

# ST. MARY'S COUNTY CIRCUIT COURT

## Juvenile Differentiated Case Management Plan

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## **Juvenile Differentiated Case Management Plan**

This Juvenile Differentiated Case Management (DCM) Plan is established in accordance with Maryland Rule 16-302(b)(1)(A) which requires the County Administrative Judge to develop and, upon approval by the Chief Judge of the Maryland Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of cases filed in the circuit court.

### **Statement of Purpose**

This Juvenile DCM Plan has been created to integrate statutorily-mandated time frames with caseflow events and court policy to promote the fair and efficient management of sensitive juvenile cases.

Essential components of the Juvenile DCM Plan include the review of court processes and services that impact children and families to ensure responsiveness and efficiency, and the evaluation of performance to address case processing issues as they arise.

It is the purpose of this DCM Plan to provide an effective case management system that will assure:

1. Equal treatment of all juveniles and families by the Court;
2. Timely disposition of cases consistent with circumstances of the individual case;
3. Enhancement of the quality of the juvenile case process; and
4. Public confidence in the court as an institution.

Consistent with the Case Time Standards adopted by the Judicial Council, Constitutional Requirements, and applicable Maryland Rules, it is the goal of this Plan to ensure that all juvenile delinquency cases reach disposition within 90 days of the filing of the petition; all child in need of assistance cases reach disposition within 30-60 days of the filing of the petition, depending upon its classification; and all Termination of Parental Rights cases are resolved within 180 days of the filing of the petition.

## **Arraignments**

Arraignments are scheduled within three weeks of the filing of the petition. All juveniles are eligible for representation by the Office of the Public Defender, and an attorney employed by the Office of the Public Defender will enter his/her appearance in the respondent's case, unless the appearance of private counsel has been entered.

The respondent's status pending the next hearing may be raised at the arraignment by the State or the respondent's attorney.

## **Discovery**

Pursuant to Md. Rule 11-109, the State is required to provide discovery to, and request discovery from the respondent within five days after the arraignment hearing. The respondent shall furnish any discovery requests within 10 days after a request is made.

## **Adjudication**

The adjudication hearing will be scheduled within 60 days of service of the petition on the respondent, unless the respondent is detained at a youth facility or on community detention, in which case the adjudication hearing is scheduled within 30 days of the date of detention. At the adjudication hearing, the Court will hear the evidence in the case and make a finding as to whether the respondent was involved, or not involved, in the allege offense(s).

A plea of involvement may be taken at this hearing.

## **Disposition**

Disposition may take place immediately following adjudication. If a social history investigation by the Department of Juvenile Services (DJS) is requested, the disposition must be held within 30 days of adjudication, or within 14 days of adjudication if the respondent is detained at a detention facility or is on community detention.

If a respondent is committed to the DJS for appropriate placement in an out-of-home placement, and is detained pending that placement, a review hearing must be held within 25 days of disposition, and every 25 days (or sooner) thereafter until placed. If a respondent is in an out-of-home placement for more than one year, a permanency placement plan review hearing must be held annually, with reviews at 11 month intervals (or sooner) thereafter.

## **Postponements**

No postponements beyond the statutorily required timeframes are permitted, unless a finding of extraordinary cause by the administrative judge or designee is determined.

## **Suggestion of Incompetency**

If there is a good-faith basis to allege that the respondent may be incompetent to proceed at any time during the case, the Court, on its own motion, or on the motion of the respondent's attorney or the State, shall stay all proceedings and order that the Department of Health conduct an evaluation of the child's competency to proceed (and dangerousness). If the Court determines at the competency hearing that the respondent is competent, the Court shall enter an order stating that the child is competent, lift the stay imposed, and resume the matter in accordance with the standards specified in this DCM Plan and the Maryland Rules.

If the respondent is found not competent, the Court may enter an order for competency attainment services and schedule a review hearing within 90 days, and every 6 months thereafter. If the respondent does not attain competency within 18 months, the matter may be dismissed, as permitted by the statute.

## **Detention Hearing**

If a respondent is detained based on a new charge, a writ of attachment for failure to appear at a hearing, or as a result of a violation of probation, a detention hearing will be scheduled for the next business day.

## **Restitution Hearing**

Contested restitution hearings will be held post-adjudication. If the respondent and/or his/her parent(s) are found liable, the Court may enter a judgment of restitution against the parents, guardian or custodian of the respondent, the respondent, or both.

## **Waiver to Adult Jurisdiction**

If the State files a petition requesting the juvenile court to waive jurisdiction over the respondent and transfer the case to adult criminal court, the Court shall order the DJS to conduct a waiver investigation and issue a report. A waiver hearing is scheduled prior to adjudication. The DJS requests 45 days to prepare the investigation report. A waiver hearing is scheduled approximately one week after the due date of the report.

If the waiver petition is denied, adjudication in the juvenile court will occur within 30 days of the denial. If the waiver petition is granted, the juvenile petition, along with the order transferring the matter to adult jurisdiction, shall serve as the charging document.

If the judge orders that the respondent be detained, the respondent will be taken into custody by the sheriff and transported to the Detention Center with a copy of the juvenile petition and waiver order.

## **Post-Disposition Hearing**

A hearing may be requested by any party following a disposition hearing in order to request a review of the respondent's progress, adherence to conditions of probation, appropriateness of placement/treatment, etc. The Court may schedule a hearing, or may modify an existing order without a hearing. In the event the modification may result in a revocation of probation and/or commitment, the Court will issue a show cause order and schedule a hearing.

## **Termination of Case**

The DJS, the respondent/respondent's attorney, or the State may request to terminate a case after compliance with probation conditions over a period of time. The Court may determine, with or without a hearing, to terminate the case and close and seal the file. Any case wherein the respondent has reached the age of 21 or the respondent has received a conviction in adult court shall be closed and sealed without a hearing.

## CHILD WELFARE TRACKS

**CHILD WELFARE TRACK CHART**

<b>Track</b>	<b>Case Subtype</b>	<b>Expected Case Duration</b>
Track 1  CINA Protective Supervision	Child in need of assistance (CINA) cases with no shelter care or shelter care petition	60 days
Track 2  CINA Shelter	Child in need of assistance (CINA) cases with shelter care or shelter care petition	30 days
Track 3  Termination of Parental Rights	Termination of parental rights cases	180 days
Track 4  Custom	Voluntary placements  Agency Adoption (After or Without TPR)	Custom

Children in Need of Assistance (CINA) cases are filed when the Department of Social Services (DSS) asserts that a child needs court intervention because the child has been abused or neglected, has a developmental disability or mental disorder, and has parent(s)/guardian(s) who are unable or unwilling to give proper care and attention to the child's needs, or because the child is in a voluntary placement.

CINA cases follow two tracks: Track 1 – Child in Need of Assistance, Non-Shelter Care and Track 2 – Child in Need of Assistance – Emergency Shelter Care. CINA cases are heard by the family magistrate.



Termination of Parental Rights cases are filed by the DSS. If the Court finds that reunification, custody, guardianship, or another planned permanent living arrangement (APPLA) are no longer appropriate, at that time, the DSS requests a change of plan to adoption. After a child is in care for 15 of the last 22 months, the DSS must file a petition for guardianship, unless compelling reasons exist that make termination of parental rights not in the child's best interest.

Termination of parental rights cases are Track 3 cases and are heard by a judge.

Voluntary Placement and Adoptions are Track 4 cases. Voluntary placements are heard by the family magistrate and adoptions are heard by a judge.

### **Filing/Preliminary Inquiry**

#### **1. In Track 1 – Child In Need of Assistance, Protective Supervision cases:**

The DSS' attorney notifies the Court that a non-emergency petition will be filed. The Court sets a preliminary date as soon as practical. CINA petitions are filed by the DSS' attorney at the preliminary date. The child who is the subject of the petition is appointed an attorney pursuant to Section 3-813 of the Courts and Judicial Proceedings (CJP) Article of the Annotated Code of Maryland, to represent his/her position or his/her best interests at the preliminary date. The Office of the Public Defender will represent the parent(s) if they qualify for services. If they do not qualify for public defender representation, they are advised that the parent(s) have the right to hire private counsel.

The parents shall be notified to bring the child to the preliminary hearing unless the child's presence is waived by the child's attorney. The DSS serves the parents and all parties the CINA petition at the preliminary hearing.

## **2. In Track 2 – Child In Need of Assistance – Emergency Shelter Care cases:**

CINA petitions are filed by the DSS' attorney. The child who is the subject of the petition is appointed an attorney pursuant to CJP Section 3-813, to represent his/her position or his/her best interests. The Office of the Public Defender will represent the parent(s) if they qualify for services. If the parent(s) do not qualify for public defender representation, they shall be advised that they have the right to hire private counsel.

### **Shelter Care Hearing**

CINA petitions requesting shelter care must be scheduled for a hearing no later than the next day the court is open following the removal of a child. The parents are given verbal notification of the shelter care hearing by the DSS. Upon the granting of shelter care, the adjudication hearing is scheduled within 30 days.

The Court may not order shelter care for more than 30 days, except that shelter care may be extended for up to an additional 30 days if the Court finds after a hearing held as part of an adjudication that continued shelter care is needed to provide for the safety of the child.

### **Adjudication**

The adjudication hearing will be held within 60 days of the non-emergency inquiry, and within 30 days of the emergency shelter care hearing, unless shelter care was not granted. Evidence is presented to determine whether the facts alleged in the petition establishing that the child is a CINA are sustained.

### **Disposition**

Disposition normally takes place immediately following adjudication, unless the Court finds good cause to delay disposition. If disposition does not take place following adjudication, it shall be held within 30 days from adjudication. At disposition, a finding is made as to whether or not the child is in need of assistance. If the child is found to be a CINA, the disposition may range from an order controlling conduct to commitment to the care and custody of the DSS for appropriate placement. Disposition also includes court orders for family services, such as mental health and substance abuse evaluations, therapy and parenting classes.

If the Court orders a specific placement of a child, the DSS may not remove the child from the placement without a hearing, absent an emergency. The DSS shall file a motion requesting authorization to remove the child from the placement. The Court shall hold an emergency review placement hearing not later than the next day after the DSS' motion is filed.

### **Permanency Planning Hearing**

When a child is found to be a child in need of assistance, a 6 month interim hearing is required to be scheduled within 180 days of the date of the filing of the CINA petition. If the Court waives the DSS' obligation to make reunification efforts, a permanency planning hearing must be held within 30 days of the waiver. The DSS may request this waiver if aggravated circumstances exist. A permanency planning review hearing is scheduled within 180 days thereafter, and every 6 months for as long as the CINA case remains open. The Court must consult, on the record and in an age-appropriate manner, the child about the permanency plan at least once each year.

A Permanency Placement Hearing shall be held no later than 11 months after commitment or within 30 days after the Court finds that reasonable efforts to reunify a child with parents or guardians are not required.

### **Postponements**

No postponements beyond the statutorily required timeframes are permitted, unless extraordinary cause is shown.

### **Exceptions**

For any CINA case heard before the family magistrate, the parties are entitled to file exceptions within five business days of the filing of findings and recommendations by the family magistrate. Upon the filing of the exceptions, the Court shall promptly schedule an exceptions hearing.

### **Permanency Planning Mediation**

Permanency planning mediation between the parties is highly encouraged and may be scheduled at any time at the request of any party or by the Court.

## **CASA Appointment**

Any party may request that the Court appoint a CASA volunteer for the child pursuant to CJS Section 3-830, with the purpose of providing the Court with background information to aid the Court in making a decision in the child's best interest and to ensure that the child is provided appropriate case planning and services. Reports from CASA volunteers shall be provided to the parties and the Court.

## **Track 3 – Termination of Parental Rights**

Petitions for termination of parental rights are filed by the DSS' attorney within 30 days pursuant to Department of Human Services, Code of Maryland Regulations, Section 07.02.11.16ef. The child who is the subject of the petition is appointed an attorney pursuant to CJS Section 3-813, to represent his/her position or his/her best interests. The Office of the Public Defender will represent the parent(s) if they qualify for services. If the parent(s) do not qualify for public defender representation, they must be advised that they have the right to hire private counsel.

## **Scheduling**

After the filing of the petition, the judge will issue a scheduling order containing all future court dates.

## **Status Conference**

A status conference is scheduled within 30-45 days after the filing of the petition. The status conference is held in the judge's chambers. All attorneys are expected to attend the status conference in person, or by telephone if given advance permission to do so by the Court. Discussion at the status conference include whether or not service has been accomplished, dates by which objections must be filed, scheduling for mediation regarding any pending issues as well as post adoption contact agreements, and any other concerns of the Court or the attorneys.

## **Pretrial Conference**

A pretrial conference is scheduled within 60 days after the status conference is held. The pretrial conference is held in judge's chambers. All attorneys are expected to attend the pretrial conference. Discussions at the pretrial conference include the outcome of mediation, discovery issues, and any other concerns of the Court or the attorneys.

## **Merits Trial**

The merits trial is scheduled within 90 days after the status conference is held but no later than 150 days from the filing of the petition, and must be concluded within 180 days from the filing of the petition.

## **Uncontested Termination of Parental Rights Hearing**

If an agreement is reached between the parties and consents are filed by the parents, the termination of parental rights hearing shall be advanced to a date convenient to all parties.

## **Post Adoption Contact Mediation**

Post adoption contact mediation between the parties may be scheduled at any time at the request of any party or by the Court so long as it does not delay the disposition of the case.

## **Guardianship Review Hearings**

After the termination of parental rights is granted, the Court shall schedule a guardianship review hearing within 180 days of the date of the order terminating parental rights. Subsequent guardianship review hearings shall be held every year until the case is closed because the child is adopted, placed in a permanent custody or guardianship arrangement, or is emancipated.

## **Postponements**

No postponements beyond the statutorily required timeframes are permitted, unless extraordinary cause is shown.

## **Track 4 – Custom**

### **1. Voluntary Placement**

A voluntary placement occurs when a child has a developmental disability or mental illness and the child needs treatment or care for the child's

disability that the parent is unable to provide. The parent enters into an agreement with the DSS, and the child is placed in an appropriate placement that can address his/her disability and work towards reunification. The Court must approve the voluntary placement within 180 days.

### **Filing**

A petition for voluntary placement is filed by the DSS' attorney within 150 days of the agreement to allow the child's attorney an opportunity to meet his/her client. The child who is the subject of the petition is appointed an attorney pursuant to CJS Section 3-813, to represent his/her position or his/her best interests at the preliminary inquiry. The Office of the Public Defender will represent the parent(s) if they qualify for services. If the parents do not qualify for public defender representation, they must be advised that they have the right to hire private counsel.

### **Voluntary Placement Hearing**

The Court must hold a voluntary placement hearing within 180 days of the voluntary placement agreement and determine whether continuation of the placement is in the child's best interest and whether reasonable efforts have been made to reunify the child with the family or place the child in a timely manner in accordance with the child's permanency plan.

A voluntary placement review hearing is scheduled within 180 days of the initial voluntary placement hearing, and within 180 days thereafter, for as long as the voluntary placement exists.

### **Postponements**

No postponements beyond the statutorily required timeframes are permitted, unless extraordinary cause is shown.

## **2. Adoptions**

A child who is under the Court's jurisdiction as the subject of a CINA proceeding is only eligible for adoption once the Court terminates parental rights, the appeal period has passed, and the child has been placed with the adoptive family for 6 months. The child who is the subject of the petition is appointed an attorney pursuant to CJS Section 3-813, to represent his/her position or his/her best interests.

Adoption cases filed as a result of the termination of parental rights proceedings are processed by the judge's chambers and scheduled for a hearing as soon as possible, but no sooner than 10 days after the notice of filing has been served pursuant to Sections 5-333, 5-334 and 5-546 of the Family Law Article of the Annotated Code of Maryland. An adoption petition must be ruled upon no later than 180 days after filing.

### **Adoption without Prior Termination of Parental Rights**

A petition for adoption without the prior termination of parental rights can be filed by prospective adoptive parent(s) with the consent of the DSS. A child may be eligible for adoption without prior termination of parental rights when both parents and the DSS consent, or one parent consents and the other parent is deceased or cannot be located. The child who is the subject of the petition is appointed an attorney pursuant to CJS Section 3-813, to represent his/her position or his/her best interests. The Office of the Public Defender will represent the parent(s) if they qualify for services. If the parent(s) do not qualify for public defender representation, they must be advised that they have the right to hire private counsel.

Adoption cases filed without prior termination of parental rights proceedings are processed by the judge's chambers and scheduled for a hearing no earlier than 30 days after the petition is filed and includes the parent(s)' consent. The Court shall provide notice to the parent(s), unless waived; the attorney for the child; and the attorney(s) for the parent(s), as soon as possible, but no sooner than 10 days after the notice of filing has been served pursuant to Sections 5-333, 5-334 and 5-546 of the Family Law Article of the Annotated Code of Maryland. The adoption petition must be ruled upon no later than 180 days after filing.

If a petition for adoption without prior termination of parental rights is contested, the Court shall dismiss the petition.

### **Private Adoptions (not involving the Department of Social Services)**

If both parents have consented to a private adoption, the hearing shall be scheduled within 30 days after the petition has been filed. If the parent(s) do not consent, the hearing shall be scheduled as soon as possible after answers have been filed by the parents, or defaults have been granted, not to exceed 180 days after the petition has been filed.

## **INTERPRETERS**

### **1. Request for Interpreters**

The Maryland Judiciary provides court interpreters at no cost for hearings and proceedings conducted in court, as well as certain court-related services and events, for individuals who are parties or witnesses in civil, family, criminal and juvenile proceedings.

Counsel or the parties should submit a Request for Spoken Language Interpreter (CC-DCA87) to the court administrator not less than 30 days before the proceeding for which the interpreter is requested. Uncommon languages and dialects may require additional time to schedule an interpreter, based on the availability of an interpreter for that language.

### **2. Cancellation of Interpreter**

If it becomes apparent that an interpreter will not be needed on the assigned trial or hearing date, counsel or the parties shall submit a written notice to the court administrator no later than 48 hours prior to the scheduled proceeding (not including legal holidays).

### **3. Hearings**

If the event that the case requiring an interpreter is scheduled on the same docket with other cases, the Court, counsel and parties should be prepared to proceed with that case first, so as to allow the interpreter to organize his or her schedule, and to minimize the expense to the Court, since interpreters are paid by the hour.

## **ADA ACCOMMODATIONS**

### **1. Request for Accommodation for Person with Disability**

The Maryland Judiciary provides reasonable accommodations for persons with disabilities for hearings and proceedings conducted in court, as well as certain court-related services and events.

Counsel or the parties should submit a Request for Accommodation for Person with Disability (CC-DC-49) to the court administrator not less than 30 days before the proceeding for which the accommodation is requested. If requesting a sign language interpreter, counsel or the parties should identify



the specific type of interpreter, i.e., *American Sign Language (ASL)*, *Certified Deaf Interpreter (CDI)*, or *Communication Access Real Time Translation (CART)*.

## **2. Cancellation of an Accommodation**

If it becomes apparent that a sign language interpreter will not be needed on the assigned trial or hearing date, counsel or the parties shall submit a written notice to the court administrator no later than 48 hours prior to the scheduled proceeding (not including legal holidays).

## **3. Hearings**

If the event that the case requiring an accommodation or sign language interpreter is scheduled on the same docket with other cases, the Court, counsel and parties should be prepared to proceed with that case first, so as to allow the sign language interpreter or CART system stenographer to organize his or her schedule, and to minimize the expense to the Court, since interpreters and CART system stenographers are paid by the hour.