



The Supreme Court of Montana
Office of the Court Administrator

COURT ASSESSMENT PROGRAM

**REASSESSMENT OF
COURT PRACTICE
IN CHILD ABUSE
AND NEGLECT
PROCEEDINGS IN
MONTANA COURTS**

SEPTEMBER 2005

**OFFICE OF THE COURT ADMINISTRATOR
JIM OPPEDAHL**

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MONTANA COURTS**

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Executive Summary

The 7-year old girl was placed into foster care on 5/24/2004 because of physical neglect and exposure to unreasonable risk. Her mother, a single parent, was suspected of using drugs, leaving her children alone or with unqualified care givers, not providing adequately for them and not promoting their health and safety. This wasn't the first time Child and Family Services had been involved with this family. Twenty days following the emergency petition, a show cause hearing was held. Her mother admitted to the allegations and the disposition contained in the petition. The judge, who frequently would be the sole judge on the case, adjudicated the girl as a youth in need of care at the show cause hearing, assigned her a Guardian ad Litem, and also gave Temporary Legal Custody to CFSD. The judge determined that CFSD had made reasonable efforts to keep the child in the home or was making reasonable efforts to return the child home and that it would not be in the best interests of the little girl to return home at this time. He ordered that appropriate services be made available to the family to facilitate reunification, visitation between the little girl, her sibling and her mother take place, and that CFSD evaluate the non-custodial parent and/or other relatives as placement options. Her father was determined not to be a fit and willing parent.

Her mother signed a treatment plan 147 days following the adjudication. The two main goals of the treatment plan were for the mother to receive a psychological evaluation and counseling and a chemical dependency evaluation and treatment, if necessary. Her mother failed this treatment plan and another was ordered at a hearing to extend Temporary Legal Custody. By now, the little girl had spent 263 days, almost nine months in foster care. Three months later, the judge held a permanency hearing for her and issued an order stating reunification continued to be the permanency goal, this goal was in the child's best interest and CFSD needed to make reasonable efforts to achieve it. Several other petitions were filed for court hearings to order more extensions of Temporary Legal Custody or another treatment plan or maybe even to schedule a hearing to terminate the mother's rights.

As of 9/1/2005, the little girl has been in foster care 465 days.

The preceding is a synopsis of a typical case that was reviewed, using the average gender and age of the children reviewed, the most common reasons for their placements, the most common case dispositions and the average time-frames. This case, like many others, had no permanent resolution at the deadline for collecting data.

The amount of time that children are spending in foster care may be concerning to all professionals who make the decisions about their removal, the goals that have to be met before they can return home and ultimately the decision if they can return home at all, but the fact remains that over one third of the children whose cases were reviewed and who remain in out of home care have been in care more than fifteen out of the prior 22 months. The above case is very telling in that, even though the child has been in care less than 15 months, if reunification isn't possible, the child will spend a significant amount of additional time in foster care through a termination of parental rights process, adoption or kinship placement identification before an adoption or guardianship is finalized. Of the cases in which the child has been in foster care for over 15 months, the average length of stay (up to 9/1/05) is 633 days. Again, this time far exceeds the federal recommendations on length of care before the child reaches permanency.

This reassessment has researched the foster care process through an online web survey sent to judges, attorneys, caseworkers, CASA volunteers and foster parents, and case reviews, which were conducted in five counties, chosen by demographic diversity. The data from key players and the court process will lead us to conclusions about the reasons permanency is being delayed for children and Montana's Court Assessment Program's next strategic plan will formulate the corrective action needed to accelerate the process.

I. INTRODUCTION

A. Montana: Demographics

Montana is the fourth largest state in the Union, with 147,046 square miles. It is also one of the least populated states, with a population density of 6.2 persons per square mile. The range for population density is .27 persons per square mile in Garfield County to 49.09 persons in Yellowstone County. The 2004 estimated population of 926,865 ranks 44th in the nation and represents an increase of 14.8% since 1990. According to the 2000 Census, 25.5% of the State's population is under age 18. Median household income for a family is \$40,487, and the per capita income is \$17,151. 25,004 families (10.5%) are living in poverty. Of these families, 19,427 (16.4%) had children under the age of 18 living in the household. This is a significant decrease from the 1990 Census, which reported 12% of families living in poverty and 17.6% of these families having children under 18. The decrease may be due in part to an ever-aging population. In 2000, the median age was 37.5 years, an increase over the 33.8 in 1990, while in 2004, it increased to 39.5.

English is the primary language in Montana with 94.8% of households being English-speaking only. The percent of population claiming to be "Caucasian only" is 90.6%. Native Americans are the largest minority of our population at 6.2%.

Montana is very diversified not only in population, geography and natural resources, but also in the availability of child welfare resources. Sparsely populated areas have few human service professionals, if any, and those needing services may have to drive several hours for chemical dependency treatment, counseling services, or medical treatment.

According to the *2004 Best Practices Database on Child Protection*, Montana ranked 11th in child fatalities, 15th in child victims of abuse and neglect, 36th in child victims with court action and 33rd in the number of children in foster care as of 9/30/2000. (Lowest to highest ranking in the U.S.)

B. Montana Court System

The judicial system of Montana consists of appellate, general and limited jurisdiction courts. These are represented respectively by the Supreme Court, District Courts and the Courts of Limited Jurisdiction. All judges in Montana are elected in non-partisan elections. Seven Supreme Court Justices are elected for eight-year terms. Forty-two District Court Judges serving twenty-two judicial districts serve six-year terms. All other judges serve four-year terms. Since 1996, two new judicial districts have been created and five additional district court judges have been authorized to handle an ever-increasing caseload.

Montana's district courts are general jurisdiction courts. Currently, nine courts in Montana have implemented problem-solving programs in their judicial district. Five family drug courts, two adult drug courts and two juvenile drug courts are located in Montana, in both urban and rural settings. There are no courts specific to only family or dependency/neglect cases. 2003 NCSC publication shows 40 judges in MT with 779 filings per judge. This compares with the national average of 1506 filings per judge.

Montana has no case management system for the district courts. Funding was approved in the 2005 Legislation for this purpose with implementation slated to begin in January 2006. Congressional earmark money has also been approved to help with this task. The Clerks of District Court have a Judicial Case Management System to track dockets, make minute entries, and manage caseloads. Some district court judges have access to this, some use it regularly as a tool and some never access it.

C. Original Assessment Concerns and Corrective Action

The original assessment was completed in 1996. Data was collected statewide by sending questionnaires to professionals involved in the child abuse and neglect system. Five counties within five judicial districts were selected for site visits, based on population and geographic location. Case files were reviewed, interviews with professionals were conducted and court hearings were observed. The following are the main topics of the assessment, concerns that were identified, the action that was implemented to correct any deficits and the date.

Topic	Concern	Corrective action	Completed
1. Case flow management	a. Continuances	a. All participants in the court system be educated regarding the need to limit continuances to those instances when it is absolutely necessary.	a. 1997
	b. Lack of information management	b1. Installation of the Montana Judicial Case Management System (JCMS). b2. Study the integration and access of JCMS and CAPS (Child/Adult Protection System), the case management system of CFSD.	b1. 1997 b2. 1998
2. Representation of parties	a. Lack of available GAL's for children	a1. Develop a CASA program in Lewis & Clark County. a2. Amend the statute to clarify a GAL duty is to represent the "best interest of the child" rather than "the child's interest" and define "best interest".	a1. 1999 a2. 1997
	b. Inconsistency of timely representation of indigent parents	b1. Encourage district court judges to appoint parents' counsel earlier where the respondent does not respond affirmatively to the state's intervention. b2. Research nationally how the appointment of parents' counsel at an earlier stage affects the length and total cost of the individual case.	b1. 1997 b2. 1998
	c. Inconsistent quality of representation for CFS	c. Review grant options and funding sources pursuant to Title IV-E to help pay for attorneys representing CFSD in child abuse and neglect cases.	c. 1997
	d. Lack of training for future attorneys	d. Collaborate with the University of Montana School of Law to determine how child advocacy classes or clinical program may be offered.	d. 1999

<p>3. Consistency in the court system</p>	<p>a. Numerous temporary orders issued in cases.</p> <p>b. Difficulty for court and CFSD in meeting the mandatory timelines.</p>	<p>a. Limit the number of temporary orders by statutory changes.</p> <p>b1. Review use of METNET (Interactive video conferencing) to facilitate timely hearings .</p> <p>b2. Recommend to the Montana Supreme Court that Rule 53, M.R.Civ.P. be revised to allow the use of special masters in exceptional circumstances.</p>	<p>a. 1997, 1999, 2001</p> <p>b1. 1997, 2001</p> <p>b2. 1997</p>
<p>4. Reasonable efforts language within the court's order.</p>	<p>a. Inconsistency in defining reasonable efforts.</p>	<p>a1. Present standards of reasonable efforts at the judicial conference.</p> <p>a2. Promote discussion among all individuals who are involved in litigation of child abuse and neglect cases regarding what constitutes reasonable efforts.</p>	<p>a1. 1997</p> <p>a2. 1998</p>
<p>5. Judicial oversight</p>	<p>a. Judges not issuing orders to address what services need to be made available to children and families, the child's placement, or terms of visitation.</p> <p>b. Social workers do not have the time to advise the court and opposing counsel of the multitude of changing services available to children and their families.</p>	<p>a. Judicial training regarding the reasons why judges' decisions should include specific determinations on issues of placement, services and visitation.</p> <p>b. Develop a link to the to the State Law Library home page listing current services available.</p>	<p>a. 1997</p> <p>b. 1998</p>
<p>6. Review hearings</p>	<p>a. Two different methods of conducting six-month reviews existed, Foster Care Review Committees and Citizen Review Boards.</p> <p>b. Post-termination hearings were not being held within 180 days.</p>	<p>a. Evaluate the two review bodies and propose a recommendation for a single system.</p> <p>b. CAP personnel attend a County Attorney Association meeting and a judges' conference to remind attorneys and judges of the necessity and usefulness of the post-termination hearings.</p>	<p>a. 1998, 2001</p> <p>b. 1998</p>

<p>7. Indian Child Welfare Act</p>	<p>a. Judges and attorneys need training on both understanding the Tribal perspective of ICWA and implementing the technical requirements of the Act.</p> <p>b. Transfer of jurisdiction of ICWA cases was not being done in eligible cases.</p> <p>c. Lack of ICWA reference in Montana Codes Annotated.</p>	<p>a. ICWA training for judges and attorneys will be offered at twelve sites in the state, with a facilitator and Tribal representative at each site.</p> <p>b. Educate the state and tribal court systems on both the tribes' right of jurisdiction and the importance of early notification to and intervention of the tribe.</p> <p>c. Introduce statutory language in the 1997 Legislature.</p>	<p>a. 1997</p> <p>b. 1998</p> <p>c. 1997, 2005</p>
<p>8. Montana Adoption Laws</p>	<p>a. Montana statutes regarding adoption are scattered within the law, making the adoption process hard to follow.</p> <p>b. Lack of putative father's registry.</p> <p>c. Lack of mandatory counseling as a prerequisite to relinquishing parental rights, appointment of legal counsel to minor parents placing a child through a direct parental placement adoption, and safeguards regarding direct parental placement adoptions.</p> <p>d. Statutes on involuntary termination of parental rights are scattered and conflictual.</p>	<p>a. Redraft and introduce a logical organization of the statutes in the 1997 Legislature.</p> <p>b. Propose legislation to establish a putative father's registry.</p> <p>c. Propose legislation requiring counseling prior to voluntary relinquishment of parental rights, requiring legal representation for minor parents seeking to place a child through a direct parental placement adoption, and requiring that the placing parent be provided with the prospective adoptive parents' preplacement evaluation and any adoption petition that has been denied.</p> <p>d. Propose one consistent set of standards for termination of parental rights for adoption proceedings.</p>	<p>a. 1997</p> <p>b. 1997</p> <p>c. 1997</p> <p>d. 1997</p>

D. Statutory changes affecting assessment concerns

A number of statutory changes, in addition to the ones proposed in the original assessment and passed in the 1997 Legislature, have been enacted that affect the concerns identified. These are listed with the corresponding number from the above table.

2b) In the 2003 legislature, a Senate Joint Resolution was passed to study representation for indigent persons. The study, in part, looked at the timeframes in which indigent parties were assigned counsel in dependency cases. In the 2005 Legislature, the Public Defender bill, which was drafted as a result of the SJR and authorized the creation of a statewide public defender system, was passed into law: Title 47, Chapter 1, Montana Codes Annotated. Two sections of the law pertain directly to dependency cases:

47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at public expense.

(4) Beginning July 1, 2006, a court may order the office to assign counsel under this chapter in the following cases:
(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant [41-3-422](#) and as required under the federal Indian Child Welfare Act, as provided in [41-3-425](#);

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(b) A private attorney who is contracted with under the provisions of [47-1-216](#) to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest.

This new statute remedies the former statutory requirement of appointment of counsel when a petition to terminate parental rights was filed and, based on national statistics, will hasten permanency for children. It also corrects the conflict of interest that was occurring in public defender offices around the state when employees of the same office were assigned as counsel to parents and also to serve as a guardian ad litem for the child. Often, the Chief Public Defender who was assigned as the child's GAL found himself/herself in an adversarial role with employees that he/she supervised when they were assigned as counsel for parents.

3a) The Court Assessment Program was instrumental in introducing a statutory change in the 1999 Legislature to decrease the required number of days in which a show cause hearing needed to be held, once an emergency placement order was issued. Based on a national trend of expedition, the change decreased the number of days from twenty to ten. This bill passed into law. In the 2001 Legislature, this statute was amended to change the time frame back to twenty days, with proponents stating ten days was not enough time to adhere to the legal requirements prior to the show cause hearing.

6a) In 1998, a Legislative Fiscal Division study of Foster Care Review Committees (FCRC) and Citizen Review Boards (CRB) was completed and a recommendation was made to create one statewide review system utilizing the best practices of both. In 2001, a proposal was introduced to the Legislature to implement a single statewide system. The fiscal note on this bill, however, was seen as prohibitive and the bill was tabled. In 2003, during the final free conference committee meeting, the funding for the CRB program was not approved. Child and Family Services Division was forced to implement FCRC in the five judicial districts that CRB's had served, but no additional money was appropriated to assist CFSD in this task. Even though FCRC's are the only review program funded, the scope and presence of these programs differ across the state. A pilot CRB program continues to operate in one judicial district and another has implemented a hybrid program, combining practices from both FCRC and CRB. Because of the lack of consistency of review boards in the state, the absence of FCRC recommendations in the court case files, and the confidentiality of

the CAPS system, questions concerning the six-month reviews were not included in the survey questions.

In 2005, a bill was passed that enhanced the duties of the FCRC's and CRB's to include holding permanency hearings with the approval of the court. This change was implemented to try and correct the problem of permanency hearings not being held timely, as ascertained in the 2003 IV-E audit.

7c) Another bill was passed in the 2005 Legislature that defined terms related to implementation of the federal Indian Child Welfare Act and clarified the role of a qualified expert witness in a dependency case.

E. CAP projects to enhance court services

The Court Assessment Program has been instrumental in promoting, funding, and implementing numerous programs in Montana to enhance court services. These have been detailed in the annual reports, but several bear mentioning here because of their statewide impact.

In 1998, Montana was awarded a National CASA grant that was used to hire a State Director. The Director has taken scattered programs across the state and made them part of a cohesive unit. There are now seventeen local programs and one Tribal program that assist the courts in dependency cases. A State CASA Board of Directors was recently formed as a non-profit organization, which will concentrate on funding, program sustainability, public relations and promotion.

In 2001, a COPS grant was awarded which allowed the installation of video conferencing equipment and dedicated lines to courthouses across Montana. To date, there are 34 sites that are utilized for hearings, meetings and trainings. This has considerably decreased the travel time formerly being used to attend these functions.

Also in 2001, a SAMHSA grant was awarded to implement the Yellowstone County Family Drug Treatment Court, the first family court in Montana. This led the way to the formation of several more family drug courts across the state. With the main drug of choice among drug court clients being methamphetamine, children who were severely neglected and/or abused, are reaching permanency in significantly less time than children in a control group. CAP has successfully applied for congressional earmark funds to help these and other drug courts continue to operate.

In 2004, a minigrant application process was developed to fund worthwhile programs statewide that would help ensure children's permanency. Projects selected include a forensic interview room in Wolf Point in northeastern Montana, numerous parent education programs, startup and sustaining funds for CASA programs, assessments of domestic violence and parental drug use on children, and start-up funding for a juvenile drug court.

F. CFSR results and the Program Improvement Plan

Montana had several areas that were identified in the CFSR as needing improvement and the reassessment was focused in part on these same areas to determine if the courts are assisting or could assist CFSD with its program improvement plan (PIP).

The following is an outline of the areas that did not meet the federal percentages for compliance:

Section 1: Outcome

I. Safety

1. First and foremost, children are protected against abuse and neglect
 1. Timeliness of initiating investigations of reports of child maltreatment
 2. Repeat maltreatment
2. Children are maintained in their home whenever possible
 4. Risk of harm to children

II. Permanency

1. Children have permanency and stability in their living situations.
 5. Foster care re-entries.
 6. Stability of foster care placements
 7. Permanency goal for children
 8. Reunification, guardianship or permanent placement with relatives
 9. Adoption
 10. Permanency goal of other planned permanent living arrangement
2. Continuity of family relationships and connections is preserved for children
 13. Visiting with parents and siblings in foster care
 15. Relative placement
 16. Relationship of child in care with parents

III. Child and Family Well-being

1. Families have enhanced capacity to provide for their children's needs.
 17. Needs and services of child, parents and foster parents.
 18. Child and family involvement in case planning.
 19. Worker visits with child.
 20. Worker visits with parents.
 22. Physical health of the child.
 23. Mental health needs of the child.

Section 2: Systemic Factors

V. Case review system

25. Provides a process that ensures that each child has a written case plan to be developed jointly with the child's parent(s) that includes the required provisions.
26. Provides a process for the periodic review of the status of each child, no less frequently than once every six months, either by court or administrative review
27. Provides a process that ensures each child in foster care under the supervision of the State has a permanency hearing in a qualified court or administrated body no later than twelve months from the date the child entered foster care and no less frequently than every twelve months thereafter.

VI. Quality Assurance System

30. The State has developed and implemented standards to ensure that children in foster care are provided quality services that protect their safety and health.
31. The State is operating a quality assurance program . . . and will be systematic in reviewing cases for quality assurance.

CFSD submitted its PIP in 2003 for federal approval. The former CAP coordinator, Sherry Meador, was listed as a State PIP member, as was the current coordinator (then a representative of the Citizen Review Boards program). Other members included CFSD personnel, two employees of the Casey Family Program and the supervisor of the Citizen Review Board program. The PIP outlined the corrective action steps needed to improve each of the areas cited and the date the corrective action would be achieved. The PIP was slated to be completed by July 2005, with the next federal audit scheduled for March 2007.

II. REASSESSMENT

G. Tools

The reassessment was conducted using an online survey and case file reviews. In the original assessment, five counties were selected for case file reviews, interviews and court observations. These same five counties, Yellowstone, Hill, Lincoln, Lewis & Clark and Cascade were chosen again for consistency. These counties represent both urban and rural populations, different geographical areas of the state and two counties include a population indigenous to nearby Indian Reservations.

Questions on the reassessment were formulated using the original assessment, ASFA requirements, CAPTA recommendations and the areas needing improvement that were identified in the 2002 federal Child and Family Services Review. The purpose for this was to assess the success of the corrective actions taken on the areas of concern from the original assessment and to identify any new areas of concern.

- 1) The survey was developed on an online web survey system, Websurveyor.com. Questions were formulated for CASA volunteers, district court judges and special masters, attorneys, CFS caseworkers and supervisors, and foster parents. Email lists for CFS personnel, judges and special masters were compiled from state email addresses. The email list for CASA volunteers was done with the cooperation of the CASA program directors. Volunteers who did not have email addresses or who preferred their email address not be given out were mailed surveys, either directly or through the program director. An email list for the attorneys was compiled using every available resource, i.e. the Lawyers' Deskbook and Directory, published by the State Bar of Montana, through collateral contact, and by referral from other attorneys. Foster parents were a harder group to contact, because of confidentiality of names and addresses. A link to the web survey was published in the Montana State Foster/Adoptive Parent newsletter along with a short article describing the reassessment and the importance of receiving foster parent input on the survey.

A total of 734 surveys were mailed out online and 50 were sent through the Postal Service. Of the online surveys, 685 were successfully received by the recipients. Total response was 278 surveys, both online and hardcopy, constituting a 40.58% response rate. Categorically, CASA Volunteers had the highest response rate with 41%, followed by CFS caseworkers with 40%, judges with 33% and attorneys with 22.8%. A percentage rate for foster parents' responses was not possible to ascertain, but responses from foster parents were 2.9% of the overall responses received.

Questions were formulated to address the areas needing improvement identified in the CFSR and that were addressed in the PIP, as well as procedural questions on court practice. An area for unlimited text was available at the end of the survey in which to describe any suggestions for improvement or areas of concern. The comments made will be incorporated into the body of the report, as appropriate.

- 2) The federal CFSR selected cases in three of the same five counties selected for review in the reassessment, namely Yellowstone, Cascade and Lewis & Clark. Areas needing improvement were identified in the federal audit and CFSD developed and implemented their PIP to address these areas. Not wanting to reidentify problems that had already been included in the PIP, cases for review were limited to cases that have opened since October 1, 2003 and were open for at least six months, so as to have enough history to review. The Judicial Case Management System (JCMS) was utilized to obtain listings from Lincoln, Hill, Lewis & Clark and Yellowstone counties. Cascade County operates a county computer

database that was queried for a listing in that county. All cases identified as having been opened since 10/1/2003 were screened for eligibility. If a case met the eligibility criteria, one child was randomly selected in each case and the case file review form was completed for that child only. If a subsequent child was born during the history of the case and the cases were combined, the subsequent child's case was deemed ineligible since a sibling was being reviewed. The same held true if siblings were separated under different cause numbers due to a difference in case dispositions. Time lines were calculated from date of placement to 09/01/2005.

The counties entered cases on JCMS using different criteria, which identified some cases that were ineligible for review. This inconsistency in tracking cases on JCMS has been addressed by the Montana Supreme Court, which ordered uniform statewide case opening and closure criteria to be implemented by January 1, 2006.

The following is a list of the number of cases identified in each county, the number reviewed and the reasons cases were deemed ineligible.

County	# of cases eligible	# of cases reviewed	# of cases not reviewed	Reason for ineligibility
Cascade	138	105	18 2 1 4 4 2 2	Open less than six months Transferred to Tribe or other county Case transferred to L&C County Cases appealed to Supreme Court Combined with siblings' case Case opened prior to 10/1/03 File not found
Hill	9	7	1 1	Open less than six months Parents took child to the reservation within six months of the open date- jurisdiction was lost
Lewis & Clark	55 + 1 transfer	18	24 9 4 1	Private adoption cases Surrogate parent cases Open less than six months Case changed venue within six mo.
Lincoln	20	8	6 1 3 1 1	Open less than six months Case separated from siblings' case Case opened prior to 10/1/03 Inaccurate number- no case exists CPS investigation for other state
Yellowstone	121	88	22 3 7 1	Open less than six months Case combined with siblings' case Surrogate parent case File not found

H. Reassessment results: CFSR PIP

The results of the reassessment have been compiled into two segments, one for data that addresses the PIP and one for data that relates to the concerns identified in the original assessment and identifies new concerns.

The online survey was sent to potential respondents without regard to length of time of service or employment in the child abuse and neglect field. Several respondents made it clear in the “Comments” section of the survey that because of a lack of experience, usually due to being newly hired or appointed to the position, questions of which they had no knowledge or experience were left blank. Comments were received from CFS staff as to their inability to answer questions outside the scope of their duties. In larger CFS offices, staff is assigned to Intake and Intervention Units, so respondents could only answer questions as to the part of the court process in which they are involved. Because of this, the results of certain questions may be skewed and not reflect true results.

Questions were sometimes asked differently of the respondent groups, such as in the third-person for questions pertaining to court practice for CASA volunteers, caseworkers, attorneys and foster parents and in the first-person for judges, i.e. “How often does the court address . . . in its court orders” as compared to “How often do you address . . . in your orders”. Many of the multiple-choice answers were the same for all groups and the results have been combined for reporting purposes where appropriate.

The data is listed by question, the respondents, and the responses. For example, the question “How are hearings scheduled?” was asked of all groups of respondents. The responses of each group is depicted in charts, labeled by group, or combined to show the overall response.

Survey questions corresponding to the CFSR Program Improvement Plan, by section

Safety:

Some areas of the CPS case process happen previous to the court’s involvement in a case or in an area which the court may have no control, such as **Safety-S1: *Timeliness of initiating investigations of reports of child maltreatment.*** In **Safety-S2: *Repeat maltreatment,*** CFSD maintained that the noncompliance was due to a duplicate data entry and not to reoccurrence of maltreatment. No questions on the survey or the case file review form addressed these issues.

Safety-S4 addressed the ***risk of harm to the children.*** In its initial court order, the court should make findings as to what services were or are being provided to prevent the children’s removal from or to allow the children’s return to the home. There were numerous questions or parts of questions on the survey that addressed the adequacy, assessment, availability, and court findings of services needed by the child, the family, or both, if these services were being utilized and if these services were alleviating the reason the child was placed into care. In addition, the case file reviews researched findings in court orders to determine how often children were placed into foster care who did not meet the definition of being abused and neglected. In only two cases, or 1.4%, did the judge actually make this finding. This indicates that CFSD is very aware of the criteria determining a child as a youth in need of care, are utilizing available services to prevent removal, and are not placing children into foster care unless absolutely necessary.

In response to the question “How often do witnesses testify or give input regarding the following issues?”, the following answers were received:

“How often do witnesses testify or give input regarding the following issues?”	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
The type of services and assistance provided to the family.	5.2%	41.7%	22.9%	16.7%	13.5%
The CFS worker's diligence to make sure assistance was provided.	10.6%	25.5%	22.3%	26.6%	14.9%
The sufficiency or appropriateness of the services offered.	9.7%	30.1%	19.4%	32.3%	8.6%

“How often does the judge issue orders concerning specific services to be provided for the child and/or family?”	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
CASA volunteers	9.4%	29.2%	27.1%	26.0%	8.3%
CFS Caseworkers	22.0%	41.5%	36.6%	0.0%	0.0%
Judges	0.0%	14.3%	28.6%	50.0%	7.1%
Attorneys	11.4%	14.3%	5.7%	48.6%	20.0%

Judges were asked how often the issues of services were addressed during hearings. Their response was:

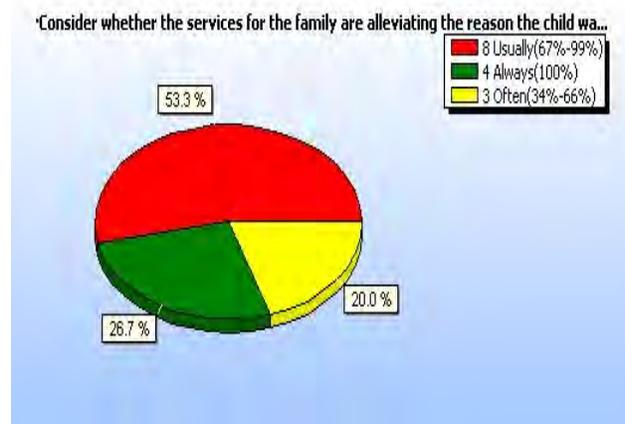
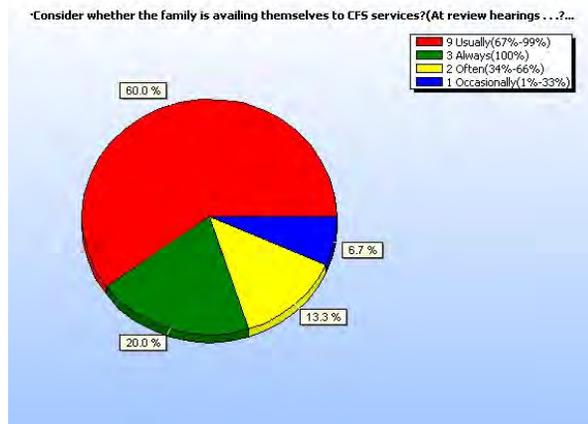
	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
At the show cause hearing, how often do you order services for parents . . .	6.7%	13.3%	13.3%	60.0%	6.7%
And how often do you order services for the child?	6.7%	6.7%	6.7%	66.7%	13.3%
At the adjudicatory stage, how often to you issue orders concerning types of services to be provided to the child and family?	7.1%	14.3%	28.6%	50.0%	7.1%

Attorneys were asked how often they presented evidence regarding services to the child and parents. Their response was:

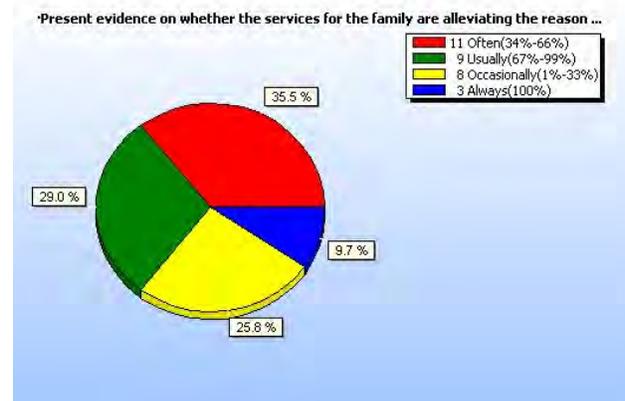
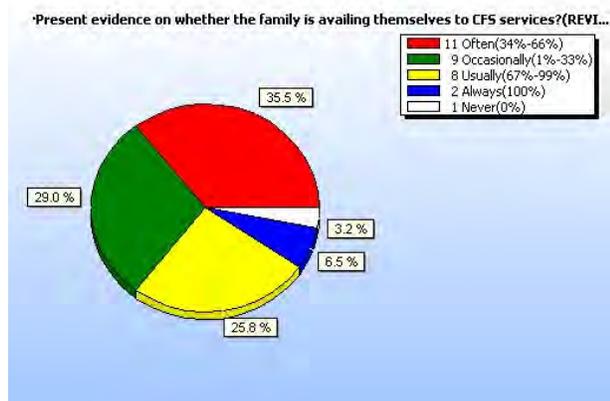
	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
How often do you present evidence regarding services for the child?	6.1%	21.2%	15.2%	27.3%	30.3%
How often do you present evidence regarding services for the parents?	3.0%	12.1%	12.1%	36.4%	36.4%
How often do you make recommendations concerning types of services to be provided to the child and family?	3.0%	27.3%	12.1%	48.5%	9.1%

In over 93% of the case files reviewed, the court order contained language that reasonable services had been provided to the parent to prevent removal of the child or to make it possible for the child to safely return home (absent a finding that reasonable efforts are not required).

Judges, when asked during review hearings if they considered whether the family is availing themselves to CFS services and alleviating the reason the child was placed, answered:



Attorneys, when asked the same question responded:



CFSD has developed and implemented a safety and risk assessment system with the help of The National Resource Center on Child Maltreatment. The system is based on three safety constructs: threats of harm, child vulnerability and protective capabilities. This is designed to assess the child's safety in the home and if removed, at reunification, thus decreasing the risk of harm to the child. If a copy of the assessment were made available to the court, this additional information could be used to assess whether reasonable efforts were made in the initial order and also used during review hearings to assess whether services are being utilized, new services are needed and the impact of these factors of the child's health and safety.

Permanency:

Permanency P-5 and P-6 dealt with the number of *reentries into foster care* and the *stability of foster care placements*. On the case file review form, the question "Was a case plan filed with the court?" was asked, referring to the Federal Foster Care Case Plan for the child. Case plans were not found in the court files in any of the five counties surveyed. Several questions on the judges' survey asked if case plans were presented and reviewed for appropriateness and their

responses indicated they had access to case plans. There may be some confusion between case plans and parents' treatment plans, or it may be that the child's case plan is given to the court verbally.

The case plan has, in part, a section where foster care placements, the reasons for removal, the dates of the placements and the foster parents' names are listed. This is a document that the court could utilize to familiarize itself on the child's re-entries into foster care and the number of placements a child has had. The case plan is not statutorily required to be made available to the court or to be included with the social worker's affidavit.

CFSD has recently changed the format of the Federal Foster Care Case Plan and incorporated it with the parents' treatment plans. The CAP coordinator was asked to critique the document from the court's perspective. Several of the cases that were reviewed in Hill County contained this newly formatted document, which was found to be a concise, comprehensive document with a wealth of information available to the court about the child's life- where he's been, where he is at presently and the future plans for him.

Permanency P-7 concerns the *permanency goals for children*. Again, the new case plan/treatment plan has been formatted with a section where the permanency goal for the child will be documented. Since the original assessment, CFSD has implemented new policy regarding permanency goals for children in foster care with the development of concurrent plans by offering Family Group Decision Making meetings to every family and holding permanency-planning meetings in every case. This strategy also impacts **P-8: *Permanency, Guardianship and Permanent Placement with Relatives***, **P-10: *Permanency Goal of Other Planned Living Arrangements*** and also **P-9: *Adoption***, which was in non-compliance with a 33.2% standard as compared to the national standard of 32%. CFSD maintained that Montana was in compliance in this category, but because adoption records are sealed, timely adoption cases could not be examined during the review. Diligent efforts to pursue adoption or the reasons why adoption is not in the child's best interest will be listed on the new case plan.

P-13: *Visiting with siblings and parents in foster care* deals with the lack of continuing contact between parents and/or siblings when a child is placed in out-of-home care and when siblings aren't placed together. Questions pertaining to parent/child visitation and sibling visitation were asked of survey respondents.

"How often does the judge issue orders concerning visitation for parents or guardians in cases where an out-of-home placement has been ordered?"	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
CASA Volunteers	6.5%	30.4%	23.9%	27.2%	12.0%
CFS Caseworkers	17.9%	46.2%	35.9%	0.0%	0.0%
Judges	0.0%	13.3%	13.3%	60.0%	13.3%
Attorneys	22.9%	25.7%	20.0%	25.7%	5.7%

How often does the judge issue orders concerning visitation for siblings when they are separated?	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
CASA volunteers	15.7%	27.7%	24.1%	22.9%	9.6%
CFS Caseworkers	62.5%	22.5%	15.0%	0.0%	0.0%

There was a variance among the answers to the preceding questions. Case file reviews noted that judges addressed visitation in about one-half of the cases in its show cause orders, and in 53.5% of the cases in its adjudication orders.

CFSD has committed to refocus an Access and Visitation grant from child custody visitation to supervised visitation of children and their parents by developing good tools for constructing meaningful visitation. **P-16: *Relationship of child in care with parents***, also deals with visitation between children and parents and the effect the visitation, or lack there of, has on the relationship between a child and a parent. Development of the visitation tool to assess dynamics and strengthen relationships is a means of correcting this deficit. The court can assist by including visitation in its orders.

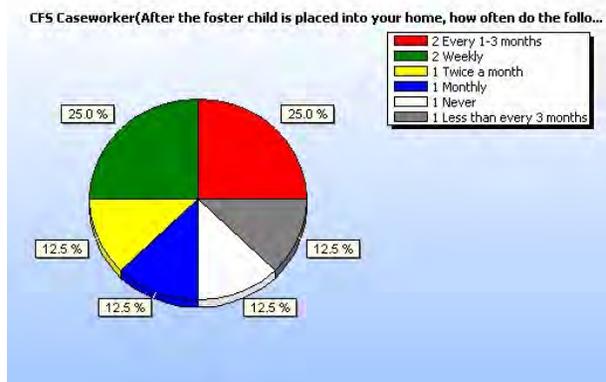
P-15: *Relative Placement*, recognized that CFSD focused on relative placements at the onset of cases, but failed to pursue these placements if the initial placement disrupted. Family Group Decision Making meetings are being utilized to alleviate this oversight. This information could be made available to the court through, again, the case plan. The court can then monitor the success of placements and the reasons other relative placements may or may not be in the child's best interest.

Well-being:

Families having the capacity to provide for their children's needs was the focus of this category with **WB-17** specifically looking at the needs and services of children, parents and foster parents. Since there wasn't a tool to document which services were needed, it may have contributed to the perception that needed services weren't being provided. A tool that guides the social worker in assessing behaviors was incorporated in developing a case plan. The results of these behavioral assessments and the ensuing services needed will be evident to the court in the case plan. Again, as outlined in S4 above, the survey indicates that the judges, CFS caseworkers, attorneys and CASA volunteers are all cognizant of services being provided to the child and/or to the parents, whether parents are utilizing the services, and whether the services being provided are alleviating the need for the child's placement.

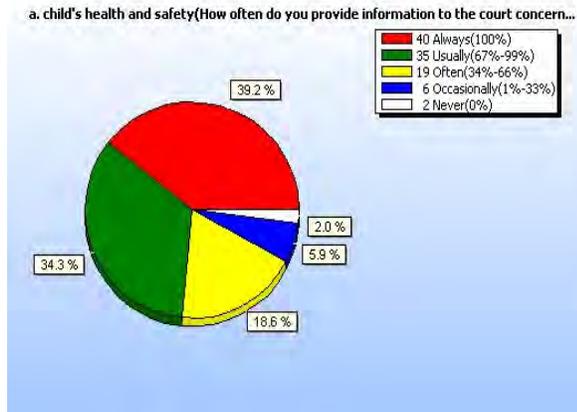
WB-18: *Child and family involvement in case planning* was found to be inadequate. Corrective action includes the expanded use of Family Group Decision Making meetings. This will be documented on the case plan as well.

Only one question of the online survey dealt with **WB-19: *Worker visits with the child*** and no questions dealt with **WB-20: *Worker visits with the parent(s)***. In regards to WB-19, foster parents were asked how often caseworkers visited. Their response was:

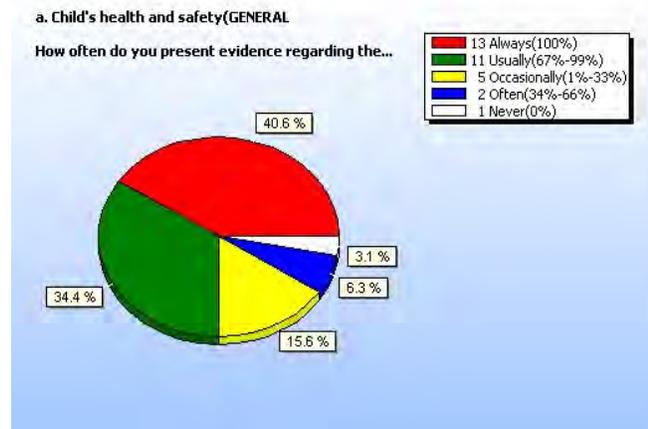


The court has no way of knowing if the caseworker has visited the child or had contact with the parents because of the lack of documentation of personal contact in records made available to the court. (The above results represent a small fraction of the state's foster parents and may not accurately reflect the number of visits on a statewide basis.)

CFSD stated that one of the reasons that **WB-22, *The physical health of the child***, was found to be in non-compliance was because of a lack of requests for court orders that authorize routine medical care and physical examinations. Also, if a child remains in his home, without a court order, CFSD has no legal authority to require routine health care. Caseworkers indicated the following when asked how often information regarding the child's health and safety is provided to the court:



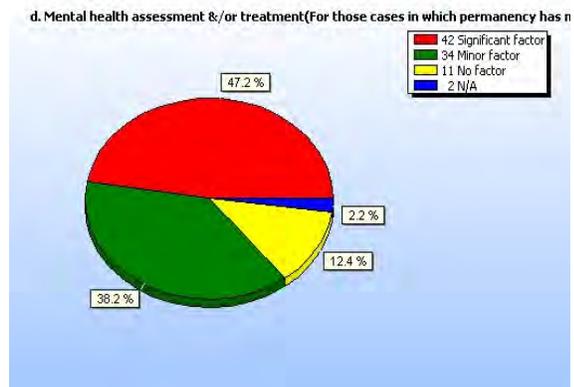
Attorneys were also asked how often they presented evidence to the court about a child's health and safety. Their responses:



The PIP also stated the lack of Medicaid providers is an ongoing challenge in obtaining routine health and dental care for children. CSED noted that their goal for compliance in this area was small due to their inability to influence economic factors in the state. The court may be able to provide a needed order, but it too is unable to guarantee routine medical care will be available to the child. The same holds true for **WB-23: *Mental health needs of the child***: In addition to a lack of Medicaid providers, Montana has experienced a budget crisis in the past several years, which has drastically cut mental health services available to children. In the 2005 Legislature, a Joint Senate Resolution (SJR 41) was passed to study the current mental health crisis and prepare recommendations to be presented in the 2007 legislative session.

The CFS caseworkers' response to a question concerning permanency indicates that mental health assessments and treatment are a significant factor in delaying permanency in cases in which permanency hasn't been achieved within one year of placement. The question was not specific to parents or children, but it can be assumed that children's mental health issues were included in the responses. Since the responses were anonymous, it's difficult to determine what factor geographic location plays in the delay. Rural areas in Montana have a very limited number of service providers, especially in the mental health field and of those available, Medicaid rates may limit the number of Medicaid recipients they opt to treat.

Caseworkers responses:



The majority of judges also stated they usually order mental health evaluations/treatment at the adjudication or dispositional hearings. One third of them agreed with the caseworkers that mental health assessments/treatment are a significant factor in delaying permanency. Almost two-thirds of attorneys classified mental health assessment/treatment as a significant factor also. As one attorney stated: *“It would be helpful as a parent’s attorney to have more support for mentally ill parents who are motivated to parent but need more community support. I practice in Yellowstone County and the Drug Court has been a huge resource for parents and children in abuse and neglect cases.”*

Case Review System

The actions steps to correct **CR-25: Provides a process that ensures that each child has a written case plan to be developed jointly with the child’s parent(s) that includes the required provisions** include invitations to parents and children to attend the six-month reviews. This will give the parents the opportunity to participate in the process of developing their child’s case plan.

CR-26: Provides a process for the periodic review of the status of each child, no less frequently than once every six months, either by court or administrative review was found to be in non-compliance because reviews weren’t being held consistently for youth in long-term case and also because stakeholders felt the reviews in Yellowstone County were perfunctory, which was also identified in the Legislative Services Audit in 1998. Judges concerned about a lack of substantive reviews in their districts had the option of asking for Citizen Review Boards (CRB) to be created in their judicial districts after the CRB pilot program was approved in the 1993 Legislature. CRB’s operated in five judicial districts before losing funding in the 2003 Legislature. During this time, many stakeholders became aware of the merits of a more in-depth look at a child’s case. CFSD has developed curriculum and has completed training for FCRC members. It also plans to initiate training for FCRC members in conducting permanency hearings, newly allowed by statute if approved by the local district court, which in many cases will be held in conjunction with the bi-annual review.

Currently, there is no system operating within the courts in Montana to track six-month reviews. In the 2005 Legislature, money was appropriated for a court case management system. Implementation of the system is slated to begin in January 2006. This system will have the capability to track mandatory timelines for each case, alerting the court if a required hearing is delinquent or absent.

There was confusion about whether long-term foster care cases had to be reviewed in some areas of the state since long-term foster care, a former phrase that included the new planned permanent living arrangement, was thought to be a type of permanency. The statutes were interpreted as stating that reviews weren’t necessary once permanency was achieved. It was later determined that as long as CFSD had continuing custody of the child, both six-month reviews and permanency hearings were mandatory. On the 224 cases reviewed, 105 had timely permanency hearings, 21 didn’t and 94 did not have one because the child hadn’t been in care for 12 months or longer.

CFSD stated one of the reasons for non-compliance with **CR-27: *Provides a process that ensures each child in foster care under the supervision of the State has a permanency hearing in a qualified court or administrated body no later than twelve months from the date the child entered foster care and no less frequently than every twelve months thereafter*** is the complete reorganization of several statutes to conform with ASFA and that county attorneys have not yet familiarized themselves with the new requirements, i.e. some counties are closing cases after a termination of parental rights is ordered. In addition, some judges feel that if, after 12 months of a child being in foster care, they make a finding at a permanency hearing that a petition to terminate parental rights (TPR) should be filed, they are making a judgment that TPR should happen without hearing the facts of the case.

The IV-E Federal Audit that was conducted in Montana in August 2003 discovered that a large number of the sampled cases did not hold a timely permanency hearing or the order was not issued timely, resulting in Montana having to reimburse a large amount of IV-E monies. The case reviews indicate these deficits may not be as big a problem as two years ago. In less than 10% of the cases reviewed was a permanency hearing due and not held and in 21.65% of the cases was the required hearing not held timely. The average length of time to issue an order following a permanency hearing was 10 days, with a range of 0-87 days. Of the six orders that weren't issued within 30 days, the average length of time was 53.3 days. Shirley K. Brown, Administrator of Child and Family Services, addressed district court judges at the semi-annual Montana Judges' Association conference in May 2005 and addressed the importance of timely permanency hearings and orders. As in CR-25, the new case management system should assist in correcting this deficit, having the capability to alert the court of impending hearing deadlines.

Quality Assurance System

QA-30: *The State has developed and implemented standards to ensure that children in foster care are provided quality services that protect their safety and health* dealt with both the lack of face-to-face contact with a child and the lack of a protocol to increase the number of children in a foster home while ensuring the children's health and safety. Caseworker contact with foster children was addressed in WB 17-20. Corrective actions for parent/child visitation, parent and child participation in developing the case plan, and child assessments will also ensure more face-to-face contact. Licensing standards were developed and implemented by CFSD. Again, information on these issues is not usually made available to the court. However, the court can be informed by CFSD through the caseworker's affidavit and a case plan of compliance with the newly adopted standards.

QA-32: *The State is operating a quality assurance program . . . and will be systematic in reviewing cases for quality assurance.* CSFD has developed and implemented a quality assurance systematic review process along with several other corrective measures. This does not involve the court except that better case management and operation will help to ensure more timely permanency for children.

I. Reassessment Results: Court Process

a. Continuances

In the original assessment, continuances of hearings were a major concern. The corrective action of educating judges and other participants in the court system to limit granting or requesting continuances except when absolutely necessary was completed in 1997. In the case file reviews, continuances were granted for show cause hearings in 42.4% of the cases reviews, for adjudicatory hearings in 46.5% of the cases and for TLC hearings in 45.6%, leading to the conclusion that continuances persist in prolonging a child’s stay in the system. (Total number of continuances granted may be inflated since adjudication and temporary legal custody hearings may be combined.)

The online survey responses also indicate this is true. Responses to the following related questions are listed below:

“How often are the following hearings continued?”

CASA Volunteers	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Don't know
a. Show Cause	23.5%	43.9%	14.3%	5.1%	3.1%	10.2%
b. Adjudication/Disposition	13.5%	44.8%	20.8%	5.2%	3.1%	12.5%
c. No Reunification	16.5%	31.8%	17.6%	1.2%	0.0%	32.9%
d. Review	17.6%	46.2%	12.1%	4.4%	2.2%	17.6%
e. Permanency Planning	15.4%	41.8%	18.7%	8.8%	2.2%	13.2%
f. Termination of Parental Rights	13.6%	36.4%	23.9%	6.8%	3.4%	15.9%
g. Post TPR Review	21.4%	41.7%	9.5%	0.0%	2.4%	25.0%

(The choice of “Don’t know” was given to CASA Volunteers who may not have been familiar with the court process due to a lack of experience. Other respondents were not given this choice.)

CFS Caseworkers	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	27.5%	53.8%	13.8%	1.3%	3.8%
b. Show cause	2.2%	63.7%	23.1%	7.7%	3.3%
c. Adjudication/ Disposition	1.1%	54.3%	30.4%	14.1%	0.0%
d. No Reunification	9.1%	48.1%	31.2%	10.4%	1.3%
e. Review	9.4%	76.5%	9.4%	4.7%	0.0%
f. Permanency	11.5%	70.1%	13.8%	3.4%	1.1%
g. Termination of Parental Rights	1.2%	32.9%	31.7%	29.3%	4.9%
h. Post Termination Review	19.0%	70.9%	8.9%	1.3%	0.0%

Judges	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	0.0%	66.7%	6.7%	20.0%	6.7%
b. Adjudication/Disposition	0.0%	66.7%	20.0%	13.3%	0.0%
c. No Reunification	7.7%	69.2%	7.7%	15.4%	0.0%
d. Review	6.7%	73.3%	6.7%	13.3%	0.0%
e. Permanency	6.7%	66.7%	13.3%	13.3%	0.0%
f. Termination of Parental Rights	0.0%	60.0%	20.0%	20.0%	0.0%
g. Post TPR Review	0.0%	80.0%	6.7%	13.3%	0.0%

Attorneys	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	15.6%	75.0%	3.1%	3.1%	3.1%
b. Show cause	0.0%	75.8%	18.2%	6.1%	0.0%
c. Adjudication/ Disposition	0.0%	63.6%	27.3%	9.1%	0.0%
d. No Reunification	0.0%	71.9%	18.8%	9.4%	0.0%
e. Review	3.0%	78.8%	12.1%	6.1%	0.0%
f. Permanency	3.0%	78.8%	3.0%	15.2%	0.0%
g. Termination of Parental Rights	3.0%	60.6%	15.2%	21.2%	0.0%
h. Post TPR Review	10.0%	83.3%	0.0%	6.7%	0.0%

The following responses were received when asked who requested the continuances:

Who usually asks for the continuance?	CASA	CFS Caseworkers	Judges	Attorneys	Average
Guardian ad litem	3.4%	1.0%	0%	0%	1.1%
CFS Attorney	27.3%	17.0%	13.3%	27.8%	21.35%
Parent Counsel	55.7%	78.0%	86.7%	69.4%	72.28%
Judge	13.6%	4.0%	0%	2.8%	5.1%

Parent counsel was named as most often asking for the continuance, with CFS attorneys being named second. In the cases reviewed, continuances of the show cause hearings and the adjudicatory hearings resulted in children staying in foster care an average of 28.43 days longer than if those hearings were not postponed.

Judges and attorneys were also asked the reasons for the continuances. Their responses are as follows:

Attorneys:

Please indicate how frequently the following factors cause hearing continuances in the court process.	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Failure to identify or locate parents	5.7%	57.1%	20.0%	14.3%	2.9%
b. Lack of or delay in the service of process on parents	5.7%	60.0%	17.1%	17.1%	0.0%
c. Lack of service on tribe in ICWA cases	23.5%	55.9%	14.7%	5.9%	0.0%
d. Appointment of attorneys for parent(s) delayed	25.7%	60.0%	8.6%	5.7%	0.0%
e. Appointment of guardian ad litem delayed	73.5%	23.5%	2.9%	0.0%	0.0%
f. CFS attorney not available	55.9%	44.1%	0.0%	0.0%	0.0%
g. CFS caseworker not available	28.6%	68.6%	2.9%	0.0%	0.0%
h. Attorney for parent(s) not available	0.0%	91.4%	8.6%	0.0%	0.0%
i. Guardian ad litem not available	25.7%	74.3%	0.0%	0.0%	0.0%
j. Judge not available	37.1%	60.0%	2.9%	0.0%	0.0%
k. CFS attorney not prepared	62.9%	31.4%	5.7%	0.0%	0.0%
l. Guardian ad litem not prepared	65.7%	34.3%	0.0%	0.0%	0.0%
m. Attorney for parent not prepared	20.0%	65.7%	11.4%	2.9%	0.0%
n. Parent(s) not available	5.7%	65.7%	20.0%	8.6%	0.0%
o. Witness not available	2.9%	80.0%	17.1%	0.0%	0.0%
p. Failure to timely file or serve report or document	26.5%	61.8%	8.8%	2.9%	0.0%
q. Failure to timely serve notice of process	20.0%	65.7%	8.6%	5.7%	0.0%
r. Inadequate court time to hear case	20.0%	65.7%	11.4%	2.9%	0.0%
s. ICPC	35.5%	54.8%	9.7%	0.0%	0.0%

Attorneys felt the leading factor that contributes to continuances is failure to identify or locate parents. The second highest-ranking factor was the lack or delay in the service of process on parents, followed by the failure to identify or locate parents. Third was parent(s) not being available, followed by lack of service on Tribes in ICWA cases. Locating parents in the community is something the court has no control over but, issuing orders from the bench, particularly show cause orders that contain the date of the adjudicatory hearing, and personally serving parents who are present in court at that time would be a way to notice parents and decrease continuances. Failure to serve Tribes in ICWA cases is a factor the district courts, the Tribes and the county attorneys may need to discuss to see if there's a solution to this problem.

Judges:

Please indicate how frequently the following factors cause hearing continuances in the court process.	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Failure to identify or locate parents	33.3%	0.0%	66.7%	0.0%	0.0%
b. Lack of or delay in the service of process on parents	0.0%	42.9%	57.1%	0.0%	0.0%
c. Lack of service on tribe in ICWA cases	0.0%	50.0%	50.0%	0.0%	0.0%
d. Appointment of attorneys for parent(s) delayed	75.0%	0.0%	25.0%	0.0%	0.0%
e. Appointment of guardian ad litem delayed	100%	0.0%	0.0%	0.0%	0.0%
f. CFS attorney not available	85.7%	14.2%	0.0%	0.0%	0.0%
g. CFS caseworker not available	75.0%	25.0%	0.0%	0.0%	0.0%
h. Attorney for parent(s) not available	100%	0.0%	0.0%	0.0%	0.0%
i. Guardian ad litem not available	100%	0.0%	0.0%	0.0%	0.0%
j. Judge not available	100%	0.0%	0.0%	0.0%	0.0%
k. CFS attorney not prepared	100%	0.0%	0.0%	0.0%	0.0%
l. Guardian ad litem not prepared	100%	0.0%	0.0%	0.0%	0.0%
m. Attorney for parent not prepared	85.7%	14.2%	0.0%	0.0%	0.0%
n. Parent(s) not available	33.3%	50.0%	16.7%	0.0%	0.0%
o. Witness not available	0.0%	100%	0.0%	0.0%	0.0%
p. Failure to timely file or serve report or document	0.0%	100%	0.0%	0.0%	0.0%
q. Failure to timely serve notice of process	33.3%	66.7%	0.0%	0.0%	0.0%
r. Inadequate court time to hear case	75.0%	25.0%	0.0%	0.0%	0.0%
s. ICPC	100%	0.0%	0.0%	0.0%	0.0%

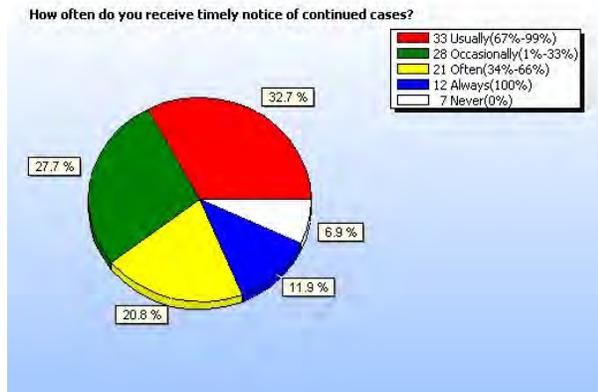
Many of the judges did not give an answer to each of the factors on the chart. They agreed with the attorneys, however, that the leading causes of continuances are failure to locate the parents, lack of or delay in the service of process on parents and lack of service on the Tribe in ICWA cases.

A comment from an attorney: *“I wish all attorneys would be prepared at the same time so that fewer continuances would be granted. Extending timelines for continuances is NOT in the best interest of the child or the family.”*

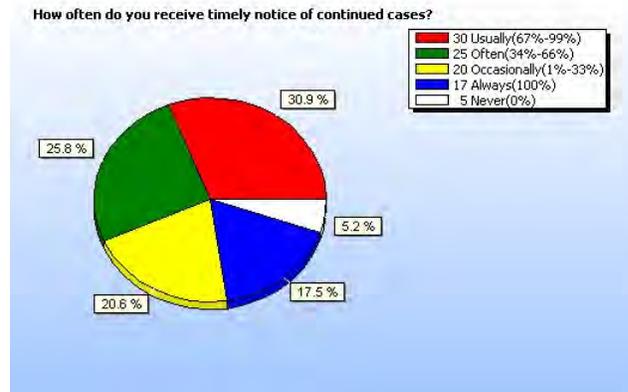
A CASA volunteer’s opinion: *“Way too many cases are continued because the court is overcrowded with too many cases and not enough time. These children stay in the system too long as a result of this. I don’t know what the solution is, but I feel that something should be done to speed up the process. A year in the life of a child is a long time.”*

Another concern about continuances is trying to ensure that all parties are given notice of the continuance. CASA volunteers and CFS caseworkers were asked about this issue:

Caseworkers' response



CASA Volunteers' response



The numbers of responses of “Never” and “Occasionally” are a concern for both groups. More than a third of CASA’s and caseworkers report not being noticed of hearings. Since the absence of a caseworker is a reason to grant a continuance, the protocol for ensuring timely notices of continuances are sent to all parties should be enforced.

Other states have implemented a “No continuance” policy in child abuse and neglect cases. The practicality of this policy will be studied to see how it would work for Montana and what changes to the statutes would be needed to implement this change.

b. Hearings Scheduling

How are hearing, excluding emergencies scheduled?	CASA	CFS Caseworkers	Judges	Attorneys
Time specific for each hearing	62.5%	36.9%	46.7%	36.8%
Clustering by the hour	6.7%	14.6%	26.7%	7.9%
Morning and afternoon dockets	12.5%	28.2%	13.3%	23.7%
All cases at the same time	16.3%	16.5%	0.0%	18.4%
Other (please explain on last page)	1.9%	3.9%	13.3%	13.2%

“Other” responses:

CASA volunteers: “The time of my hearings has varied quite a bit, sometimes they are scheduled for a specific time and other times they are grouped with other cases.”

“The 4 judges here each handle abuse cases differently. 2 schedule within an hourly schedule. The other 2 throw the cases in with all the criminal cases, which means a 1-2 hr wait until the case is heard. Criminal cases are heard first, then abuse cases.”

Caseworkers: “The times for court depend on the day and which court the cases are being represented. On Mondays and Thursdays, specific court times are assigned to cases. On Tuesdays and Wednesday all court cases are typically held at 10:00 a.m.”

CFS caseworkers and attorneys were asked how long they typically wait for hearings to begin.

CFS Caseworkers	Less than 30 minutes	30 to 60 minutes	1 to 2 hours	More than 2 hours	Attorneys	Less than 30 minutes	30 to 60 minutes	1 to 2 hours	More than 2 hours
Emergency	51.9%	27.3%	16.9%	3.9%	a. Emergency	76.5%	20.6%	2.9%	0.0%
b. Show Cause	40.2%	31.5%	22.8%	5.4%	b. Show Cause	57.1%	40.0%	2.9%	0.0%
c. Adjudication/ Disposition	38.5%	30.8%	25.3%	5.5%	c. Adjudication/ Disposition	55.6%	33.3%	11.1%	0.0%
d. Permanency	40.7%	33.7%	20.9%	4.7%	d. Permanency	61.1%	27.8%	11.1%	0.0%
e. Termination of Parental Rights	45.7%	32.1%	14.8%	7.4%	e. Termination of Parental Rights	65.7%	25.7%	8.6%	0.0%
f. Post Termination Review	52.5%	27.5%	17.5%	2.5%	f. Post Termination Review	76.7%	16.7%	6.7%	0.0%

Since the majority reports a wait time of less than 30 minutes, there is no indication of a significant problem in the way that hearings are scheduled. Some respondents, however, would like to see hearings scheduled differently:

Attorneys: *“Too much time spent in 3-5 minute status hearings for which an attorney waits sometimes in excess of an hour. Would appreciate a distinct court time for hearings.”*
“An ordered list of hearings (morning or afternoon) are posted, but a great deal of professional time is wasted standing around being available because the speed of movement through the docket is unknown.”

CFS Caseworker: *“An inordinate amount of time is spent waiting for hearings, i.e. 5 social workers waiting two hours to appear for 30 seconds each and get a continuance for 6 weeks.”*

CASA Volunteer: *“People in the courtroom should have an interest in the case or should not be present. Instead, our courtroom looks like a waiting room for the professionals because they all have court hearings scheduled for the same time. Eight hearings at 10:00? What a waste of everyone's valuable time!”*

c. Length of Hearings

National standards suggest an adequate amount of time should be allotted for hearings. The following four graphs indicate the responses received to the question “How long do hearings typically last?”

CASA Volunteers	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	59.8%	39.2%	1.0%	0.0%	0.0%
b. Contested show cause hearing	5.8%	58.1%	27.9%	5.8%	2.3%
c. Uncontested adjudication hearing	52.7%	44.0%	3.3%	0.0%	0.0%
d. Contested adjudication hearing	5.8%	54.7%	29.1%	5.8%	4.7%
e. Uncontested review	65.5%	33.3%	1.1%	0.0%	0.0%
f. Contested review hearing	4.9%	68.3%	22.0%	3.7%	1.2%
g. Uncontested permanency hearings	36.0%	53.9%	7.9%	1.1%	1.1%
h. Contested permanency hearings	3.8%	42.5%	30.0%	13.8%	10.0%
i. Uncontested termination of parental rights hearing	32.5%	57.5%	7.5%	0.0%	2.5%
j. Contested termination of parental rights hearing	3.9%	23.4%	33.8%	15.6%	23.4%
k. Post termination review hearing	38.0%	50.7%	8.5%	1.4%	1.4%

CFS Caseworkers	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	61.7%	33.0%	5.3%	0.0%	0.0%
b. Contested show cause hearing	4.4%	38.5%	47.3%	8.8%	1.1%
c. Uncontested adjudication hearing	52.2%	41.3%	6.5%	0.0%	0.0%
d. Contested adjudication hearing	2.2%	33.7%	40.4%	21.3%	2.2%
e. Uncontested review	75.0%	22.6%	2.4%	0.0%	0.0%
f. Contested review	7.5%	61.3%	26.3%	5.0%	0.0%
g. Uncontested permanency hearings	69.3%	28.4%	2.3%	0.0%	0.0%
h. Contested permanency hearings	8.6%	49.4%	38.3%	3.7%	0.0%
i. Uncontested termination of parental rights hearing	27.8%	43.0%	26.6%	2.5%	0.0%
j. Contested termination of parental rights hearing	0.0%	8.5%	22.0%	24.4%	45.1%
k. Post termination hearing	55.6%	37.0%	6.2%	1.2%	0.0%

Judges	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	53.3%	46.7%	0.0%	0.0%	0.0%
b. Contested show cause hearing	0.0%	20.0%	53.3%	20.0%	6.7%
c. Uncontested adjudication hearing	60.0%	40.0%	0.0%	0.0%	0.0%
d. Contested adjudication hearing	0.0%	6.7%	46.7%	40.0%	6.7%
e. Uncontested review	93.3%	6.7%	0.0%	0.0%	0.0%
f. Contested review hearing	0.0%	73.3%	26.7%	0.0%	0.0%
g. Uncontested permanency hearings	66.7%	33.3%	0.0%	0.0%	0.0%
h. Contested permanency hearings	0.0%	40.0%	46.7%	13.3%	0.0%
i. Uncontested termination of parental rights hearing	33.3%	66.7%	0.0%	0.0%	0.0%
j. Contested termination of parental rights hearing	0.0%	0.0%	13.3%	26.7%	60.0%
k. Post termination review hearing	78.6%	21.4%	0.0%	0.0%	0.0%

Attorneys	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day	don't know
a. Uncontested show cause hearing	59.0%	30.8%	0.0%	0.0%	0.0%	10.3%
b. Contested show cause hearing	0.0%	35.9%	46.2%	5.1%	0.0%	12.8%
c. Uncontested adjudication hearing	51.3%	41.0%	0.0%	0.0%	0.0%	7.7%
d. Contested adjudication hearing	2.6%	17.9%	41.0%	15.4%	7.7%	15.4%
e. Uncontested review	74.4%	12.8%	0.0%	0.0%	0.0%	12.8%
f. Contested review hearing	5.3%	55.3%	21.1%	0.0%	0.0%	18.4%
g. Uncontested permanency hearing	55.3%	31.6%	2.6%	0.0%	0.0%	10.5%
h. Contested permanency hearing	2.6%	39.5%	23.7%	7.9%	5.3%	21.1%
i. Uncontested termination of parental rights hearing	28.2%	38.5%	15.4%	5.1%	0.0%	12.8%
j. Contested termination of parental rights hearing	0.0%	5.1%	7.7%	15.4%	56.4%	15.4%
k. Post TPR review hearing	42.1%	26.3%	0.0%	0.0%	0.0%	31.6%

Three of the four groups responded that uncontested permanency hearings last 5-15 minutes. This was not an unexpected response due to the nature of an uncontested hearing, i.e. everyone involved has agreed on a plan for the child's future. The contested permanency hearings show a 42.85% overall average lasting 20-60 minutes. Allowing one hour for a permanency hearing is the national standard. Training is available from the ABA Center on Children and the Law to demonstrate that adequate permanency hearings can be a tool for expediting timely permanency for children.

Overall satisfaction with the length of time allotted to hearings was also surveyed. Foster parents were the group who most felt that hearings needed additional time.

Foster Parents	Need more time	Adequate time allotted	Need less time
Emergency hearings	40.0%	60.0%	0.0%
Show cause hearings	20.0%	80.0%	0.0%
Adjudicatory/dispositional hearings	60.0%	40.0%	0.0%
Review hearings	40.0%	60.0%	0.0%
Permanency hearings	80.0%	20.0%	0.0%
Termination of parental rights hearings	50.0%	50.0%	0.0%
Post termination review hearings	40.0%	60.0%	0.0%

The other groups generally felt that adequate time was given to hearings. The adjudicatory/dispositional hearings and termination of parental rights hearings were the two most often selected as needing more time by the CFS caseworkers and the judges, while the attorneys indicated more time was needed for the emergency, show cause, adjudicatory/dispositional, and termination of parental rights hearings.

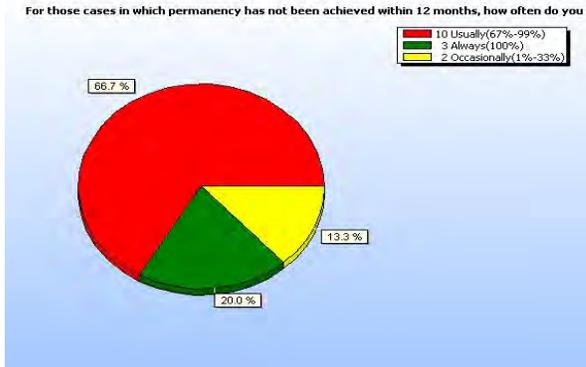
d. Timely hearings

Case file reviews indicated that in 52.65% of the cases, the show cause, the adjudicatory and the permanency hearings were all held timely. 83.84% of show cause hearings were held within the mandated 20 days of the filing of the emergency placement petition. 73.45% of adjudicatory hearings were held within 90 days of the show cause hearings and 78.3% of the permanency hearings were held within the ASFA time frames.

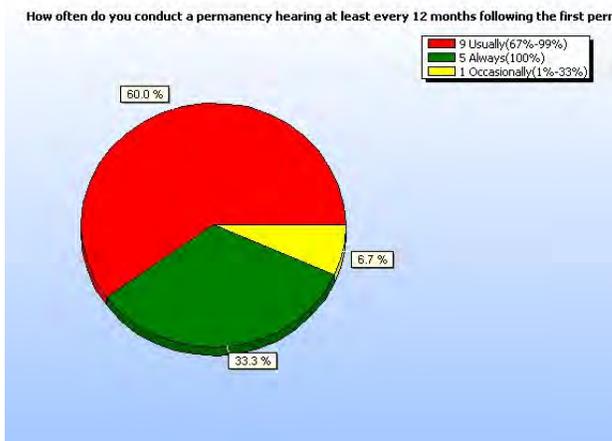
Additional information on show cause hearings indicate that the average time from hearing to the order being issued is 10.4 days, 68.5% of parents admitted to the allegations of abuse or neglect, and children were adjudicated at the show cause hearing 68.2% of the time.

The average time from the show cause hearing to the adjudicatory hearing was 96.5 days. 40.27% of the adjudicatory hearings were postponed, with the main reasons being a request by parents for counsel, a conflict with the parents' and attorneys' schedules, and ICWA issues. Adjudicatory orders contained findings in 87% of the cases of which allegations of the petition were proven or admitted to, if any, if there was a legal basis for continued court and department intervention, and again, whether CFSD had made reasonable efforts to avoid protective placement of the child.

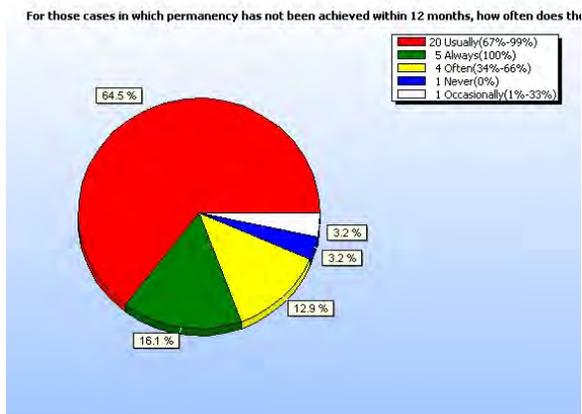
Judges' responses to how often timely initial and subsequent permanency hearings are held: "For those cases in which permanency has not been achieved within 12 months, how often do you hold a timely permanency hearing?"



Judges were also asked about how often subsequent permanency hearings were held timely:



Attorneys were asked the same questions. Their responses:



The judges were also asked why permanency hearings were not always held timely:

Judges' response: In your opinion, what is the reason that permanency hearings are not held timely?	Count	Percent
A request for a permanency hearing is not submitted timely by the CFS caseworker	8	53.3%
A request for a permanency hearing is not submitted timely to the court by the County Attorney	10	66.7%
The court docket is full	1	6.67%
The court grants a continuance	4	26.7%
Other	1	6.67%

Several comments were received about the timeliness of court hearings:

CFS Caseworker: *"Judges need to take judicial authority over their courtrooms, recognizing they are primarily responsible to uphold the permanency timelines. It appears that foster children's right to a permanency plan are second to attorneys' schedules. In dependency and neglect case I strongly believe judges should institute a "NO CONTINUANCES" policy. Why is it the individuals in jail are afforded more consideration than foster children?"*

Judge: *"District judges in Montana have too heavy caseloads. There have been tremendous increases in the time necessary to devote to abuse and neglect cases, which is as it should be, but absolutely NO increases in staffing or numbers of judges. This is the major impediment in our ability to handle these cases in the best interests of the children."*

e. Timely issuance of court orders

In the federal IV-E of CFS cases, the absence of court orders following permanency hearings was noted in several cases. Court procedures differ vastly across the state in regards to writing orders. The CFS attorneys, who may be county attorneys, deputy county attorneys or contracted attorneys prepare most of the orders for the judge's signature following a court hearings. In other districts, law clerks prepare the order or the judges continue to write their own orders. Because of the difference in procedures, there is a wide variety in the answers given when asked about the timeframes in which orders were received following a hearing.

Generally, when do you receive or issue written findings after a hearing?	CASA Volunteers	CFS Caseworkers	Judges	Attorneys
At the end of each hearing	2.1%	1.0%	0.0%	0.0%
1 week	43.3%	22.2%	73.3%	61.1%
2 weeks	42.3%	38.4%	13.3%	27.8%
30 days	10.3%	17.2%	6.7%	8.3%
More than 30 days	2.1%	21.2%	6.7%	2.8%

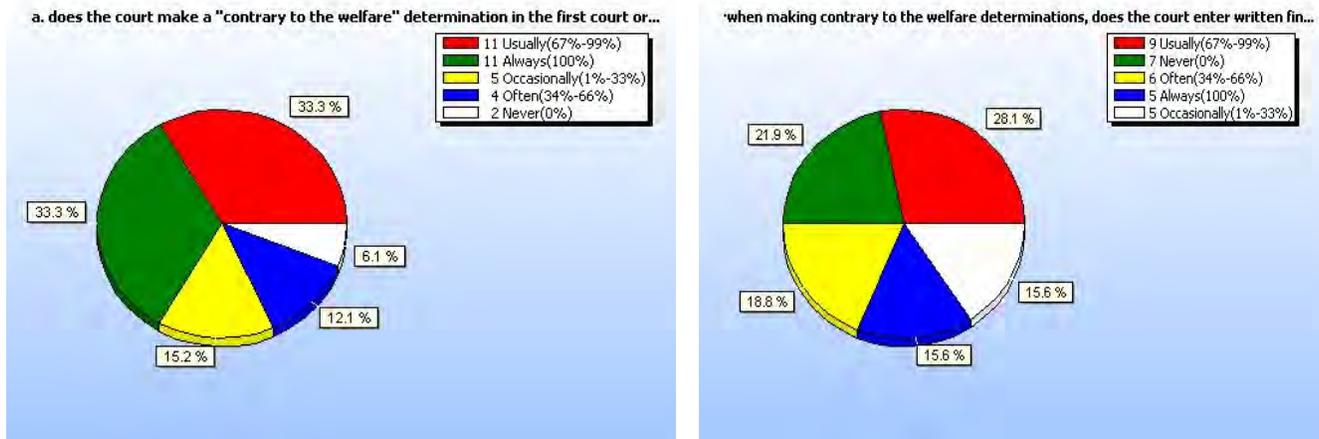
Permanency orders were generally issued within 10 days of the hearing. Additional information was gathered about court findings/orders at different stages of a case and is included in Section K. Respondents, under each survey group's component.

f. Mandatory language in court orders

During the federal IV-E audit, cases were reviewed to see if the initial order authorizing removal of the child from the home contained the “reasonable efforts” and “contrary to the welfare of the child” language necessary for the case to qualify for federal dollars. Questions about how often the court issues orders containing specific findings were asked of the judges.

At the emergency placement hearing: (Judges' responses)	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Do you make a "contrary to the welfare" determination in the first court order authorizing the child's removal from home?	7.7%	0.0%	7.7%	46.2%	38.5%
·When making contrary to the welfare determinations, do you refer to (or tacitly rely on) the affidavit and other accompanying documents?	15.4%	7.7%	7.7%	15.4%	53.8%
·When making contrary to the welfare determinations, do you enter written findings that describe (or cross reference to a description of) the child's individual circumstances?	7.7%	0.0%	0.0%	38.5%	53.8%
f. Do you determine if reasonable efforts were made to prevent the child from being removed or are being made to return the child safely to the home?	0.0%	0.0%	0.0%	0.0%	100.0%
·When making reasonable efforts determinations, do you refer to (or tacitly rely on) the affidavit and other accompanying documents?	6.7%	6.7%	0.0%	26.7%	60.0%
·When making reasonable efforts determinations, do you enter written findings that describe (or cross reference to a description of) the child's individual circumstances?	7.1%	0.0%	14.3%	35.7%	42.9%
At adjudicatory/dispositional hearings:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often do you make findings (to be incorporated in the written order) whether there were reasonable efforts to prevent removal?	0.0%	0.0%	0.0%	20.0%	80.0%
b. In making these findings, ·how often do you describe the efforts in the language of the court order?	0.0%	0.0%	6.7%	33.3%	60.0%
At permanency hearings:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often do you make findings (incorporated into the written order) regarding reasonable efforts to reunite the family or finalize a permanency plan at the first permanency hearing?	0.0%	0.0%	6.7%	40.0%	53.3%
b. In making these findings, how often do you: ·Describe the efforts in the language of the court order?	0.0%	0.0%	6.7%	46.7%	46.7%

Attorneys had the following responses in regards to “contrary to the welfare” determinations at the emergency placement hearing: “How often . . .?”



Attorneys also responded to questions about the “best interest of the child” determinations at permanency and adjudicatory/dispositional hearings.

At adjudicatory/dispositional hearings:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often does the court make findings (to be incorporated in the written order) whether there were reasonable efforts to prevent removal?	2.9%	17.6%	0.0%	35.3%	44.1%
b. In making these findings, how often does the court describe the efforts in the language of the court order?	5.9%	29.4%	14.7%	26.5%	23.5%

At permanency hearings:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often does the court make findings (incorporated into the written order) regarding reasonable efforts to reunite the family or finalize a new permanency plan at the first permanency hearing?	9.7%	12.9%	12.9%	29.0%	35.5%
b. In making these findings, how often does the court: Describe the efforts in the language of the court order?	9.7%	19.4%	9.7%	35.5%	25.8%

Case file review data indicates that mandatory language was included in 91.1% of the cases reviewed, 85.8% for “contrary to the welfare of the child” and 96.4% for “reasonable efforts”.

94.4% of the show cause orders examined during the case file reviews contained a finding that CFSD had made reasonable efforts to avoid protective placement of the child or to make it possible to safely return the child to the child's home. Over 95% of the adjudicatory orders contained such a finding.

Orders issued following a permanency hearing are also required to state findings whether the court found the permanency plan “in the child’s best interest” and whether the court found that “Child and Family Services had made or was making reasonable efforts to finalize the permanency plan”. Case file reviews indicate that 94.25% of the cases reviewed found the plan to be in the child’s best interest and that CFSD was making reasonable efforts to finalize the plan.

g. Treatment plans

In the cases reviewed, treatment plans were ordered, on average, 147 days after the child had been placed into foster care. Both survey responses and case file reviews indicate treatment plans are generally appropriate and case specific. Psychological evaluations and counseling and chemical dependency evaluation and treatment are the two most common elements that treatment plans required parents to follow. The identification of the problem that resulted in the child’s placement, the goals of the treatment plan, the specific time frames in which to accomplish these goals and the responsibilities of all parties were identified in 67-80% of the cases reviewed. Several of the court files did not have copies of the treatment plan, so those percentages could actually be higher. Additional information about treatment plans is in Section K. Respondents, under the CFS Caseworker component.

Some CFS caseworkers used the comment section on the survey to state frustration: *“I submit treatment plans to be ordered by the court but the county attorney doesn't schedule a hearing and a year later a treatment plan still hasn't been ordered. It's totally unacceptable.” “Not unusual to wait 9 months for adjudication, spend a year for treatment plans, and wait another 9 to 12 months to get a termination hearing set” . . .*

As did a parent’s attorney: *“The treatment plans were used as a vehicle for failure, not as a vehicle for rehabilitation and reunification”.*

h. Permanency

Achievement of permanency for children is the ultimate goal of everyone involved in a child’s case. Reunification is the first and foremost goal that is established when a child is placed into care, unless the case has circumstances that warrant reunification not in the child’s best interests. If a child can’t be reunited with his or her parents, then adoption is the next highest level of permanency to strive for. Sometimes, a child is not nor will he ever be available for adoption in which case legal guardianship is then pursued. The lesser levels of permanency, which should never be the goal unless the court has made findings why higher levels of permanency are not attainable, are planned permanent living arrangements with relatives or non-relatives and finally, long term custody by CFS. The last option usually corresponds with a transitional living plan for children age 16 and over to facilitate their successful move into adulthood and their departure from state custody and the accompanying services.

Case file reviews indicate that of the 224 children followed for up to 23 months, 52 children or 23.2% were reunified with their parent(s), two were adopted, 13 were placed in the custody of a relative/non-relative, three were placed into a planned permanent living arrangement with a relative, four were placed into a planned permanent living arrangement with a non-relative, six were transferred to Tribal jurisdiction, one transferred to another venue and two children emancipated. The remaining children, or 62.9% remained in care.

Survey respondents were also asked about the reasons permanency was delayed for children. “Please identify how much of a factor the following items have been in delaying permanency the first year of a case.”

CASA Volunteer	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	25.3%	27.8%	19.0%	27.8%
b. Concurrent planning	27.8%	41.8%	16.5%	13.9%
c. Appropriate placement for child	50.6%	26.0%	15.6%	7.8%
d. Mental health assessment &/or treatment	54.2%	28.9%	9.6%	7.2%
e. Substance abuse assessment &/or treatment	72.5%	16.3%	5.0%	6.3%
f. Economic &/or employment assistance	33.8%	45.0%	12.5%	8.8%
g. Appropriate independent living program	25.9%	43.2%	12.3%	18.5%
h. Appropriate visitation	25.9%	43.2%	21.0%	9.9%
i. Domestic violence assessment &/or treatment	36.3%	38.8%	16.3%	8.8%
j. Child adjudicated delinquent	14.1%	28.2%	30.8%	26.9%
k. All parents not notified, (including putative fathers)	20.3%	35.4%	30.4%	13.9%
l. Relative placements not pursued.	17.7%	36.7%	36.7%	8.9%
m. Court delays	27.8%	32.9%	32.9%	6.3%

CFS Caseworkers	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	58.9%	30.0%	7.8%	3.3%
b. Concurrent planning	12.4%	57.3%	27.0%	3.4%
c. Appropriate placement for child	62.6%	29.7%	5.5%	2.2%
d. Mental health assessment &/or treatment	47.2%	38.2%	12.4%	2.2%
e. Substance abuse assessment &/or treatment	55.7%	27.3%	12.5%	4.5%
f. Economic &/or employment assistance	20.2%	51.7%	21.3%	6.7%
g. Appropriate independent living program	15.7%	42.7%	31.5%	10.1%
h. Appropriate visitation	7.9%	49.4%	34.8%	7.9%
i. Domestic violence assessment &/or treatment	29.9%	34.5%	24.1%	11.5%
j. Child adjudicated delinquent	18.4%	47.1%	18.4%	16.1%
k. All parents not notified, (including putative fathers)	28.1%	49.4%	18.0%	4.5%
l. Relative placements not pursued	10.0%	58.9%	26.7%	4.4%
m. Court delays	50.5%	40.7%	4.4%	4.4%

Judges	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	26.7%	53.3%	13.3%	6.7%
b. Concurrent planning	6.7%	66.7%	20.0%	6.7%
c. Appropriate placement for child	53.3%	40.0%	6.7%	0.0%
d. Mental health assessment &/or treatment	40.0%	60.0%	0.0%	0.0%
e. Substance abuse assessment &/or treatment	60.0%	40.0%	0.0%	0.0%
f. Economic &/or employment assistance	13.3%	80.0%	6.7%	0.0%
g. Appropriate independent living program	13.3%	53.3%	13.3%	20.0%
h. Appropriate visitation	40.0%	40.0%	20.0%	0.0%
i. Domestic violence assessment &/or treatment	46.7%	53.3%	0.0%	0.0%
j. Child adjudicated delinquent	0.0%	66.7%	13.3%	20.0%
k. All parents not notified, (including putative fathers)	20.0%	53.3%	20.0%	6.7%
l. Relative placements not pursued.	0.0%	86.7%	6.7%	6.7%
m. Court delays	0.0%	60.0%	33.3%	6.7%

Attorneys	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	41.9%	38.7%	12.9%	6.5%
b. Concurrent planning	29.0%	35.5%	25.8%	9.7%
c. Appropriate placement for child	46.7%	46.7%	6.7%	0.0%
d. Mental health assessment &/or treatment	61.3%	32.3%	6.5%	0.0%
e. Substance abuse assessment &/or treatment	77.4%	16.1%	6.5%	0.0%
f. Economic &/or employment assistance	32.3%	54.8%	9.7%	3.2%
g. Appropriate independent living program	38.7%	35.5%	25.8%	0.0%
h. Appropriate visitation	41.9%	38.7%	19.4%	0.0%
i. Domestic violence assessment &/or treatment	41.9%	45.2%	12.9%	0.0%
j. Child adjudicated delinquent	19.4%	35.5%	38.7%	6.5%
k. All parents not notified, (including putative fathers)	22.6%	51.6%	22.6%	3.2%
l. Relative placements not pursued	20.0%	50.0%	30.0%	0.0%
m. Court delays	26.7%	53.3%	20.0%	0.

CASA volunteers and attorneys think the primary factors that delay permanency the first year of a case are substance abuse assessment &/or treatment, mental health assessment &/or treatment and appropriate placements for children. Judges feel that substance abuse assessment &/or treatment, domestic violence assessment &/or treatment and appropriate placements for children are the primary factors, while CFS caseworkers indicated appropriate placements for child, ICPC placement and services and substance abuse assessment &/or treatment are the most responsible for delaying permanency.

“Please identify how much of a factor the following items are in delaying permanency following termination of parental rights.”

CASA Volunteer	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	15.6%	36.4%	20.8%	27.3%
b. Adoption summary not completed on child	10.5%	34.2%	26.3%	28.9%
c. Child-specific adoption recruitment	16.9%	33.8%	19.5%	29.9%
d. Child does not wish to be adopted	7.8%	24.7%	28.6%	39.0%
e. Court delays	23.4%	27.3%	26.0%	23.4%
f. Lack of appropriate adoptive families	36.8%	25.0%	13.2%	25.0%

CFS Caseworkers	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	27.8%	50.0%	18.9%	3.3%
b. Adoption summary not completed on child	21.1%	56.7%	18.9%	3.3%
c. Child-specific adoption recruitment	34.1%	49.5%	12.1%	4.4%
d. Child does not wish to be adopted	15.6%	62.2%	18.9%	3.3%
e. Court delays	40.7%	37.4%	19.8%	2.2%
f. Lack of appropriate adoptive families	56.0%	34.1%	6.6%	3.3%

The primary reasons listed by both are the lack of appropriate adoptive families and court delays.

CFS caseworker: *“I think the system has become worse with more court delays and a significant rise in delay due to more due process emphasis.”*

i. Court participation/preparedness

Questions concerning the participants in court hearings and their level of preparation were asked on the survey. Having attorneys who come to court prepared to represent their clients limits continuances and hastens permanency for the children. Because our new law mandating representation for parents at the first hearing in a case went into effect on July 1, 2005, respondents were given the choice of “not assigned” in the event their county was one that didn’t appoint counsel at the onset.

Parents’ attorneys:

“How often does the same attorney represent parents at all stages of the case?”

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
CASA Volunteers’ responses:	5.4%	14.1%	23.9%	46.7%	9.8%
CFS caseworkers’ responses:	4.1%	8.2%	12.4%	59.8%	15.5%
Judges’ responses:	6.7%	6.7%	6.7%	60.0%	20.05
Attorneys’ responses:	0.0%	12.5%	12.5%	68.85	6.3%

“How prepared are the parents’ attorneys to represent them in court hearings?”

CFS caseworkers responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	4.3%	27.7%	14.9%	22.3%	6.4%	24.5%
b. Adjudication/Disposition	0.0%	16.3%	20.7%	32.6%	17.4%	13.0%
c. No Reunification	2.4%	12.2%	20.7%	34.1%	25.6%	4.9%
d. Review	2.4%	14.1%	17.6%	37.6%	18.8%	9.4%
e. Permanency	2.3%	14.0%	15.1%	39.5%	20.9%	8.1%
f. Termination of Parental Rights	0.0%	6.0%	7.1%	41.7%	41.7%	3.6%

Judges’ responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	0.0%	6.7%	33.3%	53.3%	6.7%	0.0%
b. Adjudication/Disposition	0.0%	6.7%	0.0%	66.7%	26.7%	0.0%
c. No Reunification	0.0%	0.0%	0.0%	64.3%	28.6%	7.1%
d. Review	0.0%	0.0%	13.3%	53.3%	33.3%	0.0%
e. Permanency Planning	0.0%	0.0%	13.3%	53.3%	33.3%	0.0%
f. Termination of Parental Rights	0.0%	0.0%	0.0%	60.0%	40.0%	0.0%

Attorney's responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not Assigned
a. Show Cause	0.0%	9.7%	22.6%	51.6%	3.2%	12.9%
b. Adjudication/Disposition	0.0%	3.2%	12.9%	67.7%	16.1%	0.0%
c. No Reunification	0.0%	3.3%	10.0%	73.3%	10.0%	3.3%
d. Review	0.0%	3.2%	16.1%	71.0%	9.7%	0.0%
e. Permanency	0.0%	3.2%	12.9%	67.7%	16.1%	0.0%
f. Termination of Parental Rights	0.0%	3.2%	9.7%	58.1%	29.0%	0.0%

CASA Volunteers' responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%- 99%)	Always (100%)	Not assigned
a. Show Cause	8.3%	0.0%	36.7%	28.3%	0.0%	26.7%
b. Adjudication/Disposition	4.6%	0.0%	35.4%	47.7%	0.0%	12.3%
c. No Reunification	1.8%	0.0%	28.6%	51.8%	0.0%	17.9%
d. Review	1.8%	0.0%	38.2%	43.6%	0.0%	16.4%
e. Permanency Planning	1.8%	0.0%	28.6%	55.4%	0.0%	14.3%
f. Termination of Parental Rights	1.9%	0.0%	31.5%	57.4%	0.0%	9.3%

Children's Attorney GAL's:

"How often does the same attorney GAL represent the child at all stages of the case?"

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
CASA Volunteers' responses:	0.0%	5.5%	6.6%	39.6%	38.5%	9.9%
CFS caseworkers' responses:	2.0%	3.1%	9.2%	54.1%	31.6%	0.0%
Judges' responses:	13.3%	0.0%	0.0%	46.7%	40.0%	0.0%
Attorneys' responses:	6.5%	3.2%	9.7%	51.6%	29.0%	0.0%

"If there is a conflict of interest, how often is each child represented by a separate attorney?"

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
CASA Volunteers' responses:	30.0%	22.9%	10.05	14.3%	22.9%
CFS caseworkers' responses:	30.8%	25.3%	8.8%	20.9%	14.3%
Judges' responses:	14.3%	21.4%	7.1%	35.7%	21.4%
Attorneys' responses:	22.6%	38.7%	3.2%	3.2%	32.3%

“How prepared is the attorney guardian ad litem to represent the child in court hearings?”

CFS caseworkers responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	4.3%	17.2%	11.8%	30.1%	20.4%	16.1%
b. Adjudication/Disposition	1.1%	12.1%	16.5%	37.4%	26.4%	6.6%
c. No Reunification	1.2%	9.8%	13.4%	43.9%	29.3%	2.4%
d. Review	1.2%	10.6%	17.6%	42.4%	25.9%	2.4%
e. Permanency	1.1%	8.0%	12.5%	42.0%	33.0%	3.4%
f. Termination of Parental Rights	0.0%	8.3%	7.1%	38.1%	45.2%	1.2%

Judges' responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	0.0%	13.3%	20.0%	40.0%	20.0%	6.7%
b. Adjudication/Disposition	0.0%	0.0%	0.0%	60.0%	33.3%	6.7%
c. No Reunification	0.0%	0.0%	0.0%	50.0%	42.9%	7.1%
d. Review	0.0%	0.0%	0.0%	60.0%	33.3%	6.7%
e. Permanency	0.0%	0.0%	0.0%	60.0%	33.3%	6.7%
f. Termination of Parental Rights	0.0%	0.0%	0.0%	42.9%	50.0%	7.1%

Attorneys' responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	8.7%	0.0%	26.1%	65.2%	0.0%
b. Adjudication/Disposition	4.3%	0.0%	21.7%	73.9%	0.0%
c. No Reunification	4.2%	0.0%	20.8%	75.0%	0.0%
d. Review	4.3%	0.0%	17.4%	78.3%	0.0%
e. Permanency Planning	4.2%	0.0%	8.3%	87.5%	0.0%
f. Termination of Parental Rights	4.3%	0.0%	13.0%	82.6%	0.0%

CFS Attorneys:

“How often is the CFS attorney present at hearings?”

CFS caseworkers' response	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	1.1%	1.1%	0.0%	11.6%	86.3%
b. Adjudication/Disposition	1.1%	1.1%	0.0%	11.7%	86.2%
c. No Reunification	1.2%	0.0%	0.0%	14.1%	84.7%
d. Review	4.6%	1.1%	1.1%	12.6%	80.5%
e. Permanency	3.3%	1.1%	1.1%	13.2%	81.3%
f. Termination of Parental Rights	0.0%	0.0%	0.0%	11.2%	88.8%
g. Post TPR Review	3.4%	0.0%	1.1%	13.8%	81.6%

“Approximately what percentage of the time is CFS represented by an attorney at the following hearings?”

Attorney responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	0.0%	2.9%	0.0%	2.9%	94.3%
b. Adjudication/Disposition	0.0%	2.9%	0.0%	2.9%	94.1%
c. No Reunification	0.0%	2.9%	0.0%	2.9%	94.3%
d. Review	0.0%	2.9%	0.0%	2.9%	94.3%
e. Permanency	0.0%	2.9%	0.0%	2.9%	94.3%
f. Termination of Parental Rights	0.0%	0.0%	0.0%	3.0%	97.0%
g. Post TPR Review	0.0%	2.9%	0.0%	2.9%	94.3%

“Based on court performances, how often are the CFS attorneys prepared to represent the State at the following hearings?”

CFS response	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	2.3%	9.1%	12.5%	40.9%	35.2%
b. Show cause	2.2%	10.9%	13.0%	34.8%	39.1%
c. Adjudication/ Disposition	2.2%	9.7%	11.8%	35.5%	40.9%
d. No Reunification	2.3%	9.3%	11.6%	36.0%	40.7%
e. Review	3.4%	10.2%	10.2%	36.4%	39.8%
f. Permanency	4.5%	9.0%	10.1%	37.1%	39.3%
g. Termination of Parental Rights	0.0%	6.8%	2.3%	36.4%	54.5%
h. Post TPR Review	1.2%	7.1%	12.9%	41.2%	37.6%

Judges' response	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	9.1%	0.0%	9.1%	54.5%	27.3%
b. Adjudication/Disposition	0.0%	9.1%	0.0%	45.5%	45.5%
c. No Reunification	12.5%	0.0%	0.0%	37.5%	50.0%
d. Review	9.1%	0.0%	0.0%	36.4%	54.5%
e. Permanency	9.1%	0.0%	0.0%	36.4%	54.5%
f. Termination of Parental Rights	9.1%	0.0%	0.0%	36.4%	54.5%

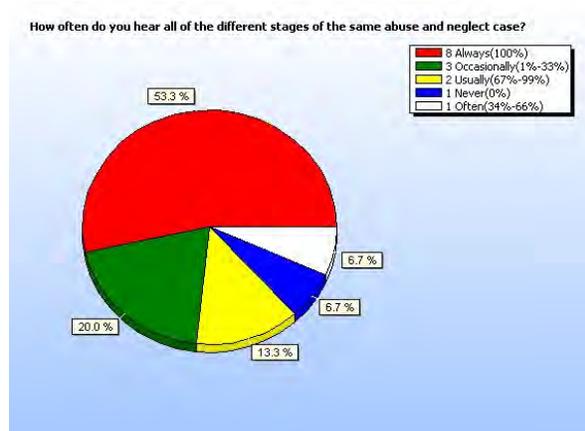
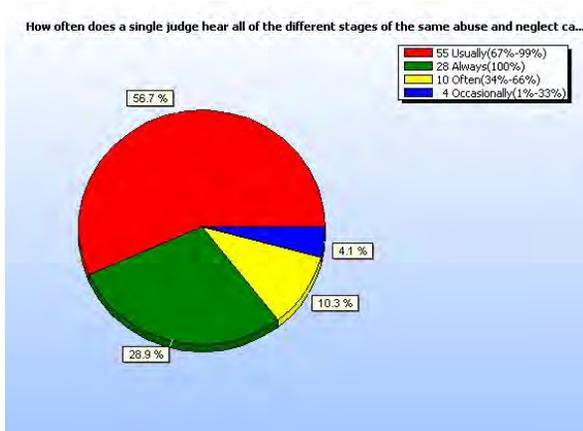
Attorneys' responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	0.0%	5.9%	2.9%	58.8%	32.4%
b. Adjudication/Disposition	0.0%	5.9%	2.9%	52.9%	38.2%
c. No Reunification	0.0%	6.1%	3.0%	54.5%	36.4%
d. Review	0.0%	5.9%	2.9%	55.9%	35.3%
e. Permanency	0.0%	5.9%	2.9%	52.9%	38.2%
f. Termination of Parental Rights	0.0%	6.1%	0.0%	51.5%	42.4%

Based on the foregoing responses, all participants in court hearings seem to be present and prepared at the majority of hearings. It also appears that turnover of parents' and children's counsel is fairly low.

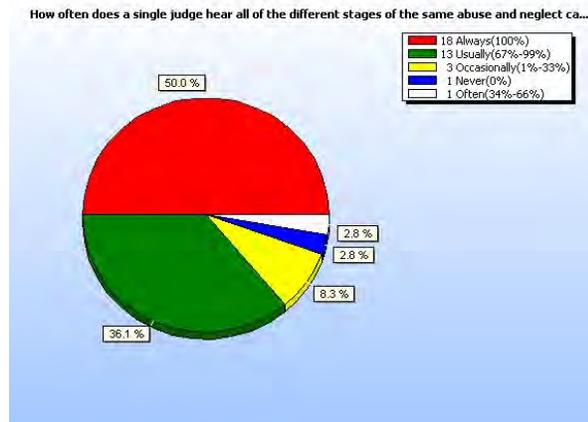
“How often does a single judge hear all the different stages of an abuse and neglect case?”

CFS Caseworkers' responses:

Judges' responses:

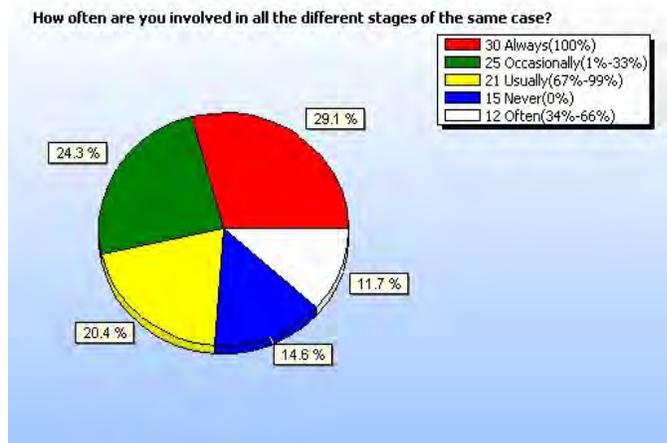


Attorneys' responses:



The case reviews indicate that only 17.7% of the cases had more than one judge involved. In jurisdictions with multiple judges, there is more likelihood of multiple judges hearing a case, especially in Yellowstone County, with cases being transferred to Treatment Court.

CFS caseworkers, when asked how often they were involved in all aspects of the case, responded:



As previously reported, several of the CFS offices have emergency/intake workers who then transfer the case to an ongoing worker.

J. Indian Child Welfare Act

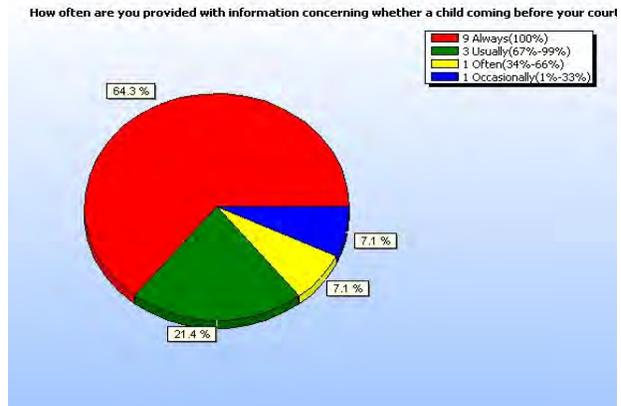
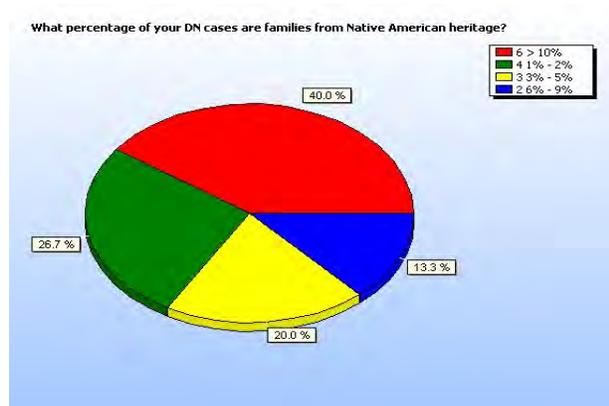
Native Americans make up 6.9% of Montana’s population. CFSD has reported the percentage of their cases involving Native American children is 16-18%. The overall percentage of cases reviewed was 30%, well above the Native American population and CFSD’s statistics. Three of the counties reviewed have a close proximity to Indian Reservations.

Lack of appropriately trained judges and attorneys was identified in the original assessment as an area needing to be improved, specifically increasing their understanding of the Tribal perspective of the law and implementing the technical aspects of it. Judges, attorneys and caseworkers were asked what percentage of their cases involved families of Native American heritage and how often questions were asked and information was given or received about this issue. The following questions and responses indicate that the majority of these groups are informed as to whether ICWA is applicable. The child in 71 of the cases reviewed was of Native American descent, with affiliations to nine different tribes. Fifty of these cases were ICWA cases. Of these, the Tribe assumed jurisdiction on six. In fifteen cases, the adjudicatory hearing was postponed because of reasons relating to ICWA.

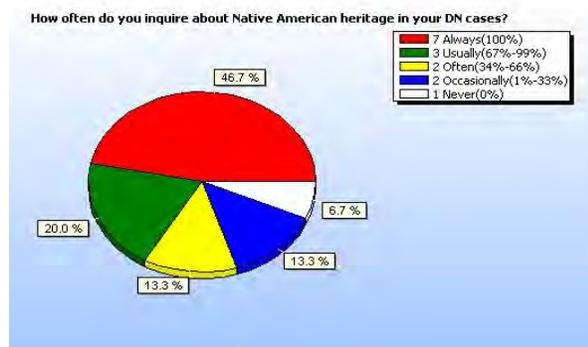
Judges:

“What percentage of your DN cases are families from Native American heritage?”

“How often are you provided with information concerning whether the child coming before your court may be Native American?”

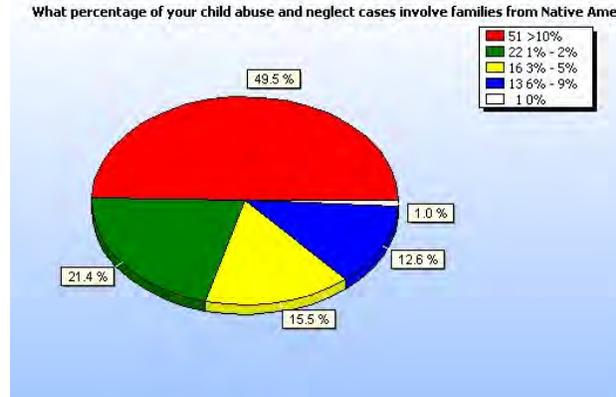


“How often do you inquire about Native American heritage in your DN cases?”

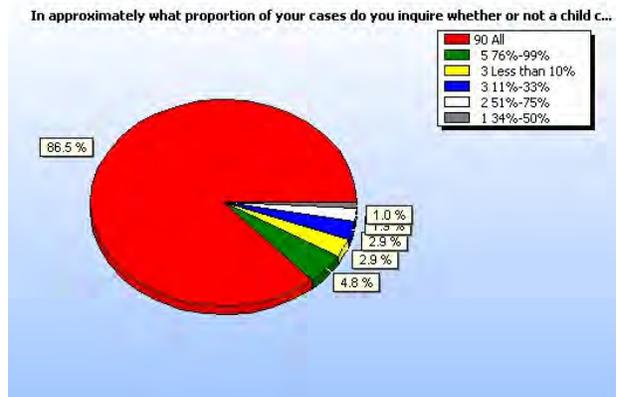


Caseworkers:

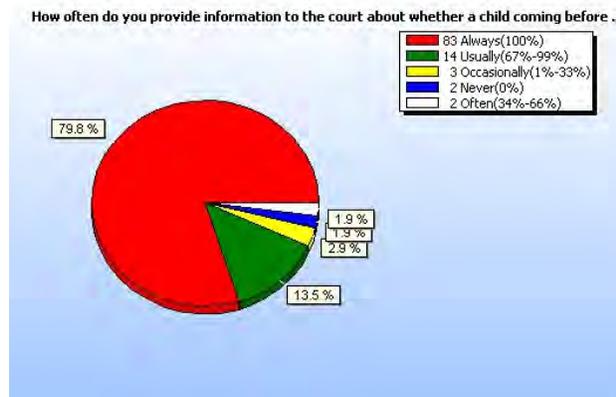
“What percentage of your child abuse and neglect cases involve families from Native American Heritage?”



“How often do you inquire whether or not a child coming before the court may be Native American?”

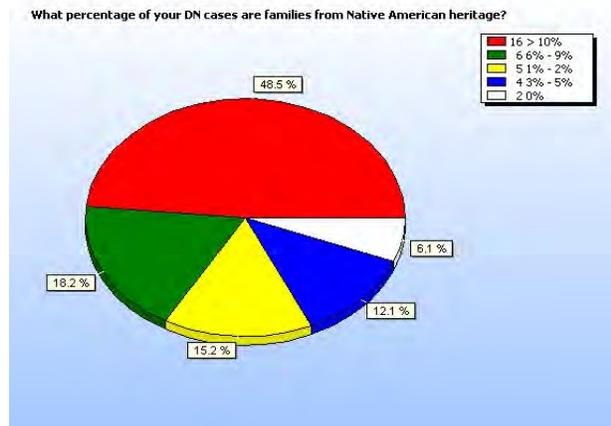


“How often do you provide information to the court about whether a child coming before the court is of Native American heritage?”

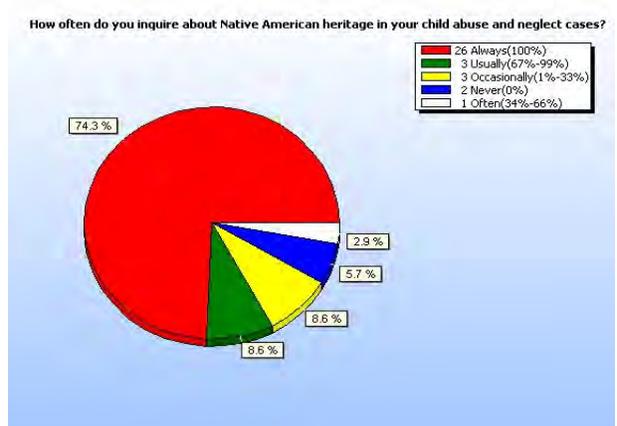


Attorneys:

“What percentage of your DN cases are families from Native American heritage? “



“How often do you inquire about Native American heritage in your child abuse and neglect cases?”

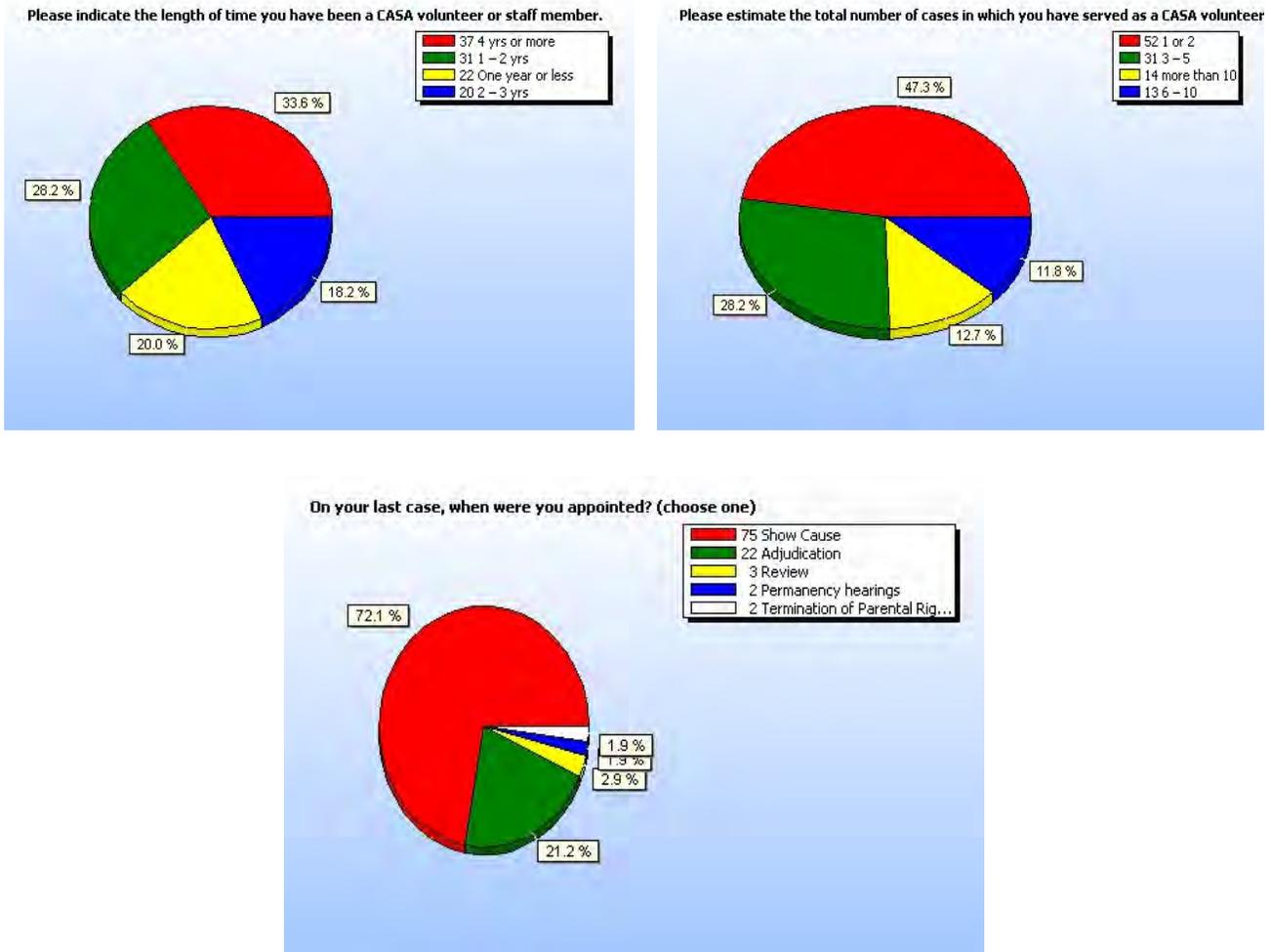


The information gathered indicates judges, caseworkers and attorneys are very cognizant of their responsibility to adhere to ICWA. Case file reviews did not reveal any problems of an Indian child not having been identified at the onset of the case and the lack of notification of the appropriate Tribe causing a delay in the case. Too often, though, the case was delayed because of the mandatory Tribal notification requirements. This has been previously addressed in the Continuances section.

K. Respondents' profiles

a. CASA Volunteers

Montana currently has CASA/GAL offices and satellite sites, covering 40 counties and one Tribal jurisdiction, with over 350 volunteers who advocate for an estimated 1,000 victims of abuse or neglect. Over 50% of CASA volunteers who were sent the survey responded, self-reporting on various aspects of their involvement with the children and the courts.



When asked how often they were the only CASA appointed on a case, almost half responded “Always”. The following graph depicts responses to two questions regarding receiving timely notice of staffings and their attendance at these staffings. The close proximity of the numbers suggests a correlation in not receiving notice to not attending.

How often do you:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. receive timely notice of staffings? (Treatment team and permanency team meetings)	3.8%	24.8%	19.0%	38.0%	16.2%
b. participate in case staffings?	7.1%	10.1%	21.2%	34.8%	17.2%

When CFS caseworkers were asked how often the same CASA volunteer remained on a case through its duration, over 65% responded “usually (67-99%)”. When asked how often they had contact with a child’s CASA volunteer, 61.8% of those CFS caseworkers who responded to the question reported contact at least once per month.

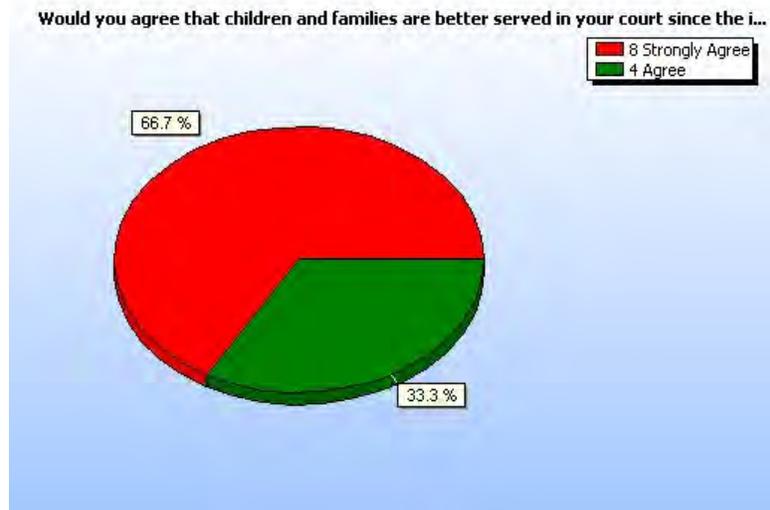
The following graph depicts responses by CFS caseworkers:

Please estimate how often the CASA volunteer does the following:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. meets the child	2.8%	16.7%	9.7%	50.0%	15.3%	5.6%
b. participates in case staffings	11.6%	20.3%	23.2%	34.8%	4.3%	5.8%
c. prepares a report to the court	5.6%	7.0%	11.3%	46.5%	19.7%	9.9%
d. interviews the caseworker before the day of the hearing	8.2%	15.1%	21.9%	42.5%	6.8%	5.5%

80% of the judges who responded have CASA volunteers available in their districts and 58.3% reported appointing CASA volunteers at the show cause hearing. When asked how often CASA volunteers did the following, their responses were:

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Conduct an independent investigation of the case	8.3%	8.3%	8.3%	25.0%	50.0%
b. Prepare court reports	8.3%	8.3%	8.3%	16.7%	58.3%
c. Testify at court hearings	8.3%	41.7%	25.0%	8.3%	16.7%
d. Monitor compliance of court orders and case plans	0.0%	8.3%	16.7%	16.7%	58.3%
e. Investigate and monitor services for the child and family	0.0%	8.3%	33.3%	25.0%	33.3%
f. Investigate potential relative placements for the child	0.0%	41.7%	8.3%	8.3%	41.7%
g. Have a positive impact on the health and safety of the children for whom they advocate	0.0%	0.0%	16.7%	33.3%	50.0%
h. Have a positive impact on timely permanence for the children for whom they advocate	0.0%	0.0%	16.7%	41.7%	41.7%

When asked about the impact to children and families since the implementation of the CASA program in their district, the Judges responded:



Attorneys were also asked several questions about CASA volunteers and the program. 74.3% responded that a CASA volunteer had been appointed in one of their cases. When asked how often had CASA volunteers done the following, their response was:

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Conducted an independent investigation of the case	0.0%	7.7%	15.4%	53.8%	23.1%
b. Prepared court reports	3.8%	3.8%	11.5%	46.2%	34.6%
c. Testified/spoke at hearing	0.0%	34.6%	38.5%	19.2%	7.7%
d. Monitored parties' compliance with court orders and case plans.	0.0%	19.2%	23.1%	42.3%	15.4%
e. Investigated and monitored services for the child and family	0.0%	15.4%	23.1%	42.3%	19.2%
f. Investigated potential relative placements for the child	3.8%	30.8%	30.8%	26.9%	7.7%
g. Had a positive impact on the health and safety of the children for whom they advocate	0.0%	11.5%	34.6%	34.6%	19.2%
h. Had a positive impact on timely permanency placement for the children for whom they advocate	0.0%	32.0%	32.0%	20.0%	16.0%

When asked about the impact to children and families since the implementation of the CASA program in their district, the attorneys' response was:



These data results show that the CASA program is a vital part of the court system in dealing with child and abuse cases. In several counties in Montana, the court is appointing only a CASA volunteer in a case because of a shortage of attorney guardians ad litem.

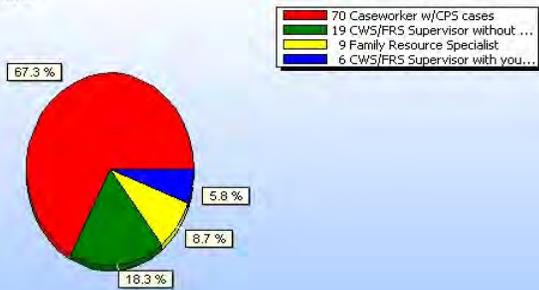
Comments received on the survey were overwhelmingly positive about the CASA program.

The results of the CASA volunteers responses and the data compilation will be shared with the State CASA Director and also the CASA of Montana State Board of Directors for their use in establishing new or updating training materials, in setting program priorities, and to be shared with National CASA.

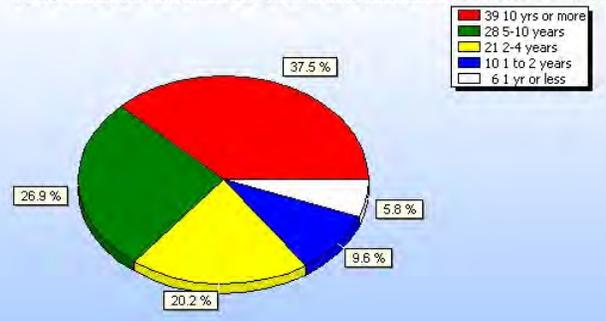
b. CFS caseworkers and supervisors:

Child and Family Services Division employs 340 FTE, 179 of whom are caseworkers, supervisors or family resource specialists. 104 of these answered the online survey. They offered the following demographic information about their positions, longevity, caseloads and details and the amount of time spent in court hearings.

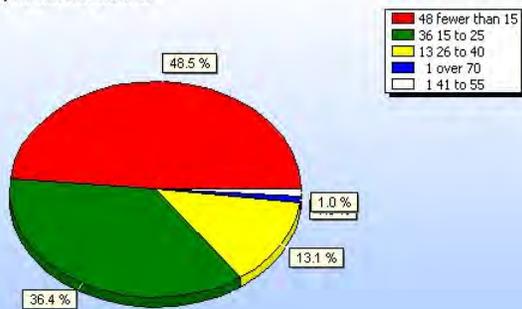
Are you a:



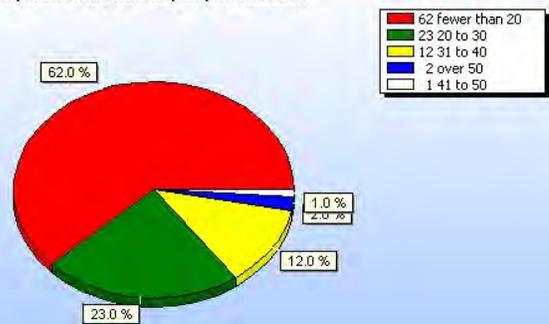
Please indicate the total number of years you have worked with CFS as a social worker ...



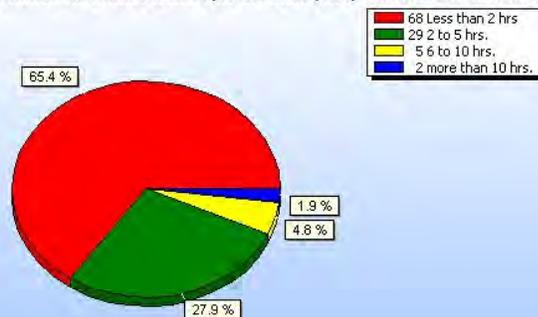
What is your current caseload?



How many children are currently on your caseload?



Please estimate the number of hours per week that you spend in court on child abuse an.



These caseworkers, supervisors and FRS's expect to place an estimated 3,121 children into care during FY 2006. That number is expected to increase by 3% in FY 2007. They also self-reported on their duties.

How often do you provide information to the court concerning:	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. child's health and safety	2.0%	5.9%	18.6%	34.3%	39.2%
b. Services for the child	3.9%	6.9%	17.6%	38.2%	33.3%
c. child's education	7.1%	24.2%	22.2%	31.3%	15.2%
d. Appropriateness of child's placement	0.0%	7.9%	20.8%	32.7%	38.6%
e. Parent visitation	2.0%	12.2%	10.2%	38.8%	36.7%
f. Sibling visitation	5.2%	26.8%	19.6%	28.9%	19.6%
g. Parents' involvement in case planning	8.2%	15.3%	21.4%	30.6%	24.5%
h. Appropriateness of case plan and progress	1.0%	8.2%	15.3%	40.8%	34.7%
i. Independent living services for all youth 14 and over (regardless of permanency plan)	9.7%	23.7%	29.0%	21.5%	16.1%
j. Services for the parent(s)	6.1%	3.1%	9.2%	33.7%	48.0%
k. Compliance with previous court orders and case plan	3.2%	5.3%	14.7%	31.6%	45.3%
l. Concurrent planning	4.3%	12.8%	20.2%	33.0%	29.8%
m. Foster parents' input about case	14.6%	36.5%	19.8%	19.8%	9.4%

CFS workers were asked: “How often do the following individuals participate in the development of the child’s case plan?” Their responses:

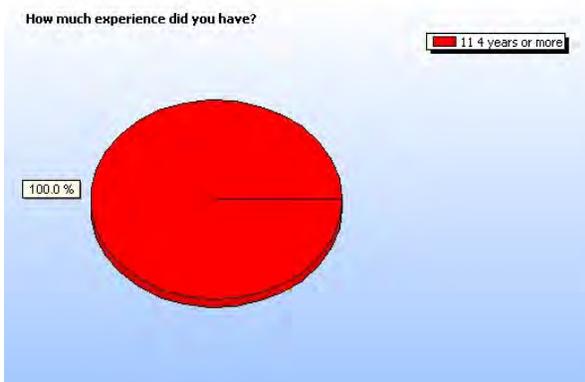
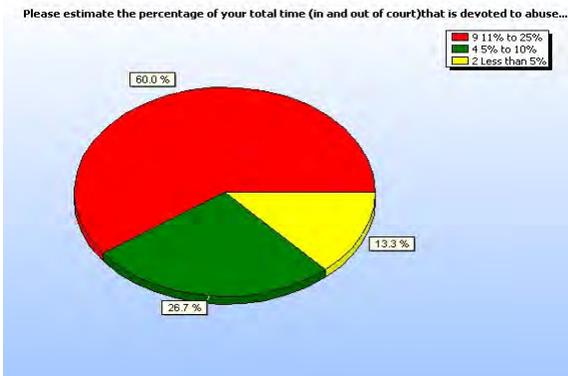
	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not applicable
a. Parents	1.1%	5.3%	17.9%	54.7%	17.9%	3.2%
b. Parents' attorney(s)	8.5%	33.0%	24.5%	24.5%	5.3%	4.3%
c. Child (if age appropriate)	26.9%	51.6%	6.5%	9.7%	0.0%	5.4%
d. Foster parents	53.2%	28.7%	7.4%	4.3%	1.1%	5.3%
e. Guardian ad Litem	15.1%	31.2%	19.4%	26.9%	1.1%	6.5%
f. CASA volunteer (when appointed)	15.4%	29.7%	16.5%	19.8%	2.2%	16.5%
g. CFS attorney	19.1%	33.0%	17.0%	13.8%	10.6%	6.4%
h. Other relatives	17.0%	47.9%	21.3%	6.4%	1.1%	6.4%
i. Additional stakeholders (e.g. therapist, juvenile officer, school representatives . . .)	3.2%	34.0%	33.0%	20.2%	5.3%	4.3%

These responses seem to indicate that caseworkers have many of the stakeholders in the case involved in the planning process the majority of the time, except for the child if age appropriate. The CFSR PIP addressed this issue in WB 18 and CR 25.

c. Judges

Montana has 42 District Court judges that preside in 22 Judicial Districts. The number of judges per district depends on the population and also the caseload. The 2005 Legislature authorized an additional judge in the 18th Judicial District based on the extensive caseloads of the two sitting judges in that district.

The judges self-reported on their caseloads and their training and experience in child abuse and neglect cases:



Judges were asked how often the following was done at the adjudicatory hearing:

	Never(0%)	Occasionally(1%-33%)	Often(34%-66%)	Usually(67%-99%)	Always(100%)
a. How often do you make findings (to be incorporated in the written order) whether there were reasonable efforts to prevent removal?	0.0%	0.0%	0.0%	20.0%	80.0%
b. In making these findings, how often do you describe the efforts in the language of the court order?	0.0%	0.0%	6.7%	33.3%	60.0%
·how often do you use language in the court order that cross-references or refers specifically to evidence submitted to the court?	0.0%	0.0%	13.3%	53.3%	33.3%
·how often do you use language in the court order that cross-references the affidavit or findings of adjudication?	0.0%	6.7%	13.3%	66.7%	13.3%
·how often do you check off items from a detailed checklist?	40.0%	26.7%	13.3%	13.3%	6.7%
c. How often is a case plan presented?	6.7%	13.3%	6.7%	60.0%	13.3%
d. How often do you find that the case plan goal is appropriate?	6.7%	6.7%	0.0%	86.7%	0.0%
e. How often do you consider the appropriateness of the case plan services?	6.7%	13.3%	0.0%	53.3%	26.7%
f. How often do you find that the case plan is sufficient to meet the child's needs?	6.7%	6.7%	6.7%	73.3%	6.7%
g. If the child cannot be safely returned home, how often do you order relative placements to be explored?	0.0%	6.7%	26.7%	46.7%	20.0%
h. How often do you make orders regarding the following services? -Parenting classes	0.0%	6.7%	33.3%	60.0%	0.0%
·Intensive family services	0.0%	7.1%	42.9%	50.0%	0.0%
·Crisis counseling	0.0%	20.0%	53.3%	26.7%	0.0%
·Family therapy	0.0%	7.7%	53.8%	38.5%	0.0%
·Mental health evaluations/treatment	0.0%	20.0%	33.3%	46.7%	0.0%
·Drug & alcohol assessment/treatment	0.0%	13.3%	26.7%	53.3%	6.7%
i. When the child will remain in an out-of-home placement, how often do you make orders regarding redirection of child support or social security payments, if applicable?	14.3%	42.9%	7.1%	28.6%	7.1%
j. How often is concurrent planning addressed?	15.4%	7.7%	61.5%	15.4%	0.0%

Judges were also asked about review hearings:

	Never(0%)	Occasionally(1%-33%)	Often(34%-66%)	Usually(67%-99%)	Always (100%)
a. How often do you project the date of the child's return home?	20.0%	53.3%	20.0%	6.7%	0.0%
b. When return home is unlikely, how often do you specify other permanency alternatives?	0.0%	21.4%	35.7%	42.9%	0.0%
c. How often is the permanency projection based upon: - The extent of compliance with the case plan?	0.0%	13.3%	6.7%	80.0%	0.0%
·The extent of progress made toward alleviating or mitigating the causes of the out-of-home placement?	0.0%	6.7%	26.7%	60.0%	6.7%
·Whether the child should be returned to the parents and whether or not the child's health and safety can be protected by the parents if returned home?	0.0%	0.0%	20.0%	66.7%	13.3%
·Whether the child should be continued in an out-of-home placement for a specified period of time?	0.0%	20.0%	33.3%	40.0%	6.7%
·Whether the child should be placed for adoption?	6.7%	33.3%	20.0%	40.0%	0.0%
·Whether the child should be, because of special needs or circumstances, continued in an out-of-home placement on a permanent or long-term basis?	0.0%	28.6%	35.7%	35.7%	0.0%
d. How often do you: ·Determine if clarification or modification of prior orders is needed?	0.0%	73.3%	13.3%	13.3%	0.0%
·Review the effect of the visitation schedule on the child?	0.0%	33.3%	33.3%	20.0%	13.3%
·Consider whether the child's needs are being met?	0.0%	0.0%	13.3%	53.3%	33.3%

At permanency hearings, the judges were asked . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often do you make findings (incorporated into the written order) regarding reasonable efforts to reunite the family or finalize a permanency plan at the first permanency hearing?	0.0%	0.0%	6.7%	40.0%	53.3%
b. In making these findings, how often do you: ·Describe the efforts in the language of the court order?	0.0%	0.0%	6.7%	46.7%	46.7%
·Use language in the court order that cross-references or refers specifically to evidence submitted to the court?	0.0%	0.0%	26.7%	26.7%	46.7%
·Use language in the court order that cross-references the affidavit or findings of adjudication?	0.0%	0.0%	20.0%	66.7%	13.3%
·Check off items from a detailed checklist?	60.0%	6.7%	6.7%	13.3%	13.3%
-Use language in the court order explaining why higher levels of permanency are not available to the child or are not in the child's best interest?	0.0%	13.3%	13.3%	46.7%	26.7%

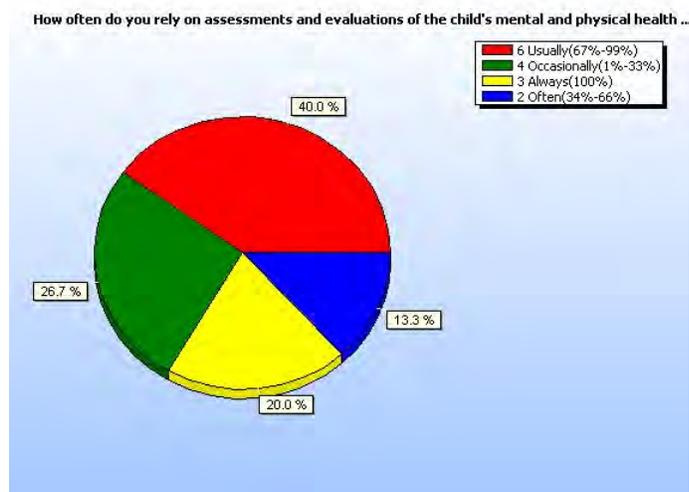
If a case disposition results in a termination of parental rights hearing, the judges were asked to respond to the following:

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often are all parties (including putative fathers) properly served?	0.0%	0.0%	18.2%	81.8%	0.0%
b. How often, in the original TPR petition, is termination sought on both legal parents?	0.0%	0.0%	16.7%	83.3%	0.0%
c. How often is evidence presented regarding the best interests of the child?	0.0%	0.0%	40.0%	60.0%	0.0%
d. How often is evidence presented regarding an appropriate permanency placement for the child?	0.0%	0.0%	16.7%	83.3%	0.0%
e. How often does CFS file a TPR petition when a child has been in an out-of-home placement for 15 of the last 22 months?	0.0%	0.0%	0.0%	100.0%	0.0%

“Generally, how often are the following addressed during hearings?”

Judges' responses	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Child's health and safety	0.0%	0.0%	6.7%	26.7%	66.7%
b. Services for the child	0.0%	0.0%	13.3%	53.3%	33.3%
c. Child's education	0.0%	13.3%	20.0%	53.3%	13.3%
d. Appropriateness of child's placement	0.0%	0.0%	6.7%	40.0%	53.3%
e. Parent visitation	0.0%	6.7%	6.7%	53.3%	33.3%
f. Sibling visitation	0.0%	6.7%	40.0%	33.3%	20.0%
g. Parents' involvement in case planning	0.0%	13.3%	20.0%	53.3%	13.3%
h. Appropriateness of case plan and progress	0.0%	6.7%	13.3%	40.0%	40.0%
i. Independent living services, for all youth 14 and over (regardless of permanency plan)	13.3%	66.7%	6.7%	13.3%	0.0%
j. Services for the parent(s)	0.0%	13.3%	13.3%	60.0%	13.3%
k. Compliance with previous court orders and case plan	0.0%	6.7%	13.3%	60.0%	20.0%
l. Concurrent planning	7.1%	14.3%	21.4%	57.1%	0.0%
m. Foster parents' input about case	0.0%	35.7%	35.7%	14.3%	14.3%

“How often do you rely on assessments and evaluations of the child’s mental and physical health when making your orders?”



“When you order a child to be returned home, how often do you . . .?”

	Never (0%)	Occasionally (1%-33%)	Often (34%- 66%)	Usually (67%- 99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	13.3%	40.0%	13.3%	26.7%	6.7%
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	6.7%	33.3%	13.3%	46.7%	0.0%
c. hear testimony or receive reports regarding the success of the extended visits?	6.7%	13.3%	33.3%	40.0%	6.7%
d. specify a timetable for the child to return home?	6.7%	40.0%	26.7%	26.7%	0.0%
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	0.0%	13.3%	20.0%	53.3%	13.3%
f. allow CFS to return the child contingent upon certain conditions being met?	0.0%	13.3%	53.3%	26.7%	6.7%

Attorneys, CASA volunteers and CFS caseworkers were also asked to comment on the court’s actions if it ordered a child returned home.

CASA volunteers’ response:

When the court orders a child to be returned home, how often does it . . .	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	16.4%	41.8%	17.9%	22.4%	1.5%
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	8.6%	40.0%	25.7%	18.6%	7.1%
c. hear testimony or receive reports regarding the success of the extended visits?	9.9%	35.2%	21.1%	28.2%	5.6%
d. specify a timetable for the child to return home?	4.2%	37.5%	25.0%	23.6%	9.7%
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	10.4%	32.8%	26.9%	17.9%	11.9%
f. allow CFS to return the child contingent upon certain conditions being met?	4.2%	23.9%	29.6%	31.0%	11.3%

CFS Caseworkers' response:

When the court orders a child to be returned home, how often does it . . .	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	23.5%	37.6%	10.6%	18.8%	9.4%
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	21.8%	39.1%	10.3%	23.0%	5.7%
c. hear testimony or receive reports regarding the success of the extended visits?	15.1%	51.2%	9.3%	16.3%	8.1%
d. specify a timetable for the child to return home?	18.6%	37.2%	11.6%	17.4%	15.1%
e. specify continued monitoring for a specified period of time after the child returning home to ensure the safety of the child?	9.4%	42.4%	21.2%	20.0%	7.1%
f. allow CFS to return the child contingent upon certain conditions being met?	8.1%	33.7%	30.2%	16.3%	11.6%

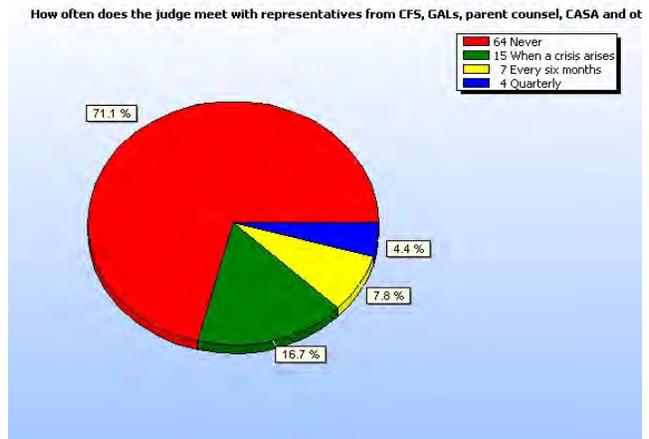
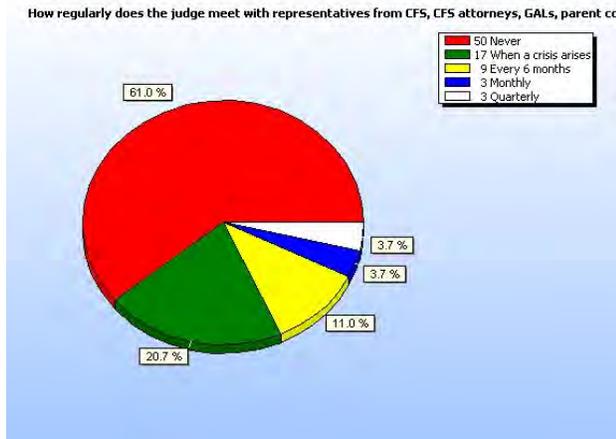
Attorneys' response:

When the court orders a child to be returned home, how often does it . . .	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	21.9%	53.1%	9.4%	12.5%	3.1%
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	18.8%	37.5%	15.6%	28.1%	0.0%
c. hear testimony or receive reports regarding the success of the extended visits?	15.6%	34.4%	28.1%	21.9%	0.0%
d. specify a timetable for the child to return home?	22.6%	38.7%	19.4%	19.4%	0.0%
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	12.5%	46.9%	21.9%	18.8%	0.0%
f. allow CFS to return the child contingent upon certain conditions being met?	9.7%	25.8%	29.0%	35.5%	0.0%

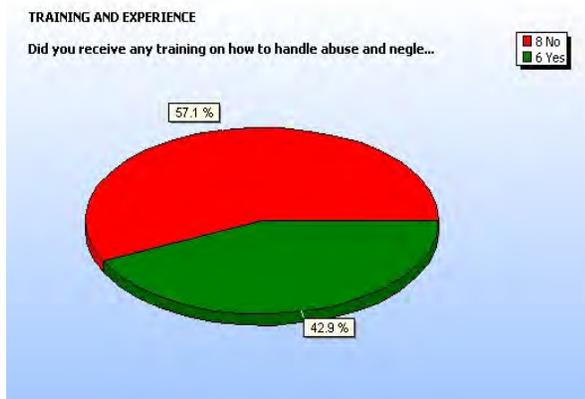
CASA volunteers and CFS caseworkers were asked how regularly they met with the judge.

CASA volunteers' response:

CFS caseworkers' response:



The judges were asked about their training and experience:



A question on the survey also asked the judges if, because funding for judicial education is limited, they would be willing to utilize a mentor judge in a complex dependency case. 80% stated they would and three judges also indicated they would be willing to be a mentor judge.

And, finally, judges were asked about prior training they've received and future training needs.

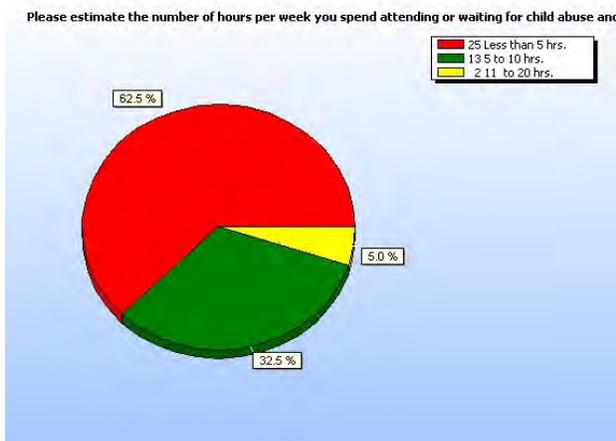
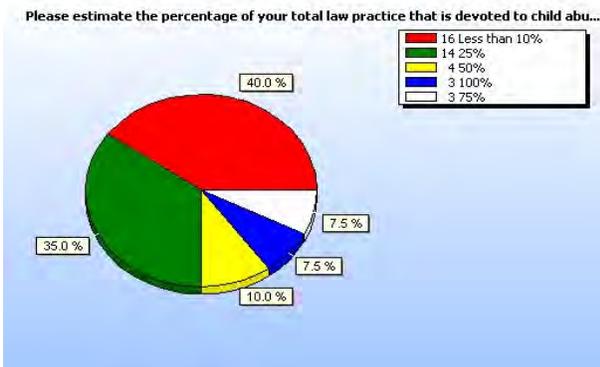
Please indicate what training you've had, if any, or would like to have in the future. (Number of judges responding)	Prior	Future
a. No training	5	0
b. Legal and procedural aspects of child abuse and neglect cases	14	9
c. State and federal requirements related to child abuse and neglect cases	15	10
d. Indian Child Welfare Act (ICWA)	13	7
e. Child Development	7	7
f. Mental health issues and services of child abuse and neglect cases	11	7
g. Medical issues and services in child abuse and neglect cases	10	6
h. Diversity training/special ethnic and cultural issues related to child abuse and neglect cases	6	3
i. Special Education	6	4
j. Drug and alcohol abuse and its impact on parenting/treatment options	12	8
k. Evaluating case plans	6	8
l. Family dynamics including domestic violence and co-dependency	11	6
m. Judicial case management of child abuse and neglect cases	9	10
n. Foster case placement issues including grief, loss and attachment	5	8
o. Mediation	6	8

These responses indicate that judges are versatily trained with many wanting additional training in several areas. This information will be shared with the Supreme Court's Judicial Educator and the Montana Judges' Association Curriculum Committee to help in planning appropriate curricula for the coming years.

d. Attorneys

Attorneys also self-reported on their experience and training in child abuse and neglect cases. When asked how much of their time is devoted to acting as the following, they replied:

Please estimate the percentage of time you spend on child abuse and neglect cases as the:	0-20%	21-40%	41-60%	61-80%	81-100%
Parent's attorney	59.1%	22.7%	13.6%	0.0%	4.5%
Guardian ad Litem	75.0%	16.7%	8.3%	0.0%	0.0%
CFS Attorney	65.0%	5.0%	5.0%	0.0%	25.0%

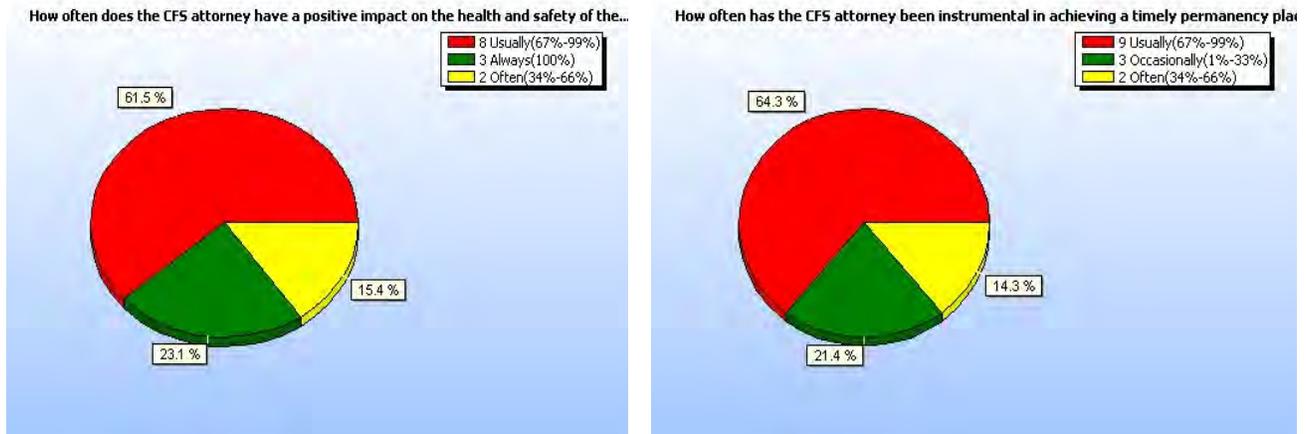


An opinion of a CFS Caseworker: *“Sixth Judicial - Park County. We have a great county attorney office who represents us very well.”*

CFS Attorneys:

Questions about the impact of the CFS attorney on the health and safety of the child and timely permanency were asked of judges.

Judges' responses:



Comments received from survey participants indicate there is some discord over the requirement of the county attorney to act as the CFS attorney unless another entity is providing an attorney to represent CFS. Currently, the Montana Attorney General's office has a Children's Protection Unit, staffed with three attorneys and a supervisor who handle abuse and neglect cases at the request of a county attorney. Several bills have been introduced in the past legislative sessions that would require Child and Family Services to provide its own attorneys, thereby relieving the County Attorney office staff from fulfilling this obligation. Planning is underway to approach the 2007 Legislature with a similar bill.

"I am a new county attorney in the 3rd judicial district. I was a deputy county attorney for twelve years prior. Locally, do not have the time or the resources to do as thorough of a job in the Youth in Need of Care (YNIC) world as I would like. Our office is overstressed and we rarely have time to work on these cases until just before the SW requests a court hearing on an action. I think the State should fund YNIC attorney to represent the SW and to provide consistent legal advise throughout the case. I think this attorney should be employed by DPHHS CPS. This would strengthen the services to children and also the level of social work and accountability. Services to children should be our highest priority, but, the reality in a busy county attorney office in a poor county is that we really need another attorney just to keep up with all our other legal mandates and would really need an additional, separate, attorney to do just youth cases, both YNIC and delinquent youth - I do not believe it is fair to children to give county attorneys an unfunded mandate to represent DPHHS when we are ill equipped in poor counties to do this, due to lack of staff and other resources. It is a real shame that, as a state, we do not put our money where our mouth is."

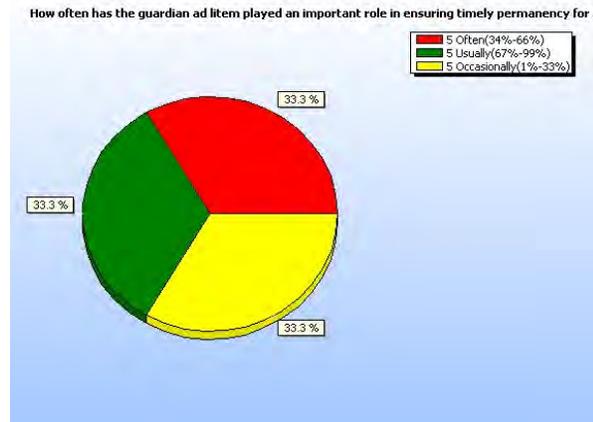
"We need DPHHS to provide its own attorneys to do this work. I am a solo County Attorney and frequently have conflicts with criminal cases and DPHHS cases."

Judge: *"The CFS attorney is usually the newest attorney in the County Attorney's office who gets the 'dogs running at large' complaints and the DN cases. My biggest wish would be for an experienced, knowledgeable CFS attorney who is committed to the job and doesn't leave and have to be replaced every year or two."*

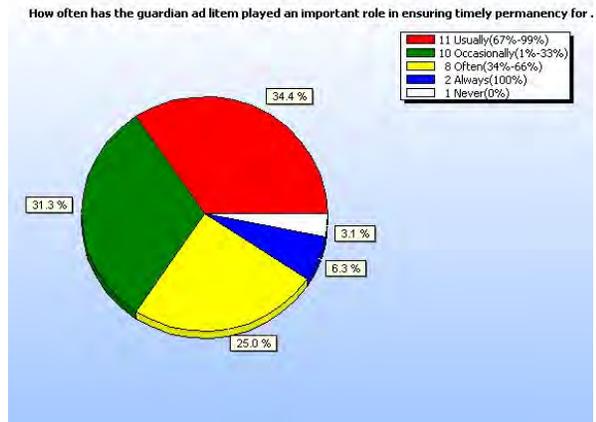
Attorney GALs:

Judges and attorneys were asked how often the GAL played an important role in ensuring timely permanency for children?

Judges' response:

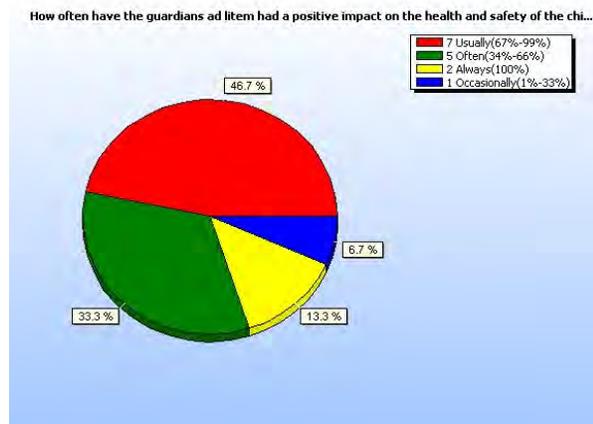


Attorneys' response:

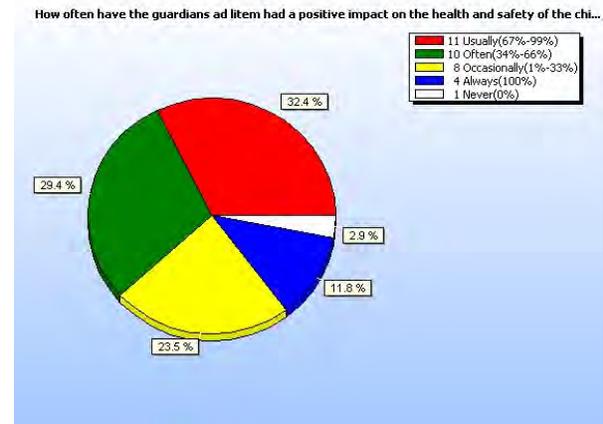


They were also asked how often the GAL had a positive impact on the health and safety of children.

Judges' response:



Attorneys' response:



Attorneys, who have served as a GAL, were questioned as to the process when the children they are representing are moved from their current foster home.

“How often, when a foster parent requests a foster child be removed for the home (except in an emergency) . . .”	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you notified so that you can attend and participate in the staffing and planning for the child's placement?	38.5%	46.2%	0.0%	15.4%	0.0%
b. is a staffing held within 48 hours to discuss what services or assistance may be needed to stabilize the placement?	23.1%	38.5%	23.1%	7.7%	7.7%

“How often, when a child’s placement is changed . . .?”	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. do you receive a written notice two weeks prior to the proposed changes?	57.1%	35.7%	0.0%	7.1%	0.0%
b. does the written notice give specific reasons for the proposed change?	57.1%	42.9%	0.0%	0.0%	0.0%
c. are you given the address of the proposed new foster home or institution?	71.4%	28.6%	0.0%	0.0%	0.0%

“How often, when a child is removed because of an emergency. . .?”	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you notified of the change of placement within 24 hours?	30.8%	61.5%	7.7%	0.0%	0.0%
b. are you provided with the name and address of the new foster care provider within 24 hours?	61.5%	30.8%	7.7%	0.0%	0.0%
c. are you provided written notice within 72 hours for the specific reasons justifying the change of placement without advance notice?	53.8%	38.5%	7.7%	0.0%	0.0%

These percentages indicate that there is a serious communication problem within the team who is working towards the child’s best interest. The majority fall into the “Occasionally” bracket. The concern is that without a GAL being notified of a change in the child’s placement, a key player, one who is assigned by the court to represent the best interest of the child, has not had a chance to participate in the decision to move a child or to determine if the move is even necessary. Multiple placements is an area that needs improvement, **P6: *Stability of Foster Care Placements*** on CFSD’s PIP.

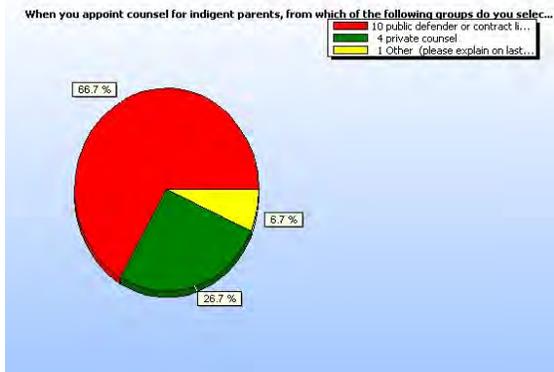
A Work Plan was developed by the state delegation who attended the National Judicial Summit for Children, which was held in Minneapolis in September 2005. One of the goals of that plan is to increase communication between judges, caseworkers, foster parents and attorneys. (Appendix III) In addition, a Guardian ad Litem Task Force is currently working to have standards and training requirements adopted for guardians ad litem who serve in Montana courts representing abused and neglected children. The adoption of these standards, which identify the duties of the GAL, will quantify the scope of the representation for these children. (Appendix II)

Parent Attorneys:

When parents, whose children have been placed into care by CFS because of suspected abuse or neglect, need an attorney, they may request the court appoint one because of indigency or they may hire an attorney of their choosing.

The judges responded to the following questions about parents' attorneys:

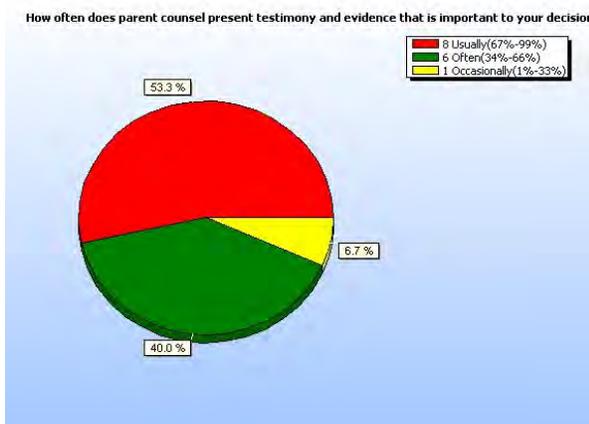
“When you appoint counsel for indigent parents, from which of the following groups do you select?”



“Do attorneys have to meet any requirements (i.e. training, experience, etc.) to be appointed?”

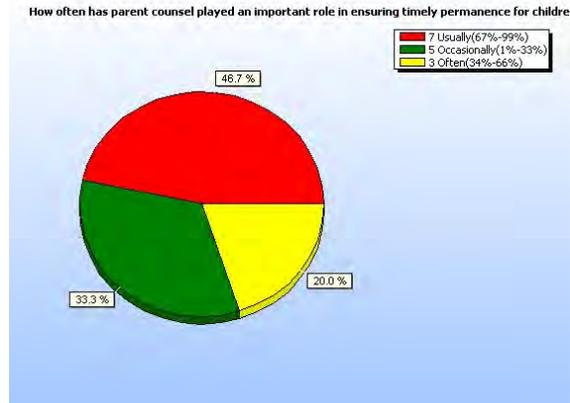


“How often does parent counsel present testimony and evidence that is important to your decision?”



The following responses were received from the judges and attorneys:
 “How often has parent counsel played an important role in ensuring timely permanency for children?”

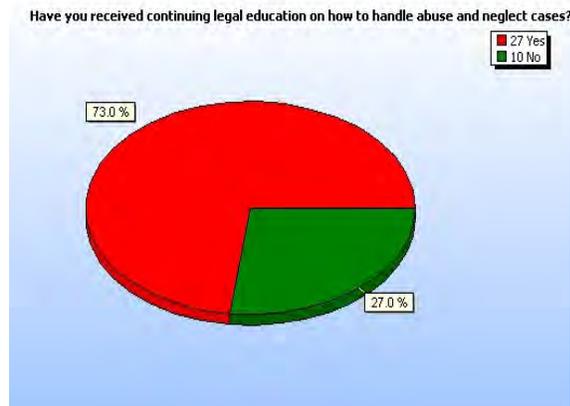
Judges response:



Attorneys response:



Attorneys were asked about their past training and their needs for future training:



One attorney opined: *“We need specialized training for parent's attorneys and a nonadversarial system that puts the rights of children paramount to the rights of any other party.”*

Please indicate what training you've had, if any, and would like to take in the future.	Prior	Future
a. No training	6	5
b. Legal and procedural aspects of child abuse and neglect cases	26	17
c. State and federal requirements related to child abuse and neglect cases	25	17
d. Indian Child Welfare Act (ICWA)	27	14
e. Child Development	13	14
f. Mental health issues and services of child abuse and neglect cases	15	19
g. Medical issues and services in child abuse and neglect cases	8	17
h. Diversity training/special ethnic and cultural issues related to child abuse and neglect cases	13	15
i. Special Education	4	13
j. Drug and alcohol abuse and its impact on parenting/treatment options	17	17
k. Evaluating case plans	4	19
l. Family dynamics including domestic violence and co-dependency	17	13
m. Judicial case management of child abuse and neglect cases	3	13
n. Foster case placement issues including grief, loss and attachment	17	10
o. Mediation	10	17

As reflected in this chart, the majority of the attorneys reporting have taken advantage of training in the legal aspects and the federal and state requirements of child abuse and neglect cases. Areas that scored the lowest, i.e. medical services, special education and evaluation of case plans, may be indicative of only thirteen attorneys who answered the survey as a Guardian ad Litem, since these are areas that prosecuting or defense attorneys may not have seen the need for education. These areas, however, were selected as future trainings to attend. This information will be shared with the Montana County Attorneys' Association, the Chief Public Defender's office and the GAL Taskforce to help prioritize future training goals and facilitate the implementation of needed training.

e. Foster Parents

Foster parents are an integral piece to the success of a child’s permanency, whether the goal is reunification, adoption or another avenue. It is unfortunate there wasn’t a more accessible way to survey these important stakeholders in our foster care system. The responses that were received represent such a very small portion of our foster parents that they can’t be used as a statistically sound sampling.

The respondents varied in the amount of time they’ve been fostering children, the number of children who’ve been placed in their home, and the amount of training they’ve had about the court system and their understanding of the hearings held for their foster children. The following graph is their response as to the level of communication between the caseworkers, the court and themselves.

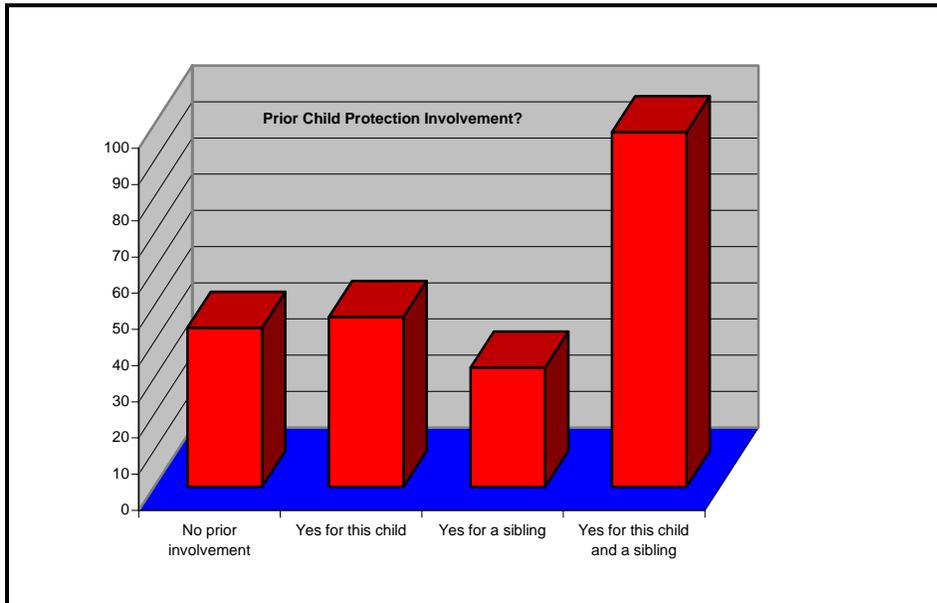
How often . . .	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you included in the development of your foster child's case plan?	25.0%	62.5%	12.5%	0.0%	0.0%
b. do you receive a copy of the case plan for your foster child?	62.5%	0.0%	12.5%	12.5%	12.5%
c. do you receive timely notice of court hearings?	12.5%	75.0%	12.5%	0.0%	0.0%
d. do you receive timely notice when the date or time of a court hearing has been changed?	25.0%	62.5%	12.5%	0.0%	0.0%
e. do you attend court hearings?	12.5%	25.0%	12.5%	37.5%	12.5%
f. do you have the opportunity to make comments at court hearings?	50.0%	37.5%	12.5%	0.0%	0.0%
g. do you receive a copy of the court orders concerning your foster child?	50.0%	25.0%	0.0%	12.5%	12.5%
h. do you know what services have been ordered by the court for your foster child?	12.5%	62.5%	0.0%	0.0%	25.0%
i. do you feel that the court has sufficient information to make a good decision about the services for your foster child and his/her family?	0.0%	50.0%	37.5%	12.5%	0.0%
j. do you feel that the services ordered are appropriate for your foster child?	0.0%	57.1%	14.3%	14.3%	14.3%
k. do you feel that CFS provides the services ordered by the court to your foster child?	0.0%	71.4%	0.0%	14.3%	14.3%

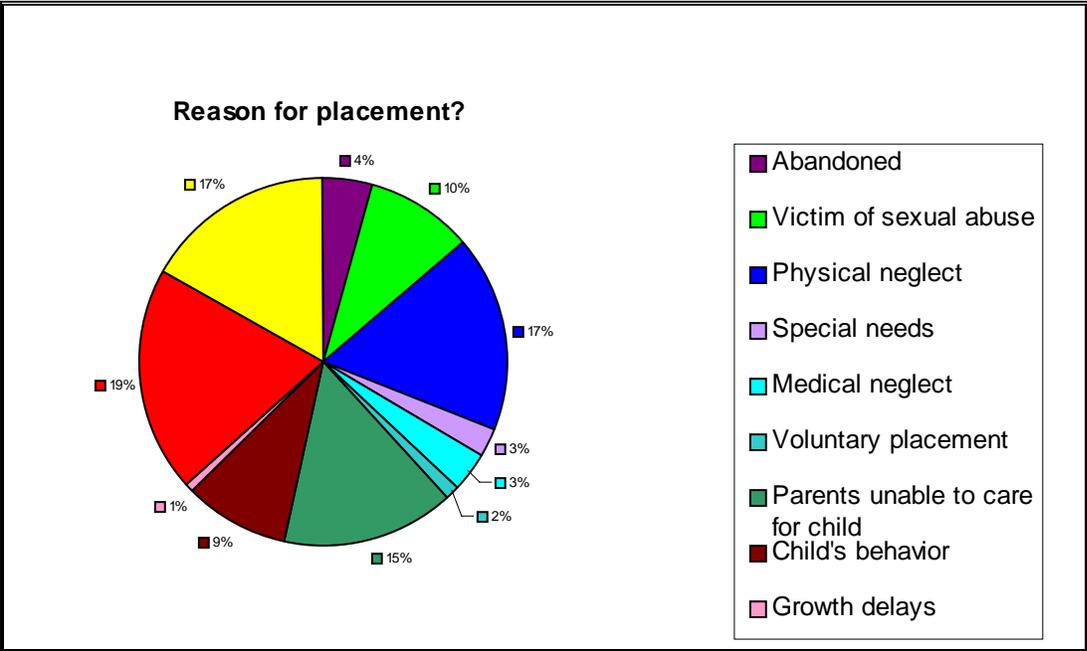
The majority of the answers fall into the “occasionally” bracket except for the question about foster parents’ attendance at court hearings, which is the only action totally within the foster parents’ ability to perform by themselves. The other actions all depend on the caseworker, the court or a service provider. Even though the responses here only reflect a small number of foster parents, it’s concerning that three-quarters of them are only receiving timely notices of court hearings occasionally and that half of them do not have the opportunity to make comments at court hearings. It seems that the court may not be hearing vital information about the child’s well-being.

L. Case file demographics

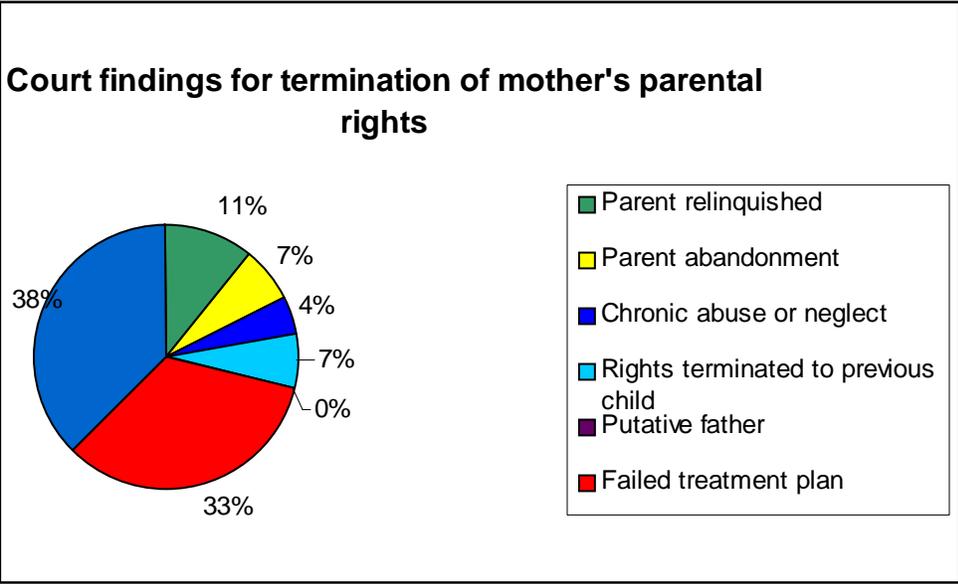
As reported previously, about 355 cases were identified for review in the five counties selected for the reassessment and of these, a total of 224 case files were reviewed. Case data was analyzed for compliance to federal and state statutes, time spent in foster care, case delays and the reasons, and the permanency for children.

The average age for children reviewed was 7 years old. More girls than boys were randomly selected in the case files. The total number of children named on the petitions was 402, for an average of 1.81 children per case.

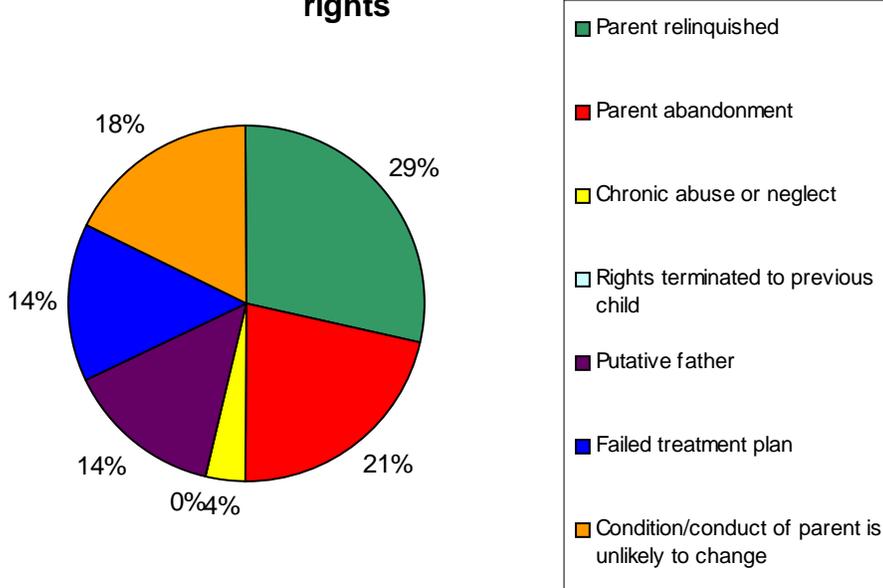




A total of 32 cases had held a hearing to terminate parental rights, either for the mother, father or both. By the deadline to collect data, 23 cases had had orders entered terminating the mother's rights and 17 orders entered terminating the father's rights. The following charts highlight the court findings:

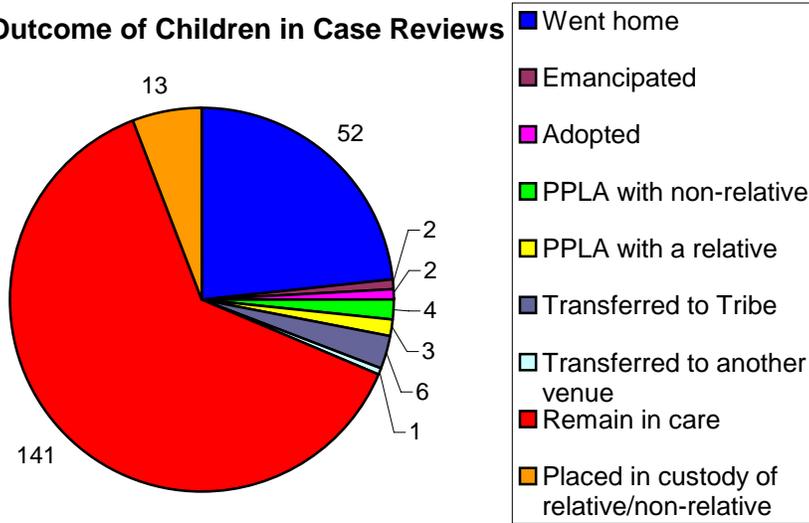


Court findings for termination of father's parental rights



Of the 224 children reviewed, the following graph depicts the final outcome of the cases.

Final Outcome of Children in Case Reviews



M. Comments

Many respondents of the online survey took advantage of a comment field and voiced opinions about the system, the stakeholders or the outcomes for children. Relevant comments were incorporated into the body of the reassessment. Others, due in part to containing multiple subject matter, are listed here. Comments regarding the reasons respondents had limited responses are not included, nor are comments that went beyond the scope of the reassessment. Many of the comments contain constructive criticism and logical solutions but the overall sense of the majority of the comments is frustration and dissatisfaction with what is happening to the children. Some comments are not reprinted in their entirety.

a. Attorneys:

Fourth Judicial District - Little attention paid to the ASFA chronological guidelines. Too much boilerplate language in the petitions and orders, so that cases are not easily distinguishable. Each case should detail specifics - why child was removed, what specific services CFS is offering parents and child. Too often I feel that as the social worker goes, so goes the case.

I was 1/2 time county attorney for 15 years until 1998. I had some training through my county courses. A couple of years ago I was court appointed to represent an indigent 17-year-old mother in a temporary placement in a neglect case. This was a disaster, it appeared to be foreordained that the mother was not fit to take the child back. DPHHS controlled the process, the county attorney's offices in the Judicial District where it started, and another Judicial District where it ended both treated their role as absolute and unqualified advocates for DPHHS to the point of making no decisions or recommendations even when DPHHS was patently wrong, ethically and statutorily. The county attorney's office has two functions, to represent DPHHS, and to see that DPHHS conforms to its statutory obligations. My experience was in both counties that the county attorney zealously argued the DPHHS position without engaging in any independent judgment. Notices weren't given, court ordered treatments and evaluations were at best minimally carried out. The treatment plans were used as a vehicle for failure, not as a vehicle for rehabilitation and reunification. Visitations, DPHHS interviews, foster parent meetings were arbitrarily and unilaterally cancelled or changed at the last minute causing almost constant stress and upheaval for the mother, but any deviation from the treatment plan by the mother was cause for a court hearing for noncompliance. I truly felt the entire process was geared from the first day in court to ultimately terminate parental rights. My personal take was that DPHHS absolutely controlled the process and guardian ad litem, attorneys for guardian ad litem, the county attorney's office, foster parents, all were subservient to the dictates of DPHHS. And what appeared to me to be an appalling conflict, the foster parents were the designated adoptive parents, the argument being that the child's placements would be fewer, but the reality is that the foster parent as the potential adoptive parent has a vested interest in the parent failing, and the foster parent is in a position of authority to help make that happen. My client did not get help, she was set up for failure and she failed. I have a second case currently with DPHHS, which I choose not to comment on because it is ongoing, other than to say the judge has been most attentive to parental rights and notice requirements. In conclusion, it is my opinion based on old data when I was county attorney, and then more recently on a very limited base of experience that DPHHS is intent on following an established pattern of treatment that allows for no variation for individual needs, and that the DPHHS mindset is slanted towards termination, not towards rehabilitation and reunification.

We need more time on the Court's dockets, particularly for termination hearings. We should have specialized attorneys for children that are trained in child advocacy law. We should also have Judges that have been trained to do abuse and neglect cases and only hear this type of cases. Until this is a specialized area of law with family courts dedicated to just this area of practice, children will continue to be lost in the shuffle of the busy district courts.

Over the years, the legislature has appropriately made significant changes to Title 41 in an effort to comply with Federal law, provide permanency for children, and protect the constitutional rights of parents. However, these changes have made representation of CFS more time-intensive and complex without, at the same time, providing any additional funding for the counties that are responsible to prosecute these cases. To significantly improve the handling of child protection cases in court, the legislature should immediately study the financial impact these changes have had on counties over the past six (6) years and then provide the necessary funding so counties can afford to prosecute these cases.

I am in the Third Judicial District. The social workers are very good, but we don't have enough of them.

The main reason permanency plan hearings have been late/delinquent has been receiving the social worker affidavits in order for us to prepare and file a petition. The same goes for all other petitions.

b. Caseworkers:

My two greatest frustrations with the court system is the frequency with which TIA and TLC issues are not resolved in a timely manner. This happens for a variety of reasons: the county or parents' attorney is not prepared, the parties feel they can come to agreement without a contested hearing but the meetings to discuss it are never scheduled so things are continued. The county attorney avoids scheduling contested hearings so issues remain unresolved (I have had TIA on a case for 16 mos!). I rarely get orders in a timely manner. I got a Permanency and LTC order last week that I should have received last November! I submit treatment plans to be ordered by the court but the county attorney doesn't schedule a hearing and a year later a treatment plan still hasn't been ordered. It's totally unacceptable.

We have two judges, one stays on schedule and gets orders out as soon as he gets them. The other judge is slower and takes more time, sometimes we wait 6 months on a TPR order. The judge that gets his orders out: we have a time for the hearing and he stays on track. The other judge sets most of his cases for the same time, so there is more waiting.

It would be helpful to have Judges participate in child protective team so that they can better understand the child protective process that currently exists. It would also be beneficial for the Child Protective Team to have a better understanding of what the Judge is witnessing from the bench and what the Judge feels would be helpful in the child protective process.

Often CFS reports are filed with CFS attorney in advance of hearings, but she does not disperse those until the hearing. Also, reports languish for months, up to a year, before petitions are filed by the attorney. Mandated timelines are rarely, if ever kept, for show cause, adjudication, or permanency due to continuances. Not unusual to wait 9 months for adjudication, spend a year for treatment plans, and wait another 9 to 12 months to get a termination hearing set. One improvement would be to not allow parent's attorneys to get several lengthy continuances because they have not reviewed the file or met with clients. Getting orders by default should be made easier. Also, CFS should be allowed to notify by publication immediately if parents are not found or do not come to hearings

I am involved in 2 judicial districts. In one judicial district the Judge usually bifurcates the Show Cause, Adjudication, and Dispositional. That is very helpful in terms of getting the parents through any denial, and telling them they have to start working. In the other judicial district the Judge usually separates all 3 hearings. The advantage in the Show Cause is that he can let in hearsay and listen totally to the social worker's investigation and interpretation. However then he usually sets the Adjudication up to 90 days later, which creates a delay in Treatment Plans, lots of time fortifies the parents in their denial and defensiveness and then the Adjudication can be a knock down drag

out. Then he waits 20 more days for the dispositional. Some times because of continuances that were added to that mix, we have actually gone 8-10 months before an adjudication, and the ability to have court ordered Treatment Plan and services...

It would be of great help if CFS had access to an attorney who was an actual expert in ICWA cases.

More education for attorneys and judges regarding time lines, language in orders and some agency policy why on the time lines. More team work with attorneys in prep of cases regardless of the legal status and encourage better communications.

Am not informed when my cases are coming up. I am always calling to make sure my court dates are right. One attorney always asks for continuances. It would be nice to know that in advance. I can spend hours preparing for a court hearing that everyone but me know is going to be continued. I also almost missed a hearing yesterday because I had it on my agenda for a date when I was on vacation. My supervisor was there. For some reason it wasn't on the docket. Yesterday morning my client called me asking if I knew about court that morning. I got there as the hearing was starting.

Set consecutive days for Termination of Parental Rights cases, to eliminate hearings lasting for over a year.

The biggest reason in my county that cases are continued and move along so slowly is that the County Attorney does not file petitions prior to court hearings and does not serve the parents until the day of the hearing. Another problem is that some of the judges are reluctant to set contested hearings and insist that the parties work out their differences, even when they clearly are at an impasse.

One of our Co. Attorney's is well prepared (Juli Pierce) for all her cases. We are fortunate to have her.

The entire system is buried in bureaucracy and workers and the courts are overwhelmed. A recent Supreme Court decision to hold separate hearings for separate parents will present a huge burden to the system. Apparently little thought went in to this decision as there were no allowances for more CPS staff or court staff. Unfortunately the Assessment project changes were in all candor a failure. One would need to realistically address this issue at both the state and federal level to make changes. There is an interwoven connection to timely movement in the court system and the growing federal bureaucracy. One either needs to provide massive increases in CPS/court personnel or get real with the other bureaucratic burdens the system encounters. The system could be fixed but no one consults those of us who actually could provide solutions.

When the state files for TPR I think the Court should schedule a minimum of three consecutive days for the hearing so cases don't get drug out for 3 years trying to get an hour in here and a couple of hours in there. This could happen much like the Courts schedule jury trials. Abuse and Neglect cases are expected to be priority cases but they are not. Children wait for extensive periods of time due to the legal games that are played. I work in two Judicial Districts. It has been my experience that the Judges in these districts truly care about the safety of the children once you get the time to present the case. However, getting that time set aside does not seem to be a priority.

My CASA workers never present their report to CFS until the hearing begins or minutes before the hearing begins. Usually do not have time to read it before testifying.

I believe the Court has come a long way in improving the process. It has worked overwhelmingly better since attorneys outside the Public Defender's office have begun working on our cases. The

main improvement I would like to see is that the Judges make the difficult rulings so permanency can be achieved.

It would help to not grant the parents so many continuances because that just allows the kids to reside in foster care longer, with everything up in the air.

Have court reports completed AND distributed to interested parties at least one week in advance. Motions and other recommendations should NEVER be brought up during the hearing. If all parties were informed prior to the actual hearing, all cases would be given the adequate time and respect that they deserve! An attorney or representative for the family/child need to stay on top of their cases and have contact with the clients PRIOR to the hearing. These cases are very important and deal with very sensitive issues- think how a family must feel when attorneys are handing in motions the day of the hearing- or saying they weren't able to meet with their client- lack of respect to the child/family and lack of respect to the system- and lack of respect to the social workers who are working hard to plan for the family and perhaps their report was read the two minutes prior to the hearing. This should not be tolerated. My experience has been minimal with CFS-however I have significant experience in other courtrooms and systems in the U.S. Thanks for taking the time to think about creating change!

c. CASA responses

I have never known whether the Judge has read my report. I have never been questioned in court regarding my findings and opinions. It would be helpful to have the Judge take the time to ask the CASA to elaborate or to respond to any additional issues.

I am an attorney who is a CASA volunteer in the 1st judicial district. I think the system works well.

Delays I have observed are related to very active lawyers representing the parents.

Often a parent who is under TIA is allowed by DPPHS (and later the court) to move out of the jurisdiction. The entire case is dropped and the other county is notified of potential trouble. These kids fall thru the proverbial cracks.

The main problem in reuniting families is substance abuse, especially meth and alcohol, and lack of effective community treatment and/or parent desire and motivation. Our courts do quite well and judges seem relatively thorough and interested.

TIME ALLOTTED section: the time allotted may be adequate, but the procedures are inadequate - people are overloaded, underprepared, files haven't been read, clients not contacted, questions not asked, information not relayed, many delays granted.

I am the GAL for three siblings and one other child. I was assigned after parental rights were terminated for all 4 children. CFSB has changed caseworkers 3X on the siblings since my involvement. Caseworkers are overloaded with work (they tell me). I have not been able to receive return phone calls, dates of meetings, disposition notice to move my children to other facilities, their treatment plans, many other answers to questions I've raised in re: to the best interest of the children. Most times I feel like I am left out of the info sharing process and not much use other than being a visitor to the children! The three children are enrolled Tribal members. They are entitled to Per Capita payments each year. They are not receiving their money. I was told the State keeps it for their care. The State does not have the right to do this!

There are not enough social workers employed to be able to do what needs to be done for neglected and abused children in the state. Number of children that need help has more than tripled since I

became a GAL in 1986 in Bozeman. We now have 30 GALs but office of DFS has only two more social workers. Too many cases, not enough social workers.

Montana 16th Judicial District-Fallon County- In one of my cases, the CFS received many delays. Even if they were for legitimate reasons it extended the case far beyond the 15 months of continual foster (kinship) care. The foster parents were left out of the loop on many visits, so it made it difficult for them to give proper concern to all the issues the social worker brought up with the child.

Our Judges are very supportive of the CASA program and value our input. It helps us work harder to represent the children of Flathead County.

Have not worked on a case that has completed adoption of the children. A major problem is inability of parents to parent. Lack of intensive services at an earlier time or during previous investigations, particularly if sexual abuse is a component of the investigation. Finances, which worsen when children are removed, put added pressure on a single parent making progress for reunification difficult. Parent(s) need more resources.

Supreme court overturning is a MAJOR concern and hopefully better Justices on the bench will alleviate.

I find that the delays in the court system from unprepared parent's council is the most significant factor affecting the timelines of adoption/reunification. I also find that poverty and lack of affordable housing also contributes to families being unable to be reunited. I have found generally that CFS submits reports on a timely basis and that delays are generally due to the parents themselves not being able to cope with the many demands of "the system". I live in the 4th judicial district.

I am in the 17th Judicial District and work with John McKeon, Judge. He is "the best" in CASA GAL respect. I have been involved as a CASA since 1985 & though retired still a volunteer!

Too much time is spent trying to reunify the child with parents when time should be spent pursuing termination of parental rights so child can be placed for adoption. Not much consideration is given to what child's needs are- too much consideration is given to what child's needs are- too much consideration trying to reunify with parents when parents are not capable of providing a stable home for the child. Too much time is spent on things like treatment courts when the real issue should be permanency for the child.

Timely adoptions have been a problem with my cases. Also, I am not in favor of always placing a child with relatives. It has been my observation with my limited experience that some children would be better off in unrelated families probably because it's so confusing to the child having parents in and out of their lives. My cases have been infants and young children.

I believe court appointed lawyers for accused parents should more vigorously contest the abuse and neglect cases against their clients. (My experience is limited to one case of this nature but I felt the parents, who each had his or her own lawyer, were talked into going along with DPHHS' s charges and removal of their child, when DPHHS had a rather weak case against them.)

d. Judges

Need to impress upon the State's attorney the importance of notice and service of process as mandated by state and federal law.

e. Foster parents: *I strongly believe that the child is at the mercy of DCFS and of the GAL. In my experience, the GAL has not realized the importance of their role concerning the child's best interests and instead follows blindly whatever DCFS states is appropriate, often ignoring suggestions and advice given by paid (by the state) professionals brought in to evaluate the child's case. (A huge financial drain on taxpayers pockets, BTW.) In addition, the GAL often does not question reports given by DCFS caseworkers for any discrepancies regarding the welfare of the child. DCFS has an attorney, the GAL has legal representation, the parents have legal representation, but the child and the foster parents do not. If the GAL does not adequately represent the needs and best interests of the child, there is no one to do so. Unless the foster parent is a blood relative of the child and is willing to advocate for the child's best interests, the child has no voice. Foster parents, who are often in the best position to give facts and information to the court are not allowed to voice their concerns. If they do, their license is revoked or not renewed or they choose not continue as a foster parent and look for other ways to be a voice for the child. As a result, the child is often placed back in a home that is as bad or worse then the one they were taken out of. It's a case of the "apple does not fall far from the tree" syndrome. So I respectfully ask the court and the state of Montana, who is the voice for the child? Every child has a right, a constitutional right, to legal representation. The CASA is not equipped to do that as they are volunteers without legal education, experience, or expertise. I strongly urge you to take a look at this huge hole in the system. Our children are falling through at a rapid rate. While some extended families may be able to take care of their children/grandchildren adequately, others have continued to raise children who perpetuate the cycle of abuse and neglect and the courts are returning the next generation of children (the grandchildren) to endure and probably perpetuate abuse, neglect, and violence. I strongly favor and am a strong advocate for adding drug testing on a regular basis for anyone working in DCFS. It's far too easy to exchange visits or other favors for drugs, alcohol, or sex with parents who have children in this system. Even with the addition of the Citizen's Review Board, who is charged with overseeing DCFS, there is still a lack of accountability in the DCFS. Thank you for sending out this VIP survey. I hope someone actually listens. (Foster parent with over five years experience.)*

I feel that visitations, if permitted, should be done on somewhat of a schedule. I do not agree with calling the same day as they want the visitation. I feel if a parent doesn't want to come or says they will come the time they want to, I don't agree with having the foster parents driving around until the mother decides to show up. I believe in visitations but there has to be some kind of protocol. I realize the state and the tribe are separate, but something needs to change when a child is removed from a licensed foster home and put in a home that hasn't been licensed yet. We do foster care for Lake County and Sanders County. We no longer do foster care for the SKT.

III. Conclusion

Where we were:

The original assessment that was completed in 1996 identified seven areas of concern:

- A. Case management
 - 1. Limiting continuances
 - 2. Information Management (Access between JCMS and CAPS data systems)
- B. Representation
 - 1. Representation of Children (development of additional CASA programs)
 - 2. Representation of Parents
 - 3. Representation of CFS (fund training for attorneys and judges, amend statutes to clarify the burden of proof requirements at each stage)
 - 4. Law School Course/Clinical Program (child advocacy class offered at Law School)
- C. Consistency in the Courts' Handling of Child Abuse and Neglect Cases
 - 1. Statutory Changes (to clarify existing law)
 - 2. Timely Preliminary Hearings (using video conferencing for hearings in rural sites)
 - 3. Magistrates/Special Masters
- D. Reasonable Efforts
 - 1. Reasonable Efforts Hearing
 - 2. Reasonable Efforts Training
- E. Judicial Oversight
 - 1. Addressing Specific Services in Orders
- F. Review Hearings
 - 1. Six Month Review Hearings
 - 2. Post Termination Reviews
- G. Indian Child Welfare Act
 - 1. Education
 - 2. Statutory Reference
- I. Proposed Adoption Legislation
 - 1. Statutory Changes

The data for this assessment was obtained from surveys, court hearing observations, interviews and case reviews in five counties. The action steps needed to address these concerns were included in the assessment and completed. The concern about the inconsistency in the six-month reviews is no longer relevant, since there are no longer two separate review systems operating in Montana.

Where we are now:

An online survey was sent out to approximately 700 recipients: district court judges, attorneys, CFS caseworkers and CASA volunteers. In addition, foster parents were asked to complete the survey via a web link on the Montana State Foster/Adoptive Parent Association newsletter. Overall, 279 surveys were received, or 40.58%. Questions were asked about court process, preparation, effectiveness, and training among others. In addition, over 340 cases were selected for case review from the same five counties that were selected in the assessment. Because the Child and Family Services Review (CFSR), a federal audit that was completed in 2002, identified many concerns, a strict time parameter was placed on eligible cases for this review. CFSR devised and implemented its Program Improvement Plan in 2003 to address the concerns from the CFSR. To give this plan time to be implemented and some results stemming from the corrective actions gained, cases for this review had to be filed on or after 10/1/2003 and had to be open cases for at least six months. Case numbers were pulled up from a query on JCMS for Hill, Yellowstone, Lincoln and Lewis and Clark counties, and from the Cascade County Management Information System for cases in that county. A total of 346 cases were identified as having been opened since 10/1/2003 and of those, reviews were conducted on 224 cases. The majority of those not being reviewed were not open the required six

months. Other reasons were because of change of venue, loss of jurisdiction, and having cases misidentified as Youth in Need of Care cases, when in fact, they were Surrogate Parent or Adoption cases.

Both the web survey and the case reviews indicate that some of the same problems identified in the 1996 assessment and the 2002 CFSR are still a concern.

A. Continuances: Show cause hearings were continued in 42.41% of the cases reviews, for adjudicatory hearings in 44.6% of the cases and for TLC hearings in 46.9%. The primary reasons listed by judges and attorneys for the continuances were failure to locate the parents, lack of or delay in the service of process on parents and lack of service on the Tribe in ICWA cases. In the case reviews, the main reasons indicated for continuances of the adjudicatory hearing were unavoidable delays in noticing parties to the case (20 cases) and ICWA timelines (15 cases).

B. Representation: Since the passage of the Public Defender Bill, timely representation for parents is a moot issue. GAL's were appointed to children in almost all cases at the show cause hearing or even before. Opinion among the survey respondents was that CFS attorneys, parents' attorneys, attorney guardians ad litem and CASA volunteers were all important to the timely outcome of a case, and usually prepared for and present at hearings. Almost half of the attorneys, however, had not received any training prior to representing parties in child abuse and neglect cases. Leslie Halligan, CFS attorney from Missoula, is currently teaching Child Advocacy at the U of M School of Law. Prior to her teaching, Ann Gilkey taught this class for several years. This was a direct result of the 1996 assessment.

Over half of the attorneys answering the survey indicated they have had training in key areas of child advocacy such as legal and procedural aspects of abuse and neglect cases, ICWA, federal and state requirements. Almost half indicated having training in child development, foster care placement issues, and drug/alcohol abuse and its effect on parenting/treatment options, among others.

C. Consistency in the Courts' handling of DN cases was not seen in the case file reviews. The court process was different in each of the five counties and sometimes differed among the judges in Lewis & Clark, Yellowstone and Cascade Counties. Several of the judges schedule hearings by the statutory requirements and others combine hearings. Lewis & Clark County often combines the show cause, adjudicatory and dispositional hearings, based on a stipulation from the parents and in several cases, because of the stipulation, even cancelled the show cause hearing. Another difference noted was the number of treatment plans ordered for parents. Several cases had four or more treatment plans ordered, extending the time in placement for the child in the case.

Statutory changes were made to clarify existing law in each Legislative session since 1997. Timely preliminary hearings: Video conferencing is being used occasionally. There weren't questions on the survey asking about whether the hearings were being held by video conference. The case file reviews weren't conducted in judicial districts where travel is often necessary. However, the majority of show cause hearings were scheduled timely, even though many were continued.

Magistrates/Special Masters: The Fourth Judicial District Court has two special masters assisting the judges.

D. Reasonable efforts language was found in 94.4% of the show cause orders and in over 95% of the adjudicatory orders. 100% of the judges who responded to the survey reported they make a finding regarding reasonable efforts. 42.9% of these judges also report always entering findings describing the reasonable efforts made and 35.7% reported they usually (67%-99%) made these same specific findings. They also reported, almost unanimously, that they have received training in federal and state requirements and legal and procedural aspects of child abuse and neglect cases.

E. Judicial oversight of cases, specifically addressing specific services in orders, was the point of several questions on the survey and the case review form.

In over 91% of the case files reviewed, the court order contained language that reasonable services had been provided to the parent to prevent removal of the child or to make it possible for the child to safely return home (absent a finding that reasonable efforts are not required).

In addition, 60% of the judges said they usually consider whether the family is availing themselves to CFS services and 53.3% usually consider whether the services are alleviating the reason the child was removed. (Usually: 67-99% of the time)

26.7% said they always consider whether the services are alleviating the reason the child was removed and 20% said they always consider whether the family is availing themselves to CFS services.

F. Six-month review hearings are conducted by Foster Care Review Committees statewide, now that the Citizen Review Boards are an unfunded mandate. The only exception is a CRB program that continues to operate in the 1st Judicial District. Post-termination reviews were almost non-existent in the cases that were reviewed because of the length of time being reviewed. All of the cases had been opened less than two years, a time frame in which you'd expect to see very few post-termination reviews. There were several questions pertaining to post-termination reviews on the survey, but they didn't specifically address the issue of whether these hearings were being held.

G. Indian Child Welfare Act: The majority of judges, attorneys and CFS caseworkers reported they always or nearly always inquire as to whether the children in a case are of Native American heritage and if the case falls within the ICWA parameters. In addition, most of the judges and attorneys report having received ICWA training. The only ICWA issue is the continuances granted because of having to give notice to the Tribe at the show cause hearing and ICWA timeframes causing delays at the adjudicatory phase of the case. A new statutory reference was passed in 1997 and in 2005, the state statutes in Title 41 were brought into compliance with the Federal law.

I. Adoption legislation was proposed and adopted in the 1997 Legislature.

New concerns from the CFSR, apart from the concerns of the 1996 assessment, were also identified. The CFSR Program Improvement Plan addressed the areas that needed improvement and the reassessment was mandated to also address these areas. The results indicate that while Child and Family Services has implemented corrective action, solving the problem is not always within their abilities. The case file reviews found that hearings aren't being held timely in all cases, all orders aren't being received in a timely fashion and required federal language isn't being written into every order. In addition, overworked staff and lack of additional funding result in children lingering too long in the system.

Several district court judges in Montana have implemented a treatment model into their courtrooms. Four family treatment courts are currently in operation, along with two adult treatment courts and two youth drug courts. The family court in Yellowstone County is the longest running family model, having been started in June 2001. Cost savings demonstrated in a program evaluation, spanning a four-year time frame, show for every extra dollar spent on drug court, there is a \$4.74 savings. The savings were calculated using three factors: the decrease in foster care costs, an increase in the tax base because of increased employment and the savings realized in court costs associated with less cases ending in a termination of parental rights. The children in this study spend about one-third as much time in foster care as the children in a control group, being reunified more quickly because of the availability of increased services. These courts have been financed through federal grants, Congressional appropriations, non-profit agencies and county budgets. All of these courts have been successful, decreasing the recidivism of drug and alcohol offenses and helping the clients to become clean, sober productive citizens. Other district courts are interested in implementing the treatment

model but a lack of funding has been a deterrent. A legislative bill is being planned to request funding for drug courts in the 2007 session.

Where do we go from here:

The Montana delegation that attended the National Leadership Summit on the Protection of Children formulated a Work Plan (Appendix III), slated to be completed by 2007, to deal with the delays in permanency for children. This goal will be reached by decreasing the length of time children spend in care and improving consistency, continuity, and uniformity of court practice statewide. In conjunction with this work plan, a new strategic plan will be developed from the reassessment by the Court Assessment Program Advisory Committee, concentrating on limiting continuances, establishing continuity within the child protection arena, decreasing the appellate timeframe, and focusing on the case with the child's best interests as the priority of every action.

APPENDIX I

TITLE 41, MONTANA CODES ANNOTATED

MONTANA CODES ANNOTATED
TITLE 41. MINORS
CHAPTER 3. CHILD ABUSE AND NEGLECT
Part 1. General

- 41-3-101. Declaration of policy.** (1) It is the policy of the state of Montana to:
- (a) provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for the children's care and protection;
 - (b) achieve these purposes in a family environment and preserve the unity and welfare of the family whenever possible;
 - (c) ensure that there is no forced removal of a child from the family based solely on an allegation of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of harm;
 - (d) recognize that a child is entitled to assert the child's constitutional rights;
 - (e) ensure that all children have a right to a healthy and safe childhood in a permanent placement; and
 - (f) ensure that whenever removal of a child from the home is necessary, the child is entitled to maintain ethnic, cultural, and religious heritage whenever appropriate.
- (2) It is intended that the mandatory reporting of abuse or endangerment cases by professional people and other community members to the appropriate authority will cause the protective services of the state to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life whenever appropriate.
- (3) In implementing this chapter, whenever it is necessary to remove a child from the child's home, the department shall, when it is in the best interests of the child, place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, when placement with the extended family is approved by the department, prior to placing the child in an alternative protective or residential facility. Prior to approving a placement, the department shall investigate whether anyone living in the home has been convicted of a crime involving serious harm to children.
- (4) In implementing the policy of this section, the child's health and safety are of paramount concern.

History: (1)En. 10-1300 by Sec. 1, Ch. 328, L. 1974; Sec. 10-1300, R.C.M. 1947; (2)En. Sec. 1, Ch. 178, L. 1965; amd. Sec. 1, Ch. 292, L. 1973; Sec. 10-901, R.C.M. 1947; redes. 10-1303 by Sec. 14, Ch. 328, L. 1974; Sec. 10-1303, R.C.M. 1947; R.C.M. 1947, 10-1300, 10-1303; amd. Sec. 1, Ch. 543, L. 1979; amd. Sec. 1, Ch. 494, L. 1995; amd. Sec. 1, Ch. 564, L. 1995; amd. Sec. 1, Ch. 501, L. 1997; amd. Sec. 1, Ch. 566, L. 1999; amd. Sec. 1, Ch. 281, L. 2001; amd. Sec. 1, Ch. 311, L. 2001; amd. Sec. 1, Ch. 504, L. 2003.

41-3-102. Definitions. As used in this chapter, the following definitions apply:

- (1) (a) "Abandon", "abandoned", and "abandonment" mean:
- (i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;
 - (ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;
 - (iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or
 - (iv) the voluntary surrender, as defined in [40-6-402](#), by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in [40-6-402](#).
- (b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.
- (2) "A person responsible for a child's welfare" means:
- (a) the child's parent, guardian, foster parent or an adult who resides in the same home in which the child resides;
 - (b) a person providing care in a day-care facility;
 - (c) an employee of a public or private residential institution, facility, home, or agency; or
 - (d) any other person responsible for the child's welfare in a residential setting.
- (3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.
- (4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by [45-9-101](#), the criminal production or manufacture of dangerous drugs, as prohibited by [45-9-110](#), or the operation of an unlawful clandestine laboratory, as prohibited by [45-9-132](#).

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(9) "Department" means the department of public health and human services provided for in [2-15-2201](#).

(10) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

(14) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

(15) "Limited emancipation" means a status conferred on a youth by a court in accordance with [41-1-501](#) under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) "Parent" means a biological or adoptive parent or stepparent.

(17) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in [40-6-234](#), Title 42, or part 6 of this chapter.

(18) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and

adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(22) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to [41-3-301](#), voluntary protective services provided pursuant to [41-3-302](#), and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, sexual abuse, ritual abuse, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(28) "Sexual exploitation" means allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in [45-5-601](#) through [45-5-603](#), or allowing, permitting, or encouraging sexual abuse of children as described in [45-5-625](#).

(29) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(30) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order

that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(31) "Unfounded" means that after an investigation, the investigating person has determined that the reported abuse, neglect, or exploitation has not occurred.

(32) "Unsubstantiated" means that after an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred.

(33) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (33), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(34) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned.

History: En. 10-1301 by Sec. 2, Ch. 328, L. 1974; amd. Sec. 18, Ch. 100, L. 1977; R.C.M. 1947, 10-1301; amd. Sec. 2, Ch. 543, L. 1979; amd. Sec. 2, Ch. 511, L. 1981; amd. Sec. 31, Ch. 465, L. 1983; amd. Sec. 1, Ch. 564, L. 1983; amd. Sec. 1, Ch. 626, L. 1985; amd. Sec. 1, Ch. 463, L. 1987; amd. Sec. 36, Ch. 609, L. 1987; amd. Sec. 1, Ch. 474, L. 1989; amd. Sec. 1, Ch. 439, L. 1993; amd. Sec. 6, Ch. 458, L. 1995; amd. Sec. 2, Ch. 528, L. 1995; amd. Sec. 159, Ch. 546, L. 1995; amd. Sec. 2, Ch. 564, L. 1995; amd. Sec. 3, Ch. 514, L. 1997; amd. Secs. 2, 19(1), Ch. 516, L. 1997; amd. Sec. 2, Ch. 566, L. 1999; amd. Sec. 1, Ch. 194, L. 2001; amd. Sec. 16, Ch. 277, L. 2001; amd. Sec. 2, Ch. 311, L. 2001; amd. Sec. 1, Ch. 398, L. 2003; amd. Sec. 1, Ch. 406, L. 2003; amd. Sec. 1, Ch. 458, L. 2003; amd. Sec. 2, Ch. 504, L. 2003; amd. Sec. 1, Ch. 555, L. 2003; amd. Sec. 1, Ch. 349, L. 2005.

41-3-103. Jurisdiction. (1) In all matters arising under this chapter, the district court has jurisdiction over:

(a) a youth who is within the state of Montana for any purpose;

(b) a youth or other person subject to this chapter who under a temporary or permanent order of the court has voluntarily or involuntarily left the state or the jurisdiction of the court; or

(c) a person who is alleged to have abused or neglected a youth who is in the state of Montana for any purpose.

(2) Either the county where a youth is located or a county where the youth's parent or guardian resides has initial jurisdiction over a youth alleged to be a youth in need of care.

History: En. 10-1302 by Sec. 3, Ch. 328, L. 1974; R.C.M. 1947, 10-1302; amd. Sec. 7, Ch. 458, L. 1995; amd. Sec. 1, Ch. 114, L. 2001; amd. Sec. 3, Ch. 504, L. 2003.

41-3-106. Prosecution of offenders. (1) If the evidence indicates violation of the criminal code, it is the responsibility of the county attorney to file appropriate charges against the alleged offender.

(2) The filing of a criminal charge does not toll a proceeding under this chapter.

(3) The district court has original jurisdiction under this section.

History: En. 10-1322 by Sec. 12, Ch. 328, L. 1974; R.C.M. 1947, 10-1322; amd. Sec. 3, Ch. 311, L. 2001.

41-3-107. Interagency cooperation. (1) To effectuate the purposes of this chapter, the department of public health and human services shall cooperate with and shall seek the cooperation and involvement of all appropriate public and private agencies, including health, education, social services, and law enforcement agencies; juvenile courts; and

any other agency, organization, or program providing or concerned with human services related to the prevention, identification, or treatment of child abuse or neglect. The cooperation and involvement may not include joint case management but may include joint policy planning, public education, information services, staff development, and other training.

(2) The department shall enter into a cooperative agreement with other state agencies, as provided in [52-2-203](#), for the purpose of implementing this section.

History: En. Sec. 4, Ch. 543, L. 1979; amd. Sec. 12, Ch. 609, L. 1987; amd. Sec. 4, Ch. 655, L. 1991; amd. Sec. 160, Ch. 546, L. 1995.

41-3-108. Child protective teams. The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

- (1) a social worker;
- (2) a member of a local law enforcement agency;
- (3) a representative of the medical profession;
- (4) a representative of a public school system;
- (5) a county attorney; and
- (6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters.

History: En. Sec. 5, Ch. 543, L. 1979; amd. Sec. 37, Ch. 609, L. 1987; amd. Sec. 1, Ch. 67, L. 1989; amd. Sec. 161, Ch. 546, L. 1995; amd. Sec. 3, Ch. 566, L. 1999.

41-3-109. Proceedings subject to Indian Child Welfare Act. If a proceeding under this chapter involves an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., the proceeding is subject to the Indian Child Welfare Act.

History: En. Sec. 16, Ch. 516, L. 1997.

41-3-112. Guardian ad litem. (1) In every judicial proceeding, the court shall appoint a guardian ad litem for any child alleged to be abused or neglected. The department or any member of its staff who has a direct conflict of interest may not be appointed as the guardian ad litem in a judicial proceeding under this title. When necessary, the guardian ad litem may serve at public expense.

(2) The guardian ad litem must have received appropriate training that is specifically related to serving as a child's court-appointed representative.

(3) The guardian ad litem is charged with the representation of the child's best interests and shall perform the following general duties:

- (a) to conduct investigations to ascertain the facts constituting the alleged abuse or neglect;
- (b) to interview or observe the child who is the subject of the proceeding;
- (c) to have access to court, medical, psychological, law enforcement, social services, and school records pertaining to the child and the child's siblings and parents or custodians;
- (d) to make written reports to the court concerning the child's welfare;
- (e) to appear and participate in all proceedings to the degree necessary to adequately represent the child and make recommendations to the court concerning the child's welfare;
- (f) to perform other duties as directed by the court; and
- (g) if an attorney, to file motions, including but not limited to filing to expedite proceedings or otherwise assert the child's rights.

(4) Information contained in a report filed by the guardian ad litem or testimony regarding a report filed by the guardian ad litem is not hearsay when it is used to form the basis of the guardian ad litem's opinion as to the best interests of the child.

(5) Any party may petition the court for the removal and replacement of the guardian ad litem if the guardian ad litem fails to perform the duties of the appointment.

History: En. Sec. 14, Ch. 543, L. 1979; amd. Sec. 1, Ch. 384, L. 1985; amd. Sec. 4, Ch. 434, L. 1993; amd. Sec. 5, Ch. 516, L. 1997; amd. Sec. 7, Ch. 566, L. 1999; Sec. , MCA 1999; redes. by Sec. 17(3)(a), Ch. 281, L. 2001; amd. Sec. 1, Ch. 382, L. 2005.

41-3-113. Appeals. (1) Appeals of court orders or decrees made under this part must be given precedence on the calendar of the supreme court over all other matters, unless otherwise provided by law.

(2) An appeal does not stay the order or decree appealed from and does not divest the presiding district court judge of jurisdiction to take steps that are necessary, in the best interests of the child, and in order to protect the health and safety of the child. The supreme court may order a stay upon application and hearing if suitable provision is made for the care and custody of the child.

(3) If the appeal results in the reversal of the order appealed, the legal status of the child reverts to the child's legal status before the entry of the order that was appealed. The child's prior legal status remains in effect until further order of the district court unless the supreme court orders otherwise.

History: En. Sec. 3, Ch. 463, L. 1987; Sec. , MCA 1999; redes. by Sec. 17(3)(a), Ch. 281, L. 2001; amd. Sec. 4, Ch. 504, L. 2003.

41-3-115. Foster care review committee -- foster care reviews -- permanency hearings. (1) Except as provided in Title 41, chapter 3, part 10, in every judicial district the district court judge, in consultation with the department, shall appoint a foster care review committee. The foster care review committee shall conduct foster care reviews as provided in this section and may, at the discretion of the court and absent an objection by a party to the proceeding, conduct permanency hearings as provided in [41-3-445](#).

(2) (a) The members of the committee must be willing to act without compensation. The committee must be composed of not less than three or more than seven members. To the extent practicable, the members of the committee must be representatives of the various socioeconomic, racial, and ethnic groups of the area served.

(b) The members must include:

(i) one representative of the department who may not be responsible for the placement of the child or have any other direct conflict of interest;

(ii) a person who is knowledgeable in the needs of children in foster care placements and who is not employed by the department or the youth court; and

(iii) if the child whose care is under review is an Indian child, a person, preferably an Indian person, who is knowledgeable about Indian cultural and family matters and who is appointed effective only for and during that review.

(c) Members may also include but are not limited to:

(i) a representative of the youth court;

(ii) a representative of a local school district;

(iii) a public health nurse;

(iv) an at-large community member with knowledge of child protective services.

(3) (a) When a child is in foster care under the supervision of the department or if payment for care is made pursuant to [52-2-611](#), the committee shall conduct a review of the foster care status of the child. The review must be conducted within the time limit established under the Adoption and Safe Families Act of 1997, 42 U.S.C. 675(5).

(b) The committee shall hear the case of each child in foster care to review issues that are germane to the goals of permanency and to accessing appropriate services for parents and children. In evaluating the accessibility, availability, and appropriateness of services, the committee shall consider:

(i) the safety, history, and specific needs of the child;

(ii) whether an involved agency has selected services specifically relevant to the problems and needs of the child and family;

(iii) whether appropriate services have been available to the child and family on a timely basis; and

(iv) the results of intervention.

(c) The committee may hear the case of a child who remains in or returns to the child's home and for whom the department retains legal custody.

(4) (a) Prior to the beginning of the review, reasonable notice of each review must be sent to the following:

(i) the parents of the child or their attorneys;

(ii) if applicable, the foster parents, a relative caring for the child, the preadoptive parents, or the surrogate parents;

(iii) the child who is the subject of the review if the child is 12 years of age or older;

(iv) the child's attorney, if any;

(v) the guardian ad litem;

- (vi) the court-appointed attorney or special advocate of the child; and
- (vii) the child's Indian tribe if the child is an Indian.

(b) When applicable, notice of each review may be sent to other interested persons who are authorized by the committee to receive notice.

(c) All persons receiving notice are subject to the confidentiality provisions of [41-3-205](#).

(d) If a foster care review is held in conjunction with a permanency hearing, notice of both proceedings must be provided.

(e) If a foster care review is held in conjunction with a permanency hearing, notice must be provided to the attorney who initiated the child abuse or neglect proceedings.

(5) The committee may elect to hold joint or separate reviews for groups of siblings, but findings and recommendations made by the committee must be specific to each child.

(6) After reviewing each case, the committee shall prepare written findings and recommendations with respect to:

(a) the continuing need for the placement and the appropriateness and safety of the placement;

(b) compliance with the case plan;

(c) the progress that has been made toward alleviating the need for placement;

(d) a likely date by which the child may be returned home or by which a permanent placement may be finalized.

(7) Following the permanency hearing, the committee shall send copies of its minutes and written findings and recommendations to the court and to the parties. If a party objects to the findings and recommendations, the party may within 10 days serve written objections upon the other party and file them with the court. A request for a hearing before the court upon the objections may be made by a party by motion. The court, after hearing the objections or upon its own motion and without objection, may adopt the findings and recommendations and shall issue an appropriate order.

(8) Because of the individual privacy involved, meetings of the committee, reports of the committee, and information on individuals' cases shared by committee members are confidential and subject to the confidentiality requirements of the department.

(9) The committee is subject to the call of the district court judge to meet and confer with the judge on all matters pertaining to the foster care of a child before the district court.

History: En. Sec. 2, Ch. 297, L. 1981; amd. Sec. 1, Ch. 201, L. 1983; MCA 1981, ; amd. and redes. by Sec. 31, Ch. 465, L. 1983; amd. Sec. 1, Ch. 260, L. 1987; amd. Sec. 51, Ch. 609, L. 1987; amd. Sec. 16, Ch. 610, L. 1993; amd. Sec. 19, Ch. 311, L. 2001; amd. Sec. 13, Ch. 570, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(3)(a), Ch. 281, L. 2001; amd. Sec. 2, Ch. 382, L. 2005.

41-3-118. Purpose. The intent of [41-3-119](#) is to provide reimbursement for mental health outpatient counseling services to foster parents who experience the death of a foster child placed with them by the department or a licensed child placing agency. Many of the children have disabilities, terminal illnesses, or other special needs, and often these children spend their childhood in the homes of foster parents. The death of a child is a traumatic experience, and the legislature finds that providing reimbursement for counseling is a necessary support to those persons who are willing to open their homes to foster children who need a stable and safe environment.

History: En. Sec. 1, Ch. 127, L. 1999; Sec. , MCA 1999; redes. by Sec. 17(3)(a), Ch. 281, L. 2001.

41-3-119. Foster parent counseling services. (1) A person who provides substitute care to a foster child who dies while residing in a youth care facility must be offered reimbursement for mental health outpatient counseling services at the expense of the department.

(2) Upon the death of a foster child in substitute care, the department shall provide information about available reimbursement for mental health outpatient counseling services for the person or persons who were providing care to the foster child.

(3) The reimbursement for mental health outpatient counseling services must be available for up to 1 year in duration by a provider of the person's choice at an amount equivalent to that offered as a benefit to state employees under [2-18-702](#), subject to the same maximum benefit levels and copayments.

History: En. Sec. 2, Ch. 127, L. 1999; Sec. , MCA 1999; redes. by Sec. 17(3)(a), Ch. 281, L. 2001.

41-3-131. Rulemaking authority. The department shall adopt rules necessary to carry out the purposes of this chapter.

History: En. Sec. 31, Ch. 311, L. 2001.

Part 2. Reports and Investigations

41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) Christian Science practitioners and religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under [52-2-711](#) or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy;

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or

(j) an employee of an entity that contracts with the department to provide direct services to children.

(3) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(4) (a) Except as provided in subsection (4)(b) or (4)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(5) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

History: En. Sec. 2, Ch. 178, L. 1965; amd. Sec. 2, Ch. 292, L. 1973; Sec. 10-902, R.C.M. 1947; redes. 10-1304 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1304; amd. Sec. 6, Ch. 543, L. 1979; amd. Sec. 3, Ch. 511, L. 1981; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 1, Ch. 79, L. 1989; amd. Sec. 1, Ch. 785, L. 1991; amd. Sec. 8, Ch. 458, L. 1995; amd. Sec. 162, Ch. 546, L. 1995; amd. Sec. 4, Ch. 514, L. 1997; amd. Sec. 4, Ch. 311, L. 2001; amd. Sec. 3, Ch. 382, L. 2005.

41-3-202. Action on reporting. (1) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated. If the department determines that an investigation is required, a social worker, the county attorney, or a peace officer shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child. The investigation may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the investigation. In conducting an investigation under this section, a social worker may not inquire into the financial

status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of [41-3-446](#).

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, the investigation must within 48 hours result in the development of independent, corroborative, and attributable information in order for the investigation to continue. Without the development of independent, corroborative, and attributable information, a child may not be removed from the home.

(3) The social worker is responsible for assessing the family and planning for the child. If the child is treated at a medical facility, the social worker, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the social worker, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to [41-3-205](#)(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the investigation the department has reasonable cause to suspect that the child suffered abuse or neglect, the department may provide emergency protective services to the child, pursuant to [41-3-301](#), or voluntary protective services pursuant to [41-3-302](#), and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document its determination regarding abuse or neglect of a child; and

(ii) notify the child's family of its investigation and determination, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) If from the investigation it is determined that the child has not suffered abuse or neglect and the initial report is determined to be unfounded, the department and the social worker, county attorney, or peace officer who conducted the investigation into the circumstances surrounding the allegations of abuse or neglect shall destroy all of their records concerning the report and the investigation. The destruction must be completed within 30 days of the determination that the child has not suffered abuse or neglect.

(c) (i) If the report is unsubstantiated, the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

(A) there had been a previous or there is a subsequent substantiated report concerning the same person; or

(B) an order has been issued under this chapter based on the circumstances surrounding the initial allegations.

(ii) A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i).

(6) The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written report to the department and, upon request, to the family. Subject to subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and determinations of child abuse and neglect cases.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

History: En. Sec. 3, Ch. 178, L. 1965; amd. Sec. 3, Ch. 292, L. 1973; Sec. 10-903, R.C.M. 1947; redes. 10-1305 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1305; amd. Sec. 8, Ch. 543, L. 1979; amd. Sec. 3, Ch. 567, L. 1979; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 1, Ch. 126, L. 1989; amd. Sec. 1, Ch. 329, L. 1993; amd. Sec. 1, Ch. 146, L. 1995; amd. Sec. 163, Ch. 546, L. 1995; amd. Sec. 3, Ch. 564, L. 1995; amd. Sec. 5, Ch. 514, L. 1997; amd. Sec. 3, Ch. 516, L. 1997; amd. Sec. 4, Ch. 566, L. 1999; amd. Sec. 5, Ch. 311, L. 2001; amd. Sec. 2, Ch. 406, L. 2003; amd. Sec. 2, Ch. 555, L. 2003; amd. Sec. 4, Ch. 382, L. 2005.

41-3-203. Immunity from liability. (1) Anyone investigating or reporting any incident of child abuse or neglect under [41-3-201](#) or [41-3-202](#), participating in resulting judicial proceedings, or furnishing hospital or medical records as required by [41-3-202](#) is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

(2) A person who provides information pursuant to [41-3-201](#) that is substantiated by the department or a person who

uses information received pursuant to [41-3-205](#) that is substantiated by the department to refuse to hire or to discharge a prospective or current employee, volunteer, or other person who through employment or volunteer activities may have unsupervised contact with children is immune from civil liability unless the person acted in bad faith or with malicious purpose.

History: En. Sec. 4, Ch. 178, L. 1965; Sec. 10-904, R.C.M. 1947; redes. 10-1306 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1306; amd. Sec. 9, Ch. 543, L. 1979; amd. Sec. 1, Ch. 181, L. 1993; amd. Sec. 9, Ch. 458, L. 1995; amd. Sec. 5, Ch. 566, L. 1999.

41-3-204. Admissibility and preservation of evidence. (1) In any proceeding resulting from a report made pursuant to the provisions of this chapter or in any proceeding for which the report or its contents are sought to be introduced into evidence, the report or its contents or any other fact related to the report or to the condition of the child who is the subject of the report may not be excluded on the ground that the matter is or may be the subject of a privilege related to the examination or treatment of the child and granted in Title 26, chapter 1, part 8, except the attorney-client privilege granted by [26-1-803](#).

(2) A person or official required to report under [41-3-201](#) may take or cause to be taken photographs of the area of trauma visible on a child who is the subject of a report. The cost of photographs taken under this section must be paid by the department.

(3) When a person required to report under [41-3-201](#) finds visible evidence that a child has suffered abuse or neglect, the person shall include in the report either a written description or photographs of the evidence.

(4) A physician, either in the course of providing medical care to a minor or after consultation with child protective services, the county attorney, or a law enforcement officer, may require x-rays to be taken when, in the physician's professional opinion, there is a need for radiological evidence of suspected abuse or neglect. X-rays may be taken under this section without the permission of the parent or guardian. The cost of the x-rays ordered and taken under this section must be paid by the county child protective service agency.

(5) All written, photographic, or radiological evidence gathered under this section must be sent to the local affiliate of the department at the time that the written confirmation report is sent or as soon after the report is sent as is possible. If a confirmation report is not made, the evidence and the initial report must be destroyed as provided in [41-3-202](#).

History: En. Sec. 5, Ch. 178, L. 1965; Sec. 10-905, R.C.M. 1947; redes. 10-1307 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1307; amd. Sec. 10, Ch. 543, L. 1979; amd. Sec. 38, Ch. 609, L. 1987; amd. Sec. 2, Ch. 146, L. 1995; amd. Sec. 189, Ch. 42, L. 1997; amd. Sec. 6, Ch. 514, L. 1997; amd. Sec. 4, Ch. 516, L. 1997.

41-3-205. (Temporary) Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (6) and (7), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal

representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 6042(a)(2)(B);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under [41-3-108](#) or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a youth probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under [41-3-115](#) or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in [41-3-202](#);

(w) a member of a county interdisciplinary child information team formed under the provisions of [52-2-211](#);

(x) members of a local interagency staffing group provided for in [52-2-203](#);

(y) a member of a youth placement committee formed under the provisions of [41-5-121](#); or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's court-appointed attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a).

However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(7) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (6) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(8) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(9) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost.

41-3-205. (Effective July 1, 2006). Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (6) and (7), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 6042(a)(2)(B);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under [41-3-108](#) or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a youth probation officer who is working in an official capacity with the child who is the subject of a report in the

records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under [41-3-115](#) or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in [41-3-202](#);

(w) a member of a county interdisciplinary child information team formed under the provisions of [52-2-211](#);

(x) members of a local interagency staffing group provided for in [52-2-203](#);

(y) a member of a youth placement committee formed under the provisions of [41-5-121](#); or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(7) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (6) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(8) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(9) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost.

History: En. 10-1308 by Sec. 4, Ch. 328, L. 1974; R.C.M. 1947, 10-1308; amd. Sec. 11, Ch. 543, L. 1979; amd. Sec. 1, Ch. 287, L. 1987; amd. Sec. 39, Ch. 609, L. 1987; amd. Sec. 1, Ch. 110, L. 1989; amd. Sec. 2, Ch. 126, L. 1989; amd. Sec. 2, Ch. 510, L. 1991; amd. Sec. 5, Ch. 655, L. 1991; amd. Sec. 15, Ch. 610, L. 1993; amd. Sec. 10, Ch. 458, L. 1995; amd. Sec. 164, Ch. 546, L. 1995; amd. Sec. 4, Ch. 564, L. 1995; amd. Sec. 7, Ch. 514, L. 1997; amd. Sec. 5, Ch. 550, L. 1997; amd. Sec. 6, Ch. 566, L. 1999; amd. Sec. 2, Ch. 281, L. 2001; amd. Sec. 6, Ch. 311, L. 2001; amd. Sec. 1, Ch. 570, L. 2001; amd. Sec. 45, Ch. 571, L. 2001; amd. Sec. 5, Ch. 504, L. 2003; amd. Sec. 2, Ch. 349, L. 2005; amd. Sec. 29, Ch. 449, L. 2005.

41-3-206. Procedure in case of child's death. (1) A person or official required to report by law who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report the person's suspicion to the appropriate medical examiner or law enforcement officer. Any other person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect may report the person's suspicion to the appropriate medical examiner or law enforcement officer.

(2) The medical examiner or coroner shall investigate the report and submit findings, in writing, to the local law enforcement agency, the appropriate county attorney, the local child protective service, the family of the deceased child, and, if the person making the report is a physician, the physician.

History: En. Sec. 7, Ch. 543, L. 1979; amd. Sec. 5, Ch. 564, L. 1995.

41-3-207. Penalty for failure to report. (1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

(2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor.

History: En. Sec. 15, Ch. 543, L. 1979; amd. Sec. 1, Ch. 367, L. 1985.

41-3-208. Rulemaking authority. (1) The department of public health and human services shall adopt rules to govern the procedures used by department personnel in preparing and processing reports and in making investigations authorized by this chapter.

(2) The department may adopt rules to govern the disclosure of case records containing reports of child abuse and neglect.

History: En. Sec. 1, Ch. 567, L. 1979; amd. Sec. 31, Ch. 465, L. 1983; amd. Sec. 2, Ch. 287, L. 1987; amd. Sec. 40, Ch. 609, L. 1987; amd. Sec. 7, Ch. 696, L. 1991; amd. Sec. 165, Ch. 546, L. 1995.

Part 3. Protective Care

41-3-301. Emergency protective service. (1) Any child protective social worker of the department, a peace officer, or the county attorney who has reason to believe any youth is in immediate or apparent danger of harm may immediately remove the youth and place the youth in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical custody of the youth of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical custody of the youth that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the social worker concerning emergency protective services.

(2) If a social worker of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in [45-5-206](#), against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) An abuse and neglect petition must be filed within 2 working days, excluding weekends and holidays, of emergency placement of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to [41-3-302](#).

(6) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the initial petition unless otherwise stipulated by the parties pursuant to [41-3-434](#).

(7) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the social worker shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child. The district court may not order further relief until the parents, if they are reasonably available, are given the opportunity to appear before the court or have their statements, if any, presented to the court for consideration before entry of an order granting the petition.

(8) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing.

History: En. 10-1309 by Sec. 5, Ch. 328, L. 1974; amd. Sec. 19, Ch. 100, L. 1977; R.C.M. 1947, 10-1309; amd. Sec. 12, Ch. 543, L. 1979; amd. Sec. 1, Ch. 659, L. 1985; amd. Sec. 41, Ch. 609, L. 1987; amd. Sec. 166, Ch. 546, L. 1995; amd. Sec. 3, Ch. 281, L. 2001; amd. Sec. 2, Ch. 398, L. 2003; amd. Sec. 6, Ch. 504, L. 2003; amd. Sec. 3, Ch. 555, L. 2003; amd. Sec. 1, Ch. 422, L. 2005.

41-3-302. Responsibility of providing protective services -- voluntary protective services agreement. (1)

The department of public health and human services has the primary responsibility to provide the protective services authorized by this chapter and has the authority pursuant to this chapter to take temporary or permanent custody of a child when ordered to do so by the court, including the right to give consent to adoption.

(2) The department shall respond to emergency reports of known or suspected child abuse or neglect 24 hours a day, 7 days a week.

(3) (a) The department may provide voluntary protective services by entering into a written voluntary protective services agreement with a parent or other person responsible for a child's welfare for the purpose of keeping the child safely in the home.

(b) The department shall inform a parent or other person responsible for a child's welfare who is considering entering into a voluntary protective services agreement that the parent or other person may have another person of the parent's or responsible person's choice present whenever the terms of the voluntary protective services agreement are under discussion by the parent or other person responsible for the child's welfare and the department. Reasonable accommodations must be made regarding the time and place of meetings at which a voluntary protective services agreement is discussed.

(4) A voluntary protective services agreement may include provisions for:

- (a) a family group decisionmaking meeting and implementation of safety plans developed during the meeting;
- (b) a professional evaluation and treatment of a parent or child, or both;
- (c) a safety plan for the child;
- (d) in-home services aimed at permitting the child to remain safely in the home;
- (e) temporary relocation of a parent in order to permit the child to remain safely in the home;
- (f) a 30-day temporary out-of-home protective placement; or
- (g) any other terms or conditions agreed upon by the parties that would allow the child to remain safely in the home or allow the child to safely return to the home within the 30-day period, including referrals to other service providers.

(5) A voluntary protective services agreement is subject to termination by either party at any time. Termination of a voluntary protective services agreement does not preclude the department from filing a petition pursuant to [41-3-422](#) in any case in which the department determines that there is a risk of harm to a child.

(6) If a voluntary protective services agreement is terminated by a party to the agreement, a child who has been placed in a temporary out-of-home placement pursuant to the agreement must be returned to the parents within 2 working days of termination of the agreement unless an abuse and neglect petition is filed by the department.

History: En. 10-1315 by Sec. 11, Ch. 328, L. 1974; R.C.M. 1947, 10-1315; amd. Sec. 13, Ch. 543, L. 1979; amd. Sec. 4, Ch. 511, L. 1981; amd. Sec. 42, Ch. 609, L. 1987; amd. Sec. 167, Ch. 546, L. 1995; amd. Sec. 4, Ch. 555, L. 2003; amd. Sec. 54, Ch. 130, L. 2005.

Part 4. Abuse or Neglect Proceedings

41-3-422. Abuse and neglect petitions -- burden of proof. (1) (a) Proceedings under this chapter must be initiated by the filing of a petition. A petition may request the following relief:

- (i) immediate protection and emergency protective services, as provided in [41-3-427](#);
- (ii) temporary investigative authority, as provided in [41-3-433](#);
- (iii) temporary legal custody, as provided in [41-3-442](#);
- (iv) long-term custody, as provided in [41-3-445](#);
- (v) termination of the parent-child legal relationship, as provided in [41-3-607](#);
- (vi) appointment of a guardian pursuant to [41-3-444](#);
- (vii) a determination that preservation or reunification services need not be provided; or
- (viii) any combination of the provisions of subsections (1)(a)(i) through (1)(a)(vii) or any other relief that may be required for the best interests of the child.

(b) The petition may be modified for different relief at any time within the discretion of the court.

(c) A petition for temporary legal custody may be the initial petition filed in a case.

(d) A petition for the termination of the parent-child legal relationship may be the initial petition filed in a case if a request for a determination that preservation or reunification services need not be provided is made in the petition.

(2) The county attorney, attorney general, or an attorney hired by the county shall file all petitions under this chapter. A petition filed by the county attorney, attorney general, or an attorney hired by the county must be accompanied by:

- (a) an affidavit by the department alleging that the child appears to have been abused or neglected and stating the basis for the petition; and

(b) a separate notice to the court stating any statutory time deadline for a hearing.

(3) Abuse and neglect petitions must be given highest preference by the court in setting hearing dates.

(4) An abuse and neglect petition is a civil action brought in the name of the state of Montana. The Montana Rules of Civil Procedure and the Montana Rules of Evidence apply except as modified in this chapter. Proceedings under a petition are not a bar to criminal prosecution.

(5) (a) Except as provided in subsection (5)(b), the person filing the abuse and neglect petition has the burden of presenting evidence required to justify the relief requested and establishing:

(i) probable cause for the issuance of an order for immediate protection and emergency protective services or an order for temporary investigative authority;

(ii) a preponderance of the evidence for an order of adjudication or temporary legal custody;

(iii) a preponderance of the evidence for an order of long-term custody; or

(iv) clear and convincing evidence for an order terminating the parent-child legal relationship.

(b) If a proceeding under this chapter involves an Indian child, as defined in the federal Indian Child Welfare Act, 25 U.S.C. 1901, et seq., the standards of proof required for legal relief under the federal Indian Child Welfare Act apply.

(6) (a) Except as provided in the federal Indian Child Welfare Act, if applicable, the parents or parent, guardian, or other person or agency having legal custody of the child named in the petition, if residing in the state, must be served personally with a copy of the initial petition and a petition to terminate the parent-child legal relationship at least 5 days before the date set for hearing. If the person or agency cannot be served personally, the person or agency may be served by publication as provided in [41-3-428](#) and [41-3-429](#).

(b) Copies of all other petitions must be served upon the person or the person's attorney of record by certified mail, by personal service, or by publication as provided in [41-3-428](#) and [41-3-429](#). If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. Service of the notice is considered to be effective if, in the absence of a return receipt, the person to whom the notice was mailed appears at the hearing.

(7) If personal service cannot be made upon the parents or parent, guardian, or other person or agency having legal custody, the court shall immediately provide for the appointment or assignment of an attorney as provided for in [41-3-425](#) to represent the unavailable party when, in the opinion of the court, the interests of justice require.

(8) If a parent of the child is a minor, notice must be given to the minor parent's parents or guardian, and if there is no guardian, the court shall appoint one.

(9) (a) Any person interested in any cause under this chapter has the right to appear. Any foster parent, preadoptive parent, or relative caring for the child must be given legal notice by the attorney filing the petition of all judicial hearings for the child and must be given an opportunity to be heard. The right to appear or to be heard does not make that person a party to the action. Any foster parent, preadoptive parent, or relative caring for the child must be given notice of all reviews by the reviewing body.

(b) A foster parent, preadoptive parent, or relative of the child who is caring for or a relative of the child who has cared for a child who is the subject of the petition who appears at a hearing set pursuant to this section may be allowed by the court to intervene in the action if the court, after a hearing in which evidence is presented on those subjects provided for in [41-3-437](#)(4), determines that the intervention of the person is in the best interests of the child. A person granted intervention pursuant to this subsection is entitled to participate in the adjudicatory hearing held pursuant to [41-3-437](#) and to notice and participation in subsequent proceedings held pursuant to this chapter involving the custody of the child.

(10) An abuse and neglect petition must:

(a) state the nature of the alleged abuse or neglect and of the relief requested;

(b) state the full name, age, and address of the child and the name and address of the child's parents or guardian or person having legal custody of the child;

(c) state the names, addresses, and relationship to the child of all persons who are necessary parties to the action.

(11) Any party in a proceeding pursuant to this section is entitled to counsel as provided in [41-3-425](#).

(12) At any stage of the proceedings considered appropriate by the court, the court may order an alternative dispute resolution proceeding or the parties may voluntarily participate in an alternative dispute resolution proceeding. An alternative dispute resolution proceeding under this chapter may include a family group decisionmaking meeting, mediation, or a settlement conference. If a court orders an alternative dispute resolution proceeding, a party who does not wish to participate may file a motion objecting to the order. If the department is a party to the original proceeding, a representative of the department who has complete authority to settle the issue or issues in the original proceeding must be present at any alternative dispute resolution proceeding.

(13) Service of a petition under this section must be accompanied by a written notice advising the child's parent, guardian, or other person having physical or legal custody of the child of the:

(a) right, pursuant to [41-3-425](#), to appointment or assignment of counsel if the person is indigent or if appointment or assignment of counsel is required under the federal Indian Child Welfare Act, if applicable;

(b) right to contest the allegations in the petition; and

(c) timelines for hearings and determinations required under this chapter.

(14) If appropriate, orders issued under this chapter must contain a notice provision advising a child's parent, guardian, or other person having physical or legal custody of the child that:

(a) the court is required by federal and state laws to hold a permanency hearing to determine the permanent placement of a child no later than 12 months after a judge determines that the child has been abused or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

(b) if a child has been in foster care for 15 of the last 22 months, state law presumes that termination of parental rights is in the best interests of the child and the state is required to file a petition to terminate parental rights; and

(c) completion of a treatment plan does not guarantee the return of a child.

(15) A court may appoint a standing master to conduct hearings and propose decisions and orders to the court for court consideration and action. A standing master may not conduct a proceeding to terminate parental rights. A standing master must be a member of the state bar of Montana and must be knowledgeable in the area of child abuse and neglect laws.

History: En. 10-1310 by Sec. 6, Ch. 328, L. 1974; amd. Sec. 20, Ch. 100, L. 1977; R.C.M. 1947, 10-1310; amd. Sec. 4, Ch. 567, L. 1979; amd. Sec. 5, Ch. 511, L. 1981; amd. Sec. 2, Ch. 659, L. 1985; amd. Sec. 2, Ch. 463, L. 1987; amd. Sec. 43, Ch. 609, L. 1987; amd. Sec. 2, Ch. 329, L. 1993; amd. Sec. 11, Ch. 458, L. 1995; amd. Sec. 168, Ch. 546, L. 1995; amd. Sec. 6, Ch. 516, L. 1997; amd. Sec. 1, Ch. 428, L. 1999; amd. Sec. 8, Ch. 566, L. 1999; amd. Sec. 4, Ch. 83, L. 2001; amd. Sec. 2, Ch. 194, L. 2001; amd. Secs. 4, 18(2), Ch. 281, L. 2001; amd. Sec. 7, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 1, Ch. 189, L. 2003; amd. Sec. 7, Ch. 504, L. 2003; amd. Sec. 1, Ch. 118, L. 2005; amd. Sec. 30, Ch. 449, L. 2005.

41-3-423. Reasonable efforts required to prevent removal of child or to return -- exemption -- findings -- permanency plan. (1) The department shall make reasonable efforts to prevent the necessity of removal of a child from the child's home and to reunify families that have been separated by the state. Reasonable efforts include but are not limited to voluntary protective services agreements, development of individual written case plans specifying state efforts to reunify families, placement in the least disruptive setting possible, provision of services pursuant to a case plan, and periodic review of each case to ensure timely progress toward reunification or permanent placement. In determining preservation or reunification services to be provided and in making reasonable efforts at providing preservation or reunification services, the child's health and safety are of paramount concern.

(2) Except in a proceeding subject to the federal Indian Child Welfare Act, the department may, at any time during an abuse and neglect proceeding, make a request for a determination that preservation or reunification services need not be provided. If an indigent parent is not already represented by counsel, the court shall immediately provide for the appointment or assignment of counsel to represent the indigent parent in accordance with the provisions of [41-3-425](#). A court may make a finding that the department need not make reasonable efforts to provide preservation or reunification services if the court finds that the parent has:

(a) subjected a child to aggravated circumstances, including but not limited to abandonment, torture, chronic abuse, or sexual abuse or chronic, severe neglect of a child;

(b) committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child;

(c) committed aggravated assault against a child;

(d) committed neglect of a child that resulted in serious bodily injury or death; or

(e) had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care for the child at issue.

(3) Preservation or reunification services are not required for a putative father, as defined in [42-2-201](#), if the court makes a finding that the putative father has failed to do any of the following:

(a) contribute to the support of the child for an aggregate period of 1 year, although able to do so;

(b) establish a substantial relationship with the child. A substantial relationship is demonstrated by:

(i) visiting the child at least monthly when physically and financially able to do so; or

(ii) having regular contact with the child or with the person or agency having the care and custody of the child when physically and financially able to do so; and

(iii) manifesting an ability and willingness to assume legal and physical custody of the child if the child was not in

the physical custody of the other parent.

(c) register with the putative father registry pursuant to Title 42, chapter 2, part 2, and the person has not been:

(i) adjudicated in Montana to be the father of the child for the purposes of child support; or

(ii) recorded on the child's birth certificate as the child's father.

(4) A judicial finding that preservation or reunification services are not necessary under this section must be supported by clear and convincing evidence.

(5) If the court finds that preservation or reunification services are not necessary pursuant to subsection (2) or (3), a permanency hearing must be held within 30 days of that determination and reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If reasonable efforts have been made to prevent removal of a child from the home or to return a child to the child's home but continuation of the efforts is determined by the court to be inconsistent with the permanency plan for the child, the department shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place a child permanently for adoption or to make an alternative out-of-home permanent placement may be made concurrently with reasonable efforts to return a child to the child's home. Concurrent planning may be used.

(7) When determining whether the department has made reasonable efforts to prevent the necessity of removal of a child from the child's home or to reunify families that have been separated by the state, the court shall review the services provided by the agency including, if applicable, protective services provided pursuant to [41-3-302](#).

History: En. 10-1311 by Sec. 7, Ch. 328, L. 1974; amd. Sec. 21, Ch. 100, L. 1977; R.C.M. 1947, 10-1311(4), (5); amd. Sec. 4, Ch. 659, L. 1985; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 1, Ch. 696, L. 1991; amd. Sec. 1, Ch. 112, L. 1993; amd. Sec. 1, Ch. 362, L. 1993; amd. Sec. 13, Ch. 458, L. 1995; amd. Sec. 3, Ch. 501, L. 1997; amd. Sec. 7, Ch. 516, L. 1997; amd. Sec. 9, Ch. 566, L. 1999; amd. Sec. 5, Ch. 83, L. 2001; amd. Secs. 8, 18(3), Ch. 281, L. 2001; amd. Sec. 9, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 5, Ch. 555, L. 2003; amd. Sec. 31, Ch. 449, L. 2005.

41-3-424. Dismissal. Unless the petition has been previously dismissed, the court shall dismiss an abuse and neglect petition on the motion of a party, or on its own motion, in any case in which all of the following criteria are met:

(1) a child who has been placed in foster care is reunited with the child's parents and returned home;

(2) the child remains in the home for a minimum of 6 months with no additional confirmed reports of child abuse or neglect; and

(3) the department determines and informs the court that the issues that led to department intervention have been resolved and that no reason exists for further department intervention or monitoring.

History: En. Sec. 6, Ch. 555, L. 2003.

41-3-425. Right to counsel. (1) Any party involved in a petition filed pursuant to [41-3-422](#) has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsection (3), the court shall immediately appoint or have counsel assigned for:

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to [41-3-422](#);

(b) any child, youth, or guardian ad litem involved in a proceeding under a petition filed pursuant to [41-3-422](#); and

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act.

(3) Beginning July 1, 2006, the court's action pursuant to subsection (2) must be to order the office of state public defender, provided for in [47-1-201](#), to immediately assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, pending a determination of eligibility pursuant to [47-1-111](#).

History: En. Sec. 15, Ch. 449, L. 2005.

41-3-427. Petition for immediate protection and emergency protective services -- order -- service. (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested

and the facts establishing probable cause that a child is abused or neglected or is in danger of being abused or neglected.

(c) The petition for immediate protection and emergency protective services must be supported by an affidavit signed by a representative of the department stating in detail the facts upon which the request is based. The petition or affidavit of the department must contain information regarding statements, if any, made by the parents detailing the parents' statement of the facts of the case. The parents, if available in person or by electronic means, must be given an opportunity to present evidence to the court before the court rules on the petition.

(d) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical custody of the youth that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with a social worker concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the social worker.

(2) The person filing the petition for immediate protection and emergency protective services has the burden of presenting evidence establishing probable cause for the issuance of an order for immediate protection of the child, except as provided by the federal Indian Child Welfare Act, if applicable. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under [41-3-443](#):

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(d) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(e) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(f) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(g) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in [41-3-422](#).

History: En. 10-1311 by Sec. 7, Ch. 328, L. 1974; amd. Sec. 21, Ch. 100, L. 1977; R.C.M. 1947, 10-1311(1) thru (3); amd. Sec. 3, Ch. 659, L. 1985; amd. Sec. 44, Ch. 609, L. 1987; amd. Sec. 12, Ch. 458, L. 1995; amd. Sec. 169, Ch. 546, L. 1995; amd. Sec. 2, Ch. 501, L. 1997; amd. Sec. 5, Ch. 281, L. 2001; amd. Sec. 8, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 8, Ch. 504, L. 2003; amd. Sec. 2, Ch. 422, L. 2005.

41-3-428. Service of process -- service by publication -- effect. (1) Except as otherwise provided in this chapter, service of process must be made as provided in the Montana Rules of Civil Procedure.

(2) If a person cannot be served personally or by certified mail, the person may be served by publication as provided in [41-3-429](#). Publication constitutes conclusive evidence of service, and a hearing must then proceed at the time and date set, with or without the appearance of the person served by publication. At or after the hearing, the court may issue an order that will adjudicate the interests of the person served by publication.

(3) If a parent cannot be identified or found prior to the initial hearings allowed by part 4, the court may grant the following relief, pending service by publication on the parent who cannot be identified or found and based upon service of process on only the parent, guardian, or other person having legal custody of the child:

- (a) immediate protection;
- (b) temporary investigative authority; and
- (c) temporary legal custody.

History: En. Sec. 1, Ch. 83, L. 2001; amd. Sec. 2, Ch. 118, L. 2005.

41-3-429. Service by publication -- summons -- form. (1) Before service by publication is authorized in a proceeding under this chapter, the department shall file with the court an affidavit stating that, after due diligence, the person cannot be identified or found and stating the diligent efforts made to identify, locate, and serve the person. The affidavit is sufficient evidence of the diligence of any inquiry made by the department. The affidavit may be combined with any other affidavit filed by the department. Upon complying with this subsection, the department may obtain an order for the service to be made upon the party by publication. The order may be issued by either the judge or the clerk of the court.

(2) Service by publication must be made by publishing notice three times, once each week for 3 successive weeks:

- (a) in a newspaper in a community in which the publication can reasonably be calculated to be seen by the person, based upon the last-known address or whereabouts, if known, of the person if in the state of Montana; or
- (b) if no last-known address exists, if the last-known address is outside Montana, or if the identity of the person is unknown, in a newspaper in the county in which the action is pending, if a newspaper is published in the county, and, if a newspaper is not published in the county, in a newspaper published in an adjoining county and having a general circulation in the county.

(3) Service by publication is complete on the date of the last publication required by subsection (2).

(4) A summons required under this chapter must:

- (a) be directed to the parent, legal guardian, other person having legal custody of the child, or any other person who is required to be served; and
- (b) be signed by the clerk of court, be under the seal of the court, and contain:
 - (i) the name of the court and the cause number;
 - (ii) the initials of the child who is the subject of the proceedings;
 - (iii) the name of the child's parents, if known;
 - (iv) the time within which an interested person shall appear;
 - (v) the department's address;
 - (vi) a statement in general terms of the nature of the proceedings, including the date and place of birth of the child, the date and place of the hearing, and the phone number of the clerk of the court in which the hearing is scheduled; and
 - (vii) notification apprising the person served by publication that failure to appear at the hearing will constitute a denial of interest in the child, which denial may result, without further notice of this proceeding or any subsequent proceeding, in judgment by default being entered for the relief requested in the petition.

History: En. Sec. 2, Ch. 83, L. 2001; amd. Sec. 3, Ch. 118, L. 2005.

41-3-430. Putative fathers -- service by publication -- continuation of proceedings. (1) Reasonable efforts must be made to resolve issues of paternity, if any, as early as possible in proceedings under this chapter. The department shall make every reasonable effort to obtain service of process of a petition on a putative father, as defined in [42-2-201](#).

(2) If a putative father cannot be served personally, the putative father may be served by publication as provided in [41-3-428](#) and [41-3-429](#).

(3) Regardless of the provisions of subsections (1) and (2), if a putative father cannot be identified or found prior to the initial hearings allowed by part 4, the court may grant the following relief, pending service by publication on the putative father and based upon service of process on only the parent, guardian, or other person having legal custody of the child:

- (a) immediate protection;
- (b) temporary investigative authority; and
- (c) temporary legal custody.

(4) Throughout the proceedings, the court, in its discretion, may order the department to continue to attempt to identify, locate, and serve a putative father.

(5) A court may order termination of the parental rights of a putative father under this chapter based on service by publication if the provisions of [41-3-428](#) and [41-3-429](#) have been met.

History: En. Sec. 3, Ch. 83, L. 2001.

41-3-432. Show cause hearing -- order. (1) (a) Except as provided in the federal Indian Child Welfare Act, a show cause hearing must be conducted within 20 days of the filing of an initial child abuse and neglect petition unless otherwise stipulated by the parties pursuant to [41-3-434](#) or unless an extension of time is granted by the court. A separate notice to the court stating the statutory time deadline for a hearing must accompany any petition to which the time deadline applies.

(b) If a proceeding under this chapter involves an Indian child and is subject to the federal Indian Child Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(c) The court may grant an extension of time for a show cause hearing only upon a showing of substantial injustice and shall order an appropriate remedy that considers the best interests of the child.

(2) The person filing the petition has the burden of presenting evidence establishing probable cause for the issuance of an order for temporary investigative authority after the show cause hearing, except as provided by the federal Indian Child Welfare Act, if applicable.

(3) At the show cause hearing, the court may consider all evidence and shall provide an opportunity for a parent, guardian, or other person having physical or legal custody of the child to provide testimony. Hearsay evidence of statements made by the affected child is admissible at the hearing. The parent, guardian, or other person may be represented by legal counsel and may be appointed or assigned counsel as provided for in [41-3-425](#). The court may permit testimony by telephone, audiovisual means, or other electronic means.

(4) At the show cause hearing, the court shall explain the procedures to be followed in the case and explain the parties' rights, including the right to request appointment or assignment of counsel if indigent or if appointment or assignment of counsel is required under the federal Indian Child Welfare Act, if applicable, and the right to challenge the allegations contained in the petition. The parent, guardian, or other person having physical or legal custody of the child must be given the opportunity to admit or deny the allegations contained in the petition at the show cause hearing. Inquiry must be made to determine whether the notice requirements of the federal Indian Child Welfare Act, if applicable, have been met.

(5) The court shall make written findings on issues including but not limited to the following:

(a) whether the child should be returned home immediately if there has been an emergency removal or remain in temporary out-of-home care or be removed from the home;

(b) if removal is ordered or continuation of removal is ordered, why continuation of the child in the home would be contrary to the child's best interests and welfare;

(c) whether the department has made reasonable efforts to avoid protective placement of the child or to make it possible to safely return the child to the child's home;

(d) financial support of the child, including inquiry into the financial ability of the parents, guardian, or other person having physical or legal custody of the child to contribute to the costs for the care, custody, and treatment of the child and requirements of a contribution for those costs pursuant to [41-3-446](#); and

(e) whether another hearing is needed and, if so, the date and time of the next hearing.

(6) The court may consider:

(a) terms and conditions for parental visitation; and

(b) whether orders for examinations, evaluations, counseling, immediate services, or protection are needed.

(7) Following the show cause hearing, the court may enter an order for the relief requested or amend a previous order for immediate protection of the child if one has been entered. The order must be in writing.

(8) If a child who has been removed from the child's home is not returned home after the show cause hearing or if removal is ordered, the parents or parent, guardian, or other person or agency having physical or legal custody of the child named in the petition may request that a citizen review board, if available pursuant to part 10 of this chapter, review the case within 30 days of the show cause hearing and make a recommendation to the district court, as provided in [41-3-1010](#).

(9) Adjudication of a child as a youth in need of care may be made at the show cause hearing if the requirements of [41-3-437\(2\)](#) are met. If not made at the show cause hearing, adjudication under [41-3-437](#) must be made within the time limits required by [41-3-437](#) unless adjudication occurs earlier by stipulation of the parties pursuant to [41-3-434](#) and order of the court.

History: En. Sec. 6, Ch. 281, L. 2001; amd. Sec. 2, Ch. 189, L. 2003; amd. Sec. 9, Ch. 504, L. 2003; amd. Sec. 3, Ch. 349, L. 2005; amd. Sec. 32, Ch. 449, L. 2005.

41-3-433. Temporary investigative authority. The department may petition the court for authorization to conduct an investigation into allegations of child abuse, neglect, or abandonment when necessary. An order for

temporary investigative authority may not be issued for a period longer than 90 days. The petition must be served as provided in [41-3-422](#).

History: En. Sec. 7, Ch. 281, L. 2001.

41-3-434. Stipulations. Subject to approval by the court, the parties may stipulate to any of the following:

- (1) the child meets the definition of a youth in need of care by the preponderance of the evidence;
- (2) a treatment plan, if the child has been adjudicated a youth in need of care;
- (3) the disposition; or
- (4) extension of the timeframes contained in this chapter, except for the timeframe contained in [41-3-445](#).

History: En. Sec. 14, Ch. 281, L. 2001; en. Sec. 32, Ch. 311, L. 2001; amd. Sec. 10, Ch. 504, L. 2003.

41-3-437. Adjudication -- temporary disposition -- findings -- order. (1) Upon the filing of an appropriate petition, an adjudicatory hearing must be held within 90 days of a show cause hearing under [41-3-432](#). Adjudication may take place at the show cause hearing if the requirements of subsection (2) are met or may be made by prior stipulation of the parties pursuant to [41-3-434](#) and order of the court. Exceptions to the time limit may be allowed only in cases involving newly discovered evidence, unavoidable delays, stipulation by the parties pursuant to [41-3-434](#), and unforeseen personal emergencies.

(2) The court may make an adjudication on a petition under [41-3-422](#) if the court determines by a preponderance of the evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that the child is a youth in need of care. Except as otherwise provided in this part, the Montana Rules of Civil Procedure and the Montana Rules of Evidence apply to adjudication and to an adjudicatory hearing. Adjudication must determine the nature of the abuse and neglect and establish facts that resulted in state intervention and upon which disposition, case work, court review, and possible termination are based.

(3) The court shall hear evidence regarding the residence of the child, paternity, if in question, the whereabouts of the parents, guardian, or nearest adult relative, and any other matters the court considers relevant in determining the status of the child. Hearsay evidence of statements made by the affected youth is admissible according to the Montana Rules of Evidence.

(4) In a case in which abandonment has been alleged by the county attorney, the attorney general, or an attorney hired by the county, the court shall hear offered evidence, including evidence offered by a person appearing pursuant to [41-3-422](#)(9)(a) or (9)(b), regarding any of the following subjects:

(a) the extent to which the child has been cared for, nurtured, or supported by a person other than the child's parents; and

(b) whether the child was placed or allowed to remain by the parents with another person for the care of the child, and, if so, then the court shall accept evidence regarding:

(i) the intent of the parents in placing the child or allowing the child to remain with that person; and

(ii) the circumstances under which the child was placed or allowed to remain with that other person, including:

(A) whether a parent requesting return of the child was previously prevented from doing so as a result of an order issued pursuant to Title 40, chapter 15, part 2, or of a conviction pursuant to [45-5-206](#); and

(B) whether the child was originally placed with the other person to allow the parent to seek employment or attend school.

(5) In all civil and criminal proceedings relating to abuse or neglect, the privileges related to the examination or treatment of the child do not apply, except the attorney-client privilege granted by [26-1-803](#) and the mediation privilege granted by [26-1-813](#).

(6) (a) If the court determines that the child is not an abused or neglected child, the petition must be dismissed and any order made pursuant to [41-3-427](#) or [41-3-432](#) must be vacated.

(b) If the child is adjudicated a youth in need of care, the court shall set a date for a dispositional hearing to be conducted within 20 days, as provided in [41-3-438](#)(1), and order any necessary or required investigations. The court may issue a temporary dispositional order pending the dispositional hearing. The temporary dispositional order may provide for any of the forms of relief listed in [41-3-427](#)(2).

(7) (a) Before making an adjudication, the court may make oral findings, and following the adjudicatory hearing, the court shall make written findings on issues, including but not limited to the following:

(i) which allegations of the petition have been proved or admitted, if any;

(ii) whether there is a legal basis for continued court and department intervention; and

(iii) whether the department has made reasonable efforts to avoid protective placement of the child or to make it

possible to safely return the child to the child's home.

(b) The court may order:

(i) terms for visitation, support, and other intrafamily communication pending disposition if the child is to be placed or to remain in temporary out-of-home care prior to disposition;

(ii) examinations, evaluations, or counseling of the child or parents in preparation for the disposition hearing that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(iii) the department to evaluate the noncustodial parent or relatives as possible caretakers, if not already done;

(iv) the perpetrator of the alleged child abuse or neglect to be removed from the home to allow the child to remain in the home; and

(v) the department to continue efforts to notify noncustodial parents.

(8) If a proceeding under this chapter involves an Indian child and is subject to the federal Indian Child Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

History: En. 10-1312 by Sec. 8, Ch. 328, L. 1974; R.C.M. 1947, 10-1312; amd. Sec. 19, Ch. 543, L. 1979; amd. Sec. 5, Ch. 567, L. 1979; amd. Sec. 5, Ch. 659, L. 1985; amd. Sec. 14, Ch. 458, L. 1995; amd. Sec. 8, Ch. 516, L. 1997; amd. Sec. 3, Ch. 481, L. 1999; amd. Sec. 10, Ch. 566, L. 1999; amd. Sec. 3, Ch. 194, L. 2001; amd. Sec. 9, Ch. 281, L. 2001; amd. Sec. 10, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 11, Ch. 504, L. 2003; amd. Sec. 55, Ch. 130, L. 2005; amd. Sec. 4, Ch. 349, L. 2005.

41-3-438. Disposition -- hearing -- order. (1) Unless a petition is dismissed or unless otherwise stipulated by the parties pursuant to [41-3-434](#) or ordered by the court, a dispositional hearing must be held on every petition filed under this chapter within 20 days after an adjudicatory order has been entered under [41-3-437](#). Exceptions to the time limit may be allowed only in cases involving newly discovered evidence, unavoidable delays, stipulation by the parties pursuant to [41-3-434](#), and unforeseen personal emergencies.

(2) (a) A dispositional order must be made after a dispositional hearing that is separate from the adjudicatory hearing under [41-3-437](#). The hearing process must be scheduled and structured so that dispositional issues are specifically addressed apart from adjudicatory issues. Hearsay evidence is admissible at the dispositional hearing.

(b) A dispositional hearing may follow an adjudicatory hearing in a bifurcated manner immediately after the adjudicatory phase of the proceedings if:

(i) all required reports are available and have been received by all parties or their attorneys at least 5 working days in advance of the hearing; and

(ii) the judge has an opportunity to review the reports after the adjudication.

(c) The dispositional hearing may be held prior to the entry of written findings required by [41-3-437](#).

(3) If a child is found to be a youth in need of care under [41-3-437](#), the court may enter its judgment, making any of the following dispositions to protect the welfare of the child:

(a) permit the child to remain with the child's custodial parent or guardian, subject to those conditions and limitations the court may prescribe;

(b) order the placement of the child with the noncustodial parent, superseding any existing custodial order, and dismiss the proceeding with no further obligation on the part of the department to provide services to the parent with whom the child is placed or to work toward reunification of the child with the parent or guardian from whom the child was removed in the initial proceeding;

(c) grant an order of limited emancipation to a child who is 16 years of age or older, as provided in [41-1-501](#);

(d) transfer temporary legal custody to any of the following:

(i) the department;

(ii) a licensed child-placing agency that is willing and able to assume responsibility for the education, care, and maintenance of the child and that is licensed or otherwise authorized by law to receive and provide care of the child; or

(iii) a relative or other individual who is recommended by the department or a licensed child-placing agency designated by the court and who is found by the court to be qualified to receive and care for the child;

(e) order a party to the action to do what is necessary to give effect to the final disposition, including undertaking medical and psychological evaluations, treatment, and counseling that does not require an expenditure of money by the department unless the department consents and informs the court that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(f) order further care and treatment as the court considers in the best interests of the child that does not require an

expenditure of money by the department unless the department consents and informs the court that resources are available for the proposed care and treatment. The department is the payor of last resort after all family, insurance, and other resources have been examined pursuant to [41-3-446](#).

(4) (a) If the court awards temporary legal custody of an abandoned child other than to the department or to a noncustodial parent, the court shall award temporary legal custody of the child to a member of the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, if:

- (i) placement of the abandoned child with the extended family member is in the best interests of the child;
- (ii) the extended family member requests that the child be placed with the family member; and
- (iii) the extended family member is found by the court to be qualified to receive and care for the child.

(b) If more than one extended family member satisfies the requirements of subsection (4)(a), the court may award custody to the extended family member who can best meet the child's needs.

(c) If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member, the department shall investigate and determine if awarding custody to the family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied temporary legal custody requests it to be included.

(5) If reasonable efforts have been made to prevent removal of a child from the home or to return a child to the child's home but continuation of the efforts is determined by the court to be inconsistent with permanency for the child, the department shall make reasonable efforts to place the child in a timely manner in accordance with a permanent plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If the court finds that reasonable efforts are not necessary pursuant to [41-3-442\(1\)](#) or subsection (5) of this section, a permanency hearing must be held within 30 days of that determination and reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

(7) If the time limitations of this section are not met, the court shall review the reasons for the failure and order an appropriate remedy that considers the best interests of the child.

History: En. 10-1314 by Sec. 10, Ch. 328, L. 1974; R.C.M. 1947, 10-1314; amd. Sec. 7, Ch. 567, L. 1979; amd. Sec. 170, Ch. 575, L. 1981; amd. Sec. 3, Ch. 564, L. 1983; amd. Sec. 6, Ch. 659, L. 1985; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 2, Ch. 696, L. 1991; amd. Sec. 2, Ch. 362, L. 1993; amd. Sec. 15, Ch. 458, L. 1995; amd. Sec. 170, Ch. 546, L. 1995; amd. Sec. 9, Ch. 516, L. 1997; amd. Sec. 2, Ch. 428, L. 1999; amd. Sec. 11, Ch. 566, L. 1999; amd. Sec. 4, Ch. 194, L. 2001; amd. Secs. 10, 18(3), Ch. 281, L. 2001; amd. Sec. 11, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 12, Ch. 504, L. 2003; amd. Sec. 1, Ch. 178, L. 2005; amd. Sec. 5, Ch. 382, L. 2005.

41-3-439. Department to give placement priority to extended family member of abandoned child. (1) If the department has received temporary legal custody of an abandoned child pursuant to [41-3-438](#) or permanent legal custody pursuant to [41-3-607](#), the department shall give priority to a member of the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, in determining the person or persons with whom the abandoned child should be placed if:

- (a) placement with the extended family member is in the best interests of the abandoned child;
- (b) the extended family member has requested that the abandoned child be placed with the family member; and
- (c) the department has determined that the extended family member is qualified to receive and care for the abandoned child.

(2) If more than one extended family member of the abandoned child has requested that the child be placed with the family member and all are qualified to receive and care for the child, the department may determine which extended family member to place the abandoned child with in the same manner as provided for in [41-3-438\(4\)](#).

(3) This part does not affect the department's ability to assess the appropriateness of placement of the child with a noncustodial parent when abandonment has been found against only one parent.

(4) If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that the child be placed with that family member and the department denies the request, the department shall give that family member a written statement of the reasons for the denial to the extent that confidentiality laws allow.

History: En. Sec. 6, Ch. 194, L. 2001; amd. Sec. 80, Ch. 114, L. 2003; amd. Sec. 2, Ch. 178, L. 2005.

41-3-440. Limitation on placement. Except as provided in [41-3-301](#)(1) and in the absence of a dispute between the parties to the action regarding the appropriate placement, the department shall determine the appropriate placement for a child alleged to be or adjudicated as a youth in need of care. The court shall settle any dispute between the parties to an action regarding the appropriate placement. The child may not be placed in a youth assessment center, youth detention facility, detention center, or other facility intended or used for the confinement of adults or youth accused or convicted of criminal offenses.

History: En. Sec. 30, Ch. 311, L. 2001.

41-3-442. Temporary legal custody. (1) If a child is found to be a youth in need of care under [41-3-437](#), the court may grant temporary legal custody under [41-3-438](#) if the court determines by a preponderance of the evidence that:

(a) dismissing the petition would create a substantial risk of harm to the child or would be a detriment to the child's physical or psychological well-being; and

(b) unless there is a finding that reasonable efforts are not required pursuant to [41-3-423](#), reasonable services have been provided to the parent or guardian to prevent the removal of the child from the home or to make it possible for the child to safely return home.

(2) An order for temporary legal custody may be in effect for no longer than 6 months.

(3) The granting of temporary legal custody to the department allows the department to place a child in care provided by a custodial or noncustodial parent, kinship foster home, youth foster home, youth group home, youth shelter care facility, or institution.

(4) Before the expiration of the order for temporary legal custody, the county attorney, the attorney general, or an attorney hired by the county shall petition for one of the following:

(a) an extension of temporary legal custody, not to exceed 6 months, upon a showing that:

(i) additional time is necessary for the parent or guardian to successfully complete a treatment plan; or

(ii) continuation of temporary legal custody is necessary because of the child's individual circumstances;

(b) termination of the parent-child legal relationship and either:

(i) permanent legal custody with the right of adoption; or

(ii) appointment of a guardian pursuant to [41-3-607](#);

(c) long-term custody when the child is in a planned permanent living arrangement pursuant to [41-3-445](#);

(d) appointment of a guardian pursuant to [41-3-444](#); or

(e) dismissal.

(5) The court may continue an order for temporary legal custody pending a hearing on a petition provided for in subsection (2).

(6) If an extension of temporary legal custody is granted to the department, the court shall state the reasons why the child was not returned home and the conditions upon which the child may be returned home and shall specifically find that an extension is in the child's best interests.

(7) If the time limitations of this section are not met, the court shall review the reasons for the failure and order an appropriate remedy that considers the best interests of the child.

(8) In implementing the policy of this section, the child's health and safety are of paramount concern.

(9) A petition requesting temporary legal custody must be served as provided in [41-3-422](#).

History: En. Sec. 11, Ch. 281, L. 2001; amd. Sec. 13, Ch. 504, L. 2003.

41-3-443. Treatment plan -- contents -- changes. (1) The court may order a treatment plan if:

(a) the parent or parents admit the allegations of an abuse and neglect petition;

(b) the parent or parents stipulate to the allegations of abuse or neglect pursuant to [41-3-434](#); or

(c) the court has made an adjudication under [41-3-437](#) that the child is a youth in need of care.

(2) Every treatment plan must contain the following information:

(a) the identification of the problems or conditions that resulted in the abuse or neglect of a child;

(b) the treatment goals and objectives for each condition or requirement established in the plan. If the child has been removed from the home, the treatment plan must include but is not limited to the conditions or requirements that must be established for the safe return of the child to the family.

(c) the projected time necessary to complete each of the treatment objectives;

(d) the specific treatment objectives that clearly identify the separate roles and responsibilities of all parties

addressed in the treatment plan; and

(e) the signature of the parent or parents or guardian, unless the plan is ordered by the court.

(3) A treatment plan may include but is not limited to any of the following remedies, requirements, or conditions:

(a) the right of entry into the child's home for the purpose of assessing compliance with the terms and conditions of a treatment plan;

(b) the requirement of either the child or the child's parent or guardian to obtain medical or psychiatric diagnosis and treatment through a physician or psychiatrist licensed in the state of Montana;

(c) the requirement of either the child or the child's parent or guardian to obtain psychological treatment or counseling;

(d) the requirement of either the child or the child's parent or guardian to obtain and follow through with alcohol or substance abuse evaluation and counseling, if necessary;

(e) the requirement that either the child or the child's parent or guardian be restricted from associating with or contacting any individual who may be the subject of a department investigation;

(f) the requirement that the child be placed in temporary medical or out-of-home care;

(g) the requirement that the parent, guardian, or other person having physical or legal custody furnish services that the court may designate.

(4) A treatment plan may not be altered, amended, continued, or terminated without the approval of the parent or parents or guardian pursuant to a stipulation and order or order of the court.

(5) A treatment plan must contain a notice provision advising parents:

(a) of timelines for hearings and determinations required under this chapter;

(b) that the state is required by federal and state laws to hold a permanency hearing to determine the permanent placement of a child no later than 12 months after a judge determines that the child has been abused or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

(c) that if a child has been in foster care for 15 of the last 22 months, state law presumes that termination of parental rights is in the best interests of the child and the state is required to file a petition to terminate parental rights; and

(d) that completion of a treatment plan does not guarantee the return of a child and that completion of the plan without a change in behavior that caused removal in the first instance may result in termination of parental rights.

History: En. Sec. 15, Ch. 566, L. 1999; amd. Sec. 13, Ch. 281, L. 2001; amd. Sec. 15, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 6, Ch. 382, L. 2005.

41-3-444. Abuse and neglect proceedings -- appointment of guardian -- financial subsidies. (1) The court may, upon the petition of the department or guardian ad litem, enter an order appointing a guardian for a child who has been placed in the temporary or permanent custody of the department pursuant to [41-3-438](#), [41-3-445](#), or [41-3-607](#). The guardianship may be subsidized by the department under subsection (9) if the guardianship meets the department's criteria, or the guardianship may be nonsubsidized.

(2) The court may appoint a guardian for a child pursuant to this section if the following facts are found by the court:

(a) the department has given its written consent to the appointment of the guardian, whether the guardianship is to be subsidized or not;

(b) if the guardianship is to be subsidized, the department has given its written consent after the department has considered initiating or continuing financial subsidies pursuant to subsection (9);

(c) the child has been adjudicated a youth in need of care;

(d) the department has made reasonable efforts to reunite the parent and child, further efforts to reunite the parent and child by the department would likely be unproductive, and reunification of the parent and child would be contrary to the best interests of the child;

(e) the child has lived with the potential guardian in a family setting and the potential guardian is committed to providing a long-term relationship with the child;

(f) it is in the best interests of the child to remain or be placed with the potential guardian;

(g) either termination of parental rights to the child is not in the child's best interests or parental rights to the child have been terminated, but adoption is not in the child's best interests; and

(h) if the child concerning whom the petition for guardianship has been filed is an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., the child's tribe has received notification from the state of the initiation of the proceedings.

(3) In the case of an abandoned child, the court may give priority to a member of the abandoned child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, if placement with the extended family member is in the best interests of the child. If more than one extended family member has requested to be

appointed as guardian, the court may determine which extended family member to appoint in the same manner provided for in [41-3-438](#)(4).

(4) The entry of a decree of guardianship pursuant to this section terminates the custody of the department and the involvement of the department with the child and the child's parents except for the department's provision of a financial subsidy, if any, pursuant to subsection (9).

(5) A guardian appointed under this section may exercise the powers and has the duties provided in [72-5-231](#).

(6) The court may revoke a guardianship ordered pursuant to this section if the court finds, after hearing on a petition for removal of the child's guardian, that continuation of the guardianship is not in the best interests of the child. Notice of hearing on the petition must be provided by the moving party to the child's lawful guardian, the department, any court-appointed guardian ad litem, the child's parent if the rights of the parent have not been terminated, and other persons directly interested in the welfare of the child.

(7) A guardian may petition the court for permission to resign the guardianship. A petition may include a request for appointment of a successor guardian.

(8) After notice and hearing on a petition for removal or permission to resign, the court may appoint a successor guardian or may terminate the guardianship and restore temporary legal custody to the department pursuant to [41-3-438](#).

(9) The department may provide a financial subsidy to a guardian appointed pursuant to this section if the guardianship meets the department's criteria and if the department determines that a subsidy is in the best interests of the child. The amount of the subsidy must be determined by the department.

(10) This section does not apply to guardians appointed pursuant to Title 72, chapter 5.

History: En. Sec. 4, Ch. 428, L. 1999; amd. Sec. 5, Ch. 194, L. 2001; amd. Sec. 15, Ch. 281, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001.

41-3-445. Permanency hearing. (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in [41-3-115](#), or the citizen review board, as provided in [41-3-1010](#):

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under [41-3-423](#), [41-3-438](#)(6), or [41-3-442](#)(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to [41-3-115](#) or [41-3-1010](#) if held within the applicable time limits. If a permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the

reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(5) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the permanency plan is in the best interests of the child;

(b) whether the department has made reasonable efforts to finalize the plan; and

(c) other necessary steps that the department is required to take to effectuate the terms of the plan.

(6) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection (7) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(7) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) adoption;

(c) appointment of a guardian pursuant to [41-3-444](#); or

(d) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(8) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served.

History: En. Sec. 11, Ch. 516, L. 1997; amd. Sec. 3, Ch. 428, L. 1999; amd. Sec. 12, Ch. 566, L. 1999; amd. Sec. 12, Ch. 281, L. 2001; amd. Sec. 13, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001; amd. Sec. 14, Ch. 504, L. 2003; amd. Sec. 56, Ch. 130, L. 2005; amd. Sec. 3, Ch. 178, L. 2005; amd. Sec. 7, Ch. 382, L. 2005.

41-3-446. Contributions by parents or guardians for youth's care. (1) If physical or legal custody of the youth is transferred to the department, the court shall examine the financial ability of the youth's parents or guardians to pay a contribution covering all or part of the costs for the care, custody, and treatment of the youth, including the costs of necessary medical, dental, and other health care.

(2) If the court determines that the youth's parents or guardians are financially able to pay a contribution as provided in subsection (1), the court shall order the youth's parent or guardian to pay an amount based on the uniform child support guidelines adopted by the department of public health and human services pursuant to [40-5-209](#).

(3) (a) Except as provided in subsection (3)(b), contributions ordered under this section and each modification of an

existing order are enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. An order for a contribution that is inconsistent with this section is nevertheless subject to withholding for the payment of the contribution without need for an amendment of the support order or for any further action by the court.

(b) A court-ordered exception from contributions under this section must be in writing and must be included in the order. An exception from the immediate income-withholding requirement may be granted if the court finds that there is:

(i) good cause not to require immediate income withholding; or

(ii) an alternative arrangement between the department and the person who is ordered to pay contributions.

(c) A finding of good cause not to require immediate income withholding must, at a minimum, be based upon:

(i) a written determination and explanation by the court of the reasons why the implementation of immediate income withholding is not in the best interests of the child; and

(ii) proof of timely payment of previously ordered support in cases involving modification of contributions ordered under this section.

(d) An alternative arrangement must:

(i) provide sufficient security to ensure compliance with the arrangement;

(ii) be in writing and be signed by a representative of the department and the person required to make contributions; and

(iii) if approved by the court, be entered into the record of the proceeding.

(4) Upon a showing of a change in the financial ability of the youth's parent or guardian to pay, the court may modify its order for the payment of contributions required under subsection (2).

(5) (a) If the court orders the payment of contributions under this section, the department shall apply to the department of public health and human services for support enforcement services pursuant to Title IV-D of the Social Security Act.

(b) The department of public health and human services may collect and enforce a contribution order under this section by any means available under law, including the remedies provided for in Title 40, chapter 5, parts 2 and 4.

History: En. Sec. 10, Ch. 516, L. 1997; amd. Sec. 12, Ch. 311, L. 2001; Sec. , MCA 1999; redes. by Sec. 17(2), Ch. 281, L. 2001.

Part 5. Foster Homes and Other Private Institutions (Renumbered)

[41-3-501 renumbered 41-3-1102.](#)

[41-3-502 renumbered 41-3-1141.](#)

[41-3-503 renumbered 41-3-1142.](#)

[41-3-504 renumbered 41-3-1143.](#)

Part 6. Parent-Child Legal Relationship Termination

41-3-601. Short title. This part may be cited as the "Parent-Child Legal Relationship Termination Act of 1981".

History: En. Sec. 1, Ch. 420, L. 1981

41-3-602. Purpose. This part provides procedures and criteria by which the parent-child legal relationship may be terminated by a court if the relationship is not in the best interest of the child. The termination of the parent-child legal relationship provided for in this part is to be used in those situations when there is a determination that a child is abused or neglected, as defined in [41-3-102](#).

History: En. Sec. 2, Ch. 420, L. 1981; amd. Sec. 17, Ch. 458, L. 1995.

41-3-604. When petition to terminate parental rights required. (1) If a child has been in foster care under the physical custody of the state for 15 months of the most recent 22 months, the best interests of the child must be presumed to be served by termination of parental rights. If a child has been in foster care for 15 months of the most recent 22 months or if the court has found that reasonable efforts to preserve or reunify a child with the child's parent or guardian are not required pursuant to [41-3-423](#), a petition to terminate parental rights must be filed unless:

(a) the child is being cared for by a relative;

(b) the department has not provided the services considered necessary for the safe return of the child to the child's home; or

(c) the department has documented a compelling reason, available for court review, for determining that filing a petition to terminate parental rights would not be in the best interests of the child.

(2) Compelling reasons for not filing a petition to terminate parental rights include but are not limited to the

following:

- (a) There are insufficient grounds for filing a petition.
- (b) There is adequate documentation that termination of parental rights is not the appropriate plan and not in the best interests of the child.
- (3) If a child has been in foster care for 15 months of the most recent 22 months and a petition to terminate parental rights regarding that child has not been filed with the court, the department shall file a report to the court or review panel at least 3 days prior to the next hearing or review detailing the reasons that the petition was not filed.
- (4) If a hearing results in a finding of abandonment or that the parent has subjected the child to any of the circumstances listed in [41-3-423](#)(2)(a) through (2)(e) and that reasonable efforts to provide preservation or reunification are not necessary, unless there is an exception made pursuant to subsections (1)(a) through (1)(c) of this section, a petition to terminate parental rights must be filed within 60 days of the finding.
- (5) If an exception in subsections (1)(a) through (1)(c) of this section applies, a petition for an extension of temporary legal custody pursuant to [41-3-438](#), a petition for long-term custody pursuant to [41-3-445](#), or a petition to dismiss must be filed.

History: En. Sec. 14, Ch. 566, L. 1999; amd. Sec. 16, Ch. 311, L. 2001; amd. Sec. 15, Ch. 504, L. 2003.

41-3-607. Petition for termination -- separate hearing -- no jury trial. (1) The termination of a parent-child legal relationship may be considered only after the filing of a petition pursuant to [41-3-422](#) alleging the factual grounds for termination pursuant to [41-3-609](#).

- (2) If termination of a parent-child legal relationship is ordered, the court may:
 - (a) transfer permanent legal custody of the child, with the right to consent to the child's adoption, to:
 - (i) the department;
 - (ii) a licensed child-placing agency; or
 - (iii) another individual who has been approved by the department and has received consent for the transfer of custody from the department or agency that has custody of the child; or
 - (b) transfer permanent legal custody of the child to the department with the right to petition for appointment of a guardian pursuant to [41-3-444](#).
- (3) If the court does not order termination of the parent-child legal relationship, the child's prior legal status remains in effect until further order of the court.
- (4) A guardian ad litem must be appointed to represent the child's best interests in any hearing determining the involuntary termination of the parent-child legal relationship. The guardian ad litem shall continue to represent the child until the child is returned home or placed in an appropriate permanent placement. If a respondent parent is a minor, a guardian ad litem must be appointed to serve the minor parent in addition to any appointed or assigned counsel requested by the minor parent.
- (5) There is no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.

History: En. Sec. 4, Ch. 420, L. 1981; amd. Sec. 2, Ch. 388, L. 1985; amd. Sec. 19, Ch. 458, L. 1995; amd. Sec. 12, Ch. 516, L. 1997; amd. Sec. 5, Ch. 428, L. 1999; amd. Sec. 16, Ch. 566, L. 1999; amd. Sec. 16, Ch. 504, L. 2003; amd. Sec. 33, Ch. 449, L. 2005.

41-3-608. Notice. Before a termination of the parent-child legal relationship may be ordered, the court shall determine whether the provisions of [41-3-428](#) and [41-3-429](#) relating to service of process have been followed.

History: En. Sec. 5, Ch. 420, L. 1981; amd. Sec. 6, Ch. 83, L. 2001.

41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding established by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that any of the following circumstances exist:

- (a) the parents have relinquished the child pursuant to [42-2-402](#) and [42-2-412](#);
- (b) the child has been abandoned by the parents;
- (c) the parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born;
- (d) the parent has subjected a child to any of the circumstances listed in [41-3-423](#)(2)(a) through (2)(e);
- (e) the putative father meets any of the criteria listed in [41-3-423](#)(3)(a) through (3)(c); or
- (f) the child is an adjudicated youth in need of care and both of the following exist:

- (i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and
- (ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time.
- (2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court shall enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making the determinations, the court shall consider but is not limited to the following:
- (a) emotional illness, mental illness, or mental deficiency of the parent of a duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;
- (b) a history of violent behavior by the parent;
- (c) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child; and
- (d) present judicially ordered long-term confinement of the parent.
- (3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child.
- (4) A treatment plan is not required under this part upon a finding by the court following hearing if:
- (a) the parent meets the criteria of subsections (1)(a) through (1)(e);
- (b) two medical doctors or clinical psychologists submit testimony that the parent cannot assume the role of parent within a reasonable time;
- (c) the parent is or will be incarcerated for more than 1 year and reunification of the child with the parent is not in the best interests of the child because of the child's circumstances, including placement options, age, and developmental, cognitive, and psychological needs; or
- (d) the death or serious bodily injury, as defined in [45-2-101](#), of a child caused by abuse or neglect by the parent has occurred.
- (5) If a proceeding under this chapter involves an Indian child and is subject to the federal Indian Child Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

History: En. Sec. 6, Ch. 420, L. 1981; amd. Sec. 7, Ch. 15, L. 1985; amd. Sec. 3, Ch. 388, L. 1985; amd. Sec. 2, Ch. 599, L. 1991; amd. Sec. 3, Ch. 439, L. 1993; (5)En. Sec. 2, Ch. 369, L. 1995; amd. Sec. 20, Ch. 458, L. 1995; amd. Sec. 166, Ch. 480, L. 1997; amd. Sec. 8, Ch. 514, L. 1997; amd. Sec. 13, Ch. 516, L. 1997; amd. Sec. 1, Ch. 395, L. 1999; amd. Sec. 17, Ch. 566, L. 1999; amd. Sec. 1, Ch. 44, L. 2003; amd. Sec. 17, Ch. 504, L. 2003; amd. Sec. 5, Ch. 349, L. 2005.

41-3-611. Effect of decree. (1) An order for the termination of the parent-child legal relationship divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other as provided in Title 40, chapter 6, part 2, and Title 41, chapter 3, part 2, except the right of the child to inherit from the parent.

(2) An order or decree entered pursuant to this part may not disentitle a child to any benefit due the child from any third person, including but not limited to any Indian tribe, agency, state, or the United States.

(3) After the termination of a parent-child legal relationship, the former parent is neither entitled to any notice of proceedings for the adoption of the child nor has any right to object to the adoption or to participate in any permanent placement proceedings held pursuant to [41-3-445](#).

History: En. Sec. 8, Ch. 420, L. 1981; amd. Sec. 99, Ch. 370, L. 1987; amd. Sec. 21, Ch. 458, L. 1995; amd. Sec. 18, Ch. 504, L. 2003.

41-3-612. Appeals. Appeals of court orders or decrees made under this part shall be given precedence on the calendar of the supreme court over all other matters, unless otherwise provided by law.

History: En. Sec. 9, Ch. 420, L. 1981.

Part 7. Montana Children's Trust Fund (Renumbered)

[41-3-701 renumbered 52-7-101.](#)
[41-3-702 renumbered 52-7-102.](#)
[41-3-703 renumbered 52-7-103.](#)

[41-3-704 renumbered 52-7-104.](#)
[41-3-705 renumbered 52-7-105.](#)

Part 8 and 9 reserved

Part 10. Citizen Review Board Program Act

41-3-1001. Short title. This part may be cited as the "Citizen Review Board Program Act".

History: En. Sec. 1, Ch. 610, L. 1993; amd. Sec. 2, Ch. 570, L. 2001.

41-3-1003. Establishment of board -- definition -- membership. (1) As used in this part, "board" means a citizen review board appointed as provided in this section.

(2) Subject to the availability of funds, a district court judge who has indicated in writing an interest in having a board shall establish at least one board in the judicial district to review the case of each child in the custody of the department and in foster care. A board may review a case of a child who remains in or returns to the child's home and for whom the department retains legal custody.

(3) A board is composed of at least three and not more than five members appointed by the district court judges. Each member appointed must be sworn in by a judge of the judicial district to which the member is appointed to serve.

(4) The board must be appointed according to the following guidelines:

- (a) Members of a board must be recruited from groups with special knowledge of or interest in foster care and child welfare.
- (b) As far as practicable, members of a board shall represent the various socioeconomic and ethnic groups of the area served. Boards should include tribal representatives whenever possible.
- (c) A person employed by the department who has a direct conflict of interest may not serve on a board.
- (d) A member of a board must be a resident of one of the counties of the judicial district that the member is appointed to serve.
- (5) The members of a board must be willing to serve without compensation.

History: En. Sec. 3, Ch. 610, L. 1993; amd. Sec. 2, Ch. 386, L. 1995; amd. Sec. 173, Ch. 546, L. 1995; amd. Sec. 3, Ch. 570, L. 2001.

41-3-1004. Administration -- training -- oversight -- procedures. (1) The office of the court administrator, as provided for in [3-1-701](#), shall, in accordance with the direction of the supreme court, oversee the program established in this part and shall, at the time prescribed by [5-11-210](#), prepare a report to the governor, the legislature, and the public regarding:

(a) state laws, policies, and practices affecting permanency and appropriate care for children in the custody of the department and other agencies; and

(b) the effectiveness of the boards in bringing about permanency and appropriate care for children in the custody of the department and other agencies.

(2) The office of the court administrator shall:

(a) establish policies and procedures for adoption by the Montana supreme court for the operation of a board, including procedures for removing members;

(b) provide training programs for board members consisting of orientation training of at least 16 hours and a minimum of 8 hours of continuing education training annually;

(c) provide consultation services on request to a board; and

(d) employ staff and provide for support services for boards.

History: En. Sec. 4, Ch. 610, L. 1993; amd. Sec. 1, Ch. 21, Sp. L. November 1993; amd. Sec. 3, Ch. 386, L. 1995; amd. Sec. 174, Ch. 546, L. 1995; amd. Sec. 4, Ch. 570, L. 2001.

41-3-1005. Removal of members -- grounds. Grounds for removal of a member of a board under [41-3-1004](#) may include but are not limited to the following:

(1) nonparticipation by a board member;

(2) a member establishing residence in a judicial district other than the judicial district in which the court the person was appointed to serve is located;

- (3) violation of the confidentiality of information established under [41-3-1007](#); or
- (4) other cause or grounds as necessary for the administration of the program.

History: En. Sec. 5, Ch. 610, L. 1993; amd. Sec. 5, Ch. 570, L. 2001.

41-3-1006. Terms -- officers. (1) A board member shall serve at the pleasure of the appointing authority. However, if not otherwise released from service on a board, the following provisions apply:

- (a) A member shall serve a term of 2 years, except that if a vacancy occurs, a successor must be appointed to serve the unexpired term.
- (b) A member may be reappointed and continue to serve until a successor is appointed.
- (2) A board shall elect annually from its membership a presiding officer and vice presiding officer to serve in the absence of the presiding officer.

History: En. Sec. 6, Ch. 610, L. 1993; amd. Sec. 175, Ch. 546, L. 1995; amd. Sec. 6, Ch. 570, L. 2001.

41-3-1007. Confidentiality of information -- penalty. (1) Before beginning to serve on a board, each member shall swear or affirm to the court that the member will keep confidential the information reviewed by the board and its actions and recommendations in individual cases.

(2) A member of a board who violates the duty imposed by subsection (1) is guilty of a misdemeanor punishable by a fine not to exceed \$1,000.

History: En. Sec. 7, Ch. 610, L. 1993; amd. Sec. 7, Ch. 570, L. 2001

41-3-1008. Access to records. (1) Notwithstanding the provisions of [41-3-205](#), a board has access to:

- (a) any records of the district court that are pertinent to the case; and
- (b) pertinent electronic and paper records of the department or other agencies that would be admissible in a dispositional hearing conducted pursuant to [41-3-438](#), including school records and reports of private service providers contained in the records of the department or other agencies.
- (2) All requested records not already before the board must be submitted by the department within 10 working days after receipt of a request.
- (3) A board may retain a reference copy of case material used by the board to make its recommendation if:
 - (a) the material is necessary for the ongoing work of the board with regard to the particular case or to work of the board; and
 - (b) the confidentiality of the material is continued and protected in the same manner as other material received from the department. Material retained by the boards is not subject to disclosure under the public records law.
- (4) If a board is denied access to requested records, it may request a hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section.

History: En. Sec. 8, Ch. 610, L. 1993; amd. Sec. 4, Ch. 386, L. 1995; amd. Sec. 176, Ch. 546, L. 1995; amd. Sec. 8, Ch. 570, L. 2001; amd. Sec. 19, Ch. 504, L. 2003.

41-3-1010. (Temporary) Review -- scope -- procedures -- immunity. (1) (a) The board shall review the case of each child in foster care focusing on issues that are germane to the goals of permanency and to accessing appropriate services for parents and children. In evaluating the accessibility, availability, and appropriateness of services, the board may consider:

- (i) the safety of the child;
- (ii) whether an involved agency has selected services specifically relevant to the problems and needs of the child and family;
- (iii) whether caseworkers have diligently provided services;
- (iv) whether appropriate services have been available to the child and family on a timely basis; and
- (v) the results of intervention.
- (b) The board may review the case of a child who remains in or returns to the child's home and for whom the department retains legal custody.

(2) The review must be conducted within the time limit established under the Adoption and Safe Families Act of 1997, 42 U.S.C. 675(5).

(3) The district court, by rule of the court or on an individual case basis, may relieve the board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) Notice of each review must be sent to the department, any agency directly responsible for the care or placement of the child, the parents and their attorneys, the foster parents, a relative caring for the child, the preadoptive parents, the surrogate parents, the child who is the subject of the review if 12 years of age or older, the child's attorney, the guardian ad litem, the court-appointed attorney or special advocate of the child, the county attorney or deputy attorney general actively involved in the case, the Indian child's tribe if the child is an Indian, and other interested persons who are authorized by the board to receive notice and who are subject to [41-3-205](#). The notice must include a statement that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(5) After reviewing each case, the board shall prepare written findings and recommendations with respect to:

(a) whether reasonable efforts were made prior to the placement to prevent or to eliminate the need for removal of the child from the home and to make it possible for the child to be returned home;

(b) the continuing need for the placement and the appropriateness and safety of the placement;

(c) compliance with the case plan;

(d) the progress that has been made toward alleviating the need for placement;

(e) a likely date by which the child may be returned home or by which a permanent placement will be finalized;

(f) other problems, solutions, or alternatives that the board determines should be explored; and

(g) whether the district court should appoint an attorney or other person as special advocate to represent or appear on behalf of the child pursuant to [41-3-112](#).

(6) Whenever a member of a board has a potential conflict of interest in a case being reviewed, the member shall declare to the board the nature of the potential conflict prior to participating in the case review. The following provisions apply:

(a) The declaration of the member must be recorded in the official records of the board.

(b) If, in the judgment of the majority of the board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the board may remove the member from participation in the review.

(7) The board shall keep accurate records and retain the records on file. The board shall send copies of its written findings and recommendations to the district court, the department, and other participants in the review unless prohibited by the confidentiality provisions of [41-3-205](#).

(8) The board may hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(9) The board may disclose to parents and their attorneys, foster parents, children who are 12 years of age or older, children's attorneys, and other persons authorized by the board to participate in the case review the records disclosed to the board pursuant to [41-3-1008](#). Before participating in a board case review, each participant, other than parents and children, shall swear or affirm to the board that the participant will keep confidential the information disclosed by the board in the case review and will disclose it only as authorized by law.

(10) A person who serves on a board in a volunteer capacity, as provided in this part, is considered an agent of the judiciary and is entitled to immunity from suit as provided in [2-9-112](#).

(11) The board may, at the discretion of the court and absent an objection by a party to the proceeding, conduct permanency hearings as provided in [41-3-445](#).

41-3-1010. (Effective July 1, 2006). Review -- scope -- procedures -- immunity. (1) (a) The board shall review the case of each child in foster care focusing on issues that are germane to the goals of permanency and to accessing appropriate services for parents and children. In evaluating the accessibility, availability, and appropriateness of services, the board may consider:

(i) the safety of the child;

(ii) whether an involved agency has selected services specifically relevant to the problems and needs of the child and family;

(iii) whether caseworkers have diligently provided services;

(iv) whether appropriate services have been available to the child and family on a timely basis; and

(v) the results of intervention.

(b) The board may review the case of a child who remains in or returns to the child's home and for whom the department retains legal custody.

(2) The review must be conducted within the time limit established under the Adoption and Safe Families Act of 1997, 42 U.S.C. 675(5).

(3) The district court, by rule of the court or on an individual case basis, may relieve the board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) Notice of each review must be sent to the department, any agency directly responsible for the care or placement of the child, the parents and their attorneys, the foster parents, a relative caring for the child, the preadoptive parents, the surrogate parents, the child who is the subject of the review if 12 years of age or older, the child's attorney or the child's

assigned attorney, the guardian ad litem, the court-appointed special advocate of the child, the county attorney or deputy attorney general actively involved in the case, the Indian child's tribe if the child is an Indian, and other interested persons who are authorized by the board to receive notice and who are subject to [41-3-205](#). The notice must include a statement that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(5) After reviewing each case, the board shall prepare written findings and recommendations with respect to:

(a) whether reasonable efforts were made prior to the placement to prevent or to eliminate the need for removal of the child from the home and to make it possible for the child to be returned home;

(b) the continuing need for the placement and the appropriateness and safety of the placement;

(c) compliance with the case plan;

(d) the progress that has been made toward alleviating the need for placement;

(e) a likely date by which the child may be returned home or by which a permanent placement will be finalized;

(f) other problems, solutions, or alternatives that the board determines should be explored; and

(g) whether the district court should appoint an attorney or other person as special advocate to represent or appear on behalf of the child pursuant to [41-3-112](#).

(6) Whenever a member of a board has a potential conflict of interest in a case being reviewed, the member shall declare to the board the nature of the potential conflict prior to participating in the case review. The following provisions apply:

(a) The declaration of the member must be recorded in the official records of the board.

(b) If, in the judgment of the majority of the board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the board may remove the member from participation in the review.

(7) The board shall keep accurate records and retain the records on file. The board shall send copies of its written findings and recommendations to the district court, the department, and other participants in the review unless prohibited by the confidentiality provisions of [41-3-205](#).

(8) The board may hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(9) The board may disclose to parents and their attorneys, foster parents, children who are 12 years of age or older, children's attorneys, and other persons authorized by the board to participate in the case review the records disclosed to the board pursuant to [41-3-1008](#). Before participating in a board case review, each participant, other than parents and children, shall swear or affirm to the board that the participant will keep confidential the information disclosed by the board in the case review and will disclose it only as authorized by law.

(10) A person who serves on a board in a volunteer capacity, as provided in this part, is considered an agent of the judiciary and is entitled to immunity from suit as provided in [2-9-112](#).

(11) The board may, at the discretion of the court and absent an objection by a party to the proceeding, conduct permanency hearings as provided in [41-3-445](#).

History: En. Sec. 10, Ch. 610, L. 1993; amd. Sec. 6, Ch. 386, L. 1995; amd. Sec. 177, Ch. 546, L. 1995; amd. Sec. 9, Ch. 570, L. 2001; amd. Sec. 8, Ch. 382, L. 2005; amd. Sec. 34, Ch. 449, L. 2005.

41-3-1011. Board recommendations concerning foster care services and policy considerations. In addition to reviewing individual cases of children in foster care, a board may make recommendations to the district court and to the department concerning foster care services, policies, procedures, and laws. Recommendations must be in writing and must be provided to the department.

History: En. Sec. 11, Ch. 610, L. 1993; amd. Sec. 7, Ch. 386, L. 1995; amd. Sec. 178, Ch. 546, L. 1995; amd. Sec. 10, Ch. 570, L. 2001.

41-3-1012. (Temporary) Presence of employees and participants at reviews and deliberations of board.

(1) Unless excused from doing so by the board, the department and any other agency directly responsible for the care and placement of the child shall require the presence of employees having knowledge of the case at board reviews.

(2) The board may require the presence of specific employees of the department or any other agency or other persons at board reviews. If an employee fails to be present at the review, the board may request a court order. The court may require the employee to be present and show cause why the employee should not be compelled to appear before the board.

(3) The persons who are allowed to be present at a review include representatives of the department or any agency directly responsible for the care or placement of the child, the parents and their attorneys, the foster parents, a relative caring for the child, the preadoptive parents, the surrogate parents, the child who is the subject of the review if 12 years

of age or older, the child's attorney, the guardian ad litem, the court-appointed attorney or special advocate of the child, the county attorney or deputy attorney general actively involved in the case, a representative of the child's tribe if the child is an Indian, and other interested persons subject to [41-3-205](#) and authorized to be present by the board.

(4) Deliberations concerning the recommendations that will be made by the board must be open to all present at the review, except that the presiding officer may close all or part of a deliberation if there has been a threat of a reprisal made by someone who will attend the review or if confidentiality laws preclude open deliberations.

(5) For the purposes of bringing criminal charges against a person who threatens a board member or staff, the board members and board staff must be considered public servants as defined in [45-2-101](#).

(6) As used in this section, the following definitions apply:

(a) "Presence" includes telephone participation, except that a representative of the department knowledgeable about the case at the time of the review must be physically present if required.

(b) "Open" means that review participants may remain in attendance during the deliberations to observe and be available for questions from the board.

(c) "Close", with regard to deliberations, means that only the board members and board staff may remain in attendance.

41-3-1012. (Effective July 1, 2006). Presence of employees and participants at reviews and deliberations of board. (1) Unless excused from doing so by the board, the department and any other agency directly responsible for the care and placement of the child shall require the presence of employees having knowledge of the case at board reviews.

(2) The board may require the presence of specific employees of the department or any other agency or other persons at board reviews. If an employee fails to be present at the review, the board may request a court order. The court may require the employee to be present and show cause why the employee should not be compelled to appear before the board.

(3) The persons who are allowed to be present at a review include representatives of the department or any agency directly responsible for the care or placement of the child, the parents and their attorneys, the foster parents, a relative caring for the child, the preadoptive parents, the surrogate parents, the child who is the subject of the review if 12 years of age or older, the child's attorney or the child's assigned attorney, the guardian ad litem, the court-appointed special advocate of the child, the county attorney or deputy attorney general actively involved in the case, a representative of the child's tribe if the child is an Indian, and other interested persons subject to [41-3-205](#) and authorized to be present by the board.

(4) Deliberations concerning the recommendations that will be made by the board must be open to all present at the review, except that the presiding officer may close all or part of a deliberation if there has been a threat of a reprisal made by someone who will attend the review or if confidentiality laws preclude open deliberations.

(5) For the purposes of bringing criminal charges against a person who threatens a board member or staff, the board members and board staff must be considered public servants as defined in [45-2-101](#).

(6) As used in this section, the following definitions apply:

(a) "Close", with regard to deliberations, means that only the board members and board staff may remain in attendance.

(b) "Open" means that review participants may remain in attendance during the deliberations to observe and be available for questions from the board.

(c) "Presence" includes telephone participation, except that a representative of the department knowledgeable about the case at the time of the review must be physically present if required.

History: En. Sec. 12, Ch. 610, L. 1993; amd. Sec. 179, Ch. 546, L. 1995; amd. Sec. 11, Ch. 570, L. 2001; amd. Sec. 35, Ch. 449, L. 2005.

41-3-1013. Court review of findings and recommendations of board. (1) Upon receipt of findings and recommendations from the board, the district court shall:

(a) review the findings and recommendations of the board within 20 days. If the district court finds it appropriate, the district court may on its own motion schedule a review hearing.

(b) cause the findings and recommendations of the board to become part of the district court file; and

(c) give the board written notice if the district court modifies, alters, or takes action on a case as a result of the board's recommendations or refuses to take action on the board's recommendations in any case.

(2) Upon receipt of findings and recommendations from the board, the department shall:

(a) review the findings and recommendations of the board within 10 days. The recommendations must be implemented and the case plan must be modified as the department considers appropriate and as resources permit.

(b) give the board written notice as soon as practicable, but in no case later than 17 days after receipt of the findings

and recommendations, of any reasons why the department objects to or is not able to implement the recommendations; and

(c) include the findings and recommendations of the board as part of the case file of the department.

(3) The court may schedule a hearing on any recommendations that the department objects to or contends that it is unable to implement.

(4) Upon its own motion or upon the request of the department, the board, or any interested party, the district court may appoint an attorney or other person as special advocate to represent or appear on behalf of the child. Subject to the direction of the district court, the court-appointed special advocate shall:

(a) investigate all relevant information about the case;

(b) advocate for the child, ensuring that all relevant facts are brought before the court;

(c) facilitate and negotiate to ensure that the district court, the department, and the child's attorney fulfill their obligations to the child in a timely fashion; and

(d) monitor all district court orders to ensure compliance and to bring to the district court's attention any change in circumstance that may require modification of the district court's order.

History: En. Sec. 13, Ch. 610, L. 1993; amd. Sec. 8, Ch. 386, L. 1995; amd. Sec. 180, Ch. 546, L. 1995; amd. Sec. 12, Ch. 570, L. 2001.

Part 11. Youth Residential Services (Renumbered and Repealed)

[41-3-1101 renumbered 52-2-601.](#)

[41-3-1102 renumbered 52-2-602.](#)

[41-3-1103 renumbered 52-2-603.](#)

[41-3-1104. Repealed.](#)

[41-3-1105 renumbered 52-2-604.](#)

[41-3-1106. Repealed.](#)

[41-3-1107 through 41-3-1110 reserved.](#)

[41-3-1111 renumbered 41-5-314.](#)

[41-3-1112. Repealed.](#)

[41-3-1113. Repealed.](#)

[41-3-1114. Repealed.](#)

[41-3-1115 renumbered 41-3-115.](#)

[41-3-1116 through 41-3-1120 reserved.](#)

[41-3-1121. Repealed.](#)

[41-3-1122 renumbered 52-2-611.](#)

[41-3-1123. Repealed.](#)

[41-3-1124. Repealed.](#)

[41-3-1125. Repealed.](#)

[41-3-1126 renumbered 52-2-612.](#)

[41-3-1127 through 41-3-1130 reserved.](#)

[41-3-1131 renumbered 52-2-616.](#)

[41-3-1132 renumbered 52-2-617.](#)

[41-3-1133 through 41-3-1140 reserved.](#)

[41-3-1141 renumbered 52-2-621.](#)

[41-3-1142 renumbered 52-2-622.](#)

[41-3-1143 renumbered 52-2-623.](#)

[41-3-1144 through 41-3-1150 reserved.](#)

[41-3-1151 renumbered 52-2-627.](#)

[41-3-1152 renumbered 52-2-628.](#)

[41-3-1153 through 41-3-1159 reserved.](#)

[41-3-1160 renumbered 41-3-118.](#)

[41-3-1161 renumbered 41-3-119.](#)

APPENDIX II

**PROPOSED STANDARDS
FOR GUARDIANS AD LITEM
IN MONTANA**

Proposed Montana Standards of a Guardian ad Litem In Title 41- Child Abuse and Neglect Proceedings

(Adopted on mm/dd/yy)

Role of the Guardian ad Litem

Montana law provides that, in every judicial proceeding, the court shall appoint a guardian ad litem to any child alleged to be abused or neglected. The guardian ad litem is charged with the representation of the child's best interests and shall perform the following general duties:

- (a) to conduct investigations to ascertain the facts constituting the alleged abuse or neglect;
- (b) to interview or observe the child who is the subject of the proceeding;
- (c) to have access to court, medical, psychological, law enforcement, social services, and school records pertaining to the child and the child's siblings and parents or custodians;
- (d) to make written reports to the court concerning the child's welfare;
- (e) to appear and participate in all proceedings to the degree necessary to adequately represent the child and make recommendations to the court concerning the child's welfare;
- (f) to perform other duties as directed by the court; and
- (g) if an attorney, to file motions, including but not limited to filing to expedite proceedings or otherwise assert the child's rights.

Definition of Guardian ad Litem

A Guardian ad Litem is an attorney or lay volunteer appointed to act in the best interest of a child in abuse and neglect cases.

- (a) have an abiding interest in children and their rights and needs;
- (b) have sufficient listening, speaking, and writing skills in the person's primary language to successfully conduct interviews, prepare written reports, and make oral presentations;
- (c) not have been involved in any conduct or activity that would interfere with the person's ability to discharge the duties assigned by the court;
- (d) have knowledge and an appreciation of the ethnic, cultural, and socio-economic backgrounds of the population to be served;
- (e) be available for at least 18 months or until permanency is reached for the child and have sufficient time to gather information, make court appearances, and otherwise discharge the duties assigned by the court;
- (f) have the ability to relate to a child, family members, and professionals in a careful and confidential manner, exercise sound judgment and good common sense, and successfully discharge the

- duties assigned by the court;
- (g) not have been removed from the duties of a guardian ad litem by a district court judge following unsatisfactory performance; and
- (h) have satisfactorily completed training appropriate to the role of a guardian ad litem, as required by the Child Abuse Prevention Treatment Act.

STANDARD 1.0 Appointment of Guardians ad litem

The guardian ad litem shall be appointed not later than the first proceeding at which a guardian ad litem is required by law and shall remain involved until the matter in which the guardian ad litem is appointed is concluded or as otherwise ordered by the court.

STANDARD 2.0 Independent Judgment of Guardian ad litem

A guardian ad litem, whether a lawyer or a volunteer, shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters.

STANDARD 3.0 Faithful Performance of Duties

The court shall assure that the guardian ad litem maintains independent representation of the best interests of the child. The court shall require the guardian ad litem to perform the guardian ad litem duties faithfully and, upon failure to do so, shall discharge the guardian ad litem and appoint another.

STANDARD 5.0 Guardian ad litem Access to Child

The guardian ad litem shall not be unduly restricted in access to the child by any agency or person. The guardian ad litem should meet with the child in the child's placement as often as necessary to determine that the child is safe and to ascertain and represent the child's best interests.

STANDARD 6.0 Guardian ad litem Access to Reports and Records

Unless otherwise provided by law, the guardian ad litem shall be provided, upon request, with all reports relevant to the case made to or by any agency or any person and shall have access to all relevant records of such agencies or persons relating to the child or the child's family members or placements of the child.

STANDARD 7.0 Confidentiality

A guardian ad litem shall observe all statutes, rules and regulations concerning confidentiality. A guardian ad litem shall not disclose information or participate in the disclosure of information relating to an appointed case to any person who is not a party to the case, except as necessary to perform the guardian ad litem duties or as may be specifically provided by law.

STANDARD 8.0 The Court Process

The guardian ad litem will review the progress of a child's case through the court process, and advocate for timely hearings.

STANDARD 9.0 Relating the Court Process to the Child

The guardian ad litem will explain, when appropriate, the court process and the role of the guardian ad litem to the child. The guardian ad litem will assure that the child is informed of the purpose of each court proceeding. The guardian ad litem will assure the child that the child's opinions and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem.

STANDARD 10.0 Participation in Proceedings Outside the Courtroom

The guardian ad litem will participate in the development and negotiation of any plans, orders and staffings that affect the best interests of the child, as the GAL deems necessary.

The guardian ad litem shall monitor implementation of plans, i.e. parents' treatment plans, child's case plan and permanency plans, and court orders to determine whether services ordered by the court are being provided in a timely manner.

STANDARD 11.0 Participation in Court Proceedings

The guardian ad litem shall appear at all proceedings to represent the child's best interests. As authorized by law the guardian ad litem may present evidence and ensure that, where appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical, or other expert witnesses.

In the event any new developments or significant changes in the child's circumstances occur during the pendency of the court process, the guardian ad litem may cause appropriate pleadings to be filed.

STANDARD 12.0 Conflicts of Interest

If it is determined that the recommendations of the guardian ad litem are not in agreement with the wishes of the child, the court shall be informed by the guardian ad litem. Whenever the court determines that it is appropriate, the court shall appoint an attorney to represent the child's wishes. It is appropriate for the court to appoint both an attorney to represent the child's wishes and a guardian ad litem to represent the child's best interests.

STANDARD 13.0 Recommendations to the Court

The guardian ad litem shall present recommendations to the court on the basis of the evidence presented and provide reasons in support of these recommendations.

When authorized by law, the guardian ad litem may offer evidence to the court. If the guardian ad litem, whether an attorney or a lay GAL, testifies, the guardian ad litem shall be duly sworn as a witness and be subject to cross-examination.

STANDARD 14.0 Court Orders

The guardian ad litem should request orders that are clear, specific, and, where appropriate, include a time line for the assessment, services, placement, treatment and evaluation of the child and the child's family.

STANDARD 15.0 Training of Guardian ad litem

No person shall be appointed as guardian ad litem without first completing fifteen hours of specialized training. Thereafter, to continue to be appointed as a guardian ad litem a person shall complete six hours of specialized training annually. Completion of the training hours shall be evidenced by a certificate filed with the appointing court. On motion and a showing of good cause, the court may accept, in lieu of the initial fifteen hours of specialized training, an equivalent number of hours of successful experience as a guardian ad litem prior to the effective date of the adoption of these standards.

The specialized training shall include, but is not limited to, the following topics:

1. Dynamics of child abuse and neglect issues
2. Factors to consider in determining the best interest of the child, including permanency planning
3. Inter-relationships between family system, legal process and the child welfare system
4. Mediation and negotiation skills
5. Federal, state and local legislation and case law affecting children
6. Cultural and ethnic diversity and gender-specific issues
7. Family and domestic violence issues
8. Available community resources and services
9. Child development issues
10. Guardian ad litem standards

APPENDIX III

**NATIONAL LEADERSHIP SUMMIT
ON THE
PROTECTION OF CHILDREN
WORK PLAN**

NATIONAL LEADERSHIP SUMMIT
ON THE PROTECTION OF CHILDREN

JUSTICE FOR CHILDREN:
CHANGING LIVES BY CHANGING SYSTEMS

Sept. 21-23, 2005
Minneapolis, Minnesota

Attended by:

Honorable Judge Holly Brown, 18th Judicial District
Shirley K. Brown, Administrator of Child and Family Services
Bob Peake, Youth Services Bureau Chief,
Sherri Rafter, Court Assessment Program

**NATIONAL LEADERSHIP SUMMIT
ON THE PROTECTION OF CHILDREN
WORK PLAN**

Priority	Recommendation	Action Steps	Agency/ Individual Responsible for Execution	Potential Barriers	Potential Solutions	Dates
I. Decrease the length of time children spend in care	a. Decrease appeal time	a. Research delay reasons and implement mediation at the appellate level.	a. CAP	a. Implementation	a1. Support from the Supreme Court a2. Establish a Judicial Commission to address permanency barriers.	a. Oct. 2005
	b. Expedite adoptions	b. Research delay reasons and implement training	b. CFS and District Courts	b. Implementation	b1 & b2 – same as a1 and a2.	b. Feb. 2006
	c. Limit continuances	c1. Research policy and implement training	c1. CAP	c1.- General resistance to termination of parental rights -Full court docket	c. District Court support and buy in from County Attorneys and Social Workers	c. April 2006
			c2. Prehearing conferences	c2. District Court rules	c2. Time constraints	c2. Positive outcomes
	d. File court reports 3 days in advance of hearing	d. Implement policy.	d. District Courts	d. Overworked attorneys and caseworkers	d. Positive outcomes	d. March 2006
	e. Focus on child/ not the parent(s)	e. Attach photo of child to each affidavit	e. CFS	e. None	e.	e. January 2006
	f. Prepare orders prior of hearings	f. Model order templates	f. Shirley Brown/CFS	f. Overworked attorneys and caseworkers	f. Positive outcomes	f. Sept. 2005
g. Increase communication between attorneys,	g1. District meetings with a	g1. CFS, Public Defender and	g1. Old habits	g1. Positive outcome of expedited cases	g1. March 2006	

II. Improve consistency, continuity, and uniformity of court practice statewide.	caseworkers and GAL's.	facilitator (Beyond the Bench)	County Attorney				
		g2. Annual Children's Justice Symposium	g2. CFS/CAP/ District Courts	g2. Time constraints	g2. Support from Supreme Court and District Courts	g2. June 2006	
	h. Explore mediation	h. Collaboration	h. CFS/District Courts	h. Old habits	h.	h. July 2006	
	a. Implement standards and training requirements for County Attorneys and Public Defender.	a1. Discuss w/Attorney General	a1. Shirley Brown and Supreme Court Justice	a1.	a1.	a1. Support from Supreme Court	a1. October 2005
		a2. Relate to participants fall Met/Net meeting	a2. Shirley Brown	a2.	a2.	a2.	a2. Sept. 2005
		a3. Add questions on abuse and neglect to the State Bar exam	a3. Supreme Court Justice	a3.	a3.	a3.	a3. Dec. 2005
	b. Evaluate the role of the Judge	b1. Conduct a county self-assessment survey	b1. District Court Judges and CAP	b1. District Court Judges and CAP	b1. -Ethical resistance -Time crunch	b1. -Support from the Supreme Court -Provide tools and measures	b1. May 2006
		b2. Training for new judges	b2. Judicial Educator	b2. Judicial Educator	b2.	b2.	b2. August 2006
		b3. Annual Children's Justice Symposium	b3. CFS/CAP/ District Courts	b3. CFS/CAP/ District Courts	b3. Time constraints	b3. Support from the Supreme Court	b3. June 2006
	c. Parent Handbook	c. Design, print, distribute statewide	c. CAP	c. None	c.	c. Dec. 2005	

APPENDIX IV
CASE FILE REVIEW FORM

Court Assessment Program Case File Review Form

Complete all questions pertinent to the case. If the case closes at any point that a question about case closure/dismissal is not asked, skip to Question 100 and enter the final disposition of the case.

1) **FILE TRACKING INFORMATION**

File Reviewer Name:

2) Date of File Review:

Format: YYYY-MM-DD

3) File Number:

4) Initials of child tracked on this form:

(If multiple children named on the petition, randomly pick one child and record information for only that child.)

5) Name of Judge: *(If more than one judge has seen the case, list all.)*

6) **Case Demographics:**

Total number of children named on petition (including this child):

7) Demographics for this child as identified in the petition (do not guess at any information):

Date of birth?

Format: YYYY-MM-DD

8) Gender? (1 = Male) (2 = Female) (99 =Unknown)

9) Race/Ethnicity?

- (1 = White)
- (2 = African-American)
- (3 = Hispanic)
- (4 = Asian)
- (5 = Native American)
- (6 = Bi-racial)
- (7 = Other)
- (99 = Unknown)

10) ICWA Case?

- Yes
- No
- Not Sure

11) Name of tribe?

- (1 = Blackfeet)
- (2 = Salish/Kootenai)
- (3 = Assiniboine/Sioux)
- (4 = Chippewa Cree)
- (5 = Northern Cheyenne)
- (6 = Crow)
- (7 = Assiniboine/Gros Ventre)
- (8 = Little Shell)
- (9 = two or more of the above)
- (10 = other)

12) **Child Protection Involvement**

(Please answer using the following codes:

- (0 = No)
- (1 = Yes for this child)
- (2 = Yes for a sibling)
- (3 = Yes for child and sibling)
- (99 = Unknown)

Prior social services involvement with this family?

13) Date child was placed into care or CFSD current involvement began?

Format: YYYY-MM-DD

14) Number of judges presiding over hearings relating to this case:

15) Number of judges who signed orders relating to this case:

16) **Emergency Petition Information**

Was an emergency placement petition filed for this case?

- Yes
- No
- Not enough information for determination.

17) Date petition filed with the court:

Format: YYYY-MM-DD

18) From whom was child removed?

- Birth mother
- Birth father
- Both birth parents
- Relative/legal guardian
- Foster parent
- Other (please specify)

If you selected other, please specify:

19) Please indicate which of the following was alleged in the petition:

	Yes	No
Abandoned without parent, guardian or custodian	<input type="checkbox"/>	<input type="checkbox"/>
Victim of physical or sexual abuse or resided with victim or perpetrator of such	<input type="checkbox"/>	<input type="checkbox"/>
Without necessary food, clothing, shelter, education or other required care	<input type="checkbox"/>	<input type="checkbox"/>
Without special care made necessary by physical, mental or emotional condition of child	<input type="checkbox"/>	<input type="checkbox"/>
Medically neglected	<input type="checkbox"/>	<input type="checkbox"/>
Child whose parent for good cause desires to be relieved of child's care and custody – including voluntary placement	<input type="checkbox"/>	<input type="checkbox"/>
Is without proper parental care because of parent's emotional, mental, physical disability or state of immaturity	<input type="checkbox"/>	<input type="checkbox"/>
Child whose behavior, condition or environment is injurious or dangerous to oneself or others	<input type="checkbox"/>	<input type="checkbox"/>
Experiencing growth delays, failure to thrive that have been diagnosed and are due to parental neglect	<input type="checkbox"/>	<input type="checkbox"/>
Exposure to unreasonable risk	<input type="checkbox"/>	<input type="checkbox"/>
Physically or emotionally abused	<input type="checkbox"/>	<input type="checkbox"/>

20) Did the emergency protection order address the following?

	Yes	No
The right of entry by a peace officer or CFSD worker?	<input type="checkbox"/>	<input type="checkbox"/>
The right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution?	<input type="checkbox"/>	<input type="checkbox"/>
A requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care?	<input type="checkbox"/>	<input type="checkbox"/>
The requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home?	<input type="checkbox"/>	<input type="checkbox"/>
The requirement that the parent provide CFSD with the name and address of the other parent, if known, unless parental rights to the child have been terminated?	<input type="checkbox"/>	<input type="checkbox"/>
The requirement that the parent provide CFSD with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding?	<input type="checkbox"/>	<input type="checkbox"/>
Other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by CFSD unless CFSD is notified and a court hearing is set in a timely manner on the proposed expenditure?	<input type="checkbox"/>	<input type="checkbox"/>

21) Does the emergency protection order specify:

	Yes	No
That continued residence of the child with the parent is contrary to the welfare of the child?	<input type="checkbox"/>	<input type="checkbox"/>
That an out-of-home placement is in the child's best interests?	<input type="checkbox"/>	<input type="checkbox"/>
The person served is required to comply immediately with the terms of the order and to appear before the court issuing the order on a date specified for a show cause hearing?	<input type="checkbox"/>	<input type="checkbox"/>
That if this person fails to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with CFSD until further notice?	<input type="checkbox"/>	<input type="checkbox"/>

22) **Show Cause Hearing Information**

Date show cause hearing was scheduled to be held:

Format: YYYY-MM-DD

23) Was hearing postponed/continued?

Yes

No

Not enough information to make determination.

24) If yes, what date was the continued hearing held?

Format: YYYY-MM-DD

25) At the hearing, did the party filing the petition present evidence establishing probable cause for the issuance of a TIA order? If an ICWA case, the judge should make the finding that the standards of proof required for legal relief under the federal ICWA apply.)

- Yes
- No
- Not enough information to make determination.

26) Did an affidavit from the CFS social worker accompany the petition for a show cause hearing?

- Yes
- No

27) Were the parents or other legal custodians asked to provide testimony?

- Yes
- No
- Did not attend hearing

28) Did the parent/legal guardian admit or deny the allegations contained in the petition? (The findings may indicate a stipulation.)

- Admit
- Deny
- Did not attend hearing

29) Did the court make written findings on the following issues?

	Yes	No
Whether the child should be returned home immediately if there has been an emergency removal or remain in temporary out-of-home care or be removed from the home?	<input type="checkbox"/>	<input type="checkbox"/>
If removal is ordered or continuation of removal is ordered, why continuation of the child in the home would be contrary to the child's best interests and welfare?	<input type="checkbox"/>	<input type="checkbox"/>
Whether CFSD has made reasonable efforts to avoid protective placement of the child or to make it possible to safely return the child to the child's home?	<input type="checkbox"/>	<input type="checkbox"/>
Financial support of the child and/or the financial ability of the parent to contribute to the costs of the child's care?	<input type="checkbox"/>	<input type="checkbox"/>
Whether another hearing is needed and if so, the date and time of the next hearing?	<input type="checkbox"/>	<input type="checkbox"/>
Terms and conditions of parental visitation?	<input type="checkbox"/>	<input type="checkbox"/>
Whether orders for examinations, evaluations, counseling, immediate services, or protection are needed?	<input type="checkbox"/>	<input type="checkbox"/>

30) Was the child adjudicated at the show cause hearing? (Language in the order may say "child was found to be a youth in need of care".)

- Yes
- No

31) If yes, what date?

Format: YYYY-MM-DD

32) Was an order for TIA entered? (TIA may have been ordered in the show cause order.)

- Yes
- No

33) If yes, what date?

Format: YYYY-MM-DD

34) Was an order entered granting an extension of the TIA?

- Yes
- No

35) If yes, what date?

Format: YYYY-MM-DD

36) Did the parent/guardian stipulate to the following:

	Yes	No	Not Sure
The child meets the definition of a youth in need of care by the preponderance of the evidence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A treatment plan, if the child has been adjudicated as a youth in need of care?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The disposition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

37) Did the court enter an order following the show cause hearing? (Order may be for TIA or TLC.)

- Yes
- No
- Not enough information to make determination.

38) If yes, what date was the order signed?

Format: YYYY-MM-DD

39) Adjudication Hearing Information

Was an adjudication hearing held?

- Yes
- No
- Not enough information to make determination.

40) If yes, what was the first date the adjudicatory hearing was scheduled?

Format: YYYY-MM-DD

41) If adjudication hearing was continued or postponed, what date was it held?

Format: YYYY-MM-DD

42) If adjudication hearing was continued/postponed, was it because of . . . ?

- Newly discovered evidence?
- Unavoidable delays in the notification of parties?
- Unforeseen personal emergencies?
- Other (please specify)

If you selected other, please specify:

43) Did the court make an adjudication on the petition by finding that the child is a youth in need of care and ascertain the cause?

- Yes
- No
- Not enough information to make determination.

44) Did the court hear evidence regarding the following?

	Yes	No	Not Applicable
Residence of the child?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paternity, if in question?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The whereabouts of the parents, guardian, or nearest adult relatives?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The possibility of a relative placement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The applicability of the parent's treatment plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

45) Did the court determine the youth was not an abused or neglected child?

- Yes
- No
- Not enough information to make determination.

46) If yes, was the emergency protective order and/or the show cause order vacated?

- Yes
- No
- Not Sure

47) If the court did find the child a youth in need of care, did the court make written findings of the following issues?

	Yes	No	Not enough information to make determination.
Which allegations of the petition have been proved or admitted, if any.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether there is a legal basis for continued court and department intervention.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether CFSD has made reasonable efforts to avoid protective placement of the child or to make it possible to safely return the child to the child's home.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

48) Did the court issue an order adjudicating the child as a youth in need of care?

- Yes
- No

49) What date was the order signed?

Format: YYYY-MM-DD

50) Were the following addressed in the adjudication hearing court order?

	Yes	No	Not applicable
Terms for visitation, support or other intrafamily communication pending disposition if the child is to be placed or to remain in temporary out-of-home care prior to disposition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Examinations, evaluation, or counseling of the child or parents in preparation for the disposition hearing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CFSD to evaluate the noncustodial parent or relatives as possible caretakers, if not already done?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The perpetrator of the alleged child abuse or neglect to be removed from the home to allow the child to remain in the home?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CFSD to continue efforts to notify noncustodial parents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

51) Was a case plan filed with the court? (Case plan referred to here is the 427 Federal Foster Care Case Plan.)

- Yes
- No

52) Date initial case plan filed with the court:

Format: YYYY-MM-DD

53) **Dispositional Hearing Information**

Was a dispositional hearing held?

- Yes
- No
- Not enough information to make determination.

54) If yes, what date was the hearing held?

Format: YYYY-MM-DD

55) If the dispositional hearing was held immediately following the adjudicatory hearing, is there evidence in the case file that reports were filed timely and received by all parties prior to the hearing?

- Yes
- No
- Not enough information to make determination.

56) **Temporary Legal Custody Hearing**

Was a TLC hearing held? (If TLC was ordered after a show cause hearing or the adjudicatory/dispositional hearing, please answer "Yes".)

- Yes
- No

57) If yes, date hearing was scheduled?

Format: YYYY-MM-DD

58) Was the TLC hearing postponed/continued?

- Yes
- No

59) What date was the hearing held?

Format: YYYY-MM-DD

60) Was an order issued?

- Yes
- No

61) Date of order:

Format: YYYY-MM-DD

62) Does the order address the following?

	Yes	No
Dismissing the petition would create a substantial risk of harm to the child or would be a detriment to the child's physical or psychological well-being?	<input type="checkbox"/>	<input type="checkbox"/>
Reasonable services have been provided to the parent or guardian to prevent the removal of the child from The home or to make it possible for the child to safely return home (absent a finding that reasonable efforts are not required)?	<input type="checkbox"/>	<input type="checkbox"/>
Financial support for the child, by redirecting child support or Social Security payments?	<input type="checkbox"/>	<input type="checkbox"/>

63) Was an extension of TLC granted by the court?

- Yes
- No

64) If yes, what is the date of the extension order?

Format: YYYY-MM-DD

65) Did the court order a treatment plan for the parent?

- Yes
- No
- Not enough information to make determination.

66) If yes for mother, on what date?

Format: YYYY-MM-DD

67) If yes for father, on what date?

Format: YYYY-MM-DD

68) In many cases, one of the parents' attorneys files objections to the treatment plan and asks for a hearing. Did this happen in this case? If yes, please fill in the dates of either the hearing request or the dates of the treatment plans. In not, please leave blank.

69) Does the treatment plan contain the following information?

	Yes	No	Not enough information to make determination.
The identification of the problems or conditions that resulted in the abuse or neglect of a child?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The treatment goals and objectives for each condition or requirement established in the plan, specifically the conditions or requirements that must be established for the safe return of the child (if removed)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The projected time necessary to complete each of the treatment objectives?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The specific treatment objectives that clearly identify the separate roles and responsibilities of all parties addressed in the treatment plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The signature of the parent or guardian, unless the plan is ordered by the court?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

70) Does the treatment plan include the following remedies, requirements, or conditions?

	Yes	No	Not enough information to make determination.
The right of entry into the child's home for the purpose of assessing compliance with the terms and conditions of a treatment plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement of either the child or the child's parent or guardian to obtain medical or psychiatric diagnosis and treatment through a physician or psychiatrist licensed in the state of Montana?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement of either the child or the child's parent or guardian to obtain psychological treatment or counseling?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement of either the child or the child's parent or guardian to obtain and follow through with alcohol or substance abuse evaluation and counseling, if necessary?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement that either the child or the child's parent or guardian be restricted from associating with or contacting any individual who may be the subject of a CFSD investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement that the child be placed in temporary medical or out-of-home care?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The requirement that the parent, guardian or other person having physical or legal custody furnish services that the court may designate?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The notice to the parent of timelines for hearings and determinations required by law?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The notices that the state is required to hold a permanency hearing to determine the permanent placement of a child every twelve months?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The notice that if the child is in foster care 15 out of the prior 22 months, the law presumes that termination of parental rights is in the best interests of the child and the state will file a petition for TPR?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The notice that completion of a treatment plan does not guarantee the return of a child and that completion of the plan without a change in behavior that caused removal in the first instance may result in termination of parental rights?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

71) **Permanency Hearing**

Was a permanency hearing held?

- Yes
- No
- Not required- child not in care for 12 months

72) If yes, what date was it held?

Format: YYYY-MM-DD

73) Did the court issue an order after the permanency hearing?

- Yes
- No

74) If yes, date of order?

Format: YYYY-MM-DD

75) Did the permanency order address the following?

	Yes	No
Whether the permanency plan is in the child's best interests?	<input type="checkbox"/>	<input type="checkbox"/>
Whether CFSD has made reasonable efforts to finalize the plan?	<input type="checkbox"/>	<input type="checkbox"/>

76) Were subsequent permanency hearings held?

- Yes
- No
- Not applicable

77) If yes, what date was most recent hearing held?

Format: YYYY-MM-DD

78) **No Reasonable Efforts Hearing**

Was a no-reasonable efforts hearing held?

- Yes
- No

79) If yes for mother, what date?

Format: YYYY-MM-DD

80) If yes for father, what date?

Format: YYYY-MM-DD

81) On which of the following circumstances did the court base its order that no reasonable efforts would be required in this case?

- Aggravated circumstances of: Abandonment?
- Torture?
- Chronic abuse?
- Chronic, severe neglect?
- Sexual abuse?

- Committing, aiding, abetting, attempting, conspiring or soliciting deliberate or mitigated deliberate homicide of a child?
- Aggravated assault against a child?
- Neglect of a child that resulted in serious bodily injury or death?
- Parental rights involuntarily terminated as to a sibling of the child or other child if circumstances are relevant?
- Abandoned infant?

82) **Termination of Parental Rights Hearing?**

Was a TPR hearing held?

- Yes
- No

83) If yes for mother, what date did it begin?

Format: YYYY-MM-DD

84) How many days did it last?

85) If yes for father, what date did it begin?

Format: YYYY-MM-DD

86) How many days did it last?

87) Did the hearing address the rights of both parents?

- Yes
- No
- Other (please specify)

If you selected other, please specify:

88) Was an order terminating the mother's parental rights issued?

- Yes
- No

89) If yes, date of order:

Format: YYYY-MM-DD

90) On which of the following criteria did the court base its TPR order?

- Parents have relinquished the child pursuant to 42-2-402 and 42-2-412?

- Child has been abandoned by the parents?
- The parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born?
- The parent has subjected the child to torture; chronic abuse; sexual abuse; chronic or severe neglect; has committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child; committed aggravated assault against a child, committed neglect of a child that resulted in serious bodily injury or death?
- The parent has had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care the child at issue?
- The putative father meets any of the criteria in 41-3-423(3)(a) through (3)(c)?
- The child is an adjudicated youth in need of care and an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful?
- The conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time?

91) If the court entered a finding that the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time, did the court enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care?

- Yes
- No
- Not enough information to make determination.

92) If yes, on which of the following conditions or circumstances did the court base its finding?

- Emotional illness, mental illness, or mental deficiency of the parent of a duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time?
- A history of violent behavior by the parent?
- Excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child?
- Parent is presently judicially ordered to a long-term confinement?

93) Was an order terminating the father's parental rights issued?

- Yes
- No
- Not Sure

94) If yes, date of order:

Format: YYYY-MM-DD

95) On which of the following criteria did the court base its TPR order?

- Parents have relinquished the child pursuant to 42-2-402 and 42-2-412?
- Child has been abandoned by the parents?
- The parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born?
- The parent has subjected the child to torture; chronic abuse; sexual abuse; chronic or severe neglect; has committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child; committed aggravated assault against a child, committed neglect of a child that resulted in serious bodily injury or death?
- The parent has had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care the child at issue?
- The putative father meets any of the criteria in 41-3-423(3)(a) through (3)(c)?
- The child is an adjudicated youth in need of care and an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful?
- The conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time?

96) If the court entered a finding that the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time, did the court enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care?

- Yes
- No
- Not enough information to make determination.

97) If yes, on which of the following conditions or circumstances did the court base its finding?

- Emotional illness, mental illness, or mental deficiency of the parent of a duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time?
- A history of violent behavior by the parent?
- Excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child?
- Parent is presently judicially ordered to a long-term confinement?

98) Did the court order that a treatment plan was not required in this case?

- Yes
- No

99) If yes, on which of the following did the court base its finding?

- Due to the "no-reasonable efforts" criteria?
- Two medical doctors or clinical psychologists submitted testimony that the parent cannot assume the role of parent?
- The parent is or will be incarcerated for more than one year and reunification of the child with the parent is not in the best interests of the child because of the child's circumstances?

The death or serious bodily injury of a child caused by abuse or neglect by the parent has occurred?

100) What was the final disposition of the case when the child was released from custody?

- Child was returned home.
- Child was placed in custody of relative/non-relative.
- Child was adopted.
- Child was placed in a PPLA with a relative.
- Child was placed in a PPLA with a non-relative.
- Child reached age of majority.
- Child was emancipated by a court, got married or joined the Armed Forces.
- Not applicable (child remains in custody).
- Case transferred to Tribal jurisdiction.

101) Date of the final action (If the child is still in custody, enter 9999/01/01.)

Format: YYYY-MM-DD

102) Please note anything unusual in the case or anything that is not noted in a previous question that would make a difference in timely permanency for the child, i.e. continuances based on an attorney's petition to be dismissed from a case, etc.

APPENDIX V
SURVEYS

STATE COURT REASSESSMENT SURVEY

This questionnaire is an important part of a federally mandated statewide reassessment of how the court system handles abuse and neglect cases under Title 41, MCA. Your answers to these questions will help the Montana Supreme Court's Court Assessment Program evaluate how our state addresses the needs of abused and neglected children. We appreciate your efforts to provide the most accurate answers possible. We know that your time is valuable, but your responses are too. Please answer all questions. If no answer seems perfect, choose the one that best reflects what occurs in the court in which you have the majority of your cases. You may provide an explanation or comment about any of your answers on the last page of this questionnaire. Please complete the survey by **August 10, 2005**. All answers are confidential. This survey system does not have the capability to match surveys with email addresses. However, it will track who has submitted completed surveys. Because of the importance of this survey, a reminder will be sent to those who have not completed their surveys within two weeks.

I am currently a:

- CASA Volunteer
- Judge/Special Master
- Attorney
- CFS Caseworker
- Foster Parent

Are you appointed . . . ?

- As the only GAL on the case
- In addition to an attorney GAL
- In addition to an attorney for the child
- Along with an attorney who represents you as the CASA/GAL

Please indicate the length of time you have been a CASA volunteer or staff member.

- One year or less
- 1 – 2 yrs
- 2 – 3 yrs
- 4 yrs or more

Please estimate the total number of cases in which you have served as a CASA volunteer.

- 1 or 2
- 3 – 5
- 6 – 10
- more than 10

CASE MANAGEMENT

How are hearings, excluding emergencies, scheduled? (Please choose one)

- Time specific for each hearing
- Clustering by the hour
- Morning and afternoon dockets
- All cases at the same time
- Other (please explain on last page)

Are hearings typically closed to the public?

- Yes
- No
- Not Sure

How often do you receive timely notice of hearings?

- Never (0%)
- Occasionally (1% - 33%)
- Often (34% - 66%)
- Usually (67% - 99%)
- Always (100%)

How long do hearings typically last? There is a wide variation in length of hearings. Please disregard the extremes and indicate the most typical amount of time. (An uncontested hearing is one in which all parties agree prior to the hearing.)

	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	<input type="checkbox"/>				
b. Contested show cause hearing	<input type="checkbox"/>				
c. Uncontested adjudication hearing	<input type="checkbox"/>				
d. Contested adjudication hearing	<input type="checkbox"/>				
e. Uncontested review	<input type="checkbox"/>				
f. Contested review hearing	<input type="checkbox"/>				
g. Uncontested permanency hearings	<input type="checkbox"/>				
h. Contested permanency hearings	<input type="checkbox"/>				
i. Uncontested termination of parental rights hearing	<input type="checkbox"/>				

j. Contested termination of parental rights hearing	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
k. Post termination review hearing	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please rate the amount of time allotted to hearings.

	Need more time	Adequate time allotted	Need less time
Emergency hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Show cause hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Adjudicatory/dispositional hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Review hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Permanency hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Termination of parental rights hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Post termination review hearings	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

How often do witnesses testify or give input regarding the following issues?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
The type of services and assistance provided to the family.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The CFS worker's diligence to make sure assistance was provided	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The sufficiency or appropriateness of the services offered.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

How often are the following types of hearings continued?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	don't know
a. Show Cause	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Adjudication/Disposition	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. No Reunification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

d. Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Permanency Planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Termination of Parental Rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Post TPR Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

How often do you receive timely notice of continued cases?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When cases are continued, who typically asks for that continuance?

- Guardian ad litem
- CFS
- Parent Counsel
- Judge

How often do foster parents attend court hearings?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often are foster parents heard at court hearings?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Generally, when do you (or the CASA office) receive written orders following a hearing?

- At the end of each hearing
- 1 week
- 2 weeks
- 30 days
- More than 30 days

How regularly does the judge meet with representatives from CFS, CFS attorneys, GALs, parent counsel, CASA and other interested parties to discuss strategies for improving abuse and neglect cases in your court?

- Never
- Monthly
- Quarterly
- Every 6 months
- When a crisis arises

REPRESENTATION

PARENTS

How often does the same attorney represent the parent at all the stages of the case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are parents' attorneys prepared to represent their clients at the following hearings? If attorneys weren't assigned to the parents at the time of the hearing, please indicate "Not assigned".

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	<input type="checkbox"/>					
b. Adjudication/Disposition	<input type="checkbox"/>					
c. No Reunification	<input type="checkbox"/>					
d. Review	<input type="checkbox"/>					
e. Permanency Planning	<input type="checkbox"/>					
f. Termination of Parental Rights	<input type="checkbox"/>					

CHILDREN

How often does the same attorney GAL represent the child at all the stages of the abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)
- Not assigned

If there is a conflict of interest, how often is each child represented by both a GAL and an attorney?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

CASA ADVOCACY

How often are you the only CASA advocate for the child during the entire case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

On your last case, when were you appointed? (choose one)

- Show Cause
- Adjudication
- No Reunification Hearing
- Review
- Permanency hearings
- Termination of Parental Rights

How often do you receive timely notice of staffings (treatment team and/or permanency team meetings)?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you attend staffings?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do foster parents attend staffings?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

GENERAL

How often . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. does the judge issue orders concerning specific services to be provided for the child and/or family?	<input type="checkbox"/>				
b. does the judge issue orders concerning visitation for parents or guardians in cases where an out-of-home placement has been ordered?	<input type="checkbox"/>				
c. does the judge issue orders concerning visitation for siblings when they are separated?	<input type="checkbox"/>				
d. is there a delay in the permanent placement of a child because services are not available?	<input type="checkbox"/>				
e. is there a delay in the adoption of a child because services are not available?	<input type="checkbox"/>				
f. is there a delay in the adoption of a child because of a lack of appropriate adoptive families?	<input type="checkbox"/>				

When the court orders a child to be returned home, how often does it . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	<input type="checkbox"/>				
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	<input type="checkbox"/>				
c. hear testimony or receive reports regarding the success of the extended visits?	<input type="checkbox"/>				
d. specify a timetable for the child to return home?	<input type="checkbox"/>				
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	<input type="checkbox"/>				
f. allow CFS to return the child contingent upon certain conditions being met?	<input type="checkbox"/>				

For those cases in which permanency has not been achieved within 12 months, please identify how much of a factor the following items have been in delaying permanency:

	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Concurrent planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Appropriate placement for child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Mental health assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Substance abuse assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Economic &/or employment assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appropriate independent living program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Appropriate visitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Domestic violence assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Child adjudicated delinquent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. All parents not notified, (including putative fathers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I. Relative placements not pursued.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Court delays	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please identify how much of a factor the following items are in delaying permanency following a termination of parental rights.

	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Adoption summary not completed on child	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child-specific adoption recruitment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Child does not wish to be adopted	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Court delays	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Lack of appropriate adoptive families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please review your responses to make sure that you have completed all questions. If you would like to make any additional comments or suggestions on how the court can improve its handling of abuse and neglect cases, or to clarify answers to any of the questions, please do so in the space below. It would also be helpful but not mandatory to know in which judicial district you practice/reside.

Thank you for taking the time to complete this questionnaire. And thank you for all you do for Montana's children and families.

STATE COURT REASSESSMENT SURVEY

This questionnaire is an important part of a federally mandated statewide reassessment of how the court system handles abuse and neglect cases under Title 41, MCA. Your answers to these questions will help the Montana Supreme Court's Court Assessment Program evaluate how our state addresses the needs of abused and neglected children. We appreciate your efforts to provide the most accurate answers possible. We know that your time is valuable, but your responses are too. Please answer all questions. If no answer seems perfect, choose the one that best reflects what occurs in the court in which you have the majority of your cases. You may provide an explanation or comment about any of your answers on the last page of this questionnaire. Please complete the survey by **August 10, 2005**. All answers are confidential. This survey system does not have the capability to match surveys with email addresses. However, it will track who has submitted completed surveys. Because of the importance of this survey, a reminder will be sent to those who have not completed their surveys within two weeks.

I am currently a:

- CASA Volunteer
- Judge/Special Master
- Attorney
- CFS Caseworker
- Foster Parent

Given that family drug court judges see cases more often and/or the hearings are scheduled for a longer period of time, if you operate a family drug court your answers will be given special consideration when the survey results are tallied.

Are you a family drug court judge?

- Yes No

What percentage of your cases are family drug court cases?

- Less than 5%
- 5% to 10%
- 11% to 25%
- 26% to 50%
- More than 50%

WORKLOAD

Please estimate the percentage of your total time (in and out of court) that is devoted to abuse and neglect cases.

- Less than 5% 5% to 10% 11% to 25% 26% to 50% More than 50%

Please estimate the number of hours per week you spend preparing for scheduled hearings in abuse and neglect cases (i.e. reading files and reports or doing research).

- Less than 5 hrs. 5 to 10 hrs. 11 to 20 hrs. 21 to 25 hrs. More than 25 hrs.

Please estimate the number of hours per week you spend hearing abuse and neglect cases in court.

- Less than 5 hrs.
 5 to 10 hrs.
 11 to 20 hrs.
 21 to 25 hrs.
 More than 25 hrs.

Please estimate the amount of time in a month that you devote to community, training or other activities related to child welfare concerns.

- Less than 1 hr.
 1 to 3 hrs.
 3 to 5 hrs.
 5 to 7 hrs.
 More than 8 hrs

CASE MANAGEMENT

How are hearings, excluding emergencies, scheduled? (Please choose one.)

- Time specific for each hearing
 Clustering by the hour
 Morning and afternoon dockets (all at the same time)
 All cases at the same time
 Other (please explain on last page)

Are hearings typically closed to the public?

- Yes
 No

How long do hearings typically last? There is a wide variation in length of hearings. Please disregard the extremes and indicate the most typical amount of time.

	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	<input type="checkbox"/>				
b. Contested show cause hearing	<input type="checkbox"/>				
c. Uncontested adjudication hearing	<input type="checkbox"/>				
d. Contested adjudication hearing	<input type="checkbox"/>				
e. Uncontested review	<input type="checkbox"/>				
f. Contested review hearing	<input type="checkbox"/>				
g. Uncontested permanency hearings	<input type="checkbox"/>				
h. Contested permanency hearings	<input type="checkbox"/>				
i. Uncontested termination of parental rights hearing	<input type="checkbox"/>				
j. Contested termination of parental rights hearing	<input type="checkbox"/>				
k. Post termination review hearing	<input type="checkbox"/>				

Please rate the amount of time allotted to hearings.

	Need more time	Adequate time allotted	Need less time
Emergency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Show cause hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adjudicatory/dispositional hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Review hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Permanency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Termination of parental rights hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Post termination review hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

How often do you announce the next scheduled abuse and neglect hearing at the end of each hearing?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When cases are continued, who typically asks for that continuance?

- Guardian ad litem
- CFS attorney
- Parent Counsel
- Court

How often do you grant continuances in the following types of hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Adjudication/Disposition	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. No Reunification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

e. Permanency	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
f. Termination of Parental Rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
g. Post TPR Review	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Indicate how frequently the following factors cause hearing continuances in the court process. *Please mark one response for each factor listed.*

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Failure to identify or locate parents	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
b. Lack of or delay in the service of process on parents	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
c. Lack of service on tribe in ICWA cases	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
d. Appointment of attorneys for parent(s) delayed	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
e. Appointment of guardian ad litem delayed	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
f. CFS attorney not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
g. CFS caseworker not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
h. Attorney for parent(s) not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
i. Guardian ad litem not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
j. Judge not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
k. CFS attorney not prepared	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
l. Guardian ad litem not prepared	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
m. Attorney for parent not prepared	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
n. Parent(s) not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
o. Witness not available	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
p. Failure to timely file or serve report or document	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
q. Failure to timely serve notice of process	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

r. Inadequate court time to hear case	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
s. ICPC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Generally, when are written orders distributed to all parties following each hearing?

- At the end of each hearing
- 1 week
- 2 weeks
- 30 days
- More than 30 days

How often do you hear all of the different stages of the same abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often are abuse and neglect hearings interrupted for more than 48 hours, excluding weekends and holidays, because the court did not have enough time for the scheduled hearing?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How regularly do you meet with representatives from CFS, GALs, parent counsel, CASA and other interested parties to discuss strategies for improving abuse and neglect cases?

- Never
- Monthly
- Quarterly
- Every six months
- When a crisis arises

EMERGENCY HEARINGS

At the time of the emergency order is entered, how often . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Do you make a "contrary to the welfare" determination in the first court order authorizing the child's removal from home?	<input type="checkbox"/>				
·When making contrary to the welfare determinations, do you refer to (or tacitly rely on) the affidavit and other accompanying documents?	<input type="checkbox"/>				
·When making contrary to the welfare determinations, do you enter written findings that describe (or cross reference to a description of) the child's individual circumstances?	<input type="checkbox"/>				
b. Do you appoint a guardian ad litem?	<input type="checkbox"/>				
c. Is the emergency placement petition accompanied by an affidavit of facts?	<input type="checkbox"/>				
d. Is the affidavit accompanying the petition sufficient for you to make a ruling to remove the child?	<input type="checkbox"/>				
e. Do you ensure that all the parties have been identified?	<input type="checkbox"/>				
f. Do you determine if reasonable efforts were made to prevent the child from being removed or are being made to return the child safely to the home?	<input type="checkbox"/>				
·When making reasonable efforts determinations, do you refer to (or tacitly rely on) the affidavit and other accompanying documents?	<input type="checkbox"/>				
·When making reasonable efforts determinations, do you enter written findings that describe (or cross reference to a description of) the child's individual circumstances?	<input type="checkbox"/>				
g. Do you order services for children?	<input type="checkbox"/>				
h. Do you order services for parents?	<input type="checkbox"/>				
j. Do you order relative placements to be explored if the child cannot be returned home?	<input type="checkbox"/>				

SHOW CAUSE HEARINGS

At show cause hearings, how often . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Are all the parties identified on the record?	<input type="checkbox"/>				
b. Do you determine if probable cause continues to exist and that the child cannot be returned safely to the home?	<input type="checkbox"/>				
c. Do you determine that probable cause no longer exists and that the child can be returned safely to the home?	<input type="checkbox"/>				
d. Do you order visitation?	<input type="checkbox"/>				
e. Do you order relative placements to be explored, if the child cannot be safely returned home?	<input type="checkbox"/>				
f. Do you order services for parents?	<input type="checkbox"/>				
g. Do you order services for the child?	<input type="checkbox"/>				

ADJUDICATION/DISPOSITION HEARINGS

At adjudication/disposition hearings . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often do you make findings (to be incorporated in the written order) whether there were reasonable efforts to prevent removal?	<input type="checkbox"/>				
b. In making these findings, how often do you describe the efforts in the language of the court order?	<input type="checkbox"/>				
how often do you use language in the court order that cross-references or refers specifically to evidence submitted to the court?	<input type="checkbox"/>				
how often do you use language in the court order that cross-references the affidavit or findings of adjudication?	<input type="checkbox"/>				
how often do you check off items from a detailed checklist?	<input type="checkbox"/>				
c. How often is a case plan presented?	<input type="checkbox"/>				
d. How often do you find that the caseplan goal is appropriate?	<input type="checkbox"/>				
e. How often do you consider the appropriateness of the case plan services?	<input type="checkbox"/>				

f. How often do you find that the case plan is sufficient to meet the child's needs?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g. If the child cannot be safely returned home, how often do you order relative placements to be explored?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h. How often do you make orders regarding the following services? -Parenting classes	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
· Intensive family services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
· Crisis counseling	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
· Family therapy	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
· Mental health evaluations/treatment	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
· Drug & alcohol assessment/treatment	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
i. When the child will remain in an out-of-home placement, how often do you make orders regarding redirection of child support or social security payments, if applicable?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
j. How often is concurrent planning addressed?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

NO REUNIFICATION HEARINGS

In what percentage of your cases do you hold a no reunification efforts hearing (MCA 41-3-423(2))?

- 0%
- 1% - 5%
- 6% - 10%
- 11% - 20%
- over 20%

No reunification efforts hearings are most often requested by . . . ?

- CFS
- GAL
- A motion of the court

At a no reunification efforts hearing . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%- 66%)	Usually (67%- 99%)	Always (100%)
a. How often is the parent from whom custody was removed represented at this hearing?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. How often is evidence presented regarding best interests of the child?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. When the court makes a ruling of no-reunification efforts, how often is it based on:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Aggravated circumstances of	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Abandonment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Torture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Chronic abuse	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Chronic, severe neglect	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Sexual abuse	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Committing, aiding, abetting, attempting, conspiring or soliciting deliberate or mitigated deliberate homicide of a child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Aggravated assault against a child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Neglect of a child that resulted in serious bodily injury or death	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Parental rights involuntarily terminated as to a sibling of the child or other child if circumstances are relevant	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Putative father's lack of registering with putative father's registry, financial support of child, or establishing a substantial relationship with the child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-Abandoned infant	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

REVIEW HEARINGS

At review hearings . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%- 66%)	Usually (67%- 99%)	Always (100%)
a. How often do you project the date of the child's return home?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. When return home is unlikely, how often do you specify other permanency alternatives?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. How often is the permanency projection based upon:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-The extent of compliance with the case plan?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

·The extent of progress made toward alleviating or mitigating the causes of the out-of-home placement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Whether the child should be returned to the parents and whether or not the child's health and safety can be protected by the parents if returned home?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Whether the child should be continued in an out-of-home placement for a specified period of time?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Whether the child should be placed for adoption?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Whether the child should be, because of special needs or circumstances, continued in an out-of-home placement on a permanent or long-term basis?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. How often do you: ·Determine if clarification or modification of prior orders is needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Review the effect of the visitation schedule on the child?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Consider whether the child's needs are being met?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Consider whether the family is availing themselves to CFS services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Consider whether the services for the family are alleviating the reason the child was removed from the home?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PERMANENCY HEARINGS

A permanency hearing is usually scheduled for . . . ?

15-30 min. 30-45 min. 45-60 min. > 60 min.

At a permanency hearing . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often do you make findings (incorporated into the written order) regarding reasonable efforts to reunite the family or finalize a permanency plan at the first permanency hearing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. In making these findings, how often do you: ·Describe the efforts in the language of the court order?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
·Use language in the court order that cross-references or refers specifically to evidence submitted to the court?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

-Use language in the court order that cross-references the affidavit or findings of adjudication?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
-Check off items from a detailed checklist?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
-Use language in the court order explaining why higher levels of permanency are not available to the child or are not in the child's best interest?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How often is a permanency plan presented to the court by CFS?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often is a permanency plan presented to the court by the GAL/CASA?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

For those cases in which permanency has not been achieved within 12 months, how often do you hold a permanency hearing within the ASFA time frames?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

In your opinion, what are the reasons that permanency hearings are not held within the ASFA timeframes? (Please check all that apply.)

- A request for a permanency hearing is not submitted timely by the CFS caseworker
- A request for a permanency hearing is not submitted timely to the court by the County Attorney
- The court docket is full
- The court grants a continuance
- Other (please specify)

If you selected other, please specify:

For those cases in which permanency has not been achieved within 12 months, please identify how much of a factor the following items have been in delaying permanency:

	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Concurrent planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Appropriate placement for child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Mental health assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Substance abuse assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Economic &/or employment assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appropriate independent living program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Appropriate visitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Domestic violence assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Child adjudicated delinquent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. All parents not notified, (including putative fathers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Relative placements not pursued.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Court delays	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How often do you conduct a permanency hearing at least every 12 months following the first permanency hearing (if the child remains in an out-of-home placement)?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

TERMINATION OF PARENTAL RIGHTS HEARINGS

At a termination of parental rights hearing . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often are all parties (including putative fathers) properly served?	<input type="checkbox"/>				
b. How often, in the original TPR petition, is termination sought on both legal parents?	<input type="checkbox"/>				
c. How often is evidence presented regarding the best interests of the child?	<input type="checkbox"/>				
d. How often is evidence presented regarding an appropriate permanency placement for the child?	<input type="checkbox"/>				
e. How often does CFS file a TPR petition when a child has been in an out-of-home placement for 15 of the last 22 months?	<input type="checkbox"/>				

POST TERMINATION HEARINGS

Please identify how much of a factor the following items are in delaying permanency following a termination of parental rights.

	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Adoption summary not completed on child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child-specific adoption recruitment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Child does not wish to be adopted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Court delays	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Lack of appropriate adoptive families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

GENERAL

How often are the following issues addressed during hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Child's health and safety	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Services for the child	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child's education	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Appropriateness of child's placement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Parent visitation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Sibling visitation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Parents' involvement in case planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Appropriateness of case plan and progress	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Independent living services, for all youth 14 and over (regardless of permanency plan)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Services for the parent(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Compliance with previous court orders and case plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Concurrent planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Foster parents' input about case	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How often do you rely on assessments and evaluations of the child's mental and physical health in making your orders?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When ordering a child to be returned home, how often do you . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	<input type="checkbox"/>				
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	<input type="checkbox"/>				
c. hear testimony or receive reports regarding the success of the extended visits?	<input type="checkbox"/>				
d. specify a timetable for the child to return home?	<input type="checkbox"/>				
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	<input type="checkbox"/>				
f. allow CFS to return the child contingent upon certain conditions being met?	<input type="checkbox"/>				

How often do you issue orders regarding the types of placement (e.g. therapeutic foster care, residential care, etc.) for a foster child?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you issue orders concerning types of services to be provided for the child and family?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

INDIAN CHILD WELFARE ACT

In approximately what proportion of your cases are you provided with information concerning whether a child coming before your court may be Native American?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you inquire about Native American heritage in your DN cases?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

What percentage of your DN cases are families from Native American heritage?

- 0%
- 1% - 2%
- 3% - 5%
- 6% - 9%
- > 10%

REPRESENTATION OF PARTIES

PARENTS

When you appoint counsel for indigent parents, from which of the following groups do you select?

- legal services
- private counsel
- public defender or contract list
- Other (please explain on last page of this questionnaire)

Do attorneys have to meet any requirements (i.e. training, experience, etc.) to be appointed by you?

- Yes No

How often does the same attorney represent the parents at all stages of the same abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are parents' attorneys prepared to represent their clients at the following hearings? (If attorneys weren't assigned to the parents at the time of the hearing, please indicate "Not assigned".)

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	<input type="checkbox"/>					
b. Adjudication/Disposition	<input type="checkbox"/>					
c. No Reunification	<input type="checkbox"/>					
d. Review	<input type="checkbox"/>					
e. Permanency Planning	<input type="checkbox"/>					
f. Termination of Parental Rights	<input type="checkbox"/>					

How often has parent counsel played an important role in ensuring timely permanence for children and families?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does parent counsel present testimony and evidence that is important to your decisions?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

CHILD REPRESENTATION: ATTORNEY GUARDIAN AD LITEM

How often does the same attorney GAL represent the child at all the stages of the abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

If there is a conflict of interest, how often is each child represented by both a GAL and an attorney?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are guardians ad litem prepared to represent their clients at the following hearings? (If an attorney GAL wasn't assigned to the child at the time of the hearing, please indicate "Not assigned".)

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	<input type="checkbox"/>					
b. Adjudication/Disposition	<input type="checkbox"/>					
c. No Reunification	<input type="checkbox"/>					
d. Review	<input type="checkbox"/>					
e. Permanency	<input type="checkbox"/>					
f. Termination of Parental Rights	<input type="checkbox"/>					

How often do guardians ad litem present testimony and evidence that is important to your decisions?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do guardians ad litem monitor the implementation of case plans and court orders?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often has the guardian ad litem played an important role in ensuring timely permanency for children and families?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often have the guardians ad litem had a positive impact on the health and safety of the children they represent?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

COURT APPOINTED SPECIAL ADVOCATE (CASA VOLUNTEER)

Are children assisted by CASA volunteers in your judicial district?

- Yes
- No

At what court hearings do you generally appoint CASA Volunteers? Choose the one where you routinely or most often make the appointment.

- Emergency
- Show Cause
- Adjudication
- No Reunification Hearing
- Review
- Permanency hearing
- Termination of Parental Rights

How often do CASA volunteers do the following . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Conduct an independent investigation of the case	<input type="checkbox"/>				
b. Prepare court reports	<input type="checkbox"/>				
c. Testify at court hearings	<input type="checkbox"/>				

d. Monitor compliance of court orders and case plans	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Investigate and monitor services for the child and family	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. Investigate potential relative placements for the child	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g. Have a positive impact on the health and safety of the children for whom they advocate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h. Have a positive impact on timely permanence for the children for whom they advocate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Would you agree that children and families are better served in your court since the implementation of state grants in 1999 to local CASA programs?

- Strongly Agree
- Agree
- No Opinion
- Disagree
- Strongly Disagree

STATE/CFS COUNSEL

Based on court performances, how often are CFS attorneys prepared to represent the State at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Adjudication/Disposition	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. No Reunification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Review	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Permanency	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. Termination of Parental Rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

How often do you have difficulty scheduling abuse and neglect hearings due to the CFS attorney's availability?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does the CFS attorney timely file and serve petitions?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does the CFS attorney timely file court orders?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does the CFS attorney monitor the implementation of case plans and court orders?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does the CFS attorney have a positive impact on the health and safety of the children?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often has the CFS attorney been instrumental in achieving a timely permanency placement for the children and families?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

TRAINING AND EXPERIENCE

Did you receive any training on how to handle abuse and neglect cases before you began to hear such cases?

- Yes
- No

How many hours of training did you receive?

- 1-4 hours
- 5-8 hours
- 9-12 hours
- 13-19 hours
- 20 hours or more

Did you have experience with dependency cases before you began to hear such cases?

- Yes
- No

How much experience did you have?

- Less than 1 year
- 1 to 2 years
- 2 to 3 years
- 4 years or more

Have you received continuing legal education on how to handle abuse and neglect cases?

- Yes
- No

Please indicate what training you have had, if any, and what future additional training you would find beneficial in the care of child abuse and neglect and related child welfare concerns. *Check all that apply:*

	Prior	Future
a. No training	<input type="checkbox"/>	<input type="checkbox"/>
b. Legal and procedural aspects of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
c. State and federal requirements related to child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
d. Indian Child Welfare Act (ICWA)	<input type="checkbox"/>	<input type="checkbox"/>
e. Child Development	<input type="checkbox"/>	<input type="checkbox"/>
f. Mental health issues and services of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
g. Medical issues and services in child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
h. Diversity training/special ethnic and cultural issues related to child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
i. Special Education	<input type="checkbox"/>	<input type="checkbox"/>
j. Drug and alcohol abuse and its impact on parenting/treatment options	<input type="checkbox"/>	<input type="checkbox"/>
k. Evaluating case plans	<input type="checkbox"/>	<input type="checkbox"/>
l. Family dynamics including domestic violence and co-dependency	<input type="checkbox"/>	<input type="checkbox"/>
m. Judicial case management of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
n. Foster case placement issues including grief, loss and attachment	<input type="checkbox"/>	<input type="checkbox"/>
o. Mediation	<input type="checkbox"/>	<input type="checkbox"/>

Given Montana's lack of funding for judicial education, a mentor judge program may improve our current child abuse and neglect court system. A mentor judge is trained in a topic specific to dependency cases, such as ICWA or ICPC, and is then a resource to other district court judges to assist with such issues in a case. Given the complexity of dependency cases, would you seek assistance from a mentor judge?

Yes

No

Are you interested in becoming a mentor judge? If yes, please include your name in the box below.

Yes

No

Additional comments:

Please review your responses to make sure that you have completed all questions. If you would like to make any additional comments or suggestions on how the court can improve its handling of abuse and neglect cases, or to clarify answers to any of the questions, please do so in the space below. It would also be helpful but not mandatory to know in which judicial district you preside.

Thank you for taking the time to complete this questionnaire. And thank you for all you do for Montana's children and families.

STATE COURT REASSESSMENT SURVEY

This questionnaire is an important part of a federally mandated statewide reassessment of how the court system handles abuse and neglect cases under Title 41, MCA. Your answers to these questions will help the Montana Supreme Court's Court Assessment Program evaluate how our state addresses the needs of abused and neglected children. We appreciate your efforts to provide the most accurate answers possible. We know that your time is valuable, but your responses are too. Please answer all questions. If no answer seems perfect, choose the one that best reflects what occurs in the court in which you have the majority of your cases. You may provide an explanation or comment about any of your answers on the last page of this questionnaire. Please complete the survey by **August 10, 2005**. All answers are confidential. This survey system does not have the capability to match surveys with email addresses. However, it will track who has submitted completed surveys. Because of the importance of this survey, a reminder will be sent to those who have not completed their surveys within two weeks.

I am currently a:

- CASA Volunteer
- Judge/Special Master
- Attorney
- CFS Caseworker
- Foster Parent

Given that family drug court cases are more time intensive, it is important to know if you represent parents who are participating in family drug court or their children. If so, your answers will be given special consideration when the survey is tallied.

Are you a family drug court attorney?

- Yes
- No

What percentage of your cases has family drug court involvement?

- Less than 5%
- 5% to 10%
- 11% to 25%
- 26% to 50%
- More than 50%

WORKLOAD

Please estimate the percent of your current practice that is devoted to abuse and neglect cases as:

	0-20%	21-40%	41-60%	61-80%	81-100%
Parent's attorney	<input type="checkbox"/>				
Guardian ad Litem	<input type="checkbox"/>				
CFS Attorney	<input type="checkbox"/>				

Please estimate the percentage of your total law practice that is devoted to child abuse and neglect cases.

- Less than 10%
- 25%
- 50%
- 75%
- 100%

Please estimate the number of hours per week you spend preparing for scheduled hearings in child abuse and neglect cases.

- Less than 5 hrs.
- 5 to 10 hrs.
- 11 to 20 hrs.
- 21 to 25 hrs.
- More than 25 hrs.

Please estimate the number of hours per week you spend attending or waiting for child abuse and neglect court hearings.

- Less than 5 hrs.
- 5 to 10 hrs.
- 11 to 20 hrs.
- 21 to 25 hrs.
- More than 25 hrs.

Please estimate the amount of time in a month that you devote to community, training or other activities related to child welfare concerns.

- Less than 1 hr.
- 1 to 3 hrs.
- 3 to 5 hrs.
- 5 to 7 hrs.
- More than 8 hrs.

Are hearings typically closed to the public?

- Yes No

How long do hearings typically last? (There is a wide variation in length of hearings. Please disregard the extremes and indicate the most typical amount of time.)

	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day	don't know
a. Uncontested show cause hearing	<input type="radio"/>					
b. Contested show cause hearing	<input type="radio"/>					
c. Uncontested adjudication hearing	<input type="radio"/>					
d. Contested adjudication hearing	<input type="radio"/>					
e. Uncontested review	<input type="radio"/>					
f. Contested review hearing	<input type="radio"/>					
g. Uncontested permanency hearing	<input type="radio"/>					
h. Contested permanency hearing	<input type="radio"/>					
i. Uncontested termination of parental rights hearing	<input type="radio"/>					
j. Contested termination of parental rights hearing	<input type="radio"/>					
k. Post TPR review hearing	<input type="radio"/>					

Please rate the amount of time allotted to hearings.

	Need more time	Adequate time allotted	Need less time
Emergency hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Show cause hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adjudicatory/dispositional hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Review hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Permanency hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Termination of parental rights hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Post termination review hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

COURT CASE MANAGEMENT

How are hearings, excluding emergencies, scheduled? (choose one)

- Time specific for each hearing
- Clustering by the hour
- Morning and afternoon dockets (all at the same time)
- All cases at the same time
- Other (please explain on last page)

How long do you typically wait at the courthouse before the following types of hearings actually begin?

	Less than 30 minutes	30 to 60 minutes	1 to 2 hours	More than 2 hours
a. Emergency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Show Cause	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Adjudication/Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Permanency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Termination of Parental Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Post Termination Review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How often does the judge announce the next scheduled abuse and neglect hearing at the end of each hearing?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often are the following types of hearings continued?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	<input type="checkbox"/>				
b. Show cause	<input type="checkbox"/>				
c. Adjudication/ Disposition	<input type="checkbox"/>				
d. No Reunification	<input type="checkbox"/>				

e. Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Permanency	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Termination of Parental Rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Post TPR Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

When cases are continued, who typically asks for that continuance?

- Guardian ad litem
 CFS attorney
 Parent Counsel
 Judge

How often does a single judge hear all of the different stages of the same abuse and neglect case?

- Never(0%)
 Occasionally(1%-33%)
 Often(34%-66%)
 Usually(67%-99%)
 Always(100%)

Indicate how frequently the following factors cause hearing continuances in the court process. *Mark one response for each factor listed.*

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Failure to identify or locate parents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Lack of or delay in the service of process on parents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Lack of service on tribe in ICWA cases	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Appointment of attorneys for parent(s) delayed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Appointment of guardian ad litem delayed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. CFS attorney not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. CFS caseworker not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Attorney for parent(s) not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Guardian ad litem not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Judge not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

k. CFS attorney not prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Guardian ad litem not prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Attorney for parent not prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. Parent(s) not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o. Witness not available	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p. Failure to timely file or serve report or document	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
q. Failure to timely serve notice of process	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
r. Inadequate court time to hear case	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s. ICPC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Generally, when are written orders distributed to all parties following each hearing?

- At the end of each hearing
 1 week
 2 weeks
 30 days
 More than 30 days

In what percentage of cases does the court use pre-trial conferences in child abuse and neglect cases?

- Never
 1-2%
 2-5%
 6-10%
 >10%

How often are abuse and neglect hearings interrupted for more than 48 hours, excluding weekends and holidays, because the court did not have enough time for the scheduled hearing?

- Never(0%)
 Occasionally(1%-33%)
 Often(34%-66%)
 Usually(67%-99%)
 Always(100%)

EMERGENCY HEARINGS

At the time of the emergency order is entered, how often . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. does the court make a "contrary to the welfare" determination in the first court order authorizing the child's removal from home?	<input type="checkbox"/>				
·when making contrary to the welfare determinations, does the court refer to (or tacitly rely on) the affidavit and other accompanying documents?	<input type="checkbox"/>				
·when making contrary to the welfare determinations, does the court enter written findings that describe (or cross reference to a description of) the child's individual circumstances?	<input type="checkbox"/>				
b. does the court appoint a guardian ad litem?	<input type="checkbox"/>				
c. is the emergency placement petition accompanied by an affidavit of facts?	<input type="checkbox"/>				
d. is the affidavit accompanying the petition sufficient for the court to make a ruling to remove the child?	<input type="checkbox"/>				

SHOW CAUSE HEARINGS

At show cause hearings . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Are all the parties identified on the record?	<input type="checkbox"/>				
b. Does the court determine probable cause continues to exist and that the child cannot be returned safely to the home?	<input type="checkbox"/>				
c. Does the court determine that probable cause no longer exists and that the child can be returned safely to the home?	<input type="checkbox"/>				
d. Does the court order visitation?	<input type="checkbox"/>				
e. If the child cannot be safely returned home, how often does the court order relative placements to be explored?	<input type="checkbox"/>				
f. Does the court order services for parents?	<input type="checkbox"/>				
g. Does the court order services for the child?	<input type="checkbox"/>				

ADJUDICATION/DISPOSITION HEARINGS

At adjudication/disposition hearings . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often does the court make findings (to be incorporated in the written order) whether there were reasonable efforts to prevent removal?	<input type="checkbox"/>				
b. In making these findings, how often does the court describe the efforts in the language of the court order?	<input type="checkbox"/>				
· how often does the court use language in the court order that cross-references or refers specifically to evidence submitted to the court?	<input type="checkbox"/>				
· how often does the court use language in the court order that cross-references the affidavit or findings of adjudication?	<input type="checkbox"/>				
· how often does the court check off items from a detailed checklist?	<input type="checkbox"/>				
c. How often is a case plan presented?	<input type="checkbox"/>				
d. How often do you present evidence regarding the case plan?	<input type="checkbox"/>				
e. How often do you present evidence regarding alternative placements, if the child cannot be safely returned home?	<input type="checkbox"/>				
f. How often do you address concurrent planning?	<input type="checkbox"/>				
g. How often do you request orders to redirect child support or Social Security payments?	<input type="checkbox"/>				
h. How often do you make orders regarding the following services? · Parenting classes	<input type="checkbox"/>				
· Intensive family services	<input type="checkbox"/>				
· Crisis counseling	<input type="checkbox"/>				
· Family therapy	<input type="checkbox"/>				
· Mental health evaluations/treatment	<input type="checkbox"/>				
· Drug & alcohol assessment/treatment	<input type="checkbox"/>				

NO REUNIFICATION HEARINGS [MCA 41-3-423(2)]

In what percentage of cases are no reunification efforts hearings held?

- 0%
- 1% - 5%
- 6% - 10%
- 11% - 20%
- over 20%

No reunification efforts hearings are most often requested by . . . ?

- CFS
- GAL
- A motion of the court

At a no reunification efforts hearing . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often is the parent from whom custody was removed represented at this hearing?	<input type="checkbox"/>				
b. How often is a notice timely served on all parties?	<input type="checkbox"/>				
c. How often is the notice sufficiently detailed?	<input type="checkbox"/>				
d. How often is evidence presented regarding the best interests of the child?	<input type="checkbox"/>				
e. When the court makes a ruling of no-reunification efforts, how often is it based on:	<input type="checkbox"/>				
-Aggravated circumstances of -Abandonment	<input type="checkbox"/>				
-Torture	<input type="checkbox"/>				
-Chronic abuse	<input type="checkbox"/>				
-Chronic, severe neglect	<input type="checkbox"/>				
-Sexual abuse	<input type="checkbox"/>				
-Committing, aiding, abetting, attempting, conspiring or soliciting deliberate or mitigated deliberate homicide of a child	<input type="checkbox"/>				
-Aggravated assault against a child	<input type="checkbox"/>				
-Neglect of a child that resulted in serious bodily injury or death	<input type="checkbox"/>				

· Parental rights involuntarily terminated as to a sibling of the child or other child if circumstances are relevant	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Abandoned infant	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Putative father's lack of registering with putative father's registry, financial support of child, or establishing a substantial relationship with the child	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REVIEW HEARINGS

At review hearings . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often does the court project the date of the child's return home?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. When return home is unlikely, how often does the court specify other permanency alternatives?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. How often is the permanency projection based upon: -The extent of compliance with the case plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· The extent of progress made toward alleviating or mitigating the causes of the out-of-home placement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Whether the child should be returned to the parents and whether or not the child's health and safety can be protected by the parents if returned home?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Whether the child should be continued in an out-of-home placement for a specified period of time?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Whether the child should be placed for adoption?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Whether the child should be, because of special needs or circumstances, continued in an out-of-home placement on a permanent or long-term basis?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. How often do you: · Present evidence to modify orders?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Present evidence on the effects of the visitation with the parents on the child?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Present evidence on whether the child's needs are being met?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Present evidence on whether the family is availing themselves to CFS services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
· Present evidence on whether the services for the family are alleviating the reason the child was removed from the home?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PERMANENCY HEARINGS

A permanency hearing is usually scheduled for . . . ?

15-30 min.
 30-45 min.
 45-60 min.
 > 60 min.

At a permanency hearing . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often does the court make findings (incorporated into the written order) regarding reasonable efforts to reunite the family or finalize a new permanency plan at the first permanency hearing?	<input type="checkbox"/>				
b. In making these findings, how often does the court: ·Describe the efforts in the language of the court order?	<input type="checkbox"/>				
·Use language in the court order that cross-references or refers specifically to evidence submitted to the court?	<input type="checkbox"/>				
·Use language in the court order that cross-references the affidavit or findings of adjudication?	<input type="checkbox"/>				
·Check off items from a detailed checklist?	<input type="checkbox"/>				

How often is a permanency plan presented to the court by CFS?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

For those cases in which permanency has not been achieved within 12 months, how often does the court hold a permanency hearing within the ASFA time frames?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Please identify how much of a factor the following items have been in delaying permanency within the first year of a case:

	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Concurrent planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Appropriate placement for child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Mental health assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Substance abuse assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Economic &/or employment assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appropriate independent living program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Appropriate visitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Domestic violence assessment &/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Child adjudicated delinquent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. All parents not notified, (including putative fathers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Relative placements not pursued	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Court delays	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How often is a permanency hearing conducted at least every 12 months following the first permanency hearing (if the child remains in an out-of-home placement)?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

TERMINATION OF PARENTAL RIGHTS HEARINGS

At a termination of parental rights hearing . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. How often are all parties (including putative fathers) properly served?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. How often, in the original TPR petition, is termination sought on both legal parents?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. How often do you present evidence regarding the best interests of the child?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. How often do you present evidence regarding an appropriate permanency placement for the child?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. How often does CFS file a TPR petition when a child has been in an out-of-home placement for 15 of the last 22 months?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

POST TERMINATION HEARINGS

Please identify how much of a factor the following items are in delaying permanency following a termination of parental rights.

	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Adoption summary not completed on child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. Child-specific adoption recruitment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Child does not wish to be adopted	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Court delays	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. Lack of appropriate adoptive families	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

GENERAL

How often do you present evidence regarding the following issues at child abuse and neglect hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Child's health and safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Services for the child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. Child's education	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Appropriateness of child's placement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Parent visitation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. Sibling visitation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

g. Parents' involvement in case planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Appropriateness of case plan and progress	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Independent living services for all youth 14 and over (regardless of permanency plan)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Services for the parent(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. Compliance with previous court orders and case plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
l. Concurrent planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
m. Foster parents' input about case	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

How often do you rely on assessments and evaluations of the child's mental and physical health in making recommendations to the court?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you make recommendations regarding the type of placement (e.g. therapeutic foster care, residential, etc.) for a foster child?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you make recommendations concerning types of services to be provided for the child and family?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you make recommendations concerning a transition (overnight, weekend, week) before a child is returned home on a permanent basis?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often do you request continued monitoring of the case for a specified period of time after the child has returned home to ensure the child's safety?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When the court orders a child to be returned home, how often does it . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	<input type="checkbox"/>				
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	<input type="checkbox"/>				
c. hear testimony or receive reports regarding the success of the extended visits?	<input type="checkbox"/>				
d. specify a timetable for the child to return home?	<input type="checkbox"/>				
e. specify continued monitoring for a specified period of time after the child returns home to ensure the safety of the child?	<input type="checkbox"/>				
f. allow CFS to return the child contingent upon certain conditions being met?	<input type="checkbox"/>				

How often do you inquire about Native American heritage in your child abuse and neglect cases?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

What percentage of your DN cases are families from Native American heritage?

- 0%
 1% - 2%
 3% - 5%
 6% - 9%
 > 10%

REPRESENTATION OF PARTIES

PARENT REPRESENTATION

When the court appoints counsel for indigent parents, from which of the following groups does the court select?

- legal services
 private counsel
 public defender or contract list
 Other (please explain on last page of this questionnaire)

How often does the same attorney represent the parents at all stages of the same abuse and neglect case?

- Never(0%)
 Occasionally(1%-33%)
 Often(34%-66%)
 Usually(67%-99%)
 Always(100%)

Does the court require parent counsel to meet any training or experience standards prior to being appointed by the court?

- Yes
 No
 Unknown

Based on court performances, how often are parents' attorneys prepared to represent their clients at the following hearings? (If attorneys weren't assigned to the parents at the time of the hearing, please indicate "Not assigned".)

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not Assigned
a. Show Cause	<input type="checkbox"/>					
b. Adjudication/Disposition	<input type="checkbox"/>					
c. No Reunification	<input type="checkbox"/>					
d. Review	<input type="checkbox"/>					
e. Permanency	<input type="checkbox"/>					
f. Termination of Parental Rights	<input type="checkbox"/>					

How often has parent counsel played an important role in ensuring timely permanence for children and families?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

**CHILD REPRESENTATION
ATTORNEY GUARDIAN AD LITEM**

How often does the same attorney GAL represent the child at all the stages of the abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

If there is a conflict of interest, how often is each child represented by a separate attorney?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are guardians ad litem prepared to represent their clients at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="checkbox"/>				
b. Adjudication/Disposition	<input type="checkbox"/>				
c. No Reunification	<input type="checkbox"/>				
d. Review	<input type="checkbox"/>				
e. Permanency Planning	<input type="checkbox"/>				
f. Termination of Parental Rights	<input type="checkbox"/>				

How often has the guardian ad litem played an important role in ensuring timely permanency for children and families?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often have the guardians ad litem been instrumental in achieving a timely permanency placement for the children they represent?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often have the guardians ad litem had a positive impact on the health and safety of the children they represent?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How are you appointed to serve as a GAL for children in child abuse/neglect cases?

- Random Appointment from Local Bar List
- From Court Approved GAL List
- From Law Firm Under Contract with Court
- Public Defender List
- I do not serve as a Guardian ad litem

How often, when a foster parent requests a foster child be removed from their home (excluding an emergency that places t or a family member at risk of harm). . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you notified so that you can attend and participate in the staffing and planning for the child's placement?	<input type="checkbox"/>				
b. is a staffing held within 48 hours to discuss what services or assistance may be needed to stabilize the placement?	<input type="checkbox"/>				

How often, when a child's placement is changed . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. do you receive a written notice two weeks prior to the proposed changes?	<input type="checkbox"/>				
b. does the written notice give specific reasons for the proposed change?	<input type="checkbox"/>				
c. are you given the address of the proposed new foster home or institution?	<input type="checkbox"/>				

How often, when a child is moved due to an emergency change of placement, . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you notified of the change of placement within 24 hours?	<input type="checkbox"/>				
b. are you provided with the name and address of the new foster care provider within 24 hours?	<input type="checkbox"/>				
c. are you provided written notice within 72 hours for the specific reasons justifying the change of placement without advance notice?	<input type="checkbox"/>				

CHILD REPRESENTATION:

COURT APPOINTED SPECIAL ADVOCATE (CASA)

Has a CASA volunteer been appointed in one or more of your cases?

- Yes
- No

How often have CASA volunteers done the following . . . ?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Conducted an independent investigation of the case	<input type="checkbox"/>				
b. Prepared court reports	<input type="checkbox"/>				
c. Testified/spoke at hearing	<input type="checkbox"/>				
d. Monitored parties' compliance with court orders and case plans.	<input type="checkbox"/>				
e. Investigated and monitored services for the child and family	<input type="checkbox"/>				
f. Investigated potential relative placements for the child	<input type="checkbox"/>				
g. Had a positive impact on the health and safety of the children for whom they advocate	<input type="checkbox"/>				
h. Had a positive impact on timely permanency placement for the children for whom they advocate	<input type="checkbox"/>				

Would you agree that children and families are better served in your court since the implementation of state grants in 1999 to local CASA programs?

- Strongly Agree
- Agree
- No Opinion
- Disagree
- Strongly Disagree

STATE REPRESENTATION

CFS Attorney

Approximately what percentage of the time is CFS represented by an attorney at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="checkbox"/>				
b. Adjudication/Disposition	<input type="checkbox"/>				
c. No Reunification	<input type="checkbox"/>				
d. Review	<input type="checkbox"/>				
e. Permanency	<input type="checkbox"/>				
f. Termination of Parental Rights	<input type="checkbox"/>				
g. Post TPR Review	<input type="checkbox"/>				

How often does the same CFS attorney represent CFS/the State at all the different stages of the same abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are CFS attorneys prepared to represent the State at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="checkbox"/>				
b. Adjudication/Disposition	<input type="checkbox"/>				
c. No Reunification	<input type="checkbox"/>				
d. Review	<input type="checkbox"/>				
e. Permanency	<input type="checkbox"/>				
f. Termination of Parental Rights	<input type="checkbox"/>				

TRAINING AND EXPERIENCE

Did you receive any training on how to handle abuse and neglect cases before you began to hear such cases?

- Yes
- No

How many hours of training did you receive?

- 1-4 hours
- 5-8 hours
- 9-12 hours
- 13-19 hours
- 20 hours or more

Have you received continuing legal education on how to handle abuse and neglect cases?

- Yes
- No

Please indicate what training you have had, if any, and what future additional training you would find beneficial in the care of child abuse and neglect and related child welfare concerns. *Check all that apply:*

	Prior	Future
a. No training	<input type="checkbox"/>	<input type="checkbox"/>
b. Legal and procedural aspects of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
c. State and federal requirements related to child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
d. Indian Child Welfare Act (ICWA)	<input type="checkbox"/>	<input type="checkbox"/>

e. Child Development	<input type="checkbox"/>	<input type="checkbox"/>
f. Mental health issues and services of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
g. Medical issues and services in child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
h. Diversity training/special ethnic and cultural issues related to child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
i. Special Education	<input type="checkbox"/>	<input type="checkbox"/>
j. Drug and alcohol abuse and its impact on parenting/treatment options	<input type="checkbox"/>	<input type="checkbox"/>
k. Evaluating case plans	<input type="checkbox"/>	<input type="checkbox"/>
l. Family dynamics including domestic violence and co-dependency	<input type="checkbox"/>	<input type="checkbox"/>
m. Judicial case management of child abuse and neglect cases	<input type="checkbox"/>	<input type="checkbox"/>
n. Foster case placement issues including grief, loss and attachment	<input type="checkbox"/>	<input type="checkbox"/>
o. Mediation	<input type="checkbox"/>	<input type="checkbox"/>

Please review your responses to make sure that you have completed all questions. If you would like to make any additional comments or suggestions on how the court can improve its handling of abuse and neglect cases, or to clarify answers to any of the questions, please do so in the space below. It would also be helpful but not mandatory to know in which judicial district you practice/reside.

Thank you for taking the time to complete this questionnaire. And thank you for all you do for Montana's children and families.

STATE COURT REASSESSMENT SURVEY

This questionnaire is an important part of a federally mandated statewide reassessment of how the court system handles abuse and neglect cases under Title 41, MCA. Your answers to these questions will help the Montana Supreme Court's Court Assessment Program evaluate how our state addresses the needs of abused and neglected children. We appreciate your efforts to provide the most accurate answers possible. We know that your time is valuable, but your responses are too. Please answer all questions. If no answer seems perfect, choose the one that best reflects what occurs in the court in which you have the majority of your cases. You may provide an explanation or comment about any of your answers on the last page of this questionnaire. Please complete the survey by **August 10, 2005**. All answers are confidential. This survey system does not have the capability to match surveys with email addresses. However, it will track who has submitted completed surveys. Because of the importance of this survey, a reminder will be sent to those who have not completed their surveys within two weeks.

I am currently a:

- CASA Volunteer
- Judge/Special Master
- Attorney
- CFS Caseworker
- Foster Parent

Are you a:

- Caseworker w/CPS cases
- Family Resource Specialist
- CWS/FRS Supervisor with your own abuse and neglect caseload
- CWS/FRS Supervisor without your own abuse and neglect caseload

Please indicate the total number of years you have worked with CFS as a social worker or supervisor.

- 1 yr or less 1 to 2 years 2-4 years 5-10 years 10 yrs or more

Please estimate the number of hours per week that you spend in court on child abuse and neglect cases.

- Less than 2 hrs 2 to 5 hrs. 6 to 10 hrs. more than 10 hrs.

What is your current caseload?

- fewer than 15 15 to 25 26 to 40 41 to 55 56 to 70 over 70

How many children are currently on your caseload?

- fewer than 20 20 to 30 31 to 40 41 to 50 over 50

How often are you involved in all the different stages of the same case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

If more than one child in the same family is before the court in an abuse and neglect case, how often do those children have the same caseworker?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

COURT CASE MANAGEMENT

How are hearings, excluding emergencies, scheduled? (choose one)

- Time specific for each hearing
- Clustering by the hour
- Morning and afternoon dockets (all at the same time)
- All cases at the same time
- Other (please explain on last page)

How long do you typically wait at the courthouse before the following types of hearings actually begin?

	Less than 30 minutes	30 to 60 minutes	1 to 2 hours	More than 2 hours
a. Emergency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Show Cause	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Adjudication/Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Permanency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Termination of Parental Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Post Termination Review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Are hearings typically closed to the public?

Yes No Not Sure

How long do hearings typically last? (There is a wide variation in length of hearings. Please disregard the extremes and indicate the most typical amount of time.)

	5 – 15 minutes	20 - 60 minutes	1 – 3 hours	Half Day	1+ day
a. Uncontested show cause hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Contested show cause hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Uncontested adjudication hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Contested adjudication hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Uncontested review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Contested review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Uncontested permanency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Contested permanency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Uncontested termination of parental rights hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Contested termination of parental rights hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. Post termination hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Please rate the amount of time allotted to hearings.

	Need more time	Adequate time allotted	Need less time
Emergency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Show cause hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adjudicatory/dispositional hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Review hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Permanency hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Termination of parental rights hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Post termination review hearings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

How often does the judge announce the next scheduled abuse and neglect hearing at the end of each hearing?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often are the following types of hearings continued?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	<input type="checkbox"/>				
b. Show cause	<input type="checkbox"/>				
c. Adjudication/ Disposition	<input type="checkbox"/>				
d. No Reunification	<input type="checkbox"/>				
e. Review	<input type="checkbox"/>				
f. Permanency	<input type="checkbox"/>				
g. Termination of Parental Rights	<input type="checkbox"/>				
h. Post Termination Review	<input type="checkbox"/>				

How often do you receive timely notice of continued cases?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When cases are continued, who typically asks for that continuance?

- Guardian ad litem
- CFS attorney
- Parent Counsel
- Judge

Generally, when are written orders distributed to all parties following each hearing?

- At the end of each hearing
- 1 week
- 2 weeks
- 30 days
- More than 30 days

How often are abuse and neglect hearings interrupted for more than 48 hours, excluding weekends and holidays, because the court did not have enough time for the scheduled hearing?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often does the judge meet with representatives from CFS, GALs, parent counsel, CASA and other interested parties to discuss strategies for improving abuse and neglect cases?

- Never
- Monthly
- Quarterly
- Every six months
- When a crisis arises

How often does a single judge hear all of the different stages of the same abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

ABUSE AND NEGLECT HEARINGS

How often do you provide required court reports to parties at least 3 business days prior to hearings?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

When court reports are not provided to parties at least 3 business days prior to hearings, what are the barriers? (choose all that apply)

- excessive caseload
- lack of information from service providers
- lack of clerical support
- difficulties with CAPS
- lack of previous court order
- newly assigned case
- other (please list on last page)

How often do you provide information to the court concerning the following, if applicable?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. child's health and safety	<input type="checkbox"/>				
b. Services for the child	<input type="checkbox"/>				
c. child's education	<input type="checkbox"/>				
d. Appropriateness of child's placement	<input type="checkbox"/>				
e. Parent visitation	<input type="checkbox"/>				
f. Sibling visitation	<input type="checkbox"/>				
g. Parents' involvement in case planning	<input type="checkbox"/>				
h. Appropriateness of case plan and progress	<input type="checkbox"/>				
i. Independent living services for all youth 14 and over (regardless of permanency plan)	<input type="checkbox"/>				
j. Services for the parent(s)	<input type="checkbox"/>				
k. Compliance with previous court orders and case plan	<input type="checkbox"/>				
l. Concurrent planning	<input type="checkbox"/>				
m. Foster parents' input about case	<input type="checkbox"/>				

When the court orders a child to be returned home, how often does it . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. hold a hearing immediately prior to the child returning home?	<input type="checkbox"/>				
b. specify phased-in extended visits (overnight, weekend, week) as a transition before the child is returned home on a permanent basis?	<input type="checkbox"/>				
c. hear testimony or receive reports regarding the success of the extended visits?	<input type="checkbox"/>				
d. specify a timetable for the child to return home?	<input type="checkbox"/>				
e. specify continued monitoring for a specified period of time after the child returning home to ensure the safety of the child?	<input type="checkbox"/>				

f. allow CFS to return the child contingent upon certain conditions being met?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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GENERAL

How often . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. does the judge issue orders concerning specific services to be provided for the child and/or family?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. does the judge issue orders concerning visitation for parents or guardians in cases where an out-of-home placement has been ordered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. does the judge issue orders concerning visitation for siblings when they are separated?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. is there a delay in the permanent placement of a child because services are not available?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. is there a delay in the adoption of a child because services are not available?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. is there a delay in the adoption of a child because of a lack of appropriate adoptive families?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For those cases in which permanency has not been achieved within 12 months, please identify how much of a factor the following items have been in delaying permanency:

	Significant factor	Minor factor	No factor	N/A
a. ICPC placement and services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Concurrent planning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Appropriate placement for child	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Mental health assessment &/or treatment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Substance abuse assessment &/or treatment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Economic &/or employment assistance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appropriate independent living program	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Appropriate visitation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Domestic violence assessment &/or treatment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Child adjudicated delinquent	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. All parents not notified, (including putative fathers)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I. Relative placements not pursued	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Court delays	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please identify how much of a factor the following items are in delaying permanency following a termination of parental rights.

	Significant factor	Minor factor	No factor	N/A
a. Adoption study not completed on prospective family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Adoption summary not completed on child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child-specific adoption recruitment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Child does not wish to be adopted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Court delays	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Lack of appropriate adoptive families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

In approximately what proportion of your cases do you inquire whether or not a child coming before the court may be Native American?

- Less than 10%
- 11%-33%
- 34%-50%
- 51%-75%
- 76%-99%
- All

How often do you provide information to the court about whether a child coming before the court may have Native American heritage?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

What percentage of your child abuse and neglect cases involve families from Native American heritage?

- 0%
- 1% - 2%
- 3% - 5%
- 6% - 9%
- >10%

How often do the following individuals participate in developing the parents' treatment plan?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not applicable
a. Parents	<input type="checkbox"/>					
b. Parents' attorney(s)	<input type="checkbox"/>					
c. Child (if age appropriate)	<input type="checkbox"/>					
d. Foster parents	<input type="checkbox"/>					
e. Guardian ad Litem	<input type="checkbox"/>					
f. CASA volunteer (when appointed)	<input type="checkbox"/>					
g. CFS attorney	<input type="checkbox"/>					
h. Other relatives	<input type="checkbox"/>					
i. Additional stakeholders (e.g. therapist, juvenile officer, school representatives . . .)	<input type="checkbox"/>					

How often are the following items specifically addressed in the parents' treatment plan presented to the court?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. specific reasons the child was removed from the home	<input type="checkbox"/>				
b. services to be provided to the family and child	<input type="checkbox"/>				
c. reasonable accommodations made to the parents in accordance with the Americans with Disabilities Act (ADA)	<input type="checkbox"/>				
d. name(s)/involvement of putative fathers	<input type="checkbox"/>				
e. permanency goal	<input type="checkbox"/>				
f. concurrent plan	<input type="checkbox"/>				
g. visitation schedule	<input type="checkbox"/>				
h. type and appropriateness of out-of-home placement	<input type="checkbox"/>				
i. plan for addressing the needs of the child	<input type="checkbox"/>				

j. specific actions to be taken by the parent(s) to eliminate or correct the identified problems or conditions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. health and education records of the child	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
l. location of siblings and visitation, if applicable	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
m. independent living programs and services for children age 14 and older	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
n. written notice to the parent(s) that failure to comply substantially with the treatment plan may result in the termination of parental rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REPRESENTATION

PARENTS

On your cases, how often does the same attorney represent the parent at all the stages of the case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are parents' attorneys prepared to represent their clients at the following hearings? If attorneys weren't assigned to the parents at the time of the hearing, please indicate "Not assigned".

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Adjudication/Disposition	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. No Reunification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Permanency	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Termination of Parental Rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CHILD REPRESENTATION: ATTORNEY GUARDIANS AD LITEM:

How often does the same attorney GAL represent the child at all the stages of the abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

If there is a conflict of interest, how often is each child represented by both a GAL and an attorney?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

Based on court performances, how often are attorney Guardians ad Litem prepared to represent their clients at the following hearings? If an attorney GAL wasn't assigned to the child at the time of the hearing, please indicate "Not assigned".

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. Show Cause	<input type="checkbox"/>					
b. Adjudication/Disposition	<input type="checkbox"/>					
c. No Reunification	<input type="checkbox"/>					
d. Review	<input type="checkbox"/>					
e. Permanency	<input type="checkbox"/>					
f. Termination of Parental Rights	<input type="checkbox"/>					

Please estimate how often the guardian ad litem does the following in advance preparation for hearings.

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. meets the child	<input type="checkbox"/>				
b. participates in case staffings	<input type="checkbox"/>				
c. prepares a report to the court	<input type="checkbox"/>				
d. interviews the caseworker before the day of the hearing	<input type="checkbox"/>				

How often do you have contact with the child's attorney guardian ad litem?

- Never
- Less than monthly
- Monthly
- Twice a month
- Weekly
- More than weekly
- Monthly

CASA (Court Appointed Special Advocate)

How often do you know who the CASA volunteer is on your assigned cases?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)
- Not assigned

Please estimate how often the CASA volunteer does the following in advance preparation for hearings.

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)	Not assigned
a. meets the child	<input type="checkbox"/>					
b. participates in case staffings	<input type="checkbox"/>					
c. prepares a report to the court	<input type="checkbox"/>					
d. interviews the caseworker before the day of the hearing	<input type="checkbox"/>					

How often do you have contact with the child's CASA volunteer?

- Never
- Less than monthly
- Monthly
- Twice a month
- Weekly
- More than weekly

How often does the same CASA volunteer remain on the case during the entire case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)
- Not assigned

CFS ATTORNEY

How often does the same CFS attorney represent CFS/the State at all the different stages of the same abuse and neglect case?

- Never(0%)
- Occasionally(1%-33%)
- Often(34%-66%)
- Usually(67%-99%)
- Always(100%)

How often is the CFS attorney present at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Show Cause	<input type="checkbox"/>				
b. Adjudication/Disposition	<input type="checkbox"/>				
c. No Reunification	<input type="checkbox"/>				
d. Review	<input type="checkbox"/>				
e. Permanency	<input type="checkbox"/>				
f. Termination of Parental Rights	<input type="checkbox"/>				
g. Post TPR Review	<input type="checkbox"/>				

Based on court performances, how often are the CFS attorneys prepared to represent the State at the following hearings?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Emergency	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Show cause	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. Adjudication/ Disposition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. No Reunification	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Review	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. Permanency	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g. Termination of Parental Rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h. Post TPR Review	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please review your responses to make sure that you have completed all questions. If you would like to make any additional comments or suggestions on how the court can improve its handling of abuse and neglect cases, or to clarify answers to any of the questions, please do so in the space below. It would also be helpful but not mandatory to know in which judicial district you practice/reside.

Thank you for taking the time to complete this questionnaire. And thank you for all you do for Montana’s children and families.

STATE COURT REASSESSMENT SURVEY

This questionnaire is an important part of a federally mandated statewide reassessment of how the court system handles abuse and neglect cases under Title 41, MCA. Your answers to these questions will help the Montana Supreme Court's Court Assessment Program evaluate how our state addresses the needs of abused and neglected children. We appreciate your efforts to provide the most accurate answers possible. We know that your time is valuable, but your responses are too. Please answer all questions. If no answer seems perfect, choose the one that best reflects what occurs in the court in which you have the majority of your cases. You may provide an explanation or comment about any of your answers on the last page of this questionnaire. Please complete the survey by **August 10, 2005**. All answers are confidential. This survey system does not have the capability to match surveys with email addresses. However, it will track who has submitted completed surveys. Because of the importance of this survey, a reminder will be sent to those who have not completed their surveys within two weeks.

I am currently a:

- CASA Volunteer
- Judge/Special Master
- Attorney
- CFS Caseworker
- Foster Parent

Please indicate how long you have been a foster parent:

- Less than 1 year
- 1-3 years
- 3-5 years
- Over 5 years

Do you feel that your initial foster parent training (Keeping Children Safe) adequately prepared you for being a foster parent?

- Yes No

How many foster children do you have in your home at this time?

- | | | |
|-------------------------------|----------------------------|-----------------------------|
| <input type="checkbox"/> None | <input type="checkbox"/> 4 | <input type="checkbox"/> 8 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 5 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 6 | <input type="checkbox"/> 10 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 7 | |

How many foster children have you had in your home in the last year?

<input type="radio"/> None	<input type="radio"/> 4	<input type="radio"/> 8
<input type="radio"/> 1	<input type="radio"/> 5	<input type="radio"/> 9
<input type="radio"/> 2	<input type="radio"/> 6	<input type="radio"/> 10
<input type="radio"/> 3	<input type="radio"/> 7	

Have you received any training which prepared you for court?

Yes No Not Sure

Do you understand the purpose of the following hearings that occur in child abuse and neglect cases?

	Not at all	Somewhat	Very well
Show Cause Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adjudication/Disposition Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No Reunification Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Review Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Permanency Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Termination of Parental Rights Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Post Termination Hearing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please rate the amount of time allotted to hearings.

	Need more time	Adequate time allotted	Need less time
Emergency hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Show cause hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adjudicatory/dispositional hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Review hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Permanency hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Termination of parental rights hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Post termination review hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

How often . . .

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. are you included in the development of your foster child's case plan?	<input type="checkbox"/>				
b. do you receive a copy of the case plan for your foster child?	<input type="checkbox"/>				
c. do you receive timely notice of court hearings?	<input type="checkbox"/>				
d. do you receive timely notice when the date or time of a court hearing has been changed?	<input type="checkbox"/>				
e. do you attend court hearings?	<input type="checkbox"/>				
f. do you have the opportunity to make comments at court hearings?	<input type="checkbox"/>				
g. do you receive a copy of the court orders concerning your foster child?	<input type="checkbox"/>				
h. do you know what services have been ordered by the court for your foster child?	<input type="checkbox"/>				
i. do you feel that the court has sufficient information to make a good decision about the services for your foster child and his/her family?	<input type="checkbox"/>				
j. do you feel that the services ordered are appropriate for your foster child?	<input type="checkbox"/>				
k. do you feel that CFS provides the services ordered by the court to your foster child?	<input type="checkbox"/>				

Does someone prepare your foster child for court hearings?

- Not applicable because of child's age
- Yes
- No

Who most often prepares your foster child for hearings? (choose all that apply)

- Foster parents
- Caseworker
- Guardian ad Litem
- CASA volunteer
- Therapist
- No one

How often does the CFS caseworker provide you with the following information on a foster child prior to the placement of that child in your home?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Name	<input type="checkbox"/>				
b. Age	<input type="checkbox"/>				
c. Medical information, including prescriptions	<input type="checkbox"/>				
d. Medicaid card	<input type="checkbox"/>				
e. Mental health evaluation	<input type="checkbox"/>				
f. Educational information	<input type="checkbox"/>				
g. Special needs	<input type="checkbox"/>				
h. Reason child brought into care	<input type="checkbox"/>				
i. Expected length of time of care	<input type="checkbox"/>				
j. Prior placements	<input type="checkbox"/>				
k. Reason for disruption(s), if applicable	<input type="checkbox"/>				
l. Behavioral problems, including running away, inappropriate sexual behavior or self harm	<input type="checkbox"/>				
m. Siblings	<input type="checkbox"/>				
n. Case goal	<input type="checkbox"/>				
o. Visitation plan	<input type="checkbox"/>				
p. Date of next court hearing	<input type="checkbox"/>				
q. Any pending appointments	<input type="checkbox"/>				
r. Delinquency	<input type="checkbox"/>				
s. Name of primary caseworker	<input type="checkbox"/>				

Referring to the last question, how often does the CFS caseworker provide the information within 3 months of a placement?

	Never (0%)	Occasionally (1%-33%)	Often (34%-66%)	Usually (67%-99%)	Always (100%)
a. Name	<input type="checkbox"/>				
b. Age	<input type="checkbox"/>				
c. Medical information, including prescriptions	<input type="checkbox"/>				
d. Medicaid card	<input type="checkbox"/>				
e. Mental health information	<input type="checkbox"/>				
f. Educational information	<input type="checkbox"/>				
g. Special needs	<input type="checkbox"/>				
h. Reason child brought into care	<input type="checkbox"/>				
i. Expected length of time of care	<input type="checkbox"/>				
j. Prior placements	<input type="checkbox"/>				
k. Reason for disruptions(s), if applicable	<input type="checkbox"/>				
l. Behavioral problems, including running away, inappropriate sexual behavior or self harm	<input type="checkbox"/>				
m. Siblings	<input type="checkbox"/>				
n. Case goal	<input type="checkbox"/>				
o. Visitation plan	<input type="checkbox"/>				
p. Date of next court hearing	<input type="checkbox"/>				
q. Any pending appointments	<input type="checkbox"/>				
r. Delinquency	<input type="checkbox"/>				
s. Name of primary caseworker	<input type="checkbox"/>				

After the foster child is placed into your home, how often do the following visit/contact the child?

	Never	Less than every 3 months	Every 1-3 months	Monthly	Twice a month	Weekly	More than weekly
CASA volunteer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorney Guardian ad Litem	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
CFS Caseworker	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please review your responses to make sure that you have completed all questions. If you would like to make any additional comments or suggestions on how the court can improve its handling of abuse and neglect cases, or to clarify answers to any of the questions, please do so in the space below. It would also be helpful but not mandatory to know in which judicial district you practice/reside.

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