CHAPTER HFS 44

PERMANENCY PLANNING AND REASONABLE OR ACTIVE EFFORTS

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HFS 44.01 Authority and purpose. This chapter is promulgated under the authority of ss. 48.38(6) and 938.38(6), Stats., to establish procedures for conducting reviews of permanency plans required under ss. 48.38(2) and 938.38(2), Stats., for children placed in foster homes, treatment foster homes, in the home of a relative, group homes, residential care centers for children and youth, secure detention facilities and shelter care facilities; to establish standards consistent with ss. 48.21, 48.355(2c), and 938.355(2c), Stats., for reasonable or active efforts to prevent the removal of a child from his or her home while assuring that the child's health and safety are the paramount concerns and, as appropriate under ch. 938, Stats., for juveniles placed outside of their homes, assuring that the protection of the community from further delinquent acts and accountability for such delinquent acts are paramount concerns, and to make it possible for children placed outside of their homes to return safely to their homes; to establish requirements for review panels; to establish formats for permanency plans and review panel reports; to establish the permanency plan evaluation process; and to establish standards for making decisions about the placement of children outside of their homes.	
HFS 44.02 Applicability. This chapter applies to the department, county agencies under ss. 46.215, 46.22 and 46.23, Stats., private child-placing agencies licensed under s. 48.60, Stats., and ch. HFS 54, residential care centers for children and youth licensed under s. 48.60, Stats., and ch. HFS 52, a Type 2 child caring institution licensed under s. 48.60, Stats., and ch. HFS 52, group homes licensed under s.48.625, Stats., and ch. HFS 57, secure detention facilities and shelter care facilities established under ss. 48.66 and 938.22, Stats., parents, guardians and families of children	

at-risk of out-of-home placement or who have been placed out of their homes, and foster parents and treatment foster parents licensed under s. 48.62 and 48.75, Stats., and chs. HFS 56 and HFS 38. This chapter also applies to the department of corrections for the purpose of aftercare supervision subsequent to release or transfer from a secured correctional institution under s. 938.34(4n).	
HFS 44.03 Definitions. In this chapter: (1) "Agency" means, unless otherwise indicated, the department of health and family services, the department of corrections, a county department under s. 46.215, 46.22 or 46.23, Stats., or a child-placing agency licensed under ch. HFS 54 that placed a child in out-of-home care, arranged for a child's placement in out-of-home care, or is the agency primarily responsible for providing services to a child under ss. 48.32, 48.355, 938.32, or 938.355, Stats.	
(3) "Another planned permanent living arrangement" means a permanence goal of long-term supportive services, or independent living, or sustaining care.	Long-term Permanent Quasi-permanent care
(4) "Assessment of need for placement outside the home" means a comprehensive gathering and analysis of information about a child and the child's family to determine, as appropriate, whether the following conditions exist: (a) A child's special needs can be met through the implementation of in-home services. (b) In delinquency cases, the community can be protected through the implementation of in-home services.	
(5) "At-risk of out-of-home placement" means one or more of the following conditions has been identified by the agency: (a) The child has been determined to be unsafe in the home. (b) The child has special needs that the parent or guardian cannot meet or has significant difficulty meeting at home, including, but not limited to, medical or developmental disability needs, emotional damage, self-injurious behavior, or delinquent behavior. (c) The child has demonstrated behavior that jeopardizes the safety, security, or property of residents of the home or the community. (d) The parent or guardian has special needs that result in the parent's or guardian's inability or significant difficulty in meeting the needs of a child.	**Word search done for parent and added guardian as appropriate** **Where is this term in body of the rule? – currently only in definitions and Applicability sections**
(6) "Case management" means performance of all of the following functions: **(a) Assessment of and goal setting with children and their families.** **(b) Ongoing supervision of a child's case plan and**	**Variation of s. HFS 38.03(6) Treatment Foster Care for Children**

permanency plan. **(c) Coordination of provided or purchased services for the child and his or her family.** **(d) Liaison activities with other agencies and the court.** **(e) Development and coordination of any treatment or service team.** **(f) Decision-making regarding all aspects of the case, subject to decisions of the court and after consultation with any treatment or service team members and, if appropriate, tribe.** **(g) Consideration of interventions and services, in consultation and coordination with any agency or treatment or service team, when appropriate interventions and services are not available through existing resources.** **(h) Case progress evaluation.** **(i) Assessing and monitoring the safety of the child in his or her home or out-of-home placement.** **(j) In the case of a juvenile delinquent, providing appropriate services and interventions to minimize danger to the community.**	
(7) "Case plan" means a comprehensive strategy that is structured, focused, and designed to achieve the change identified by an assessment process and which identifies the treatment services to be provided to the family and child. The parents/guardians, relatives, with appropriate consent, and child, if of an appropriate age, should be involved in developing the case plan and complying with its directives. The treatment services should include an identification of measurable behavioral outcomes and goals, identification of the types of services needed, identification of providers of the services and their responsibilities, a description of the frequency of contacts between the family and service providers, and a description of the timeframes in which the goals and outcomes will be accomplished by all involved in the case plan.	**Variation and compilation of definitions at 42 USC 675(a)(1)(E); Federal Comment on s. 45 CFR 1356.21(g); s. HFS 56.03(4); and CPS Ongoing Services Standards and Practice Guidelines** **Remember, Case Plans not always used for JJ** ***Should definition be the first sentence only and move the following sentences to another section of the rule?**
(8) "Case progress evaluation" means a comprehensive assessment of family progress toward meeting the goals of the case plan.	*Def. in Ongoing Standards is different*
(9) "Caseworker" means the social worker or other professional staff person, under ss. 48.067, 48.069, 938.067, and 938.069, assigned by the agency to provide case management for a	

child receiving services from the agency.	
(10) "Child" means a person who is under the age of 18, or is a person over age 18 who has come into the supervision of the agency when under the age of 18, remains under the jurisdiction of the court, and is enrolled full-time in a high school program or its vocational or technical equivalent and is expected to graduate or complete his or her course of study by age 19. For purposes of this chapter, unless otherwise specified, "child" includes a "juvenile" as defined in this subsection and sub. s. 938.02(10m).	**s. 48.02(2)** **s. 48.355(4),** **s. 938.02(10m) Stats.**
(11) "Child care institution" means a residential care center for children and youth as defined in s. 48.02(15d) and s. 938.02(15d).	**Reference 48.02 (15d)** **938.02(15d)**
(13) "Child's record" means the paper or electronic file maintained by an agency on a child which includes materials regarding the child and the child's family required to make certain that the case is managed and that there is compliance with all statutory requirements, this chapter, and any other applicable state, federal, or agency policies.	
(14) "Concurrent permanence goal" means a goal for a child other than reunification that is simultaneously developed and implemented, in whole or in part, while reasonable or active efforts to achieve the permanence goal are ongoing. The appropriateness of developing or implementing a concurrent permanence goal is determined on an individual case basis.	
(16) "Contrary to the welfare of the child" means a judicial finding that, for purposes of federal funding, must be included in the first court order authorizing the removal of the child from his or her home.	
(17) **"Coordinated service team" means a group identified by the agency primarily responsible for providing services to the child and the child's family to assess the child and family, define the services and any treatment to be provided, develop and implement the case plan, and evaluate the child's and his or her family's progress toward achieving established measurable and behavioral goals and objectives.** A coordinated service team consists of the child's caseworker, the child's foster parent or the operator of the facility where the child is living, the child's parent or guardian, the child, if capable, a representative of the child's tribe, and any other individuals deemed appropriate by the agency or court, such as, but not limited to, the family's informal supports, service providers, school personnel, law enforcement staff, and health care providers who are brought together for the purpose of coordinating efforts to achieve the outcomes of the case or permanency plan**.**	**CPS Ongoing Services Standards and Practice Guidelines** ***Check with Dan Naylor/Kim Eithun re:definition they are using** **e-mail 3-21-06**

(18) "County department" means a county department under s. 46.215, 46.22 or 46.23, Stats., and, for cases under ch. 48, Stats., the department in Milwaukee county.	
(19) "Department" means, for children under ch. 48, Stats., the Wisconsin department of health and family services and, for children under ch. 938, Stats., the Wisconsin department of corrections.	
(20) "Delinquent" means a juvenile who is 10 years of age or older who has violated any state or federal criminal law, except as provided in ss. 938.17, 938.18 and 938.183, Stats., or who has committed a contempt of court, as defined in s. 785.01(1), Stats., as specified in s. 938.355(6g), Stats.	**s. 938.02(3m)**
(21) "Family" means a group that lives together and that consists of at least one child and his or her parent or guardian.	**Delete? Want to encompass guardian in the definition of family…using lots of different names…family, parent, family members, etc.** *Search how we are using this in the rule…suggestion to use current definition in Ongoing Standards…is this definition too broad…would include mom's boyfriend, child's foster family, etc.???*
(23) **"Family interaction" means the interpersonal dynamics of the members of a family in a variety of environments and activities. Family interaction includes, but is not limited to, face-to-face contact, telephone calls, letters, email, and attendance at routine activities such as counseling sessions, medical appointments, school events, and spiritual related activities**	**CPS Ongoing Services Standards and Practice Guidelines**
(24) "Family's informal supports" means individuals or organizations that may assist a family in attaining the goals of the case plan, for both in-home and out-of-home care cases, or permanency plan and which may include, but are not limited to, friends, neighbors, local community groups, support groups,	

relatives, and spiritual communities.	
(25) "Financial assistance" means direct provision of funds, the use of vouchers, or enrollment in a program designed to provide funding or services related to the acquisition of basic living necessities.	
(26) "Fit and willing relative" means a relative, as defined in s. 48.02(15), Stats., of the child who successfully completes a background check under s. 48.685, Stats., who has expressed a willingness to provide care for the child until the child is 18 years of age, who has the physical, emotional, and mental capacity to provide for the child until the child's 18th birthday, and who has the willingness and capacity to protect the child from maltreatment.	**Concerns about "successfully completes"**
(27) "Foster home" means any facility licensed under HFS 56.	
(28) "Group home" means a facility licensed under HFS 57.	
(29) "Guardian" means an adult with whom the child lives and who has been appointed by any court of competent jurisdiction, as evidenced by court order or letters of guardianship.	
(30) "Independent agency" means a private, nonprofit organization, but does not include a licensed child-placing agency, that is authorized to prepare permanency plans or that is assigned the primary responsibility of providing services under a permanency plan.	**s. 48.38(1)(am)**
(31) "Independent living," as it relates to permanency planning, means the living arrangement of a child subsequent to residing in out-of-home care under s. 48.345(10), s. 938.34(3)(e), or 938.345(1), Stats., or when the child is not residing in the same home with a parent, guardian, or other legal or physical custodian.	**IL services can be provided to eligible children who have returned home.**
(34) "Indian child" means any unmarried person who is under eighteen years of age and is affiliated with a federally recognized Indian tribe, band, or community in either of the following ways: **(a) As a member of the Indian tribe, band, or community.** **(b) As a person who is both eligible for membership in tribe, band, or community and is the biological child of a member of the tribe, band, or community.**	**s.48.981(1)(cs) ICWA**
(35) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.	**ICWA**
(40) "Out-of-home care" means care provided in a foster	**CPS Ongoing**

home, treatment foster home, the home of a relative, group home, residential care center for children and youth, supervised independent living facility, secure detention facility or shelter care facility to a child for whom a permanency plan is required but does not include care provided in a secured correctional facility as defined under s. 938.02(15m), Stats. **Note:** Out-of-home care also applies to juvenile corrections for the purpose of county- or state-provided supervision in transitional placements subsequent to release or transfer from a Type 1 juvenile correctional institution.	**Services Standards and Practice Guidelines**
(41)(a) "Parent" means either a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, Stats., or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, Stats., "parent" includes a person acknowledged under s. 767.62(1), Stats., or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated.	**s. 48.02(13)** *Defined differently in Ongoing Standards*
(b) For an Indian child, "parent" means any biological parent or parents of an Indian child, any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom, or other person considered to be a parent under such definition of the affected tribe. "Parent" does not include the unwed father where paternity has not been acknowledged or established by court order.	**ICWA**
(42) "Permanence goal" means a statement of the ultimate safe and stable living arrangement identified for a child, including the location, the person or persons who will be the child's primary caregivers, and any long-term supports which may be necessary to assure that the living arrangement is safe and stable.	**CPS Ongoing Services Standards and Practice Guidelines**
(43) "Permanency plan" means a plan required under ss. 48.38(2) and 938.38(2), Stats., that is designed to ensure that a child placed in out-of-home care is safely reunified with his or her family, whenever appropriate, or that the child quickly attains a safe placement or home providing long-term stability. **Note: For permanency plans under s. 938.38(2), Stats., safe reunification, appropriateness of placements, and changes of placements in a timely manner are determined by the protection of the community, the severity of the delinquent behavior, and the most effective means by which to achieve accountability, development of competency, and individualization of case planning. (Section DOC 371.17, Adm. Code, refers to permanency planning for juveniles under the jurisdiction of Ch. 938, Stats.)**	**s. 48.38(1)(b)** **CPS Ongoing Services Standards and Practice Guidelines** **This is the statutory definition – does it need to be supplemented with information on adding pp goals?**

(44) "Permanency plan evaluation" means a review of the child's permanency plan pursuant to s. 48.38(5), Stats., or a hearing on the child's permanency plan pursuant to s. 48.38(5m), Stats. The evaluation, if a review, shall be conducted pursuant to s. HFS 44.08(2).	
(45) "Permanency review panel" means a panel of 3 persons designated by an independent agency or by the agency that prepared a child's permanency plan and appointed by a court under ss. 48.38(5)(a) and 938.38(5)(a), Stats., to review the child's permanency plan. At least 2 of the 3 persons on the panel shall be persons not employed by the agency that prepared the permanency plan and who are not providing services to the child whose permanency plan is being reviewed or his or her parents or guardians.	
(46) "Permanency review summary" means a written summary prepared by the agency of the determinations made by the review panel in reviewing a child's permanency plan.	
(47) "Private child-placing agency" means an agency licensed under s. 48.60, Stats., and ch. HFS 54 to provide foster care or to provide services to children in out-of-home care.	
(48) "Protective plan" means a short-term plan implemented to keep a child safe in response to identified present or impending danger threats. A protective plan differs from a safety plan in that it is implemented immediately following an assessment of present danger but prior to completion of the entire information gathering needed to evaluate threats of impending danger.	**2005 CPS definition,** *defined differently in Ongoing Standards*
(49) "Reasonable efforts to achieve the goal of the permanency plan" means a finding by the court or determination by the permanency review panel that the activities of an agency, as described in s. HFS 44.07, are sufficient and adequate, even if unsuccessful, to meet the needs of a child or a child's family so that the child can be safely reunited with his or her family or placed in another safe and stable placement or, in the case of a child adjudged to be delinquent, that the child can be placed in a placement where the health and safety of the juvenile and the community can be protected. **Note:** Reasonable efforts to achieve the goal of the permanency plan, unless the goal is reunification with the family, are not required if the court determines that such reasonable efforts are not required under ss. 48.355(2d)(b) or 938.355(2d)(b), Stats.	
(50) "Reasonable efforts to prevent removal" means a finding by the court that the activities of an agency, as described in s. HFS 44.04, are sufficient and adequate, even if unsuccessful, to	

control any threat to the child's safety through the provision of in-home services, to meet a child's special needs through the provision of in-home services, and to control the behavior of a child that jeopardize the safety of other persons in the home or in the community through the provision of in-home services. **Note:** Reasonable efforts to prevent removal are not required in situations where a child is placed pursuant to a voluntary placement agreement or if the court determines that reasonable or active efforts to prevent removal are not required under ss. 48.355(2d)(b) or 938.355(2d)(b), Stats.	
(51) "Reasonable or active efforts to return the child safely home" means a finding by the court that the activities of an agency, as described in s. HFS 44.05, are sufficient and adequate, even if unsuccessful, to safely return the child to his or her home prior to the submission of the child's initial permanency plan or within 60 days after the child's removal from his or her home, whichever occurs first.	
(52) "Relative," except for a fit and willing relative, means a child's grandparent, great-grandparent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether this relationship is by blood, marriage, or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce. If the child is an Indian child, "relative" also includes extended family members as defined by the law or custom of the Indian child's tribe. **Note: "Fit and willing relative" is defined in sub. (26).**	Changing to match whatever legislature adopted as new definition **Variation on s. 48.02(15), 48.57(3m)(a)2., 48.981(1)(fm), and HFS 58.03(18)**
(53) "Residential care center for children and youth" means a facility required to be licensed as a child welfare agency under s. 48.60, Stats., and ch. HFS 52 that provides residential treatment and care and maintenance for children, youth, and young adults. **Note: "Residential care center for children and youth" is, effective 2001, the name for what were previously known as "child care institutions." Any reference in statutes and administrative rules to child caring institution should be interpreted to mean residential care center for children and youth.**	**s. HFS 52.03(23)**
(54) "Safety assessment" means the identification and evaluation of threats of imminent and severe harm.	

Note: In some juvenile justice cases, safety as implied in this subsection may not apply. However, there are many juvenile justice cases where issues related to child protection and services, as described in s. 48.13, Stats., are also present. As such, safety should be assessed to determine whether it is a factor that requires additional attention.	
(55) "Safety plan" means an in-home or out-of-home service strategy implemented immediately following completion of a safety assessment or safety reassessment to control identified threats to child safety.	**2005 CPS Unit Definition – not the same as CPS Ongoing Services Standards and Practice Guidelines**
(56) "Secured correctional facility" has the meaning given in s. 938.02(15m), Stats.	
(57) "Secure detention facility" means a locked facility approved by the department of corrections under s. 301.36, Stats., for the secure, temporary holding in custody of children.	**s. 48.02(16), 938.02(16)**
(58) "Shelter care facility" means a nonsecure place for the temporary care and physical custody of children, including a holdover room, licensed by the department under s. 48.66(1)(a), Stats., and ch. HFS 59.	**s. 48.02(17)**
(59) "Sibling" means one of two or more persons who have at least one parent in common or who otherwise have a relationship substantially similar to such a relationship.	
60) "Substantial bodily harm" means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a temporary loss of consciousness, sight, or hearing; a concussion; or a loss or fracture of a tooth.	**s.939.22(38)**
(61) "Sustaining care" means the placement of children under s. 48.428, Stats.	
(62) "Temporary physical custody," for purposes of this chapter, means the legal status of a child who has been removed from his or her home or other surroundings pursuant to ss. 48.19 or 938.19, Stats., and placed pursuant to s. 48.207, 938.207, 938.208, or 938.209, Stats.	**Should s. 48.21(4)(a) and (b) be added?– that covers continuation of custody**
(63) "Termination of parental rights" means, pursuant to a court order, that all rights, powers, privileges, immunities, duties, and obligations existing between parent and child are permanently severed.	**s. 48.40(2)**

(64) "Treatment foster home" means any facility operated by a person required to be licensed under s.48.62(1)(b), Stats., and chs. HFS 38 and HFS 56 that is operated under the supervision of a child placing agency or name Dept., county agency, child welfare agency?, and that provides to no more than 4 children care, maintenance, and structured, professional treatment by trained individuals, including the treatment foster parents.	**s. 48.02(17q)** *Defined differently in Ongoing Service Standards*
(65) "Type 2 child caring institution" means a child caring institution that is designated by the department of corrections to provide care and maintenance for juveniles who have been placed in the child caring institution under the supervision of the department of corrections or a county department under s. 938.34(4d), Stats.	**s. HFS 52.03(26) Should we use the definition of a Type 2 residential care center?**
(66) "Type 2 secured correctional facility" has the meaning prescribed in s. 938.02(20), Stats.	**s. 938.02(20)**
HFS 44.04 General Requirements (1) CASEWORKER FUNCTIONS. (a) *Justification and documentation.* The caseworker shall justify the determination to remove the child from his or her home and shall document all reasonable or active efforts to prevent the removal of the child from his or her home; reasonable or active efforts to return the child safely to his or her home; and reasonable efforts to achieve the goal of the permanency plan in the child's case record.	
(b) *Case Progress Evaluation*. 1. The caseworker shall evaluate the progress of the family and child every 90 days after the initiation of the case plan in order to evaluate the effectiveness of the case plan and measure progress and change. Written documentation of the evaluation and its findings shall be maintained as part of the child's record. The evaluation shall consider all of the following: a. For Indian children, contact with and involvement of the appropriate tribe. b. The effectiveness of the current safety plan, family progress in the establishment of a safe environment, and any needed revisions to the plan. The caseworker shall reassess the existing safety plan and threats to child safety. Written documentation of the reassessment and any modifications of that plan shall be documented in the case record. c. When applicable, whether the child could safely return home with an in-home safety plan. d. Whether the current placement continues to meet the child's safety, service, and treatment needs or the safety needs of the community. e. The level of progress toward achieving each goal contained in the case or permanency plan and overall case progress. f. The effectiveness of services provided to the family or child in attaining the measurable behavioral objectives or conditions	*CPS Safety Standards*

established in the case or permanency plan. g. Any need to revise the case or permanency plan or the family interaction plan or to recommend that the court modify the court order to implement alternate services, discontinue ineffective services, or provide any other assistance which may be necessary. h. Any need to advocate for the family when support is necessary to maintain progress, improve the provision of services, ensure that the agency recognizes the family's or child's progress or otherwise encourage the family and protect its rights. i. In addition to the requirements of subd. subpar. a., c., d., e., f., g., and h. when safety issues are of concern, for juveniles under delinquency court orders, issues related to the protection of the public, any accountability measures ordered by the court and, as appropriate, known public reaction to the delinquent offense that may affect reunification or other placement in the community.	
(c) The evaluation shall include discussion with the family of the possible consequences of lack of achievement of behavioral goals or failure to meet specified conditions established in the case plan or permanency plan or court order, including the current or proposed permanence goal and the establishment or evaluation of a concurrent permanence goal. In all cases when an Indian child is placed in out-of-home care pursuant to s. 48.13 or 938.13(4), (6), (6m), and (7) and jurisdiction remains with the circuit court, the tribe shall be notified of any change in the permanence goal.	**CPS Ongoing Services Standards and Practice Guidelines**
(2) SUPERVISORY FUNCTIONS. (a) *Assignment and Reassignment of a Caseworker*. Each agency shall develop a written policy on the assignment and reassignment of a caseworker to a case. The policy must include procedures and timelines for notifying all parties and other appropriate persons about the assignment of a caseworker, and any subsequent change to a different caseworker. The policy must provide for notification of the name and contact information of the supervisor of the caseworker if a caseworker has an extended absence or a new caseworker is not immediately assigned. (b) Each agency shall develop a written policy on the role, frequency, and nature of consultation and approval expectations between the caseworker and his or her supervisor in meeting the reasonable or active efforts requirements under ss. 48.355(2c) and 938.355(2c), Stats., the Indian child welfare act, and this rule.	
(c) Consistent with the requirements in s. HFS 44.05(1)(b), the written policy must address supervisory approval at the following points in the case process:	
1. Determination regarding completion of a safety assessment for a child under s. HFS 44.05(1)(b)1.	(CPS only)
2. Development of a child safety plan under s. HFS 44.05(1)(b)3.	(CPS only)

3.a. The decision to remove a child from his or her home on a non-emergency basis . The supervisor should require information be provided that supports the decision that allowing the child to remain the home is contrary to the welfare of the child and information on what reasonable efforts were made by the caseworker to prevent removal, unless reasonable efforts to prevent removal are not possible or are not required.	(CPS and JJ) Add contrary to welfare and reasonable efforts to prevent removal
b. The caseworker's supervisor shall approve the removal decision prior to removal. (what kind of cases does this apply to…court grants authority/approves this decision) In emergencies, when a supervisor is not immediately available, a supervisory staff person shall review and approve the caseworker's justification and documentation of the decision to remove the child within one working day after the caseworker removes a child from the child's home, except that the supervisory approval is not required in those situations where the direct supervisor of the caseworker is the circuit court judge or sheriff.	**Remove this? Remove 3.a. as redundant? Agency differences for how JJ cases are being handled, some agencies do not require supervisory approval…do we leave this up to agencies??** **Statutes say have to be in court:**
HFS 44.05 Reasonable or active efforts to prevent removal of the child from his or her home. (1) AGENCY RESPONSIBILITIES. Unless a court makes a finding under sub. (6) that reasonable efforts to prevent removal or safely return a child to his or her home are not required, or a child is taken into custody under ss. 48.19 or 938.19, Stats., an agency, before placing a child outside of his or her home or recommending to the court that the court place the child outside of his or her home, shall make reasonable efforts under ss. 48.21, 48.355(2c), or 938.355(2c), Stats., to prevent that placement, while assuring that the child's health and safety are the paramount concerns. Reasonable efforts to prevent removal shall include the efforts made under pars. (a) and (b).	**s. 48.21(5)(b)1. s. 471(a)(15)(B)(i) and (ii)25 USC 1901, et. seq.**
(a) *Reasonable Efforts Standards.* 1. A comprehensive assessment of the family's situation, including determination of the likelihood of protecting the child's health, safety and welfare effectively in the home. **2. Whether financial assistance was provided to the family.** **3. Whether services were offered or provided to the family and whether any assistance was provided to the family to enable the family to utilize the services.** **4. Whether monitoring of child's progress and client participation in the services was provided.** **5. Whether consideration of alternative ways of address the family's needs was proved if services did not exist or were not available to the family.**	**s. 48.355(2c)(a)1.-5. and (b) s. 938.355(2c)(a)1.--5. and (b).**

6. Whether visitation schedule between the child and his or her parents or guardians were implemented unless visitation was denied or limited by the court.	
(b) ***Safety assessment, protective plan, safety plan, and assessment of need for placement.*** **1. Safety assessment. In cases where there are allegations of abuse or neglect or threatened abuse or neglect, the assigned caseworker shall assess the safety of the child. If threats of imminent and severe harm are identified, strategies to control those threats shall be implemented. In identifying these strategies, the caseworker shall determine whether or not services can be provided to the child and the family in order to assure the child's safety while remaining in the home. This determination shall be approved by the caseworker's supervisor.**	**s. 48.355(2c)(a)1.** *Described differently in Ongoing Service Standards.* *Where do we talk about assessing at-risk? Term is defined in glossary*
2. Protective plan. If at any time during the case process present danger threats to child safety are identified, a protective plan must be put in place immediately, and be approved by the caseworker's supervisor or the supervisor's designee. The strategies put in place must control identified safety threats. The protective plan must remain in effect until the assessment of impending danger threats is completed and a safety plan, if needed, is implemented.	
3. Safety plan. a. If impending danger threats to child safety are identified, a safety plan must be put in place. The safety plan may modify any protective plan that was previously implemented. b. If a determination is made that services and supports cannot be put in place to keep the child safe in the home, the caseworker must document why those efforts would be insufficient or were unsuccessful to control all identified threats to safety.	
4. Assessment of need for placement. For juveniles and children with special needs, before removing a child from his or her home, an agency shall conduct an assessment of the need for placement.	
(2) REASONABLE EFFORTS NOT REQUIRED. (a) The court, under ss. 48.355(2d) or 938.355(2d), Stats., is authorized to make a finding that reasonable efforts to prevent removal or safely return a child to his or her home are not required.	**s. 48.355(2d)** **s. 471(a)(15)(D)(i)**
(b)While the court can make the finding that reasonable efforts are not required, the court may not make a finding that active efforts are not required in the case of an Indian child.	
(c)1. If a court makes a finding that reasonable efforts are not required, as specified in par. (a), the court shall hold a hearing at the time of the finding or within 30 days after the date	**s. 48.355(2d)(c)1.** **s. 471(a)(15)(E)(i)**

of that finding to determine the permanency plan for the child. The agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the court hearing.	
2. Even if the court has made a finding under par. (a) that reasonable efforts are not required, the agency may determine that such reasonable efforts should be made.	
(3) WHEN THE PERMANENCY PLAN IS REQUIRED TO BE FILED. (a) ***Court ordered placements.*** **1. The agency responsible for preparing a child's permanency plan shall ensure that the initial plan is filed with the court within 60 days after the child was removed from his or her home under a court order or placed in out-of-home care following release or transfer from a secured correctional facility, except that if the court makes a finding under ss. 48.21, 48.32, 48.355 (2d)(b), 938.32, or 938.355(2d)(b), Stats., that reasonable efforts to reunify the child and his or her family are not required, and a hearing is subsequently scheduled within 30 days of that finding to determine the permanency plan, the agency shall file the plan 5 days prior to that hearing, and this plan shall be modified as determined by the review and court process.** **2. If the child is an Indian child, the court shall not make a finding under ss. 48.21, 48.32, 48.355(2d)(b), 938.32, or 938.355(2d)(b), Stats., that active efforts to reunify the child and his or her family are not required.** **(b)** ***Voluntary placements.*** **The agency that negotiated or acted as intermediary for the voluntary placement shall prepare the permanency plan within 60 days after the date on which the child was removed from his or her home under the voluntary agreement. If the agency that arranged the voluntary placement intends to seek a court order to place the child outside of his or her home at the expiration of the voluntary placement, the agency shall prepare a revised permanency plan and file that revised plan with the court prior to the date of the hearing on the proposed placement.** (c) *Guardianships.* If the child is placed in a guardianship under s. 48.977, and the CHIPS or JIPS order is ended there is no further supervision and a permanency plan is not required. If the CHIPS or JIPS order remains open for the delivery of services or payment of foster care, then a permanancy plan may be required. (d) *Secured Detention.* If the child is in the custody of the Department of Corrections and placed in secured detention facility, permanency planning is not required.	**s. 48.38(3)** **s. 48.355(2d)(c)1.** **25 US 1912(e)** **s. 48.63(4)**
HFS 44.06 Reasonable efforts to return the child safely to his or her home. (1)(a) AGENCY RESPONSIBILITIES REGARDING NON-INDIAN CHILDREN**.** Immediately subsequent to the out-of-home placement, the agency shall begin to	

make reasonable efforts to enable the child to return safely to his or her home and shall continue to make such efforts until otherwise ordered by the court, or the following exceptions apply: a. A court makes a finding under s. 48.355 (2d) , Stats., that reasonable efforts to prevent removal or safely return a child to his or her home are not required, b. If the child's special needs make it unlikely that the child will be able to return safely to his or her home. c. If the child is a delinquent and poses a danger to the community which makes it unlikely that the child will be able to return safely to his or her home. Reasonable efforts to safely return the child to his or her home shall include the efforts made under this subsection.	
(1)(b) AGENCY RESPONSIBILITIES REGARDING INDIAN CHILDREN. **For an Indian child, any party seeking to effect an out-of-home care placement of, or termination of parental rights to, an Indian child shall satisfy the court that active efforts have been made to provide culturally relevant remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.** **<u>Note</u>: The Bureau of Indian Affairs includes the following language relative to "active efforts:"** **"Any party petitioning a state court for foster care placement or termination of parental rights to an Indian child must demonstrate to the court that prior to the commencement of the proceeding active efforts have been made to alleviate the need to remove the Indian child from his or her parents or Indian custodians. These efforts shall take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe. They shall also involve and use the available resources of the extended family, the tribe, Indian social service agencies and individual Indian care givers."**	**ICWA, s. 1912(d)**
(b) No out-of-home care placement may be ordered in a court proceeding in the absence of a determination, supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. **<u>Note</u>: The Bureau of Indian Affairs includes the following language relative to "qualified expert witness:"** **"(a) Removal of an Indian child from his or her family must be based on competent testimony from one or more experts qualified to speak specifically to the issue of whether continued custody by the parents or Indian custodians is likely to result in serious physical or emotional damage to the child.** **(b) Persons with the following characteristics are most**	**ICWA, s. 1912(e)**

likely to meet the requirements for qualified expert witness for purposes of Indian child custody proceedings: **(i) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to the family organization and childrearing practices.** **(ii) A lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.** **(iii) A professional person having substantial education and experience in the area of his or her specialty.** **(c) The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses."**	
(c) A court finding that abuse or neglect has occurred is, in and of itself, insufficient to support an involuntary placement of the Indian child into out-of-home care. *What is sufficient to make a finding that remaining in the home causes harm to the child?*	**ICWA, s. 1912(e)**
(2) REASSESSMENT OF SAFETY. (a). Within 30 days after removal from the child's home, the agency responsible for managing the safety plan that led to the child's placement shall reassess the threats to child safety, including the parental or primary caretaker capacity to protect the child, in order to determine if the child may be returned safely to his or her home. (How does this reflect the 45-60 day timelines for doing safety assessment, referring to intake, etc.?)	
(b). The reassessment of any threats to child safety and any subsequent revision of the safety plan shall be conducted by the agency and documented in the case record.	
(c). If the child is a delinquent a reassessment of community safety.	
(3) FAMILY INTERACTION. (a). Purpose: The primary purpose of family interaction is to strengthen and maintain family relationship. **Family interaction** provides information to the caseworker and other professional staff about the nature of the interrelationships among family members and assists the caseworker's development and evaluation of the family's case and permanency plans. (b.) The agency responsible for preparing the permanency plan shall, within five working days after removal, establish, consistent with the case plan or court order, an initial family interaction plan for the child with the child's parents or guardians and other relatives, including siblings, as appropriate. **The family interaction plan shall be developed by the caseworker in conjunction with the parent or guardian and after consultation**	**Family Interaction Policy** **Family Interaction Policy**

with other individuals, including the legal or Indian custodian and out-of-home care provider. The family interaction plan shall be adhered to by the agency, child, parents, other relatives, and out-of-home care provider. Supervised family interaction shall be used as one mechanism to reassess the threats to child safety and parental or primary caretaker capacity to protect the child when necessary.	
(c). If the court has ordered limits or specific conditions on family interaction, the agency's family interaction plan must comply with the court's order. The agency must seek a modification from the court before changing the plan to no longer comply with the court's order.	
(d). The agency shall assist the child's parents or guardians in arranging for supervision of family interactions if supervision is required.	**Family Interaction Policy**
(e). Family interaction under the plan may only be prohibited by the agency if there has been a court finding that it would not be in the best interests of the child or, if review by the court is not immediately possible, the agency has evidence to support family interaction being contrary to the health, safety, and well being of the child. Review by the court shall be sought as soon as possible. If there are documented threats to child safety, the agency shall develop a plan for supervised family interaction.	**s. 48.355(2c)(b)** **Family Interaction Policy**
(f). The agency shall include a statement of how any necessary transportation will take place and who is responsible for the transportation.	**Family Interaction Policy**
(g). The agency shall ensure that family interaction occurs in a variety of environments, unless prohibited by the permanency plan, including, but not limited to, in the family home, in the out-of-home care setting, during leisure activities, for medical appointments, during school events or conferences, at the agency, and at other locations which will allow family members to relate to one another in the most normal and usual settings, as appropriate. **If siblings are not placed with the child, the agency shall specifically address family interaction between siblings or inclusion of siblings in family interaction plans.**	**Family Interaction Policy**
(h). Subsequent to any family interaction, the following information shall be placed in the child's record: a. The date of the family interaction. b. The location of the family interaction. c. The length and time of the family interaction. d. Family members, including siblings, who were present during the family interaction.	

e. Any notable events related to the family interaction that occurred prior to, during, or after the family interaction as witnessed by or reported to the caseworker or any other agency representative.	
(i). Based upon the information provided under subd. 6., the agency shall, as part of the case progress evaluation and when appropriate, adjust, but not cancel the family interaction except as pursuant to subd. 3., or recommend that the court adjust the family interaction schedule or limitations on family interactions.	*Family Interaction Policy calls for a safety reassessment*
HFS 44.07 Reasonable or active efforts to achieve the goal of the permanency plan. (1) AGENCY RESPONSIBILITIES. **An agency shall identify and make reasonable (or active?) efforts to achieve a child's permanence goal. Achieving permanence for the child is based on a thorough assessment of the child's and family's strengths, needs, and safety concerns that led to the child's removal and the implementation of a case (permanency?) plan to address those needs and concerns.** The result of these interventions shall be the development of a permanency plan designed to achieve permanence for the child. Reasonable or active efforts to achieve the goal of the child's permanency plan shall include the efforts made under pars. (a) to (g).	**s. 48.355(2c)(b)?? 48.38(5)(c)7. s. 471(a)(15)(B)(i) and (ii)** *is there a parallel one for Indian children*
(2) PERMANENCY PLAN. (a) For the identified child and his or her family, a **permanency plan shall be developed within 60 days after the child is removed from the home** or, in the case of a juvenile adjudged to be delinquent, released or transferred from a secured correctional facility, whichever applies.	**s. 48.38(3) s. 471(a)(16)**
(3) SERVICES FOR THE CHILD AND FAMILY. (a) The agency shall provide or arrange for services to the child and the family consistent with the permanency plan and the court order.	**s. 48.38(4)(ar) CPS Ongoing Services Standards and Practice Guidelines**
(b) The agency shall provide case management for the child and family and shall collaborate with other social service, educational, and treatment agencies as appropriate and as required by the safety plan, case plan, or permanency plan.	**CPS Ongoing Services Standards and Practice Guidelines**
(c) In the event that any services identified through the safety planning, case planning, case evaluation, or permanency plan review processes under subs. (4) to (6) as being necessary or beneficial to the family are not available to the family or do not exist, the agency shall describe in writing the alternatives it has considered to address the needs of the family and whether they were or were not provided.	**s. 48.355(2c)(a)5.**
(d) *Family interaction.* 1. If a child is placed outside of his or her home, the agency responsible for preparing the permanency	**Three options: Repeat section,**

plan shall, **within five working days after** placement, establish, consistent with the case plan or court order, a plan of family interaction for the child with the child's parents, guardians, siblings, and other relatives as appropriate. Supervised family interaction shall be used as one mechanism to reassess the threats to child safety and parental capacity to protect the child.	**Refer to earlier discussion, create a new general section on family interaction**
2.a. If there are documented threats to child safety, the agency shall develop a plan for supervised family interaction. b. Family interaction involving the child may not be prohibited by the out-of-home care provider. **c. Family interaction may only be prohibited by the agency if there has been a court finding that it would not be in the best interests of the child.**	**Family Interaction Policy** **s. 48.355(2c)(b)**
3. The agency shall assist the child's parents or guardians in arranging for supervision during a family interaction if supervision is required.	**Family Interaction Policy**
4. The agency shall include a statement of how any necessary transportation will take place and who is responsible for the transportation.	**Family Interaction Policy**
5. The agency shall ensure that family interaction is based on the developmental needs of the child and occurs in a variety of environments, unless prohibited by a court order or the permanency plan, including, but not limited to, in the family home, in the out-of-home care setting, during leisure activities, at the agency and at other locations which will allow family members to relate to one another in the most normal and usual settings as appropriate. When parents or guardians are not available or are not able to participate in family interactions, the agency shall assure, unless contraindicated by the case plan, permanency plan, or court order, that the child has the opportunity to interact with his or her siblings and shall document such interactions in the case record.	*Different explanation in Family Interaction Policy*
6. Subsequent to any family interaction, the following information shall be placed in the child's record: a. The date of the family interaction. b. The location of the family interaction. c. The length and time of the family interaction. d. Any notable events related to concerns for the child's safety during the family interaction that occurred prior to, during or after the family interaction as witnessed by or reported to the caseworker or any other agency representative.	
7. Based upon the information collected in subd. 6., the agency shall periodically, when appropriate, adjust or recommend that the court adjust the family interaction schedule or limitations on family interaction.	

44.08 Permanency plan requirements. (1) PERMANENCY PLAN DEVELOPMENT. (a) A child's permanency plan shall be based upon the current assessment conducted under s. 44.__(3)(a) and shall identify the strengths and needs associated with the family or any member of the family which have a significant impact upon the family's ability to remain safely together, to be safely reunified, or to be involved in any other permanent living arrangement of the child. In the case of a delinquent child, the permanency plan shall also be based on the assessment of the need for placement under s. HFS 44.05 and the safety of the community. The permanency plan shall include a written discussion of the findings and recommendations for building on the strengths of the child and the child's family in the resolution of any issues. These recommendations shall involve the family and shall include suggestions from the family, the child, if able, the out-of-home care provider, and any other service providers or coordinated service team members, if deemed appropriate by the agency.	*Different criteria contained in Ongoing Services Standard*
(b) The permanency plan shall: 1. Identify specific measurable objectives. 2. Include anticipated time frames for attainment of those objectives. 3. Include any objectives in any concurrent permanence goal, which seek a permanent placement for the child in another setting if the primary permanence goal cannot be successfully attained within anticipated time frames. **4. Identify and define the permanence goal and, if applicable, shall also define any concurrent permanence goal.**	**s. 48.38(4)(fg)**
(2) PERMANENCY PLAN CONTENT. The permanency plan content required under pars. (4)(c) to (j) shall be based on the safety assessment or the assessment of the need for placement, any subsequent safety plan required under s. HFS 44.04(1)(b), and any additional assessments related to understanding the family's strengths and concerns. The agency shall ensure that all of the following information is included in the permanency plan and that the permanency plan is made a discreet section of the child's record:	
(a) The name, address, and telephone number of the child's parent, guardian, and legal custodian.	**s. 48.38(4)(ag)**
(b) The date on which the child was removed from his or her home and the date on which the child was placed in out-of-home care.	**s. 48.38(4)(am)**
(c)1. A description of the services offered and any	**s. 48.38(4)(ar)**

services provided in an effort to prevent the removal of the child from his or her home, while assuring that the health and safety of the child are the paramount concerns, and to achieve the goal of the permanency plan, except that the permanency plan is not required to include a description of the services offered or provided with respect to a parent or guardian of the child, unless the child is an Indian child, to prevent the removal of the child from the home or to achieve the permanence goal of returning the child safely to his or her home if any of the circumstances specified in ss. 48.355(2d)(b)1. to 5. or 938.355(2d)(b)1. to 4., Stats., applies to that parent. **2. If the child is placed pursuant to s. 938.34, the permanency plan shall also include identification of services offered and provided to protect the safety of the community.**	**s. 475(1)(B)** **s. 938.38(ar) and (g)**
(d) **The basis for the decision to hold the child in custody or to place the child outside of his or her home.** This shall include an indication of whether the child is held or placed for a delinquent act or as a child or juvenile in need of protection or services, or for some other reason. If the child or juvenile is in need of protection or services, the relevant subsection under either s. 48.13 or 938.13, Stats., that describes the nature of the protection or services shall also be identified.	**s. 48.38(4)(b)**
(e) **A description of the specific, identifiable conditions that must be met by the child or his or her family before the child will be reunified with his or her family.** Return conditions developed by the agency shall be based on the reasons for which the child was removed from his or her home.	**s. 48.38(4)(g)**
(f) A statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child and, if a decision is made not to place the child with an available relative, a statement as to why placement with the relative is not safe or appropriate.	**s. 48.38(4)(bm)** **s. 471(a)(19)**
(g) The location and type of residence in which the child is currently placed and the location and type of residence in which the child will be placed.	**s. 48.38(4)(c)** **s. 475(1)(A)**
(h)1. If the child is or will be placed more than 60 miles from his or her home, documentation of why placement within 60 miles of the child's home is either unavailable or inappropriate, placement outside of 60 miles is the most appropriate or potentially effective, or placement more than 60 miles from the child's home is in the child's best interests or best meets the child's special treatment needs. **Note: 25 USC 1915(b) requires that an Indian child must be placed "within reasonable proximity" to his or her home. Can we determine that the 60 mile requirement meets the ICWA requirement?**	**s. 48.38(4)(d)** **25 USC 1915(b)**
2. The placement of a child in a licensed foster home or a	**s. 48.38(4)(d)**

licensed treatment foster home more than 60 miles from the child's home is presumed to be in the best interests of the child if documentation is provided which demonstrates that one or more of the following applies: **a. The placement is made pursuant to a voluntary placement agreement under s. 48.63, Stats., which provides that the child may be placed more than 60 miles from the child's home.** **b. The placement is made to facilitate the anticipated adoptive placement of the child under ss. 48.833 or 48.837, Stats.**	**s. 475(5)(A)(i)**
(i) Information about the child's education, including all of the following: **1. The name and address of the school in which the child is or was most recently enrolled.** **2. Any special education programs in which the child is or was previously enrolled.** **3. The grade level in which the child is or was most recently enrolled and all information that is available concerning the child's grade level performance.** **4. A summary of all available education records relating to the child that are relevant to any education goals included in the education services plan prepared under ss. 48.33(1)(e) or 938.33(1)(e), Stats.** **5. If as a result of the placement, the child has been or will be transferred from the school in which the child is or was most recently enrolled, documentation that a placement that would maintain the child in that school is either unavailable or inappropriate or that a placement that would result in the child's transfer to another school would be in the child's best interests.**	**s. 48.38(4)(dg)** **s. 475(1)(C)(i) to (iv) and (viii)**
(j) Medical information relating to the child, including all of the following: **1. The names and addresses of the child's physician, dentist, and any other health care provider that is or was previously providing health care services to the child.** **2. The child's immunization record, including the name and date of each immunization administered to the child.** **3. Any known medical condition for which the child is receiving medical care or treatment and any known serious medical condition for which the child has previously received medical care or treatment.** **4. The name, purpose, and dosage of any medication that is being administered to the child and the name of any medication that causes the child to suffer an allergic or other negative reaction.** **<u>Note:</u> For a child in a foster home, treatment foster home, or family-operated group home, the information required in subd. 1. to 4. will be found on Form DCS-872 prepared in accordance with ch. HFS 37, Information for Foster Parents.**	**s. 48.38(4)(dr)** **s. 475(1)(C)(i) and (v) to (viii)**

(k) A plan for ensuring the safety and appropriateness of the placement and a description of the services provided to meet the needs of the child and family, including a discussion of services that have been investigated and considered and are not available or likely to become available within a reasonable time to meet the needs of the child or, if available, why these services are not safe or appropriate. In the case of a juvenile who has been adjudicated delinquent, the statement shall also describe provisions made for the protection of the public while the juvenile is in the placement and shall also describe any efforts undertaken to meet any victim notification requirements under s. 938.51, Stats.	**s. 48.38(4)(e)** **s. 475(1)(B)**
(L) A description of the services that will be provided to the child, the child's family, and the child's foster parent, the child's treatment foster parent, or the operator of the facility where the child is living or the relative with whom the child is living to carry out the dispositional order, including services planned to accomplish all of the following:	**s. 48.38(4)(f)** **s. 475(1)(B)**
1. Ensure proper care and treatment of the child and promote safety and stability in the placement in accordance with the permanency plan and the permanence goal.	**s. 48.38(4)(f)1.**
2. Meet the child's physical, emotional, social, educational, and vocational needs.	**s. 48.38(4)(f)2.**
3. Improve the conditions of the parents' or guardians' home to facilitate the safe return of the child to his or her home, or, if appropriate, obtain an alternative permanent placement for the child.	
(m) The goal of the permanency plan or, if the agency has established a concurrent permanence goal under s. 48.355(2b), Stats., the goals of the permanency plan. If a goal of the permanency plan is any goal other than return of the child to his or her home, the permanency plan shall include the rationale for deciding on that goal. If a goal of the permanency plan is another permanent living arrangement under subd. 5., the permanency plan shall document a compelling reason why it would not be in the best interest of the child to pursue a goal specified in subd. 1. to 4. The agency shall determine one or more of the following goals to be the goal or goals of a child's permanency plan: **1. Return of the child to the child's home.** **2. Placement of the child for adoption.** **3. Placement of the child with a guardian.** **4. Permanent placement of the child with a fit and willing relative.** **5. Another planned permanent living arrangement.**	**s. 48.38(4)(fg)** **s. 475(1)(B)** **s. 938. 38**

(n) If the goal of the permanency plan is to place the child for adoption, with a guardian, with a fit and willing relative, or in another planned permanent living arrangement, the efforts made to achieve that goal.	**s. 48.38(4)(fm)** **s. 475(1)(B)**
(o) If the child is 15 years of age or over, a description of the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living. The description shall include all of the following: **1. The anticipated age at which the child will be discharged from out-of-home care.** **2. The anticipated amount of time available in which to prepare the child for the transition of the child from out-of-home care to independent living.** **3. The anticipated location and living situation of the child on discharge from out-of-home care.** **4. A description of the assessment processes, tools, and methods that have been or will be used to determine the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living.** **5. A rationale for each program or service that is or will be provided to assist the child in preparing for the transition from out-of-home care to independent living, the time frames for delivering those programs or services, and the intended outcome of those programs or services.**	**s. 48.38(4)(h)** **s. 475(1)(D) and** **s. 477(1) to (6)**
(q) If the child has been placed out of his or her home for 15 or more of the most recent 22 months, as described in s. 48.417(1), Stats., it is required that a petition for termination of parental rights be filed or joined, a recommendation to that effect or a statement that such termination is not being pursued due to one or more of the following applies: **1. The child is being cared for by a fit and willing relative.** **2. It is not in the child's best interests to have the rights of his or her parent or parents terminated.** **3. The agency has not undertaken reasonable or, if the child is an Indian child, active efforts to safely reunify the child and his or her parent or parents.** **4. Grounds for involuntary termination of parental rights under s. 48.415, Stats., or the Indian child welfare act, 25 USC 1912(f), do not exist.** **<u>Note</u>: For an Indian child, under the Indian Child Welfare Act, a termination of parental rights may not be ordered in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of a qualified expert witness, that not terminating the parental rights**	**s. 48.38(4)(fg)** **s. 475(5)(E)** **ICWA, s. 1912(f)**

to the child is likely to result in serious emotional or physical damage to the child.	
(3) CONCURRENT PERMANENCE GOAL. (a) At the same time that an agency is making reasonable or active efforts to achieve the permanence goal, the agency may also make reasonable or active efforts to achieve a concurrent permanence goal, including placing the child for adoption, with a guardian, or permanent placement with a fit and willing relative, or in another planned permanent living arrangement, in accordance with this subsection.	**s. 48.355(2b)** **s. 471(a)(15)(F)**
(b) At each 6-month case progress evaluation required under s. HFS 44.06(5), the caseworker, based on progress or lack of progress by the family toward achieving the court-ordered conditions for return of the child, shall determine the need for development of a concurrent permanence goal or the appropriateness and effectiveness of progress on an existing concurrent permanence goal.	
44.09 Permanency plan evaluation process. (1) GENERAL DESCRIPTION AND TIME FRAMES. (a) A child's permanency plan shall be evaluated under the aegis of the court no less frequently than every 6 months from the date of removal and every 6 months after a previous evaluation for as long as the child is placed outside the home.	**s. 48.38(5) and(5m)** **s. 475(5)(B)**
(b) A permanency plan review under sub. (2) must initially occur within 6 months after the child's removal from the home and no less frequently than every 6 months thereafter from the date of the previous review conducted pursuant to s. 48.38(5) and 938.38(5), Stats. **Clarify: 180- days or 6 months)** **Note: If a child is removed on January 15, does the review have to occur by July 15 or by the end of July? In other words, is 6 months to the day or to the end of the month?**	**s. 48.38(5)** **s. 475(5)(B)**
(c) 1. A permanency plan hearing must occur within 12 months after the child's removal from the home and no less frequently than every 12 months thereafter from the date of the previous hearing conducted pursuant to s. 48.38(5m) and s. 938.38(5m), Stats.	**s. 48.38(5m)** **s. 475(5)(C)**
2. The agency that prepared a child's permanency plan shall, at least 5 days prior to a hearing, provide a copy of the permanency plan and any written comments submitted under s. 48.38(5m)(c), Stats., to all of the following: **a. The child's parent, guardian, and legal custodian.** **b. The district attorney or corporation counsel.** **c. The child's counsel, guardian ad litem, Indian custodian and tribe, if any, and court-appointed special advocate.**	**s. 48.38(5m)(d)**

d. The court.	
3. Upon request of the district attorney, corporation counsel, child's guardian ad litem, child's counsel, child's Indian custodian or tribe, if any, or child's court-appointed special advocate, the agency that prepared the child's permanency plan shall also provide any other records concerning the child that are relevant to the hearing.	**s. 48.38(5m)(d)**
(d) A permanency plan hearing under par. (c) may serve as a review under sub. (2) if the required notices, timeframes, and procedures are followed, which includes the agency sending to those individuals required to be noticed the issues to be determined at the hearing.	**s. 48.38(5)(ag)**
(2) PERMANENCY PLAN 6-MONTH REVIEW PROCESS. (a) Review by court or administrative panel. If the court elects not to review the permanency plan, the court shall appoint a permanency review panel to conduct the review.	**s. 48.38(5)(ag)** **s. 475(5)(C)**
1. The review panel appointed by the court shall consist of 3 persons designated by, at the discretion of the court, either the agency that prepared the permanency plan or an independent agency approved by the chief judge of the judicial administrative district.	**s. 48.38(5)(ag) and (am)**
2. At least 2 of the 3 review panel members shall be persons who are not employed by the agency which prepared the permanency plan and who are not responsible for providing services to the child or the parents or guardians of the child whose permanency plan is the subject of the review. No caseworker assigned to the child or family or the supervisor of that caseworker may be a member of the review panel.	**s. 48.38(5)(ag)** **s. 475(6)**
(b) Information for members of a review panel. 1. Before a person participates as a member of a permanency review panel, the person shall be provided with specific information related to child safety, the Indian child welfare act, and other information determined by the agency, the court, or the panel to be necessary to the panel members' ability to fulfill their responsibilities. Note: The Department has developed a brochure, A Guide for Permanency Plan Review Panel Members, which contains information for persons who are interested in becoming a panel member or for current panel members who have questions about their roles and responsibilities.	**s. 48.38(6)(b)** **s. 938.38(6)(b)**
2. Permanency review panel members shall be provided with additional information that they believe is necessary for them to be informed panel members and which the agency or independent agency can reasonably arrange for or provide.	**s. 48.38(6)(b)** **s. 938.38(6)(b)**

(c) *Notification*. 1. The agency or independent agency shall provide written notice not less than 30 days prior to the review of a permanency plan to all of the following: a. The **parent**, guardian, and legal custodian of the child. b. The **child if 12 years of age or older** in proceedings under ch. 48, Stats., or 10 years of age or older in proceedings under ch. 938, Stats. **c. The child's foster parent, treatment foster parent, or operator of the facility in which the child is living, or the relative with whom the child is living.** d. The agency that prepared the permanency plan. **e. The child's guardian ad litem, counsel, and court-appointed special advocate.** **f. The district attorney or corporation counsel.** **g. The child's tribe, in any case in which the court has determined that the child is subject to the federal Indian child welfare act.** Note: The Indian Child Welfare Act applies to children who are under a CHIPS petition filed under s. 48.13, Stats., or under a JIPS petition filed under s.938.13 (4), (6), (6m), or (7).	**s. 48.38(5)(b)** **ICWA, Intended to implement ss. 1911(c) and 1912(a) and (c)**
2. The notice required under subd. 1. shall include all of the following information: **a. The date, time, and place of the review.** A review shall occur in the county of the court that placed the child in out-of-home care unless there is a valid reason for conducting the review in another place and arrangements have been made for the involvement of the individuals under subd. 1.a. to d. and g. **b. The issues to be determined as part of the review.** **c. A statement that written comments may be submitted not less than 10 working days prior to the review.** **d. For individuals identified in subd. 1.a. to d. and g., a statement that they may participate in the review, and for individuals identified in subd. 1.e. and f., a statement that they may provide written comments for the consideration of the court or the administrative review panel not less than 10 working days prior to the review.** The notice to the parent or parents or guardians of the child shall also indicate that the parent or parents or guardians may ask a person identified in subd. 3.c. to also attend the review if the panel does not object. INTERPRETERS – **initial research** indicates that if it is a court hearing the court is responsible for providing an interpretor. If it is a panel review, that agency will be responsible. e. For individuals identified in subd. 1.a. and b., the name, address, and telephone number of an individual who can be contacted to assist in arranging their transportation to the review. f. **A statement that any individual identified in subd 1.a. to d. and g. who cannot attend the review in person shall be allowed to or may, at the discretion of the court if the review is being conducted by the court, provide comments in writing or by**	**s. 48.38(5)(b)**

audio or video recording not less than 10 working days prior to the review and may participate in the review by telephone if there is a valid reason for not participating in person. The name, address, and telephone number of an employee of the court, independent agency, or agency shall be included in the notice as the contact to which comments should be provided. g. For an individual identified in subd 1.a. to d. and g., notice that the review may be held whether or not the individual notified attends.	
3. The agency or independent agency may provide written notice to any of the following, with appropriate releases as necessary, that he or she may submit written comments not less than 10 working days prior to the review if the agency or independent agency determines that the individual's comments may be helpful relative to the determinations to be made in the review: a. A psychologist, psychiatrist, or other therapist working with the child or the child's family. b. A staff member of the school or child care facility in which the child is enrolled. c. A relative, friend, person providing informal support to the family, or other individual who is a significant participant in the life of the child or his or her parents or guardians. d. Any other person who may possess information or knowledge regarding the child or family relevant to the issues to be determined at the review. Is this section sufficient to make clear that attorneys can only attend if invited?	
4.a. If a written notification is returned to the person designated in subd. 1. as undeliverable, the person to whom it is returned shall resend the notice if a current address is provided and shall maintain a copy of the notice and the mailing envelope on file. b. If the original notification was sent in a timely fashion, any subsequent sending of a notice under subd. par. a. shall not affect the scheduling of the review.	
6. A copy of any notice provided under this subsection shall be placed in the child's record.	
(d) Distribution of copies of plan and written comments. 1. The agency that prepared a child's permanency plan shall, at least 5 days prior to a review, provide a copy of the plan and any written comments submitted under par. (c)2.c., d., and f. and par. (c)3. to each of the following: a. The child's parent, guardian, and legal custodian. (good idea or bad idea?) **b. Each person appointed to the review panel if the review will be conducted by a panel.** **c. The district attorney or corporation counsel.** **d. The child's counsel, guardian ad litem, and court-**	**s. 48.38(5)(d)**

appointed special advocate. **e. The court if the review will be heard by the court.**	
2. Upon the request of the review panel, district attorney, corporation counsel, child's guardian ad litem, child's counsel, or child's court-appointed special advocate, the agency that prepared the child's permanency plan shall also provide any other records concerning the child that are relevant to the review.	**s. 48.38(5)(d)**
(e) *Permanency review determinations*. The panel shall make determinations regarding all of the following: **1. The appropriateness of the permanence goal and concurrent permanence goal, if identified.**	**s. 48.38(5)(c)6.** **s. 475(5)(C)**
2. The continuing necessity for the placement.	**s. 48.38(5)(c)1.** **s. 475(5)(B)**
3. The safety and appropriateness of the placement.	**s. 48.38(5)(c)1.** **s. 475(5)(B)**
4. In the case of a juvenile delinquent, any risk to the safety of the public and the victim.	
5. The extent that each of the following has complied with the court order and the permanency plan: **a. The agency.** **b. Any other service provider.** **c. The child's parents.** **d. The child.** **e. The child's guardian, if any.**	**s. 48.38(5)(c)2.** **s. 475(5)(B)**
6. The extent of any efforts to involve appropriate service providers in addition to the agency's staff in planning to meet any special needs of the child and the child's parents or child's guardians.	**s. 48.38(5)(c)3.**
7. Progress toward eliminating the causes for the child's placement outside of his or her home.	**s. 48.38(5)(c)4.** **s. 475(5)(B)**
8. Progress toward returning the child safely to his or her home or obtaining an alternative permanent living arrangement for the child.	**s. 48.38(5)(c)4. and 6.** **s. 475(5)(B)**
9. The date by which it is likely that any of the following will happen: **a. The child will be returned safely to his or her home.** **b. The child will be placed for adoption.** **c. The child will be placed with a guardian.** **d. The child will be placed in a permanent placement with a fit and willing relative.**	**s. 48.38(5)(c)5.** **s. 475(5)(C)**

e. The child will be placed in another planned permanent living arrangement.	
10. If the child has been placed outside of his or her home for 6 or more months, the need for or appropriateness of a concurrent permanence goal for that child, or a statement of the rationale for not instituting a concurrent permanence goal, if that is the determination, or, if there is an existing concurrent permanence goal, the efforts made by the agency toward meeting the concurrent permanence goal.	
11. If the child has been placed outside of his or her home as described in ss. 48.365(1) or 938.365(1), Stats., for 15 of the most recent 22 months, not including any period during which the child was a runaway from the out-of-home placement or the first 6 months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanence goal and concurrent permanence goal and the circumstances which prevent one of the following from occurring: **a. Returning the child safely to his or her home.** **b. Placing the child in the home of a fit and willing relative.** **c. Having a petition filed for termination of the parental rights of the child's parents.** **d. Placing the child for adoption.** **e. Placing the child with a guardian.** **f. Placing the child in another planned permanent living arrangement, including independent living or sustaining care under s. 48.428, Stats.**	**s. 48.38(5)(c)6.** **s. 475(5)(E)**
12. If the child is age 15 or older, whether the programs and services provided or to be provided to prepare the child to transition to independent living have been or will likely be effective.	**Implements s. 48.38(4)(h)** **s. 475(5)(C)**
13. Whether reasonable efforts were made by the agency to make it possible for the child to return safely to his or her home, except that the court or review panel need not determine whether those reasonable efforts were made with respect to a parent of the child if any of the circumstances specified in ss. 48.355(2d)(b)1. to 5. or 938.355(2d)(b)1. to 4., Stats., as determined by the court, apply to that parent, and whether the agency discussed with the parents the possible consequences of not complying with conditions imposed in the dispositional order or other court order.	**s. 48.38(5)(c)7.** **s. 471(a)(15)(D) and** **s. 475(5)(C)**
(f) *Permanency review summary*. 1. Timelines, responsibility, and distribution. The agency shall prepare a written summary of the determinations under par. (e) within 30	**s. 48.38(5)(e)**

days after the permanency plan review. A copy of the written summary shall be provided to each of the following: **a. The court.** **b. The child or the child's counsel or guardian ad litem.** **c. The child's court-appointed special advocate.** **d. The child's parent, guardian,** and legal custodian. **e. The child's foster parent, treatment foster parent, or the operator of the facility where the child is living.** f. The child's caseworker, who shall ensure that a copy is placed in the child's case record. **g. The district attorney or corporation counsel.**	
2. Content. The written summary prepared by the agency under subd. 1. shall contain all of the following information: a. The date the review was conducted. b. The name and date of birth of the child whose plan was reviewed. c. The name of the child's parents and, if any, the child's legal custodian or guardian. d. The location where the child is placed and for how long the child has been placed there. e. Whether the child has been placed outside of his or her home for 15 or more of the most recent 22 months. f. Whether the review was conducted by the court, the agency, or an independent agency. g. If the review was conducted by a panel, the name and relationship to the agency of each member of the permanency review panel. **h. A summary of the determinations required under par. (e)** and recommendations in a form to be determined by the department. i. The names and relationships to the child of those present at the review.	**s. 48.38(5)(e)**
3. Effect of summary. If the summary indicates that the panel made recommendations that directly conflict with the court order, the agency primarily responsible for providing services to the child shall, within 30 days after the review, **request a modification of the court order** or the court may modify the order upon its own motion. If the panel's recommendation does not conflict with the court's order, but only adds services the agency does not have to return to court unless the agency wants the service to be court ordered.	**s. 48.38(5)(f)**
Effective Date: The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2), Stats.	