

Pre-Hearing Conference Facilitator Training Manual 2023

John L. Guinn

Special Projects Coordinator

University of Montana

Center for Children, Families and Workforce Development

Table of Contents

Pre-Hearing Conference (PHC) Facilitator Training Manual

The Development of the PHCs in Montana	3
The PHC Approach	5
PHC Language	8
PHC Facilitator Notes	14
Remote Video PHC's.....	20
DN Case Process and Timing	23
Court Proceedings Chart	27
Tips for Facilitators	28
Final Thoughts	35

THE DEVELOPMENT OF THE PRE-HEARING CONFERENCES IN MONTANA

PHC Basics

Pre-hearing conferences (PHC) are often the parties' first opportunity to discuss critical topics. The purpose of a PHC is to establish trust between the parties and begin meaningful discussions. PHC facilitators need to remain calm, objective, and ensure the parties are respectful of each other while promoting an open and neutral environment. Facilitators provide structure to the discussions by focusing on the critical topics of **placement of the children, family time, services for the family, and conditions of return**. PHCs help the parties determine whether the children can return home immediately and, if not, where the children will live and what conditions need to be met before the children can return home safely and as soon as possible.

PHCs are a conversation about these essential topics designed to develop a plan to reunite the family. At the time of a PHC, every party's goal is to work towards family reunification in all but the most severe cases. Thus, it is an excellent time to build a team to create a plan. Ideally, productive discussions will continue and evolve throughout a DN case based on the groundwork established during a PHC.

Pre-Hearing Conference (PHC) Pilot Courts

PHCs in Montana began over ten years ago with a Yellowstone County PHC pilot court project in the courtroom of the Honorable Judge Ingrid Gustafson. Judge Gustafson has since become a Justice on the Montana Supreme Court. PHCs quickly spread to the other courtrooms in Yellowstone County.

Beginning in 2015, the project grew through Court Improvement Program (CIP) funding and assistance to include Flathead, Gallatin, Lewis & Clark, Park, Butte-Silver Bow, and Cascade counties. Most recently, the pilot project expanded to the Fifth and Seventh judicial districts. Similar conferences called "Intervention Conferences" have been held in Missoula County for many years.

The PHC pilot court project sought to improve the outcomes and timelines for child dependent neglect (DN) cases. These goals were reached through a collaborative team approach involving PHC facilitators, child protection specialists (CPS) from the Child and Family Services Division (CFSD), attorneys from the County Attorney's or Attorney General's Offices, guardians ad litem (GALs), court appointed special advocates (CASA), tribal representatives, attorneys for parents and children, and perhaps most importantly, the parents.

PHCs during the pilot court project were set before the first court appearance. At that time, show cause hearings were usually the first court appearances. Show cause hearings were held within 20 days of the filing of the initial petition and affidavit. Thus, PHCs were generally set about 20 days after a DN case was filed with a District Court or about 27 days after a child's removal.

Beginning in 2020, some courtrooms in Yellowstone and Flathead counties began piloting earlier initial hearings called Emergency Protective Services (EPS) hearings within five (5) business days of the children's removal. In those pilot courts only, PHCs were held shortly before the EPS hearings.

Taking PHCs Statewide

In 2021, a study of the PHC pilot court project was completed by Dr. Alicia Summers of the Capacity Building Center for Courts based on data from Gallatin, Flathead, and Lewis and Clark counties. These jurisdictions were the original expansion counties for the PHC pilot project beginning in 2015. Data was collected from DN cases filed between 2014 and 2018. Case outcomes were compared from before the pilot project, when no PHCs were held, to later DN cases in which PHCs were held during the pilot project. The study found that a significantly larger number of children were returned to a parent or parents when a PHC was held. There was a 9% higher reunification rate during the pilot project. The study also revealed that DN cases took significantly less time to resolve during the pilot project, almost two months less, to reach permanency when a PHC was held. Thus, it was shown that PHCs were attaining the goals of improved outcomes and timelier resolutions.

Between the 2021 and 2023 legislative sessions, interim legislative committees and workgroups focused on issues concerning DN cases and child welfare in Montana. In an effort to improve the process, the Legislature passed House Bill 16 (HB 16) during the 2023 legislative session. The Governor later signed the bill, which became law on July 1, 2023. Due in part to the success of the PHC pilot project, the new law makes PHCs available to all parents with a DN case in Montana, thus ending the pilot court portion of PHCs in Montana and making them a regular part of all DN cases.

As part of HB 16, EPS hearings are now required within five (5) business days of a child's removal. Under the new law, a PHC should be made available to the parents within five (5) days of removal and before the EPS hearings. This setting is much earlier than PHCs were typically held during the pilot court era. The earlier timing of PHCs and the addition of EPS hearings to the regular DN case process are recent and significant changes in Montana law.

The following materials are designed to assist PHC facilitators in developing an ongoing procedure for PHCs in their jurisdiction based on historical PHC practices and considering the structure and purpose of the new laws.

THE PRE-HEARING CONFERENCE (PHC) APPROACH

The PHC approach seeks to minimize adverse impacts when children are removed from their homes while also developing a plan to reunify the family safely. The following section outlines the purpose, process, participants, and goals for PHCs.

1. Purpose

The purpose of a PHC is to discuss crucial topics early in the case before an Emergency Protective Services (EPS) hearing. PHCs seek to establish trust between the parties by fostering open discussions. A PHC facilitator moderates a PHC to ensure all parties have equal footing and can speak openly and honestly.

The primary topics that will be discussed during PHCs are:

- **Placement of the children**
- **Family time between children, parents, and extended family/kin**
- **Services for the family, including safety and case planning**
- **Conditions of return for the children to go home (immediately, soon, or later in the DN case)**

2. Process

PHCs are not court hearings. They should not look, sound, or feel like one.

Timing

As a result of the 2023 legislation, PHCs should be set within five (5) days of a child's removal and before an EPS hearing. EPS hearings are held within five (5) business days of removal. PHCs should be 30-45 minutes long, but can use more time if available. Some PHCs are shorter, but this is not ideal.

Location

PHCs are now mostly held remotely by video. However, some former pilot court jurisdictions have in-person PHCs in an available jury or conference room at a District Court. Unoccupied courtrooms may also be used. In-person PHCs are held at the courthouse instead of the Child and Family Services Division's (CFSD) offices to emphasize neutrality.

Information Sharing

The judge does not participate in the PHC. However, we hope that attorneys will briefly report some PHC discussions to the Court. A party can request that all or part of the PHC discussions not be shared with the judge, since PHCs could be considered settlement discussions. However, information from the PHC can provide the Court with better insight into the case, allowing for more productive hearings.

Introductions

At the beginning of a PHC, the facilitator introduces themselves and thanks the parents for participating since they are crucial to the process. The facilitator explains that they are not a party to the case and do not represent any party. They are neutral, objective, and work for the court system. The facilitator then asks each person to introduce themselves and state their role. If there are questions about the role of one of the participants during introductions (e.g., CASA, GAL, tribal representative, etc.), they are encouraged to explain their role.

The participants either sign an attendance sheet if the PHC is in-person or the facilitator takes attendance if the PHC is remote. A parent's signature or attendance does not reflect an agreement to all or part of the PHC discussions.

The facilitator discusses the purpose of the PHC and the key topics that will be addressed during the PHC: placement, family time, services, and what needs to happen for the children to return home. They ensure parents and other participants understand what will happen during the PHC.

The participants are asked to be respectful of each other. Only one person should speak at a time. This provides an opportunity for all to listen and also be heard.

The facilitator explains to the parties that they will later appear before a judge for an EPS hearing and potentially other hearings. The participants are informed that facilitators do not appear in court and cannot give legal advice to anyone present. If the parties have a legal question, they are directed to their attorney for an explanation.

Discussions

The facilitator asks initial questions about the CPS, ICWA, and the presence or absence of parties, attorneys, and parents. The children and their status, strengths, and needs are addressed, usually followed by discussions concerning the parents. Conversations concerning parents include whether paternity has been established, parental strengths, support networks for the family, and potential services designed for the children's safe return home. The placement of the children is discussed with a particular emphasis on whether they can go home now or be placed with relatives or kin. Family time is also discussed, focusing on creating a workable plan and reducing or eliminating the need for supervised visitation when appropriate. PHCs conclude with a summary of the conditions of return and planning for the upcoming court hearings.

Conditions of Return

The term "conditions of return" is generally not used since it may be confusing to the parents and other participants. Instead, facilitators typically ask what needs to happen for the children to return home.

Given that the primary purpose of EPS hearings is for the Court to determine whether the children's removal will continue beyond those hearings, PHC discussions regarding

conditions of return should begin with questions about whether the children can return home immediately or if any conditions could be put in place for them to return home quickly. In some PHCs, these discussions may begin immediately following the introductions, not towards the end of a PHC. If the children cannot return home soon, then the facilitator will delve into questions about the conditions that are needed for the children to safely return home later. These discussions will also likely be part of the conversation concerning services for the family.

3. Participants

A team of people is encouraged to attend and collaborate during a PHC. If possible, all relevant players should be present. Support persons for the parents and extended family are encouraged to attend. These individuals can assist with the reunification process. Hopefully, they will continue supporting the family after a case is dismissed.

However, a party may ask that a non-party participant not be allowed in the PHC. If that request is made, you must respect that party's decision. Non-party friends, family, or treatment providers can provide support and valuable insights. However, they can sometimes be disruptive and inappropriate.

The following individuals are encouraged to participate in PHCs actively:

- **Parents, guardians, or Indian custodians**
- **Child Protection Specialists (CPS)**
- **Attorneys for the state, parents, and children**
- **Court Appointed Special Advocates (CASA)**
- **Guardians Ad Litem (GALs)**
- **Family members and friends (if permitted by parties)**
- **Service providers (if permitted by parties)**
- **Foster parents (sometimes referred to as resource parents)**
- **Children (if developmentally appropriate)**

4. Goals

PHCs seek to establish trust between the parties and encourage them to talk about how the children may safely return home. The goals for PHCs are to engage the parties in the process, increase the reunification rate of families, and decrease the time it takes to reach permanency in the DN case. PHCs create an environment where the parties can speak openly and honestly about the children's best interests, safety issues, and potential remedies for those issues. Ideally, the parties move from an adversarial position towards a collaborative process.

PRE-HEARING CONFERENCE (PHC) LANGUAGE

The following PHC script is an overly extensive example of how a PHC might be conducted by a facilitator. Your time will be limited, so it is unrealistic to expect you could get to all the questions below. That said, this script provides ideas for addressing each critical topic. Every DN case is unique and has its own theme, even when there are similarities in the fact patterns. Focus on those themes as they become apparent during a PHC. This script is merely a guide to questions that could be discussed. You will gradually develop your own style and questions based on your experience and jurisdiction.

Good morning and welcome to _____ for a pre-hearing conference in the matter of _____.

I am _____, and I will be facilitating this pre-hearing conference.

I am not the social worker, child protective specialist (CPS), or a party to this case. I am a neutral and objective facilitator for this pre-hearing conference. I do not represent you, Child and Family Services Division (CFSD), or any other party. I am employed by the courts to facilitate pre-hearing conferences. I cannot provide legal advice to anyone here. If you have a legal question about court proceedings, I encourage you to take the time to speak with your attorney about the process and timeline. It is essential to discuss the timeline with your attorney, as there are time limitations that the Court must enforce. If you need to take a break to speak with your attorney at any point, please ask, and we will provide an opportunity for you to do so in private. When we are finished with this pre-hearing conference, you will have an emergency protective services hearing before Judge _____ at _____ on _____.

I would like to welcome _____ and _____, the parents of the children _____, to this pre-hearing conference. Thank you for being here today for some important discussions about your family. We will try to design a plan where your children will hopefully be able to return home safely. We appreciate your participation in these discussions and look forward to hearing from you. The judge will also appreciate you appearing at all court hearings.

While I encourage everyone to be open and honest today, there are a few ground rules for this pre-hearing conference:

- Please focus on the “best interest of the children.”
- Please be courteous, respectful, and listen to everyone. This pre-hearing conference is not a time to point fingers and make inappropriate comments. That will not get us closer to reunifying this family. It is a time for open and frank discussions. We will begin working together as a team in the hopes of reunifying your family in a healthy and safe home.
- Please allow one person to speak at a time and let them finish their thought without interruption so we can all hear. You should expect the same from others.

I realize this process may be new to some of you, so let me briefly explain the purpose of today's pre-hearing conference.

We are here primarily to discuss **four key topics** concerning the family:

- Where are the children currently placed and are there better options for **placement**? *[For instance, could they return home?]*
- What is the plan for **family time** and visitation? Are there potential options to increase family time while maintaining safety?
- What **services** or tasks are needed for the family to reunify in a safe and healthy home? Let's try to prioritize, so we have a workable plan moving forward.
- Can the children safely **return home**? If not, what must occur before they can? *[As facilitators, we try to avoid the term Conditions of Return because parents may not understand the term. Also, the CPS may become concerned they will be held to only those conditions they bring up during the PHC.]*

Our **goals** during the pre-hearing conference will be to:

- Reach agreements as a team whenever possible regarding placement, family time, and services for the family.
- When we cannot agree, respect each other's positions and explain your position in an understandable way to the other parties.

Beginning on my right, please introduce yourself and provide your relationship to the children or the case. Examples – Are you a parent, a lawyer for the mother, intake CPS, etc.? I will pass around an attendance sheet *[or take attendance if it is a remote PHC]* so we know who is here today. If you sign the attendance sheet *[or attend a remote video pre-hearing conference]*, it does not mean you agree with everything or anything said today, just that you were here for the discussions. However, our goal is to reach some areas of agreement today.

Please remember these proceedings are generally confidential. This means you should not share the facts or nature of these discussions with persons not parties to this case, service providers, your attorneys, or the judge.

Are there any questions before we begin?

During this pre-hearing conference, I will be taking notes. Attorneys may request a copy of my notes. *[It has become unusual for attorneys to ask for the PHC facilitator's notes.]* I will not provide a copy to the judge. However, parties may choose to share information from this pre-hearing conference with the judge at your upcoming court hearings.

Initial Questions *[These are mainly for attorneys and CPS. If an attorney has not met with their client, give them a few minutes to do so before the PHC.]*

- Child Protection Specialists – Who is the intake CPS? Will they continue with the case, or will there be an ongoing CPS? Are both the intake and ongoing CPS here today? If not, have they discussed plans for the case with each other? Will they be discussing the plans from today’s pre-hearing conference later?
- Parents and parties – Are all parents/guardians/Indian custodians here today? *[If they are absent]* Do we know who they are and where they live? *[If not]* Does anyone have any information to help identify and locate them? *[If they know about the PHC]* Does anyone know why they are not here today? Are any other parties missing today? *[If yes]* Does anyone know why they are not here? Can we reach missing parents or parties by phone or video?
- Indian Child Welfare Act (ICWA) - Is this an ICWA case? *[Have the term ICWA explained to the parents if they do not know about ICWA.]* Is it unclear whether ICWA applies and could some discussion today help resolve the issue? What Tribe(s), if any, is/are involved? Have they been notified about the case and today’s pre-hearing conference? Have the children been enrolled in a tribe? Are the parents tribal members? *[Ask the parents]* Do you have any Native American ancestry? What needs to be done to clarify ICWA status? Who will be responsible for making sure that gets done?

Children’s Update

- Has paternity been established for all of the children? *[If yes]* How was it established? *[If not]* What needs to be done? Who is going to get that done? How long is that going to take?
- How are the children doing? *[Ask the parents, CPS, foster or resource parents, and any treatment providers to update everyone on how the children are doing. Try to get everyone’s input, starting with the parents if they have had contact with the children.]*
- What are the strengths of the children? How do they express those strengths? How do those strengths help the children in their day-to-day lives?
- Are the children enrolled in school? *[assuming they are school-aged]* Was there a change in schools? *[If yes]* How did that go? How are they doing in school? Do the children have special needs in school? Who will be responsible for following through with the children’s educational needs and any special needs?
- Have the children had any assessments? *[If yes]* What are the results of those assessments? Are they already engaged in any services? Do the children need any other services? *[If yes]* What is being done to set up those services? Can the parents participate in those services? *[If not]* Can the parents be kept aware of how the children are doing with services on an ongoing basis? How will that occur?
- *[Ask everyone]* Are there any immediate concerns about the children? Do the children have any special needs? *[Special needs go beyond the diagnostic term.]* Is there something or someone special the children need or want? Do they have medical or dental needs? *[If yes]* What has been done, and what can be done about those concerns or special needs? How will the children’s needs be met?

Parents’ Status and Case Planning

- Are there any related cases? *[criminal, domestic relations, orders of protection, other DN cases, etc.]* *[If yes]* What type of cases? Where are those cases now? Do you know the case numbers or can you get those case numbers to the other parties later? Are those cases currently pending? *[If yes]* Are there upcoming hearings scheduled?
- What are the strengths of the parents? How do they express those strengths? How do those strengths help the parents in their day-to-day lives? How do those strengths help them raise their children?
- Who are the parents' support persons and/or extended family they would like involved in this case? Are they here today? How can they help support the parents and this family? How can we make sure they are involved?
- *[Ask the parents first]* What services or tasks do you believe could help you to parent? Have you begun any services at this point? *[If yes]* How is that going? Have you discussed other services or tasks with the CPS? Which services have you agreed to begin? What has been done to set those services up?
- *[Ask the CPS]* Have you discussed possible services with the parents? *[If yes]* What have you discussed? Have the parents engaged in any of those services? *[If yes]* How is that going? What services or tasks need to occur before you believe the children can be returned home safely? *[This is a question regarding "Conditions of Return," intentionally designed without using that term.]*
- *[Prioritize]* What services do you believe the parents should be addressing right now? Have the parents agreed to any of the services already? What services do you think the parents will need to engage in as the case progresses? Which are the highest priorities? How can we get those services in place right now?
- *[Ask the parents]* Do you agree with the services proposed by the CPS? *[If not]* Do you agree with some of them? Which ones do you agree to begin?
- *[Ask the parents]* What barriers, if any, could prevent you from completing these services and tasks *[your schedule, transportation, housing, lack of a phone, income, etc.]*?
- *[Summarize and clarify any agreements or disagreements regarding services. If anything needs to be done, summarize what needs to be done and who will do it. Give everyone a chance to comment on these subjects.]*
- *[Ask the CPS]* Can you think of anything else you might ask the parents to do? *[This gives the parents fair warning that other services may be required and provides for some discussion about that possibility.]*

Placement

- *[Ask the CPS]* With whom are the children currently placed? Why are they placed there? Is it a good placement?
- *[Ask the parents if children are not home or transitioning home]* Have you met the foster or resource parents? Do you think the current placement is safe? Are you comfortable with the current placement? Do you think the current placement is the best option at this time? Do you think the children could return home safely now?

- *[If a non-custodial/non-offending parent is available, ask that parent] Do you want your children placed with you? [If yes, ask the CPS] Is that possible at this time? [If not] Why not? [Be prepared for the other parent to become upset by these discussions.] What needs to occur before the children can be placed with the non-offending parent? [Use their name.] [Ask the non-offending parent] Are you willing to do those things?*
- *[If the children are not at home, transitioning home, or with a relative, ask the CPS] Have any relatives or kin been identified as potential placement options? [Have the CPS or an attorney explain the meaning of kin beyond blood relatives.] [If yes] Where are we in the process of working with relatives or kin as potential placement options? What still needs to be done? [If the children are not with a relative or kin, ask the parents] Would you like the CPS to look at any of your relatives or kin as potential placement options for your children? Can you provide the names and contact information of those relatives or kin so the CPS can contact them?*
- *[Summarize and clarify any agreements or disagreements regarding placement. If anything needs to be done, summarize what needs to be done and who will do it. Give everyone a chance to comment on these subjects.]*

Family Time

- *[Ask the CPS] Have the parents spent time with their children? [If yes] Where and how often? What is the current plan for family time, if any? How is the current plan working out? What can we do to improve the plan for family time?*
- *[Ask the parents] Are you in agreement with the current plan for family time? [If not] What would you like to change?*
- *[If the parents want more family time, less supervision, or community-based time, ask the CPS] Are there options to increase family time? What are the plans for family time moving forward? Does family time need to be supervised at this point for safety reasons? [In other words, are there really safety issues concerning visitation requiring supervised visits?] [If yes] What are the barriers to less restrictive family time? What can be done to alleviate those safety concerns? Can a friend or relative without criminal or child protection issues assist with family time?*
- *Can the parents have additional contact with the children by telephone or online? [If yes] What would the plan be for those contacts? Can the parents attend the children's appointments and other activities? [Sporting events, school or club activities, performances, medical or dental appointments, etc.]*
- *[Ask the CPS] What is the plan for extended family contact? [If the children are not placed together] What is the plan for sibling contact?*
- *[Summarize and clarify any agreements or disagreements regarding family time. If anything needs to be done, summarize what needs to be done and who will do it. Give everyone a chance to comment on these subjects.]*

Conditions of Return

- *[Ask the CPS] **Can the children safely return home now?** [This question is especially important since the 2023 passage of HB 16, which requires the District Court to decide during the EPS*

hearing whether the child's removal will continue beyond that hearing date]. Thus, we need to discuss this critical question before the EPS hearing. **In some cases, consider addressing this question at the beginning of a PHC following introductions or at the beginning of placement discussions.** In cases where it appears possible for the children to return home immediately or soon, this could be the theme of a PHC.] [If yes] How will that occur? [If not] Can conditions be put in place so the children could return home soon? [Could one parent or person leave the home? Could the parent or parents move in with someone else or have someone else move into their home for safety purposes? Are there other options? This is a time to think outside the box.] [If not] What needs to be accomplished so the children can return home? Do those services or tasks need to be completed before the children can be transitioned home? [The answer should be no. Children generally transition home while the parents continue to work on tasks.] If the children are returned home, would the parents need to continue to work on services while the case is open? What would need to happen for you [the CPS] to feel comfortable asking the County Attorney or Attorney General to dismiss this case with the children at home? [Thus, Conditions of Return are discussed without actually using that term.]

Preparing for Court

- Are you [all parties] ready to proceed to an emergency protective services hearing? If not, why not? Is anyone planning to contest the emergency protective services hearing? Is anyone planning to contest the show cause hearing? What are the plans for these hearings? [If no one is planning to contest the emergency protective services or show cause hearing] What are your [All parties'] positions on adjudication and disposition? Do you plan to contest those hearings? Are any family engagement meetings scheduled at this point? [Family engagement meetings are an excellent opportunity to continue PHC discussions.] [If not] Would it be a good idea to schedule one to continue the conversations begun today? [Of course it would.] Do you [All parties] believe status or review hearings would be a good idea for this case to continue these discussions? [Of course they would. Status or review hearings are an excellent opportunity to ensure these types of discussions continue in court throughout a DN case.]

[Review the basic plan as agreed to by the parties by going over your PHC facilitator notes with them. Address areas where there has not been agreement and encourage continuing discussions concerning those topics. Ask the attorneys whether there is anything else they would like to address. Ask everyone if they have any questions or concerns they would like to discuss. If they have questions or concerns, discuss those subjects if appropriate.]

PRE-HEARING CONFERENCE (PHC) FACILITATOR NOTES

The following five pages are draft PHC facilitator notes used by facilitators to stay on track during an actual PHC. They are designed to remind you about the areas of discussion that should be addressed.

It's a good idea to take brief notes during the PHC to ensure you cover the relevant subjects. Review your initial notes for accuracy at the end of a PHC. If attorneys want a copy, create a final draft for them later and provide those finalized notes to all attorneys. Requests for copies of the facilitator notes have become rare.

This draft form is intended to remind you which areas have been discussed and which areas still need to be addressed. The order of topics may change based on your experience and preference. For instance, in some cases, you may want to discuss whether the children can go home after introductions or at the beginning of placement discussions. Since a potential early return home is the focus of EPS hearings that closely follow PHCs, you must now address this question in all PHCs.

You'll often need to skip ahead and retrace your steps when information comes out early in the PHC conversation. These notes are merely a guide that can help structure your PHCs. There are bullet points at the beginning to remind even experienced facilitators about important introductory matters. The final page is an attendance sheet passed around at the beginning of an in-person PHC. Everyone present should print their name, sign the attendance sheet, and provide their role. During a remote video PHC, you will need to take attendance and note each person's role.

These draft notes have evolved to reflect input from experienced facilitators and stakeholders. Currently, there is a particular emphasis on safety and conditions of return. This includes finding out whether the children can return home at the time of the PHC. The strengths of children and families are formally addressed. Barriers to completing services are discussed to make sure the plan is workable. Services were moved to the section concerning parents for a more holistic approach. There are now discussions regarding parents' support network and contact between children and extended family. We believe the newer version has improved the flow and content of PHCs.

- Are assessments or screenings needed? Y N

- Are there special needs? Y N

- Are there medical or dental needs? Y N

Parent or Parents' Status

- Are there any related cases? Y N
 If yes, what type and case number? _____
- Hearings currently scheduled in those cases? _____
- Strengths of the parent/s

- Who are the parent(s)' support persons and/or extended family they would like included in this process? How would they like them involved?

- What services or tasks do the parent(s) believe would help them to parent safely? *If possible, ask parent(s) first.*

- What services or tasks does the Child Protection Specialist (CPS) believe would help parent(s) to care for their child(ren) safely?

- What are the priorities for services or tasks?

- How can we get those services or tasks started ASAP? What are the next steps for CFSD and the parents(s)?

- What are the parents'(s) potential barriers to completing services or tasks?
 ○ Transportation _____

- Housing _____
- Phone _____
- Income _____
- Employment _____
- Health insurance _____
- Others _____

Placement

- With whom is the child(ren) placed, and why?

- Agreements and disagreements concerning placement, and why?

- Are there relative/kinship/ICWA options not yet considered?

Family Time

- Has/Have the parent(s) seen their child(ren)? If so, where and how often?

- Are there options to safely increase family time and what is CFSD’s plan moving forward?
(Relatives, kin, friends, churches, parks, etc.)

- What are the barriers to less restrictive family time if family time is currently supervised?

- What is the plan for extended family contact?

- Agreements and Disagreements concerning family time?

Conditions for Return

- **Can the child or children safely return home now?** Y N

- If not **(Ask the CPS)**, what needs to occur for the child(ren) to return home?

Preparing for Court

- Are you able to proceed with the EPS hearing? Y N
- Are you able to proceed with the show cause hearing? Y N
- Is anyone planning to contest either of those hearings? Y N
- What are the plans for the EPS and show cause hearings?

- What are the plans for the adjudication and dispositional hearings?

- Is a Family Engagement Meeting (FEM) scheduled? _____

Additional Notes

ATTENDANCE SHEET – PRE-HEARING CONFERENCE

Child/ren Name/s _____ DN _____ - _____

Print Name

Signature

Role

REMOTE VIDEO PRE-HEARING CONFERENCES

In early 2020, when the COVID-19 pandemic started to affect Montana's courts, many hearings, conferences, and meetings had to move to a remote video format, including PHCs. There was little or no time to prepare for this abrupt change. Through the hard work and ingenuity of PHC facilitators, judges, court personnel, attorneys, CPSs, and GALs/CASAs, PHCs in Montana switched to remote video conferencing. These individuals created a means and process for scheduling and conducting remote video PHCs in all pilot court jurisdictions.

In 2021, as courts began returning to traditional in-person settings, some PHC pilot court jurisdictions also returned to the courthouse with in-person PHCs. There are undoubtedly benefits to in-person PHCs, mainly due to the personal observations and interactions with all participants speaking openly in the same room. These benefits should not be discounted.

However, traditional in-person PHCs, by their very nature, require multiple parties and participants to travel to the District Court. This can be time-consuming under the best circumstances and require a great deal of travel in Montana's rural jurisdictions. Attorneys may not be available locally to represent parents and children. They may be physically located far from the courthouse.

Recent 2023 legislation provides that PHCs be made available for parents within five (5) days of a child's removal and before an EPS hearing. This leaves little time for the participants to adjust their plans so they can attend PHCs and EPS hearings. A local PHC facilitator may not be available to moderate a PHC in some of the newer PHC jurisdictions. Thus, most jurisdictions have opted to use remote video PHCs. This format allows the parties and participants, including facilitators, to attend a PHC from their home, office, or elsewhere without an excessive burden on time, travel, and scheduling.

We can take advantage of what we have learned over the past few years to improve access to PHCs. Not only will many PHCs be conducted remotely, but we could also provide an option for remote video participation even if PHCs in your jurisdiction use an in-person format. Many District Courts now have a dedicated remote link available in their courtrooms. This hybrid option allows some participants to appear physically at the courthouse while others can appear remotely. The hybrid format would provide better access for individuals who cannot attend an in-person PHC, such as an out-of-state parent, relative, or treatment provider.

Remote video PHCs are not a one-size-fits-all process. Due to the varying nature of court proceedings throughout Montana, you will likely need to adapt remote video PHCs to address the needs of your specific jurisdiction.

Notification for PHCs

PHC facilitators may be informed about the setting of PHCs through court orders emailed to them. The Court schedules a date and time for the PHC and initial court appearance. In the case of a remote video conference, the judge should also order that the PHC be held remotely.

You may receive notice of upcoming PHCs through informal communications from a CPS, the County Attorney's or Attorney General's Office, or the Office of State Public Defender (OPD). Even if you receive this informal notification, please make sure an actual court order is issued for all PHCs, including remote video PHCs. It is critical that you receive a copy of this order since it grants you the authority to conduct a PHC, whether in-person or remotely. Please speak with your judge or judges if you are not receiving these orders.

In some jurisdictions, parents receive notification about the date, time, and a link to access PHCs with the notices of removal. This practice will likely become more common as statewide EPS hearings are fully implemented in Montana. CFSD has created a standardized form for these notices, including sections for notifying parents of preset dates and times for PHCs and EPS hearings previously established by a District Court. In other jurisdictions, parents receive informal notification of PHCs and EPS hearings by email from their attorney or a CPS.

With the launch of the five-day PHCs and five business-day EPS hearings, it is vital to ensure that the attorneys for the parents and children know the date, time, and link or location for upcoming PHCs. The attorneys will then be able to ensure their clients are aware of the process for remotely accessing PHCs from a phone, tablet, or computer.

Contact Information

PHC facilitators need to be provided with contact information for the attorneys, CPS, and CASAs or GALs. Make sure that you are receiving these contacts well in advance of all PHCs. In this way, you can ensure they have the information they need to appear at a PHC and give that information to their clients and other potential participants. Facilitators should collect this contact information for future cases as well.

Access to Remote PHCs

Some parents and other participants may not have a computer, tablet, or smartphone to access a remote video PHC. Some attorneys may want to appear remotely with their clients from the same location.

While it is ideal for parents to participate by video during a remote PHC, the scheduling format should allow them to access remote PHCs through a phone call.

In addition to phone access, there are a couple of other potential solutions to access. Attorneys can have clients come to their offices or otherwise meet with them to appear together remotely. Alternatively, some jurisdictions have set up access to the District Court's video conference system. Thus, attorneys may be able to meet with their clients at a local courthouse for joint remote appearances.

Video Link

Some jurisdictions have set up a dedicated link for all remote video PHCs and other court appearances. In that case, the parents and other participants simply need to know the date, time, and link for the PHC. Sometimes, court personnel must host these PHCs since the

court link may require a state employee to host the meeting. There could be an issue if the judge is using the court's remote video link for something else.

Under these circumstances and in other jurisdictions, the PHC facilitator may need to set up a remote link for the conference, usually through Zoom or Microsoft Teams, and send out an invitation to the parties and their representatives with that link ahead of time.

During Remote Video PHCs

PHC facilitators should ask each participant to identify themselves and their role at the beginning of each PHC. This is particularly important when participants are not on video or are not identified on-screen by their name. Participants should be encouraged to use video if possible since it enhances the quality of remote PHCs. The facilitator should ensure that no unwanted persons are present for the PHC. This includes actively monitoring individuals who attempt to enter a remote video PHC while it is in progress. Sometimes, participants arrive late, but be sure that individuals seeking access are appropriate participants before granting them access to an ongoing PHC.

As with any PHC, a party can generally request that a non-party not be allowed to participate in the PHC. This does not apply to foster parents (sometimes called resource parents) and CASAs or GALs. For instance, if a father is on video with his new partner, the mother can ask that the current partner not be allowed to participate in the PHC. While removing a non-party from an in-person PHC is usually more manageable, the facilitator should request that any unwanted non-party leave the vicinity of a remote video conference. The PHC facilitator should then confirm that any unwanted participants are no longer in a position where they can see or hear the discussions.

The participants cannot fill out attendance sheets during a remote video PHC. Hence, the PHC facilitator should let the parties know that they will be taking attendance. Like an attendance sheet, let them know that their attendance does not mean they agree with any or all decisions made during a PHC.

The participants should be reminded that PHC discussions are generally confidential. While portions discussed may later be shared with service providers, attorneys, CPS, and the Court, these discussions should not be shared with individuals not involved with the DN case. This reminder is particularly important in a remote video PHC due to the online nature of the proceeding.

Remote video PHCs should not be recorded. While recording PHCs for educational or record-keeping purposes may be tempting, there is too much risk for abuse. No one should be recording PHCs.

DN CASE PROCESS AND TIMING

Below is an outline of the process and timing in Montana DN cases. A flow chart is provided at the end. While PHC facilitators do not need a complete understanding of the legal process, knowing what may occur can help you appreciate your importance. These materials will help you gain some recognition about what the parents and parties will be going through so you can help create a better plan for the family. This knowledge will remind you to quickly focus during a PHC on the issues that will ultimately affect a DN case's resolution.

NOTICE OF REMOVAL – Parents and/or other persons having legal or physical custody of the children must be notified immediately or as soon thereafter as possible of an emergency protective placement and the reasons for that placement. **MCA 41-3-301(1)** This notice is a written document called the “Notice of Removal.” Due to 2023 legislation, OPD should also now receive the notice of removal within 24 hours of a child’s removal. **HB 16 (2023)** CPS may notify the parents of the date, time, and location or remote link for a PHC and EPS hearing in the notice.

AFFIDAVIT OF REMOVAL – CPS should submit an affidavit to the County Attorney’s Office and the parents, if possible, within two (2) working days of removal. **MCA 41-3-301(6)** Due to recent 2023 legislation, the affidavit should also now be provided to OPD within two (2) working days of removal. **HB 16 (2023)** This document provides the Court with information about the case and removal so that the judge can determine whether to grant emergency protective services.

PETITION SEEKING EMERGENCY PROTECTIVE SERVICES – The County Attorney’s or Attorney General’s Office must file the initial petition with the Court within five (5) working days of removal unless a satisfactory placement is found or a voluntary agreement is made. **MCA 41-3-301(6)** The CPS’s affidavit of removal is filed with the petition. Initial petitions request emergency protective services, temporary investigative authority (TIA), and/or temporary legal custody (TLC).

CONTEST IN WRITING – The parties have ten (10) days to contest emergency protective services in writing after receiving the petition and affidavit, thus seeking a contested show cause hearing. **MCA 41-3-427(1)(d)**

PRE-HEARING CONFERENCES – PHCs should now be set by court order for a time preceding the EPS hearing and within five (5) days of a child’s removal. **HB 16 (2023)**

EMERGENCY PROTECTIVE SERVICES (EPS) HEARINGS – The Court should set EPS hearings within five (5) business days of a child’s removal. During an EPS hearing, the judge must decide whether the child’s removal from their home will continue beyond the hearing date. If the Court determines that continued out-of-home placement is needed, the judge shall establish guidelines for visitation and review options for kinship placement, making appropriate recommendations. **HB 16 (2023)**

SHOW CAUSE HEARINGS – Except as provided in ICWA, a show cause hearing must occur within 20 days of the petition’s filing. **MCA 41-3-432(1)** This hearing allows the parents to challenge the granting of emergency protective services based upon the initial petition and affidavit. Parties can contest findings that the child was in “imminent danger of harm” and that CFSD’s actions were “reasonably necessary to avert a specific injury.” **MCA 41-3-101(1)(c)** Continuances may only be granted due to “substantial injustice.” **MCA 41-3-432(1)(c)**

PARENTAL FITNESS - All parents are entitled to hearings on their fitness to care for their children when children are removed from the parent’s care. The United States Supreme Court continues to recognize that parental rights are constitutionally protected fundamental rights. **Stanley v. Illinois, 405 US 645 (1972)** Fit parents are presumed to act in their children’s best interest. The state should not inject itself into the private realm of the family when the parents are fit. **Troxel v. Granville, 530 U.S. 57 (2000)**

INDIAN CHILD WELFARE ACT (ICWA) NOTICE – If ICWA applies or there is reason to believe it applies, formal notice must be sent to the parents, tribe or tribes, Indian custodian, and sometimes the Bureau of Indian Affairs (BIA) via registered or certified mail. A show cause hearing is the first non-emergency hearing and child custody proceeding, as defined by ICWA, to be held in a DN case in Montana. Such hearings require formal ICWA notice. Thus, under the ICWA notice requirements, a show cause hearing cannot be held until ten (10) days after receipt of notice to allow for objections. The parties receiving ICWA notice may request an extension of 20 days to respond. **25 USC 1912(a)** The ICWA notice provision does not apply to emergency hearings like an EPS hearings. **HB 16 (2023)** Thus, no ICWA notice is required for PHCs, EPS hearings, or other meetings and conferences. However, informal notification for these events is strongly recommended. If the state later files a petition for termination of parental rights, an additional ICWA notice must be sent to the parents, tribe or tribes, and Indian custodian, informing them about the new petition.

TEMPORARY INVESTIGATIVE AUTHORITY (TIA) – TIA allows CFSD to further investigate child abuse or neglect allegations. TIA does not grant legal custody to someone other than the parent or other legal custodian. TIA lasts no more than 90 days. There is only one hearing for TIA, a show cause hearing. Whether to grant TIA should be determined by the Court at the show cause hearing. There is no statutory authority for an adjudication or dispositional hearing seeking only TIA. **MCA 41-3-433**

ADJUDICATION HEARINGS – These hearings should occur within 90 days of show cause hearings when CFSD is seeking temporary legal custody. **MCA 41-3-437(1)** During an adjudication hearing, the state must show that the children are “youth in need of care.” Otherwise, the case should be dismissed with the children returning home. A youth in need of care is a child who has been abused, neglected, or abandoned. There may be no allegation against one of the parents, so there could be a DN case with a non-offending parent.

DISPOSITIONAL HEARINGS – These hearings should occur within 20 days of adjudication hearings, assuming the Court finds the children are “youth in need of care.” **MCA 41-3-438(1)** Temporary Legal Custody is usually granted to CFSD at the time of disposition. The Court could also choose to place the children with a non-offending parent or have the children return home with a safety plan.

TEMPORARY LEGAL CUSTODY (TLC) – TLC provides CFSD temporarily with the authority to make custodial decisions for the child. The Court may grant TLC for a period of no longer than six (6) months. **MCA 41-3-442(2)** TLC can be extended by court order for up to another six (6) months. There can be more than one extension of TLC.

NON-OFFENDING PARENT - The Court may enter a dispositional hearing order placing children with the non-custodial/non-offending parent. This order supersedes any existing custodial order and may be part of an order dismissing a DN case. **MCA 41-3-438 (3)** A non-offending parent has no allegations against them or any significant safety concerns about them regarding child abuse or neglect. A parent is not a non-offending parent under Montana law if they are a substantial risk of physical or psychological harm to the children. The Court can place the children with a non-offending parent because there is no issue of fact since no allegations of unfitness were made against them. *In re SS and SS, 2012 MT 78*

TREATMENT PLANS – The Court may order a treatment plan after adjudicating the children as youth in need of care. **MCA 41-3-443** A treatment plan must be ordered no later than 30 days after the dispositional hearing, except for good cause. **MCA 41-3-443 (6)** Due process generally requires that the parents be given sufficient time and notice of a treatment plan’s provisions to make the changes needed for the children to return home. A failure by parents to fully comply with treatment plan terms is the most common reason for the termination of parental rights. PHCs are an excellent opportunity to begin discussions regarding the services that will later become part of a treatment plan.

STATUS/REVIEW HEARINGS – As a best practice, it is recommended that status or review hearings be scheduled every 60-90 days during a DN case. There is no statutory requirement for these hearings. However, at these hearings, the Court can inquire about reunification progress. Status/Review hearings can assist parties with the resolution of any outstanding issues between them. The parties can discuss what has happened and plan for the DN case going forward.

EXTENSION OF TEMPORARY LEGAL CUSTODY – TLC granted by the Court lasts no longer than six (6) months. If the state wants TLC to continue beyond six (6) months, they must file for an extension before TLC expires. **MCA 41-3-442(4)** If the state files for an extension on time and the Court finds grounds to extend TLC, the Court can grant up to six (6) more months of TLC. A shorter period could also be granted. There may be several extensions of TLC during a case. If the state does not file for an extension of TLC, it must file a petition for placement with a non-custodial parent, permanent legal custody through termination of parental rights, long-term custody, guardianship, or dismissal.

PERMANENCY HEARING – There should be an annual review hearing to finalize the child’s permanency plan. The first permanency hearing should occur within 12 months after the children were adjudicated youth in need of care or after the children’s first 60 days of removal, whichever comes first. Subsequent permanency hearings should occur every 12 months until the case is resolved. **MCA 41-3-445 (1)(a)** Permanency hearings are not required when a case has been dismissed, children are not removed from the home, returned to a parent or parents, or legally adopted or placed in guardianship.

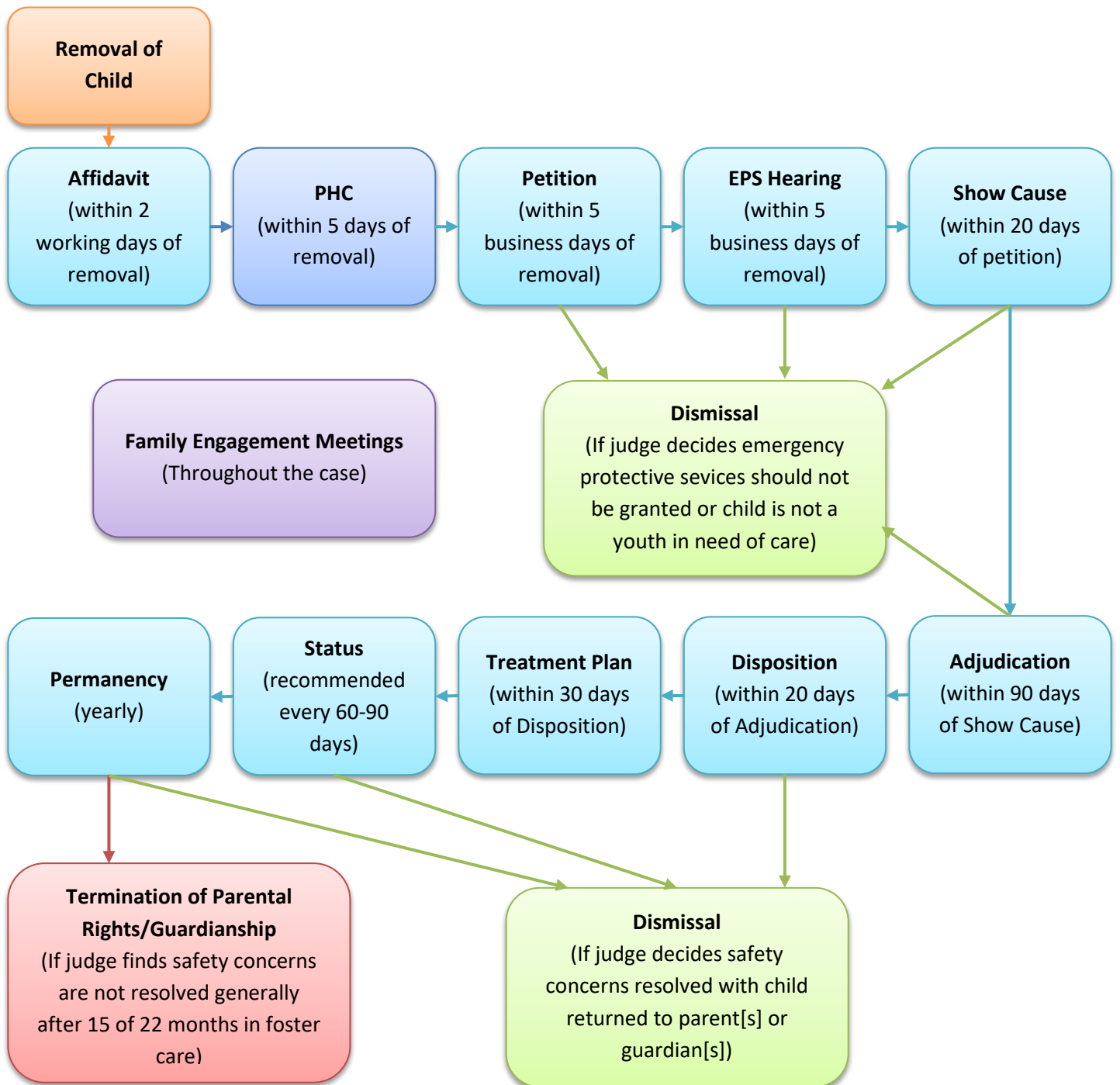
In severe DN cases, when a determination has been made that efforts to provide preservation or reunification services are unnecessary under MCA 412-3-423, 438 (6), or 442(1), a permanency hearing must occur within 30 days. **MCA 41-3-445(1)(a)**

PETITION FOR PERMANENT LEGAL CUSTODY/TERMINATION OF PARENTAL RIGHTS – A petition for permanent legal custody/termination of parental rights must be filed when children have been in foster care under the physical custody of the state for a period of 15 of the last 22 months or in severe cases when efforts to reunify have been excused under MCA 41-3-423. **MCA 41-3-604(1)**

Exceptions to the requirement for filing a petition for termination of parental rights:

1. The children are in the care of a relative;
2. CFSD has failed to provide necessary services; or
3. “Compelling reasons” exist for not filing the petition.

COURT PROCEEDINGS CHART



TIPS FOR FACILITATORS

The following material contains observations by facilitators and stakeholders while designing and conducting PHCs in various Montana jurisdictions for more than ten years. These items are offered as tips for new facilitators.

General

1. A PHC is not a typical mediation. In a PHC, generally, all parties have the same goal at the beginning of a DN case. The parties are seeking to reunify the family except in extreme cases. The parties do not have the same goals in a typical civil mediation. In civil lawsuits, the parties' purposes are often in direct opposition. When things get off course during a PHC, you can remind everyone they have the same overall reunification goal. While their ideas about the timeline and how to reach this goal may differ, at least everyone is seeking reunification. This reminder can help you keep them moving in the same direction.
2. Not everyone is going to like what you are doing. You will hear "This is a waste of time" and "You're asking us to do more work." With the new five (5) day PHCs, you'll be told there isn't enough time to prepare. However, research has shown that PHCs are helping to increase the reunification rate and shorten the time to permanency. A significantly greater number of DN cases are being resolved within 12 months when PHCs are held. Also, when parents actively engage in PHCs, they are more likely to have their children return home. This means families are more likely to be reunified when we put in the effort to engage parents.

Party Hostilities

3. Parents may be hostile toward the CPS, CFSD in general, and the entire process. Nothing derails a PHC faster than parents who only want to talk about how angry they are. This can cause CPS to become highly defensive. While CFSD may have justification for the children's removal, it is only natural for the parents to be upset with the CPS who removed their children. It is also natural for that CPS to feel strongly about their decision to remove the children. It is a decision not taken lightly. Sometimes, it is a good idea to remind everyone that these emotions are natural, but they are not helpful to our discussions. We are trying to design a plan to reunite the family in a safe home. It is also important to remember we are not there to decide whether the removal was appropriate. That is for the Court to determine.
4. Parents in these cases may not be highly functional at the PHC. They could be going through withdrawal or actively using drugs and/or have mental health conditions, making it difficult for them to engage in and follow the conversation. Only a few days have passed since the children's removal. The parents may not be well educated or have limited mental capacities. When parents

get off track, listening to what they have to say is essential. Then, politely steer them back to a structured discussion. You can remind them of the limited time available and the importance of this conversation.

5. Parties and lawyers sometimes show up late. You have a short time to conduct a PHC. Give people a few minutes' grace period, and then get started. Attorneys soon realize PHCs will begin on time and they need to be on time or PHCs will start without them. When people arrive late, give them a brief introduction and summary, then continue. If a lawyer is absent, significant or potentially damaging issues should not be discussed with their clients. Do not allow other parties or attorneys to question a client without their attorney being present. Ethically, lawyers should not speak with a party they know to be represented without their representative present or without previous permission from the attorney to speak with their client.

Stipulations

6. Parents will often agree to stipulate to emergency protective services during a PHC. This stipulation can present an opportunity to discuss whether they plan to contest the EPS and show cause hearings or are willing to stipulate to adjudication and disposition. It may be clear to everyone that the Court will grant jurisdiction and temporary legal custody because of apparent and serious safety concerns. Why have an additional court date or two and wait another month or more for jurisdiction and temporary legal custody to be established? If there is an early stipulation to jurisdiction, a treatment plan can be ordered sooner, and the parents can begin actively working toward reunification through that plan.

Locating Missing Parents

7. If a parent is not present, they may not have not been notified. The state may not know how to locate them. Ask whether anyone in the room has any ideas about contacting the missing parent. There is usually some information available about how to locate the absent parent. Someone may have information about their relatives, social media, or a place they've lived or worked. While missing parents can sometimes be served by publication, that process rarely allows them to participate actively. Parents who don't know about a DN case can't be involved.
8. Sometimes, a parent with information about a missing parent will not provide it. They may have reasonable concerns about that absent parent and not want that person ever to have further contact with their children. They may also hide information about the other parent because they believe the missing parent could be viewed as a better parent who could gain custody of the children. Montana law provides the Court with an opportunity at disposition to dismiss the case and place the children with the non-custodial/non-offending parent. Disposition can be revisited

throughout a DN case. It is essential to locate missing parents so they can be assessed as a placement option.

Topics of Focus – A Theme

9. There is usually “a theme” for each PHC. It can be hard to determine the theme until you begin a PHC. There is usually something the parties want to discuss that is more important to them than other items. For example, there may be a good reason why the parents wish to contest the case. You may have an ICWA case and it is crucial to one of the parents that the Tribe is involved and that the children are placed with a relative. Sometimes, you will need to throw out the PHC script and focus on that one theme for the duration of a PHC.

10. The parties may get off-topic or stray from helpful conversations into unproductive and sometimes hostile areas. It is vital for you to politely interrupt and steer the conversation back on course gently. You can remind people of the PHC goals and how important the discussion is for this family and the children.

11. Sometimes, the parties will be doing an excellent job of focusing on the key issues. In that case, get your ego out of the way and let them talk without interruption. Sitting there and taking notes is okay when there is a flow to the conversation. This type of discussion helps develop trust between parties. Our hope is that these conversations will continue throughout the DN case. A PHC is only the beginning of open communication between the parties.

Available Services

12. Based on your professional experience, you will accumulate knowledge about services available in your community. It is okay to pipe up with that information. You could tell the parties, “Last week in another PHC, I heard about a program that deals with this specific issue and its name is _____. Would it be possible for the CPS to set up a referral with that organization? Would that make sense? What does everyone think of that idea?”

ICWA

13. It is essential to discuss ICWA as soon as possible. Early conversations about ICWA during a PHC can help avoid delays and legal issues later. More importantly, these discussions help protect the rights of Native Americans and tribes. If there is a question about tribal membership or eligibility

for membership, make sure someone takes responsibility for getting an answer to that question. Only the tribe can determine if children are members or eligible for membership. Discuss what efforts have been made to contact the tribe or tribes. The earlier tribes are informed about the case, the better. The Montana Supreme Court has made it clear that resolving ICWA issues is critically important.

14. Sometimes, Native American children are placed in non-relative and non-Native-American homes for long periods. Explore culturally appropriate placements at PHCs before the children get firmly attached to a foster or resource family. A serious problem can arise when termination of parental rights occurs a year or more down the road and a discussion ensues about moving the children from a home where they are strongly attached to a home with relatives or tribal members. This process can be very tough on the children. The issue can be avoided by having a relative or other culturally appropriate placement early in the DN case.

Paternity

15. If paternity is not legally established, it must be discussed during the PHC. Otherwise, it can become a complicated legal issue later. At the very least, children should have the opportunity to know who their father is. A father may even be able to provide children with a safe, stable, and happy home. If some paperwork needs to be taken care of, make sure someone takes responsibility for getting that done. If there are questions regarding paternity, gather all potential fathers' names and their contact information if available. This information could help identify the actual father.

Related Cases

16. Make sure you ask about any related cases. Parties may be unaware of related cases or not understand their importance. These cases could significantly impact your PHC and the DN case. Criminal matters or domestic relations orders often change the dynamics of a PHC. DN cases involving siblings can be important because the parents may already have another matter with pending or previous treatment plans. How the parents are doing or did with those treatment plans could greatly affect the planning for a new DN case.

Family Engagement Meetings

17. If a Family Engagement Meeting (FEM) has not been scheduled, you should encourage the CPS to get one set within the next few weeks. FEMs allow the parties to continue the discussions begun

during PHCs. They address similar subjects to PHCs and can continue repeatedly throughout a DN case.

Children's Needs

18. Make sure to ask the parents about the needs of their children. The parents' viewpoint is often ignored when deciding what services the children may need. While they may be struggling with their own issues and may have neglected and/or abused their children, parents are still the most likely source of information concerning their children. Parents can often help identify issues that may not be readily apparent to the other parties. The sooner these concerns can be addressed, the better.

19. School can be a big issue for children entering foster care. The children may have struggled in school due to poor parenting skills and/or issues of their own. Also, children may be forced to change schools when entering foster care. They may have changed schools numerous times in their life. For school-aged children struggling in school, the most crucial conversation during a PHC may be about services for those children in school and seeking to stabilize their school placement.

20. Special needs can mean more than a diagnosis. While questioning the parties about any special needs the children may have, don't just focus on things that can be professionally diagnosed. Also, look for things that are special for a particular child. For example, a child may have a game, toy, or clothing that is particularly important to them. You can talk about how that item could be delivered to them. A child may have friends or relatives who are very close to them. You can make sure those relationships will continue during foster care. These are the kinds of things that can provide a degree of normalcy to children while in foster care.

Placement

21. During the discussion regarding placement, it is essential to ascertain if the parents have met the foster care providers. If the parents meet the foster or resource parents and believe their children are safe, the parents can focus on the changes they need to make for their children to return home safely. Parents who work well with foster or resource parents are more likely to understand what their children are going through. Ideally, the children will observe this positive relationship between parents and foster or resource parents and benefit from that relationship.

22. Find out about relatives or close family friends strongly bonded with the children. These individuals can be placement and/or family time and visitation assistance options. At the time of

removal, parents are often highly emotional or otherwise dysfunctional. They cannot always focus on the conversation. Parents may not have understood the importance of relatives and kin. Ensure they know how important it can be to explore relative/kinship placements. Conversations about friends and family are a vital part of almost all PHC's.

23. During placement discussions, parents may ask about their children returning home immediately. With the implementation of EPS hearings in Montana statewide, discussing whether the out-of-home placement will continue is essential. During the EPS hearing held shortly after a PHC, the Court must determine whether the removal will continue. Thus, it is now critical for that subject to be addressed during a PHC. When the subject of a return home is brought up, determine whether the state believes the children could go home and if any conditions need to be in place for that to happen. If the children cannot return home immediately, these conversations can lead nicely into productive discussions about services and conditions of return.
24. It sometimes makes sense to discuss an in-home safety plan during a PHC. The parties may agree that safety measures could be put in place where the children could return home. For example, a relative might be able to move into the home as a safety service provider. The parents could move into the home of a relative or close friend. There are numerous ways for children to safely live with a parent or parents. Safety planning can be a valuable topic to explore during a PHC.

Family Time

25. It is important to discuss options for increasing family time and reducing supervision. A workable visitation plan is a critical piece of a family time plan. However, remember, family time is more than just visitation. Family time can help preserve the children's identity and reduce the trauma of removal. Think outside the box of the "one-hour supervised visit." Consider real family time, not just "visitation." Does visitation really need to be supervised? If so, why? Are there relatives or friends available who could supervise? Can family time occur in the community or a more familiar setting? Are there therapeutic or community options for increasing this time? Can there be contact by phone or video conference? Can the parents attend school or club activities? Can parents go to medical or dental appointments? Throwing out questions about increased and unsupervised family time to the group for discussions can be highly productive.

Services

26. Service plans should be individualized. Each parent, and perhaps each child, may have different service needs. Find out what they have begun already. What does the state want them to do, and

why? What are the highest priority services? What are the parents willing to do? What do the parents think they should be doing? While a PHC is not a binding agreement, parties will generally make an effort to abide by the agreements they make during a PHC. Thus, services designed to reunify the family can begin long before the Court orders a treatment plan.

27. Find out what the strengths and weaknesses of the children and parents are. How do they have an impact on the family and the ability of its members to function? Strengths may give the family opportunities not otherwise available. They can be the bedrock upon which to build reunification. Weaknesses may be the key to determining the services needed. This individualized focus during PHCs can help the parties later create a treatment plan tailored to the family's needs.

28. Determine if there are any barriers to completing services. A perfect plan doesn't work if the parents do not have enough time or the ability to address the services required. Barriers can be as simple as having access to transportation, mail, or a phone. They can also be involved, like trying to fit services around a busy work or family schedule. By beginning to address these potential barriers early, the parents are given a better opportunity to resolve the issues that brought the case before the Court.

Conditions of Return

29. For planning and transparency, conditions of return should be discussed with the parents present. Even within a few days of removal, the CPS should have taken the time to evaluate the case to determine what they believe needs to occur for the children to return home safely. A PHC is an excellent opportunity to get the parties talking about conditions of return. PHCs can also give the other participants a chance to help plan those conditions of return. Through these discussions, parents can clearly see what they need to do and plan accordingly.

30. When discussing conditions of return, it is not a good idea to use the term "conditions of return." This term can confuse parents and often makes the CPS nervous. The CPS may be concerned that they will later be held accountable if they do not provide all of the conditions during the PHC. The subject can be approached by asking all the participants, "What needs to happen for the children to go home?" A follow-up question could be, "Is it possible other concerns might arise as the case goes on?" These questions can make the expectations for the parents more transparent. They will also understand that services could change as the DN case progresses.

Final Thoughts

There are going to be good days and tough days as a PHC facilitator. Some days, people will be open to productive discussions to plan for the reunification of the family. The CPS and the parents should already be working together. You'll simply need to expand on their plans.

However, there will be days when you cannot establish trust between the parties because there has been too much water under the bridge. Some attorneys will not accept a team approach and believe arguing is the only way to represent a client. There will be parents who just are not functional enough to participate in the process fully. Some parents will not show up. There will be times when all of the materials outlined in this manual just don't seem to work.

On good days, get as much out of the process as possible by fully developing a reunification plan. Also, keep in mind the family's long-term goal of never having to go through this process again. On tough days, keep your cool and try to get something useful out of the PHC, even if it's a small thing. It's a rare PHC when you can't accomplish something.

Through PHCs, you have a chance to help people begin the process of putting a family back together in a safe and healthy home. What do you get to do in your professional life that is better than that?

Pre-Hearing Conference (PHC) Facilitator Training Manual

2023 Addendum for Statewide PHCs and Emergency Protective Services (EPS) Hearings

John Guinn

Special Projects Coordinator

University of Montana

Center for Children, Families and Workforce Development

Basic Idea of EPS Hearings

This Addendum is intended to give you, as a PHC facilitator, a better understanding of the impact early PHCs and EPS hearings have on your work.

Through recent 2023 legislation contained in House Bill 16 (2023), beginning on July 1, 2023, EPS hearings should be held in DN cases across Montana within five (5) business days of children's removal from their homes. Previously, show cause hearings set within 20 days of the initial case filing were the first court appearance. Thus, the time for parents and other parties to appear in District Court has been significantly reduced.

As part of the same bill, a PHC should be made available in all DN cases for the parents within five (5) days of the children's removal and before the EPS hearing. Previously, most pilot court PHCs were held before show cause hearings about 20 days after the filing of a DN case. Thus, the time to schedule and hold a PHC has been significantly reduced.

At an EPS hearing, the Court decides whether children should return home or remain in foster care. Therefore, it is essential that you facilitate discussions during PHCs to address whether children can return home or whether conditions could be put in place so they can return home quickly.

If the Court determines during an EPS hearing that the children should remain out-of-home, the Court must also establish guidelines for visitation and review options for relative and kinship placements for the children. If the parents agree with plans for treatment services, the Court can direct CFSD to develop and implement a treatment plan before the show cause hearing. Thus, PHC discussions regarding placement, family time, and services are an essential foundation for the required determinations and discussions during an EPS hearing.

EPS hearings conform with court proceedings in the vast majority of jurisdictions in the United States. Initial hearings are typically held in other states within the first few days after removal to determine whether children can safely live at home. These early hearings provide parents with due process by allowing them to contest the removal of their children shortly after it occurs.

Development of EPS Hearings in Montana

EPS hearings were initiated in Montana through pilot projects in Yellowstone and Flathead counties in early 2020. The PHC pilot project had already been taking place in those counties for several years when they started piloting EPS hearings within five (5) business days of removal. During the era of EPS hearing pilot courts, PHCs were held before those early EPS hearings.

Previously, during the 2021 legislative session, three House bills were passed concerning EPS hearings. HB 39 (2021) provided for an interim study of the EPS hearing and PHC pilot court projects. HB 90 (2021) planned for EPS hearings to be held throughout Montana within five (5) business days of removal beginning on July 1, 2023. With some exceptions, from July 1, 2021, until June 30, 2023, parents could voluntarily request an EPS hearing within five (5) business days of removal through HB 503 (2021). However, very few EPS hearings were held outside the pilot courts in Yellowstone and Flathead counties. This was due to the short time for parents to request EPS hearings and attorney appointments generally occurring after five (5) business days had already elapsed.

Based in part on the success of the pilot courts, the contributions of legislative interim committees and workgroups, and a desire to provide parents with greater due process rights, in 2023, the Montana Legislature, through HB 16 (2023), made EPS hearings within five (5) business days of children's removal a requirement in all DN cases. They also required that jurisdictions make PHCs available to parents within five (5) days of children's removal and before the EPS hearing. In addition, HB 16 (2023) requires that OPD be given copies of notices of removal of children within 24 hours and initial affidavits within two (2) working days of removals. Previously, only the county attorney and the parents, if possible, were provided with affidavits within that time frame. However, parents rarely received the affidavit within two (2) working days of removal. No previous statutory provision for providing OPD with notices of removal existed.

EPS Hearing Impact and Opportunity

EPS hearings provide parents with a chance to be heard regarding their children's removal within a few days of that removal. This change dramatically improves parents' due process rights. Without an EPS hearing, judges had to rely solely on the petition, affidavit, and any other documents provided by the State to make their initial decisions.

Due to the nature of EPS hearings, and in addition to the essential discussion topics addressed during all PHCs, we must now refocus our efforts during PHCs on some specific areas relevant to EPS hearings.

1. **Can the children safely return home immediately?** If not, can conditions be put into place so the children could return home quickly? If not, what is specifically preventing the children from returning home soon?
2. **If the children cannot return home soon, what must occur for them to return?** Do the parents understand what needs to happen for the children to return home safely?

3. **Can family time and visitation be unsupervised?** If not, what is specifically preventing unsupervised contact? What needs to occur before supervision can be reduced or eliminated?
4. **What are the options for relative or kinship placements?** Are relatives or close family friends available as placement options if the children cannot return home?
5. **Are the parents willing to agree to treatment services?** Could an initial treatment plan be developed before the show cause hearing? Would that be a good idea?

Naturally, we will continue to address the critical topics of every PHC, which are placement of the children, family time, and services for the family. We will also discuss the potential applicability of the Indian Child Welfare Act (ICWA), establishing paternity, locating missing parents, and the children's and family's current status and strengths.

Holding PHCs before EPS hearings provides opportunities to engage in earlier discussions about whether children can return home. In cases where children cannot return home immediately, PHCs are an opportunity to identify the safety concerns preventing a return home. Together, PHCs and EPS hearings promote the development of a preliminary plan to address safety concerns so children can go home sooner.

PHC and EPS Hearing Process

The process for PHCs followed by EPS hearings may differ slightly between jurisdictions. The following are general ideas of how the process can work. Any differences in your jurisdiction will depend on how PHCs and EPS hearings have been developed and implemented.

Collaboration

It is crucial to understand that the new legislation does not provide procedures for scheduling and notifying the Court and participants about PHCs and EPS hearings. Formal service of process is not required and highly unlikely within the short time available. Thus, District Courts and local stakeholders must collaborate to create strategies for scheduling PHCs and EPS hearings and notifying essential participants with the information they need to prepare.

The Court Improvement Program (CIP) has provided District Courts and stakeholders with recommendations for accomplishing this goal based on what was learned through the Yellowstone and Flathead County PHC and EPS hearing pilot courts. ***The short version of those recommendations is included at the end of this Addendum.*** In addition, we have reached out to jurisdictions around the state, offering training remotely or in person. We recommend that District Courts and their stakeholders meet to iron out plans for holding PHCs and EPS hearings.

If you need assistance with this process, please do not hesitate to contact us for help establishing a working procedure in your jurisdiction.

Days, Times, and Locations or Remote Links

One of the items the Court and stakeholders should work on is setting aside preset days and times during the work week when potential PHCs and EPS hearings could be held if children are removed from their homes. This way, PHCs and EPS hearings can be set on those days, and judges, attorneys, and other stakeholders will know they may have PHCs and EPS hearings at those times. In addition, parents can be given this information when their children are removed, assuming they are available to receive that information.

Children's Removal

If possible, the parents are given a CPS's written notice of removal at the time of removal. That notice should now also be provided to OPD within 24 hours of removal, thus letting them know that they need to assign attorneys for the parents and children. New 2023 legislation gives not only parents, but now children, the right to an attorney during a DN case. That notification is generally sent by CFSD to OPD's state offices through a recently created email hotline.

Modified notice of removal forms now allow a CPS to fill in the date, time, location, or remote link for a PHC and EPS hearing. Current law requires that information be provided to the parents about the EPS and show cause hearings, including the purpose of those hearings. There is no statutory requirement to provide information to the parents concerning the PHC, but that is an excellent idea. The Court Improvement Program (CIP) has provided CFSD's regional offices with pamphlets to hand out to parents explaining PHC basics that will hopefully be used statewide.

For a CPS to fill in the notice of removal concerning the PHC and EPS hearing, the Court must have preset days and times for PHCs and EPS hearings to be held if children are removed from their homes. For example, the Court may set aside Tuesdays and Thursdays at 10 a.m. for potential PHCs and 11 a.m. for EPS hearings. Thus, if there is a removal, a CPS can fill out the notice of removal, providing the parents and OPD with the timing and location or link for the PHC and EPS hearing using those preset days and times. In some jurisdictions, notices of removal are the first documents filed with the Clerk of Court.

This process is important due to the short time between removal and the first court date. Formal service of process is nearly impossible during the limited time available. The parents should also be given contact information for OPD. Thus, parents know about the PHC and EPS hearing at the time of removal and are encouraged to reach out to their attorneys.

Parents are not always present to receive the notice of removal. They may be missing or unknown at the time of removal. Efforts will be made to notify absent parents before the PHC and EPS hearing. If they do not appear at the PHC, the PHC will proceed without them. The EPS hearing will be held within five (5) business days of removal.

Post-Removal

After a removal, the CPS should notify the County Attorney's or Attorney General's Office immediately. The County Attorney's or Attorney General's Office should then message OPD, the CASA's or GAL's offices, the PHC scheduler or facilitator, tribal representatives (if ICWA applies or may apply), and the Court. Many jurisdictions have a person who acts as a PHC scheduler who locates a facilitator for PHCs. It is CIP's goal to obtain the services of someone to fill this role statewide. This notification is usually conveyed by email and should provide client contact information for attorneys.

If a date, time, and location of the PHC and EPS hearing have already been selected by the CPS, that information is conveyed to the Court and participants. Thus, all are aware that they will have a PHC and EPS hearing on the preset day and time before the petition and affidavit are even filed. This process allows everyone to prepare and plan accordingly.

If a preset day and time were not available or selected by the CPS and provided to the parents with the notice of removal, the Court would need to choose a date and time for the PHC and EPS hearing. The judge would probably seek input from the attorneys and PHC facilitator regarding such a setting to accommodate their schedules. The attorneys would then need to notify their clients concerning the date, time, location, or remote link for the PHC and EPS hearing.

In all DN cases, the Court should sign an order setting the date and time of the PHC and EPS hearing, appointing a trained PHC facilitator to moderate the PHC, and ordering that they be provided a copy of the petition and affidavit so they can prepare for a PHC. These documents are provided to facilitators confidentially and should only be used to conduct and prepare for PHCs. These orders are often the first court order and may precede the filing of the petition and affidavit. ***A draft form of such an order is included at the end of this Addendum. Please feel free to share this draft Order with your judges.***

The CPS should draft a condensed affidavit within two (2) working days of the removal and provide it to the County Attorney's or Attorney General's Office, the parents, if possible, and now OPD. These early affidavits are sometimes considered to be "draft affidavits." The affidavit is condensed to give only relevant information. The County Attorney's or Attorney General's Office should try to file the initial petition and affidavit before the EPS hearing. OPD, the CASA's or GAL's offices, tribal representatives (if ICWA applies or may apply), and the PHC

facilitator should receive a copy of the petition and affidavit before the PHC and EPS hearing. However, current law only requires that the initial petition and affidavit be filed within five (5) business days of the children's removal. Thus, those documents may legally be filed on the same day as the EPS hearing and perhaps after the PHC.

From the PHC scheduler's standpoint, assigning a primary and secondary facilitator to each preset hearing date in a jurisdiction would be ideal. If the primary facilitator is not available on that day, the scheduler can let the secondary facilitator know about it in advance. If neither facilitator is available, they can contact the entire PHC facilitator crew. This way, someone will always be available to facilitate.

Keep in mind there may not be PHCs and EPS hearings on every preset date because children may not be removed in a given jurisdiction during the days immediately preceding. The Court merely reserves the preset day and time in the event that time slot is needed.

Remote Video Links

In some jurisdictions where PHCs were piloted, PHCs continue to be held in person before the EPS hearings in a jury or conference room or sometimes an unoccupied courtroom. PHCs and EPS hearings are conducted remotely in most other jurisdictions, usually through Zoom or Microsoft Teams. This situation is mainly due to the lack of local PHC facilitators and attorneys in many of our newer PHC jurisdictions. To have a remote PHC, there must be an available link, and the parties and their representatives need to know what that link is before a PHC begins.

District Courts now have remote links available from the courtroom that can be used for these purposes. However, the Court may be using its link for other purposes at the time of a PHC since the Court does not participate in PHCs and may be addressing other matters. Thus, it is vital to determine what link the Court and participants would like you to use as a PHC facilitator as soon as possible. It may differ with each case, and you may need to provide a link yourself. We are working on the possibility of establishing dedicated remote links for PHCs throughout the state. In any event, ensure everyone has that link well before the PHC.

EPS Hearings

As a PHC facilitator, you will not be actively involved in EPS hearings. Generally, PHC facilitators do not attend court hearings. However, understanding how these hearings work can help you structure your PHCs to benefit the participants and EPS hearings.

An EPS hearing primarily focuses on whether the children can return home safely. The new legislation requires judges to determine whether an out-of-home placement will continue

beyond the hearing. If the Court finds that the removal should continue, the judge must establish guidelines for visitation and review options for relative and kinship placements, making recommendations if appropriate. The new legislation provides for discussions about early treatment planning for the family. The judge can direct CFSD at the EPS hearing to develop a treatment plan before the show cause hearing if the parents agree with the terms and are willing to begin immediately.

The Court may also inquire about the ICWA status, stability for children (placement, family time, school, activities, relative contacts, etc.), and the efforts made by the State to prevent removal and reunify the family. There should be discussions about the level of supervision needed, if any, for family time. If supervision is required, there may be questions about why supervised visits are necessary and what can be done to reduce or eliminate the need for supervision.

Judges seek to engage parents during EPS hearings concerning their needs, family status, and understanding of the DN case. They summarize plans and set expectations for the parties and their representatives to be completed before the next hearing. The whole approach is more holistic, proactive, and timely.

PHCs and EPS hearings together aim to return children home when they can safely live at home. We believe that children who can safely live at home should get a chance to do so quickly. When children cannot return home at the time of the PHC and EPS hearing, safety concerns need to be identified. Based on those concerns, a plan and conditions for return can then be developed within a few days of removal during the PHC and EPS hearing.

Summary

Five-day PHCs followed by EPS hearings are a relatively new process for DN cases in Montana. In most jurisdictions, it has only been happening since July 1, 2023. The process is a work in progress, and it is impossible to anticipate all the issues that may arise. As PHC facilitators, we know we must now react more quickly when children are removed from their homes. There have been and will continue to be hiccups along the way as PHCs and EPS hearings evolve. As such, we ask for your patience and input as the process develops and expands. Legislative interim committees, workgroups, and the 2025 Legislature will likely look at this process for potential improvements. There may be additional changes following the 2025 legislative session.

Early PHCs and EPS hearings ideally afford families a significant opportunity to work toward reunification of their families. This process should create more engaged court proceedings. The parents will not have to wait up to 20 days to be in Court. They will likely

meet their attorneys much sooner. The new process could greatly benefit children and families if we dedicate ourselves to making it work.

Parents' rights to a fairer procedure have been greatly enhanced since they will now have a chance to be in Court shortly after removal. They will have an opportunity to address the judge about the removal of their children. Parents will not have to rely solely on what the State wrote in the initial petition, affidavit, and other court documents. They can speak to the Court themselves and through their representation.

With the launch of statewide five-day PHCs followed by EPS hearings in July 2023, we can explore how to hold early PHCs and the EPS hearings effectively by collaboratively developing a workable process with District Courts and their stakeholders. We need to spend time making sure we are doing this right. If you have ideas about how the five-day PHC process might work better, please let us know at your earliest convenience. We are looking for your feedback to make sure we succeed throughout Montana.

Thank you for your hard work and dedication as PHC facilitators.

Five-Day PHCs Recommendations – Short Version

Collaboratively create a process for scheduling and conducting PHCs and EPS hearings in your jurisdiction.

1. Select preset potential work days and times for PHCs and EPS hearings (The judge does not participate in PHCs).
2. Notify the Court, County Attorney or Attorney General, OPD, CASA/GAL, tribal representatives (if ICWA or potentially ICWA case), and the PHC scheduler or facilitator as soon as possible after a child's removal.
3. Immediately set dates and times for the PHC and EPS hearing after receiving removal notification unless the CPS already selected a date and time for the PHC and EPS hearing based on preset days and times and provided that information to parents.
4. The Court immediately appoints OPD to represent parents and children and a trained PHC facilitator to conduct the PHC. The petition and affidavit are provided to the PHC facilitator in confidence so that they can prepare for the PHC. This process will likely occur before the petition and affidavit are filed with the Clerk of the Court.
5. As soon as possible, inform the County Attorney or Attorney General, OPD, CASA/GAL, tribal representatives (if ICWA or potentially ICWA case), and the PHC scheduler or facilitator about the dates and times set for the PHC and EPS hearing.
6. A PHC scheduler can locate a PHC facilitator to conduct the PHC and ensure they are provided the documents needed to prepare before a PHC.
7. A remote link will be needed to conduct a PHC in most jurisdictions.
8. Parties must receive notification as soon as possible regarding the date, time, and location or link for the PHC.

THE MONTANA _____ JUDICIAL DISTRICT COURT
 _____ COUNTY

IN THE MATTER OF: _____ <i>A Youth in Need of Care.</i>	Cause No. DN-__ - _____ NOTIFICATION APPOINTING PRE-HEARING CONFERENCE FACILITATOR AND SETTING THE PRE-HEARING CONFERENCE AND EMERGENCY PROTECTIVE SERVICES HEARING
---	--

Pending before the Court is (will be) the State’s *Petition for Emergency Protective Services, Adjudication of Child as Youth in Need of Care, and Temporary Legal Custody*. A Pre-Hearing Conference has been set for _____ at _____ a.m./p.m. to be followed by an Emergency Protective Services/Show Cause Hearing set for _____, at _____ a.m./p.m. The Pre-Hearing Conference will be conducted in-person at _____, or will be conducted remotely by video conference. In the event a video conference format is used, the parties and their representatives will be provided with a link for the video conference in advance of the Pre-Hearing Conference.

In advance of the Pre-Hearing Conference and Emergency Protective Services Hearing, the Court hereby provides notification of the following:

- (1) A Facilitator trained and employed through the Court Improvement Program of the Court Administrator’s Office is appointed to serve as the Facilitator for the Pre-Hearing Conference in this matter. A copy of the petition and attached documentation, including the initial affidavit filed with the Court, shall be sent by email to the Facilitator.
- (2) The purpose of a Pre-Hearing Conference is to discuss issues related to the family, including the parents and children, early in a dependent neglect case, and to begin the process of working towards reunification of the family. The goal is to seek to work collaboratively as a team. The participants are the child protection specialists from Montana Child and Family Services Division, county attorneys or an assistant attorney general, attorneys for the other parties, Court appointed special advocates or guardians ad litem, tribal representatives, and the parties themselves. Other family members and kin, service/treatment providers, and support persons may also

attend if parties agree to allow them to participate. The Court will not participate in the Pre-Hearing Conference.

- (3) For the Pre-Hearing Conference, the Facilitator will review pleadings, including the petition and affidavit, in preparation for the Pre-Hearing Conference. The Facilitator will facilitate the Pre-Hearing Conference in a neutral setting providing the parties with the opportunity to safely discuss issues related to the placement of the child, family time/visitation with the child, and services/treatment for the family. The Facilitator will act as a neutral participant seeking to guide these discussions in a productive manner providing all parties with an opportunity to be heard. The Facilitator may take notes during the process designed to assist them in addressing all relevant issues.
- (4) All information that the Facilitator reviews or learns through the Pre-Hearing Conference process shall remain confidential. It is the duty of the Facilitator to safeguard all such confidential information. They are not to discuss or disclose any information learned to others outside the Pre-Hearing Conference.

DONE and DATED Click or tap to enter a date.