

**Child Protective Proceedings – Title IV-E Findings: Legal Citations**

<b>FEDERAL</b> Title IV-E of the Social Security Act, 42 U.S.C. § 670 et seq.	<b>STATE LAW</b> Michigan Juvenile Code § MCL 712A.1 et. seq.	<b>RESULT IF NO FINDING</b>
<b>Removal Hearings</b>		
<p><b>A.</b> Court must make finding that continuance in the home of the parent or legal guardian would be contrary to the child’s welfare. (42 U.S.C. § 672(a)(1)-(2))</p> <p>This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (45 C.F.R. § 1356.21 (c))</p>	<p>Continuing to reside in the home is contrary to the child’s welfare. (MCL 712A.14b(1)(e), MCL 712A.13a (9)(c); MCR 3.963(B)(1), MCR 3.974 (B))</p> <p>This finding must be made at the time of the first court ruling authorizing the child to be taken into protective custody and/or authorizing removal of the child from the home. (MCL 712A.14b, MCL 712A.13a(9))</p>	<p><b>Never</b> eligible for title IV-E funding (45 C.F.R. § 1356.21(c))</p>
<p><b>B.</b> Court must order that placement and care are the responsibility of the state agency or any other public agency with whom the responsible state agency has an agreement. (42 U.S.C. §672(a)(1)-(2); 45 C.F.R. § 1356.71(d)(1)(iii))</p>		<p>No title IV-E funding unless the court orders the child under the placement and care of DHS.</p>
<p><b>C.</b> Court must make finding that reasonable efforts have been made to prevent or eliminate the need for removal. (42 U.S.C. §§ 671(a)(15), 672(a)(1)-(2); 45 C.F.R. § 1356.21(b)(1))</p> <p>This finding must be made within 60 days of the date of removal. (45 C.F.R. § 1356.21(b)(1))</p>	<p>Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal. (MCL 712A.14b(1)(c), MCL 712A.13(19)(d); MCR 3.963(B)(1), MCR 3.965(D))</p> <p>The court must make this determination at the earliest possible time, but no later than 60 days from the date of removal, and must state the factual basis for the determination in the court order. (MCR 3.965(D)(1))</p>	<p><b>Never</b> eligible for title IV-E funding. (45 C.F.R. § 1356.21(b)(1)(ii))</p>
<b>Permanency Planning Hearings</b>		
<p>Court must hold a permanency hearing to select a permanent plan no later than 12 months from the date the child entered foster care, and must hold subsequent permanency plan hearings every 12 months thereafter. (45 C.F.R. §§ 1355.20, 1356.21(b)(2)(i); 42 U.S.C. § 675(5)(C), (F))</p> <p>To maintain IV-E eligibility in a judicial removal, there must be a judicial determination to the effect that the IV-E agency has made reasonable efforts to finalize the permanency plan. (45 C.F.R. § 1356.21(b)(2))</p>	<p>If a child remains in foster care and parental rights have not been terminated, the court shall conduct a permanency planning hearing within 12 months after the child was removed from his or her home. Subsequent permanency planning hearings shall be held no later than every 12 months after each preceding permanency planning hearing during the continuation of foster care. (MCL 712A.19a, MCR 3.976(B))</p> <p>At or before each permanency planning hearing, the court must determine whether the agency has made reasonable efforts to finalize the permanency plan. (MCR 3.976(A))</p>	<p>Funding stops until reasonable efforts finding is made.</p>

\*This document is based on laws in effect at the time of publication ~ March 2015. Federal and state laws can change at any time.

## Child Protective Proceedings – Title IV-E Findings: Legal Citations

### **Removal Hearing**

#### **A. *Contrary to the Welfare Finding***

- i. Court must make finding that continuance in the home of the parent or legal guardian would be contrary to the child's welfare. This finding must be made at the time of the first court ruling authorizing the child to be taken into protective custody and/or authorizing removal of the child from the home<sup>1</sup>.
- ii. SCAO Form JC05b: Enter findings in section 3(b)(3)
- iii. RESULT IF NO FINDING: **Never** eligible for Title IV-E funding<sup>2</sup>

#### **B. *Reasonable Efforts to Prevent Removal Finding***

- i. Court must make finding that, consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal. This finding must be made within 60 days of the date of removal.<sup>3</sup>  
**NOTE:** *State and federal law allow up to 60 days for the court to make this finding; however, Title IV-E funding does not begin until the finding is made.*
- ii. SCAO Form JC05b: Enter findings in section 3(b)(5)
- iii. RESULT IF NO FINDING WITHIN 60 DAYS: **Never** eligible for Title IV-E funding.<sup>4</sup>

#### **C. *Placement and Care with Department of Human Services***

- i. Court must order that placement and care are the responsibility of the state agency or any other public agency with whom the responsible state agency has an agreement.<sup>5</sup>
- ii. SCAO Form JC05b: Enter findings in section 6
- iii. RESULT IF NO FINDING: No Title IV-E funding until the court orders the child under the placement and care of DHS.

### **Permanency Planning Hearing (PPH)**

#### ***Reasonable Efforts Have Been Made to Finalize the Permanency Plan Finding***

- ii. Court must hold a permanency planning hearing no later than 12 months from the date the child entered foster care, and every 12 months thereafter. To maintain Title IV-E eligibility, the court must find that the IV-E agency has made reasonable efforts to finalize the permanency plan.<sup>6</sup>
- iii. SCAO Form JC19: Enter findings in section 17
- iv. RESULT IF NO FINDING: Title IV-E funding stops until the court finds that reasonable efforts to finalize the permanency plan have been made.
- v. SCAO Child Welfare Services recommends, where possible, that the court make this finding at each dispositional review hearing, in addition to the PPH, to ensure the case does not become stagnant.

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<sup>1</sup> Federal law: 42 USC 672(a)(1)-(2), 45 CFR 1356.21(c). State law: MCL 712A.14b(1)(e), MCL 712A.13a (9)(c), MCR 3.963(B)(1), MCR 3.974(B)

<sup>2</sup> 45 CFR 1356.21(c)

<sup>3</sup> Federal law: 42 USC 671(a)(15), 672(a)(1)-(2), 45 CFR 1356.21(b)(1). State law: MCL 712A.14b(1)(c), MCL 712A.13(9)(d); MCR 3.963(B)(1), MCR 3.965(C)(4)

<sup>4</sup> 45 CFR 1356.21(b)(1)(ii)

<sup>5</sup> 42 USC 672(a)(1)-(2); 45 CFR 1356.71(d)(1)(iii)

<sup>6</sup> 45 CFR 1355.20, 1356.21(b)(2)(i), 42 USC 675(5)(C), (F), 45 CFR 1356.21(b)(2). State law: MCL 712A.19a, MCR 3.976(B), MCR 3.976(A)