

**PART IX
PERMANENCY**

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39.621 Permanency determination by the court.--

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or no later than 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to receive supervision from the department or awaits adoption.

(2) The permanency goals available under this chapter, listed in order of preference, are:

- (a) Reunification;
- (b) Adoption, if a petition for termination of parental rights has been or will be filed;
- (c) Permanent guardianship of a dependent child under s. 39.6221;
- (d) Permanent placement with a fit and willing relative under s. 39.6231; or
- (e) Placement in another planned permanent living arrangement under s. 39.6241.

(3)(a) At least 3 business days before the permanency hearing, the department shall file its judicial review social services report with the court and serve copies of the report on all parties. The report must include a recommended permanency goal for the child, suggest changes to the case plan, if needed, and describe why the recommended goal is in the best interest of the child.

(b) Before the permanency hearing, the department shall advise the child and the individuals with whom the child will be placed about the availability of more permanent and legally secure placements and what type of financial assistance is associated with each placement.

(4) At the permanency hearing, the court shall determine:

- (a) Whether the current permanency goal for the child is appropriate or should be changed;
- (b) When the child will achieve one of the permanency goals; and
- (c) Whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(5) The best interest of the child is the primary consideration in determining the permanency goal for the child. The court must also consider:

- (a) The reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference; and
- (b) Any recommendation of the guardian ad litem.

(6) If a child will not be reunified with a parent, adoption, under chapter 63, is the primary permanency option. If the child is placed with a relative or with a relative of the child's half-brother or half-sister as a

permanency option, the court may recognize the permanency of this placement without requiring the relative to adopt the child.

If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. If the court approves a permanency goal of another planned permanent living arrangement, the court shall document the compelling reasons for choosing this goal.

(7) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.

(8) The case plan must list the tasks necessary to finalize the permanency placement and shall be updated at the permanency hearing if necessary. If a concurrent case plan is in place, the court may choose between the permanency goal options presented and shall approve the goal that is in the child's best interest.

(9) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child. If a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order. At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(10) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

- (a) The compliance or noncompliance of the parent with the case plan;
- (b) The circumstances which caused the child's dependency and whether those circumstances have been resolved;
- (c) The stability and longevity of the child's placement;
- (d) The preferences of the child, if the child is of sufficient age and understanding to express a preference;
- (e) The recommendation of the current custodian; and
- (f) The recommendation of the guardian ad litem, if one has been appointed.

(11) Placement of a child in a permanent guardianship, with a fit and willing relative, or in another planned permanent living arrangement does not terminate the parent-child relationship, including, but not limited to:

- (a) The right of the child to inherit from his or her parents;
- (b) The parents' right to consent to the child's adoption; or
- (c) The parents' responsibility to provide financial, medical, and other support for the child as ordered by the court.

History. -- s. 28, ch. 2000-139; s. 19, ch. 2006-86.

39.6221 Permanent guardianship of a dependent child.--

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

- (a) The child has been in the placement for not less than the preceding 6 months.
- (b) The permanent guardian is suitable and able to provide a safe and permanent home for the child.
- (c) The court determines that the child and the relative or other adult are not likely to need supervision or services of the department to ensure the stability of the permanent guardianship.
- (d) The permanent guardian has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence.
- (e) The permanent guardian agrees to give notice of any change in his or her residential address or the residence of the child by filing a written document in the dependency file of the child with the clerk of the court.

(2) In its written order establishing a permanent guardianship, the court shall:

- (a) List the circumstances or reasons why the child's parents are not fit to care for the child and why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;
- (b) State the reasons why a permanent guardianship is being established instead of adoption;
- (c) Specify the frequency and nature of visitation or contact between the child and his or her parents;
- (d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509;
- (e) Specify the frequency and nature of visitation or contact between the child and his or her siblings; and
- (f) Require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(3) The court shall give the permanent guardian a separate order establishing the authority of the permanent guardian to care for the child, and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of s. 39.202.

(4) A permanent guardianship of a dependent child established under this chapter is not a plenary guardianship and is not subject to the requirements of chapter 744.

(5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.

(6) Placement of a child in a permanent guardianship does not terminate the parent-child relationship, including:

- (a) The right of the child to inherit from his or her parents;
- (b) The parents' right to consent to the child's adoption; and
- (c) The parents' responsibility to provide financial, medical, and other support for the child as ordered by the court.

History.--s. 20, ch. 2006-86; s. 4, ch. 2007-5.

39.6231 Permanent placement with a fit and willing relative.--

(1) If a court finds that reunification or adoption are not in the best interests of a child, the court may place the child with a fit and willing relative as a permanency option if:

- (a) The child has been in the placement for at least the preceding 6 months;
- (b) The relative has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence;
- (c) The relative is suitable and able to provide a safe and permanent home for the child; and
- (d) The relative agrees to give notice of any change in his or her residence or the residence of the child by filing a written document with the clerk of court.

(2) The department and the guardian ad litem shall provide the court with a recommended list and description of services needed by the child and the family in order to ensure the permanency of the placement.

(3) In its written order placing the child with a fit and willing relative, the court shall:

- (a) List the circumstances or reasons why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;
- (b) State the reasons why permanent placement with a fit and willing relative is being established instead of adoption;
- (c) Specify the frequency and nature of visitation or contact between the child and his or her parents;
- (d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509;
- (e) Specify the frequency and nature of visitation or contact between the child and his or her siblings; and
- (f) Require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(4) The court shall give the relative a separate order establishing his or her authority to care for the child and providing other information the court deems proper which can be provided to entities and individuals who are not parties to the proceeding as necessary, notwithstanding the confidentiality of s. 39.202.

(5) The department shall continue to supervise the placement with the relative until further court order. The court shall continue to review the placement at least once every 6 months.

(6) Each party to the proceeding must be advised by the department and the court that placement with a fit and willing relative does not preclude the possibility of the child returning to the custody of the parent.

(7) The court shall continue to conduct permanency hearings in order to reevaluate the possibility of adoption or permanent guardianship of the child.

History.--s. 21, ch. 2006-86.

39.6241 Another planned permanent living arrangement.--

(1) If a court finds that reunification is not in the best interests of a child, the court may approve placement of the child in another planned permanent living arrangement if:

- (a) The court finds a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child;
- (b) The department documents reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care;

(c) The court finds that the health, safety, and well-being of the child will not be jeopardized by such an arrangement; and

(d) There are compelling reasons to show that placement in another planned permanent living arrangement is the most appropriate permanency goal. Compelling reasons for such placement may include, but are not limited to:

1. The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability, and the child's foster parents have committed to raising him or her to the age of majority and to facilitate visitation with the disabled parent;

2. The case of a child for whom an Indian tribe has identified another planned permanent living arrangement for the child; or

3. The case of a foster child who is 16 years of age or older who chooses to remain in foster care, and the child's foster parents are willing to care for the child until the child reaches 18 years of age.

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

(3) The department shall continue to supervise the planned permanent living arrangement until the court orders otherwise. The court shall continue to review the placement at least once every 6 months.

History.—s. 22, ch. 2006-86.