to the department only if:

(A) The child has previously been adjudicated for two (2) or more offenses arising from separate incidents that would constitute an unruly offense, or a felony or misdemeanor if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor; or

(B)

(i) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department;

(ii) A child placed in the custody of the department under this subdivision (b)(1)(B) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by

a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

- (a) The child needs treatment or services that are available only if the child is in custody; and
 - (b) The treatment or services the child needs are evidence-based and will be provided by a qualified provider.
- (2) If the court finds that it is in the best interest of the child and the public that any unruly child be removed from the home of a parent, guardian, or other legal custodian, the placement of the child shall be with the person, agency, or facility that presents the least drastic or restrictive alternative.
 - (3) Prior to committing an unruly child to the custody of the department of children's services, the court shall refer such child to the department's juvenile-family crisis intervention program under § 37-1-168. The court may commit the child to the department after such juvenile-family crisis intervention program certifies to the court that there is no other less drastic measure than court intervention. Nothing in this subsection (b) shall preclude placing a child in protective service custody.
 - (4) A disposition under this section shall, in no event, result in the child's detention in shelter care, as defined in § 37-1-116, or other temporary placement, without provision of necessary services consistent with the child's assessments or evaluations, in excess of thirty (30) days after entry of the court's order.
 - (5) Subject to subdivision (b)(6), an unruly child committed to the custody of the department under subdivision (b)(1)(A) for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months, excluding any amount of time that a child is absent from placement for whatever reason, unless:
 - (A) The treatment and rehabilitation of the child require that the child remain in custody beyond six (6) months to complete an evidence-based program in a custodial setting addressing a treatment need identified by the previously administered validated risk and needs assessment;
 - (B) The child is alleged to have committed a new delinquent act; or
 - (C) The child is alleged to be an escapee from a secure juvenile facility or institution.
 - (6) The commissioner shall prescribe procedures whereby the child's treatment, rehabilitation, and progress shall be reviewed monthly and a recommendation for or against home placement or discharge shall be made to the commissioner or the commissioner's designee at least quarterly.
 - (7)
 - (A) When the department determines that a child who has been committed to the department under this section is ready to return home, the department shall notify the court in writing of its intention to place the child at home on a trial home visit. If the court objects to the trial home visit, it must notify the department of its objection in writing or set a hearing within fifteen (15) days of the date of the notice with such hearing being held at the earliest possible date. If a hearing is not set nor a written objection received within fifteen (15) days of the date of the notice, the department may place the child on a trial home visit. The notice shall include the provision that the department's legal custody of the child shall terminate in thirty (30) days.
 - (B) If during the thirty-day period the department determines that the trial home visit is not in the child's best interest and removes the child on an emergency basis or seeks to remove the child on a non-emergency basis, the department shall file a motion for review by the court of the trial home visit and shall provide notice to the parent, parents, guardian, or other custodian. The court shall hold a hearing on such motion within three (3) days of an emergency removal and shall set a hearing within fifteen (15) days to be held at the earliest possible date if the motion is for the court's permission to make a non-emergency removal.
 - (C) During the thirty-day trial home visit, the court may periodically review the child's status and may make any orders that the best interest of the child may require.

37-1-137. Commitment of delinquent children to the department of children's services.

(a) (1) (A) An order of the juvenile court committing a delinquent child to the custody of the department of children's services shall be for an indefinite time.

(B) If a juvenile offender is tried and adjudicated delinquent in juvenile court for the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated

sexual battery, kidnapping, especially aggravated kidnapping, aggravated robbery, especially aggravated robbery, aggravated arson, aggravated burglary, especially aggravated burglary, commission of an act of terrorism, carjacking, or violations of § 39-17-417(b), (i) or (j), or an attempt to commit any such offenses, or has been previously adjudicated delinquent in three (3) felony offenses arising out of separate criminal episodes at least one (1) of which has resulted in institutional commitment to the department of children's services, or is within six (6) months of the child's eighteenth birthday at the time of the adjudication of the child's delinquency, **the commitment may be for a determinate period of time** but in no event shall the length of the commitment be greater than the sentence for the adult convicted of the same crime, nor shall such commitment extend past the offender's nineteenth birthday. Commitment under this section shall not exceed the sentences provided for by the Tennessee Criminal Sentencing Reform Act of 1989, compiled in title 40, chapter 35, and in no event shall a juvenile offender be sentenced to Range II or Range III.

(2) However, no child shall be committed to such department when the court deems it in the best interest of the child without a pre-commitment report including, but not limited to:

- (A) Educational status;
- (B) Family background information;
- (C) Employment background;
- (D) Physical examination and report; and
- (E) Psychological report (if possible).

(3) Such report shall be prepared by the probation officer assigned to the juvenile to be committed.

(4) Notwithstanding subdivisions (a)(2) and (3), the information in a pre-commitment report shall be provided only when presently available and shall not be provided at an additional cost to the department.

(5) The department may place the child in a suitable state institution, foster home or group home, or the department may purchase services from any agency, public or private, that is authorized by law to receive or provide care or services for children.

(6) The commissioner, in consultation with the executive committee of the Tennessee council of juvenile and family court judges, shall promulgate rules and regulations relative to commitment criteria for the incarceration of juvenile offenders in facilities operated or managed by the department. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) (1) Subject to subsection (c), a delinquent child committed to the custody of the department for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months, excluding any amount of time that a child is absent from placement for whatever reason, unless:

- (A) The treatment and rehabilitation of the child require that the child remain in custody beyond six (6) months to complete an evidence-based program in a custodial setting addressing a treatment need identified by the previously administered validated risk and needs assessment;
- (B) The child is alleged to have committed a new delinquent act; or
- (C) The child is alleged to be an escapee from a secure juvenile facility or institution.

(2) The commissioner shall prescribe procedures whereby the child's treatment, rehabilitation, and progress shall be reviewed monthly and a recommendation for or against home placement or discharge shall be made to the commissioner or the commissioner's designee at least quarterly.

(c) (1) (A) The commissioner or the commissioner's designee, with the assent of the committing court, may make a home placement of a child under the continuing supervision of the department.

(B) Notification of a home placement of a child shall be made in writing to the committing court at least fifteen (15) days prior to the proposed date of such placement. Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the home placement and the child shall immediately be released to home placement supervision.

(C) The first thirty (30) days after the child's return to home placement supervision shall be a trial home pass with the department retaining legal custody of the child. If the child successfully completes the trial home pass, at the end of the thirty-day trial home pass the child shall automatically continue on home placement supervision status, unless the court has ordered that supervision status is not necessary, and the department's legal custody of the child shall terminate. Such home placement supervision by the department shall continue until the court orders a discharge of such supervision under subdivision (g)(1).

(D) If the committing court objects to the home placement supervision, such objections shall be made in writing to the commissioner or the commissioner's designee setting forth the reasons for such objections. A valid ground for such objection shall include, but not be limited to, consideration of the nature of the offense committed by the juvenile. No juvenile shall be released on home placement supervision if the committing court objects in the prescribed written manner. Upon receiving the objection from the committing court, the commissioner or the commissioner's designee shall review the child's file and consult with the committing judge regarding such denial in the form of a hearing set by either the court or by motion of the department or any attorney for the child.

(E) If no agreement is reached between the department and the committing judge, then the commissioner or the commissioner's designee shall request a hearing on the proposed placement by a three- judge panel to be appointed by the executive committee of the Tennessee council of juvenile and family court judges. Such three- judge panel shall not include the committing judge. The panel will hear and resolve the controversy within thirty

(30) days of receipt of the commissioner's or the commissioner's designee's request for a hearing by the executive secretary of the council and the decision of the panel shall be final.

(2) In the event the juvenile offender is a person described in subdivision (a)(1)(B) and is given a determinate commitment, and the commissioner or the commissioner's designee is of the opinion that the juvenile offender is a fit subject to return to home placement prior to the achievement of committal reduction credits as set out in subsection (h), the commissioner or the commissioner's designee shall request a hearing before the judge of the juvenile court in which the original commitment occurred. The request shall state the reasons for recommending the early release placement and shall make specific recommendations as to where the child will be placed. A copy of the request for a hearing shall be supplied to the district attorney general. If, on review of the record, the court is of the opinion that the request is well taken and the district attorney general has no objection, the judge may order the early release placement without a hearing. Otherwise, the court shall schedule a hearing within fifteen (15) days of the receipt of the request for hearing. At the hearing, the department, the juvenile offender, and the state shall be given an opportunity to be heard in support of or in opposition to the proposed early release placement and all of the parties may subpoena witnesses to testify on any issue raised by the proposed placement. The court may make such orders pertaining to such placement as the court determines are justified under the proof produced at the hearing for such early release placement. The court's decision may be appealed under § 37-1-302.

(d) (1) (A) If the designee of the department supervising a delinquent child on home placement supervision has reasonable cause to believe that such child has violated the conditions of home placement supervision in an important respect after the trial home pass has ended, the designee may file a petition alleging a violation of home placement supervision; provided, that, unless a new petition has been filed alleging the child has committed a new delinquent offense or habitual and unlawful absence pursuant to § 49-6-3007, the court, in its discretion, may direct the designee that, in some or all circumstances, such a petition should be filed only if the designee makes and documents attempts to address the noncompliant behavior and determines and documents the reasons for which court intervention is needed to address the noncompliance.

(B) The court may require that the child be placed in detention pending adjudication of the petition, but only in accordance with § 37-1-114. The department is prohibited from taking the child into custody until the court finds that the child has violated conditions of the home placement supervision by incurring an adjudication of delinquency for a new offense that meets the eligibility criteria for commitment to the department under § 37-1-131(a)(4) and the court terminates the home placement supervision. Nothing in this subdivision (d)(1) shall prevent the transfer of a juvenile under § 37-1-134.

(2) No such court permission is required during the trial home pass and the department is authorized to remove the child from the home, but only if the child cannot be located by the designee after documented efforts to locate the child or a new petition has been filed alleging the child has committed a delinquent offense arising from a separate incident from the original petition. A notice of such removal and disruption of the trial home pass shall be filed with the court within ten (10) days as a violation allegation or other appropriate petition or motion and the legal custody of the department is not terminated. A review hearing on such action shall be held within thirty (30) days of such filing. Nothing in this subdivision (d)(2) shall prevent the transfer of a juvenile under § 37-1-134.

(e) The juvenile court that committed the delinquent child to the department retains jurisdiction to determine allegations of violation of home placement supervision. Such court shall schedule a hearing within seven (7) days of the time the petition is filed alleging a violation of home placement supervision and cause written notice to be served on the child, the child's parent or parents, guardian, or other custodian, and the department's designee a reasonable time before the hearing. The written notice shall contain a copy of the petition and any other written report or statement detailing the violation or violations as well as the time, place, and purpose of the hearing. At the hearing, the court shall allow the child to be heard in person and to present witnesses or documentary evidence. The child shall also have the right to confront and cross-examine witnesses.

(f)

(1) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of home placement.

(2) If the court finds that a violation occurred because the child has been adjudicated for a new offense eligible for commitment to the department under § 37-1-131(a)(4), the court may order that the child be re-committed to the department or utilize any other disposition option permitted by law. Such order shall contain the reasons relied on for terminating the home placement. Upon any such termination and commitment to the department, the child may be placed as the commissioner or the commissioner's designee may direct.

(3)

(A) If the court finds that a violation occurred but the child has not been adjudicated for a new offense that is eligible for commitment to the department, the court may modify conditions of home placement consistent with the results of the previously administered validated risk and needs assessment, including ordering a transfer or grant pursuant to § 37-1-131(a)(1), but shall not order that the child be re-committed to the department or otherwise remove the child from the child's home, including the home of a parent, guardian, or other legal custodian, unless the court finds by clear and convincing evidence that the

child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department.

(B) A child placed in the custody of the department under this subdivision (f)(3) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(i) The child needs treatment or services that are available only if the child is in custody; and

(ii) The treatment or services the child needs are evidence-based and will be provided by a qualified provider.

(4) The child may appeal the disposition of the court as provided in § 37-1-159.

(g)

(1) The commissioner or the commissioner's designee may discharge a child placed on state probation pursuant to § 37-1-131(a)(2)(A) or under home placement supervision status by the department after legal custody ends pursuant to subdivision (c)(1)(C) and thereby terminate supervision of the child by the department. Notification of discharge of a child shall be made in writing to the committing court at least fifteen (15) days prior to the proposed discharge. Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the discharge from home placement supervision status of the department or from state probation, and such supervision by the department shall terminate.

(2) Upon receiving the written objection from the committing court, the commissioner or the commissioner's designee shall review the child's file and within fifteen (15) days of receipt of such objection may file a motion for a hearing. The court shall hold such hearing within thirty (30) days of the motion filing. A written decision will be rendered within ten (10) days of that hearing. If the department does not concur with the hearing decision, it shall notify the executive committee of the Tennessee council of juvenile and family court judges which shall appoint a panel of three (3) juvenile or family court judges to review the commissioner's final decision. Such three-judge panel will hear and resolve, by a majority vote, the controversy within thirty (30) days of the filing of the commissioner's request. The committing judge shall not be a member of the three-judge panel. The determination of the three-judge panel shall be final.

(3) In the event the juvenile offender is a person described in subdivision (a)(1)(B) and is given a determinate commitment, and the commissioner or the commissioner's designee is of the opinion that the juvenile offender is a fit subject for discharge, the commissioner or the commissioner's designee shall request a hearing before the judge of the juvenile court in which the original commitment occurred. The request shall state the reasons for recommending the discharge and shall make specific recommendations as to where the child will be placed. A copy of the request for a hearing shall be supplied to the district attorney general. If, on review of the record, the court is of the opinion that the request is well taken and the district attorney general has no objection, the judge may order the placement without a hearing. Otherwise, the court shall schedule a hearing within fifteen (15) days of the receipt of the request for hearing. At the hearing, the department, the juvenile offender and the state shall be given an opportunity to be heard in support of or in opposition to the proposed discharge and all of the parties may subpoena witnesses to testify on any issue raised by the proposed discharge. The court may make such orders pertaining to the continued commitment or discharge as the court determines are justified under the proof produced at the hearing. The court's decision shall be appealable under the provisions of § 37-1-302.

(h)

(1) Any juvenile offender who is given a determinate commitment shall be eligible to receive time credits toward the determinate sentence imposed. Such time credits shall be awarded for good institutional behavior or satisfactory performance, or both, within institutional programs. Notwithstanding any other law to the contrary, awarded time credits shall operate to reduce the time a juvenile offender must serve in the department on the determinate sentence.

(2) Each juvenile offender who exhibits good institutional behavior or exhibits satisfactory performance, or both, within a program may be awarded time credits toward the sentence imposed, varying between one (1) day and sixteen (16) days for each month served, with not more than eight (8) days for each month served for good institutional behavior and not more than eight (8) days for each month served for satisfactory program performance in accordance with criteria established by the department. No juvenile offender shall have the right to any such time credits nor shall any juvenile offender have the right to participate in any particular program and may be transferred from one (1) program to another without cause.

(3) Such sentence credits shall not be earned or credited automatically, but rather shall be awarded on a monthly basis to a juvenile offender at the discretion of the responsible superintendent in accordance with the criteria established by the department, and only after receipt by the superintendent of written documentation evidencing the juvenile offender's good institutional behavior or satisfactory program performance, or both.

(4) Such sentence credits may not be awarded for a period of less than one (1) calendar month or for any month in which a juvenile offender commits a major violation of which such juvenile offender is found guilty. No

sentence credits for good institutional behavior may be awarded for any month in which a juvenile offender commits any disciplinary violation of which such juvenile offender is found guilty.

(5) A juvenile offender may be deprived of those sentence credits previously awarded pursuant to this subsection (h) only for the commission of any major infraction designated by the department as a major violation, or refusal to participate in a program.

(6) All determinately sentenced juvenile offenders, including those juveniles who are currently serving their sentences, are eligible for the sentence reduction credits authorized by this subsection (h). However, sentence reduction credits authorized by this subsection (h) may be awarded only for conduct or performance, or both, from and after July 1, 1987.

37-1-102. Chapter and part definitions.

(17) "Foster care" means the temporary placement of a child in the custody of the department of children's services or any agency or institution, whether public or private, for care outside the home of a parent or relative, by blood or marriage, of the child, whether the placement is by court order, voluntary placement agreement, surrender of parental rights or otherwise;

37-2-403. Contents of permanency plan

(a) (1) (A) Within thirty (30) days of the date of foster care placement, an agency shall prepare a plan for each child in its foster care. Such plan shall include a goal for each child of:

- (i) Return of the child to parent;
- (ii) Permanent placement of the child with a fit and willing relative or relatives of the child;
- (iii) Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;
- (iv) Permanent guardianship; or
- (v) A planned permanent living arrangement.

(B) Such plans are subject to modification and shall be reevaluated and updated at least annually, except when a long-term agreement has been made in accordance with this part.

(2)

(A) The permanency plan for any child in foster care shall include a statement of responsibilities between the parents, the agency and the caseworker of such agency. Such statements shall include the responsibilities of each party in specific terms and shall be reasonably related to the achievement of the goal specified in subdivision (a)(1). The statement shall include the definitions of "abandonment" and "abandonment of an infant" contained in § 36-1-102 and the criteria and procedures for termination of parental rights. Each party shall sign the statement and be given a copy of it. **The court must review the proposed plan, make any necessary modifications and ratify or approve the plan within sixty (60) days of the foster care placement.** The department of children's services shall, by rules promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2, determine the required elements or contents of the permanency plan.

(B)

(i) The parents or legal guardians of the child shall receive notice to appear at the court review of the permanency plan and the court shall explain on the record the law relating to abandonment contained in § 36-1-102, and shall explain that the consequences of failure to visit or support the child will be termination of the parents' or guardians' rights to the child, and the court will further explain that the parents or guardians may seek an attorney to represent the parents or guardians in any termination proceeding. If the parents or legal guardians are not at the hearing to review the permanency plan, the court shall explain to the parents or guardians at any subsequent hearing regarding the child held thereafter, that the consequences of failure to visit or support the child will be termination of the parents' or guardians' rights to the child and that they may seek an attorney to represent the parents or guardians in a termination proceeding.

(ii) If the parents or guardians of the child cannot be given notice to appear at the court review of the permanency plan, or if they refuse or fail to appear at the court review of the permanency plan, or cannot be found to provide notice for the court review of the permanency plan, any agency that holds custody of the child in foster care or in any other type of care and that seeks to terminate parental or guardian rights based upon abandonment of that child under § 36-1-102, shall not be precluded from proceeding with the termination based upon the grounds of abandonment, if the agency demonstrates at the time of the termination proceeding:

(a) That the court record shows, or the petitioning party presents to the court a copy of the permanency plan that shows that the defendant parents or legal guardians, subsequent to the court review in subdivision (a)(2)(B)(i), has signed the portion of the permanency plan that describes the criteria for establishing abandonment under § 36-1-102, or that the court record shows that, at a subsequent hearing regarding the child, the court made the statements to the parents or legal guardians required by subdivision (a)(2)(B)(i);

(b) By an affidavit, that the child's permanency plan containing language that describes the criteria for establishing abandonment under § 36-1-102 was presented by the agency party to the parents or guardians at any time prior to filing the termination petition, or that there was an attempt at any time to present the plan that describes the criteria for establishing abandonment under § 36-1-102 to the parents or guardians at any time by the agency party, and that such attempt was refused by the parents or guardians; and

(c) That, if the court record does not contain a signed copy of the permanency plan, or if the petitioning agency cannot present evidence of a permanency plan showing evidence of such notice having been given or an affidavit showing that the plan was given or that the plan was attempted to be given to the parents or guardians by the agency and was refused by the parents or guardians, and, in this circumstance, if there is no other court record of the explanation by the court of the consequences of abandonment and the right to seek an attorney at any time, then the petitioning agency shall file with the court an affidavit in the termination proceeding that describes in detail the party's diligent efforts to bring such notice required by subdivision (a)(2)(B)(i) to such parent or guardian at any time prior to filing the agency's filing of the termination petition.

(C) Substantial noncompliance by the parent with the statement of responsibilities provides grounds for the termination of parental rights, notwithstanding other statutory provisions for termination of parental rights, and notwithstanding the failure of the parent to sign or to agree to such statement if the court finds the parent was informed of its contents, and that the requirements of the statement are reasonable and are related to remedying the conditions that necessitate foster care placement. The permanency plan shall not require the parent to obtain employment if such parent has sufficient resources from other means to care for the child, and shall not require the parent to provide the child with the child's own bedroom unless specific safety or medical reasons exist that would make bedroom placement of the child with another child unsafe.

(3) At any hearing in which a court orders a child to be placed in foster care, the judge shall determine whether a permanency plan has been prepared and whether the statement of responsibilities has been agreed upon by the parties. If a statement has been agreed upon by the parties, the court shall review it and approve it if the court finds it to be in the best interest of the child. If a plan had not been prepared or parties have not agreed to a statement of responsibilities, the court may continue the hearing for such time, not to exceed thirty (30) days, as may be necessary to give the parties an opportunity to attempt to agree on a suitable plan, which may then be approved by the court without a further hearing if the court finds the plan to be in the best interest of the child, but no longer than sixty (60) days after the foster care placement, except as provided in § 37-1-166.

(4)

(A) If the parties are unable to agree on a statement of responsibilities during this period of time, the court shall hold a further informal hearing to decide on a statement of responsibilities. At such hearing, all relevant evidence, including oral and written reports, may be received by the court and relied upon to the extent of its probative value. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports.

(B) In determining the terms of the statement, the court shall, insofar as possible, in accordance with the best interest of the child, seek to:

(i) Return the child to the parent;

(ii) Permanently place the child with a fit and willing relative or relatives of the child;

(iii) Pursue adoptive placement;

(iv) Pursue permanent guardianship; or

(v) Provide a planned permanent living arrangement for the child.

(C) The court shall take such action as may be necessary to develop and approve a plan that it finds to be in the best interest of the child. The plan shall be approved within sixty (60) days of the foster care placement, except as provided in § 37-1-166.

(5) In cases involving child abuse or child neglect, with such child being placed in foster care, the statement of responsibilities shall stipulate that the abusing or neglecting parent shall receive appropriate rehabilitative assistance through mental health consultation if so ordered by the court.

(6) The plan for a child who remains in foster care for one (1) year may be modified to a long-term agreement between a foster parent and the agency charged with the caring and custody of the child. Such agreements with foster parents shall include:

(A) Appropriate arrangements for the child; and

(B) Procedures for the termination of the agreement by either party when in the best interests of the child. When the department of children's services is a party to the agreement, such agreement must include provisions permitting variation in monetary allowances from fiscal year to fiscal year depending upon appropriations by the general assembly.

(b)

(1) In lieu of the provisions of subsection (a), in the event a child is in foster care as a result of a surrender or termination of parental rights, the agency having guardianship of the child shall prepare and submit to the foster care advisory review board or court in the county in which the child is in foster care a plan for each such child.

(2) Such plan shall include a goal for each child of:

(A) Permanent placement of the child with a fit and willing relative or relatives of the child;

(B) Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;

(C) Permanent guardianship; or

(D) A planned permanent living arrangement.

(3) Specific reasons must be included in the plan for any goal other than placement of the child with a relative of the child or adoption. Such plan shall also include a statement of specific responsibilities of the agency and the caseworker of such agency designed to achieve the stated goal.

(c) The statement of responsibilities on a permanency plan that is ordered by the court shall empower the state agency to select any specific residential or treatment placement or programs for the child according to the determination made by that state agency, its employees, agents or contractors.

(d) Whenever a child is removed from such child's home and placed in the department's custody, the department shall seek to place the child with a fit and willing relative if such placement provides for the safety and is in the best interest of the child. Notwithstanding any provision of this section or any other law to the contrary, whenever return of a child to such child's parent is determined not to be in the best interest of the child, then such relative with whom the child has been placed shall be given priority for permanent placement or adoption of the child prior to pursuing adoptive placement of such child with a non-relative.

(e) In addition to completing the permanency plan, within thirty (30) days of the date of foster care placement, the placement agency shall collect as much information as possible in order to complete a medical and social history on the child and the child's biological family on the form promulgated by the department pursuant to § 36-1-111(k).

(f) Within twelve (12) months of a child entering state custody, the department shall review the child's case to determine, in the department's discretion, if reunification with family is feasible, and if not, whether to pursue termination of parental rights.

37-2-404. Progress report to court or review board -- Review of permanency plan.

(a) In addition to the plan required in § 37-2-403, the department or agency shall submit to the appropriate court or foster care review board a report for each child in its foster care on progress made in achieving the goals set out in the plan. Such reports shall be prepared by the department or agency having custody of the child within ninety (90) days of the date of foster care placement and no less frequently than every six (6) months thereafter for so long as the child remains in foster care. At the time the progress report is provided to the court or foster care review board, the department or agency shall also provide a copy of the report to the child's parent(s) whose rights have not been terminated or surrendered, the parent's attorney, the guardian ad litem and/or attorney for the child, and the child who is a party to the proceeding.

(b) Within ninety (90) days of the date of foster care placement and no less often than every six (6) months thereafter for so long as the child remains in foster care, the court or foster care review board shall review the plan for each child in foster care. Notice of this review and the right to attend and participate in the review shall be provided to the child's parent(s) whose rights have not been terminated or surrendered, the parent's attorney, the guardian ad litem and/or attorney for the child, foster parents, prospective adoptive parent, relative providing care for the child and the child who is a party to the proceeding. The department and the court shall develop adequate procedures to provide notice of the review to the aforementioned persons. The court or board shall review the safety, permanency and wellbeing of the child by assessing the necessity and appropriateness of continued foster care placement, the appropriateness of services for the child, the compliance of all parties to the statement of responsibilities, the extent of progress in alleviating or mitigating the causes necessitating placement in foster care

and in achieving the goals contained in the permanency plan, and project a likely date on which the goal of the plan will be achieved.