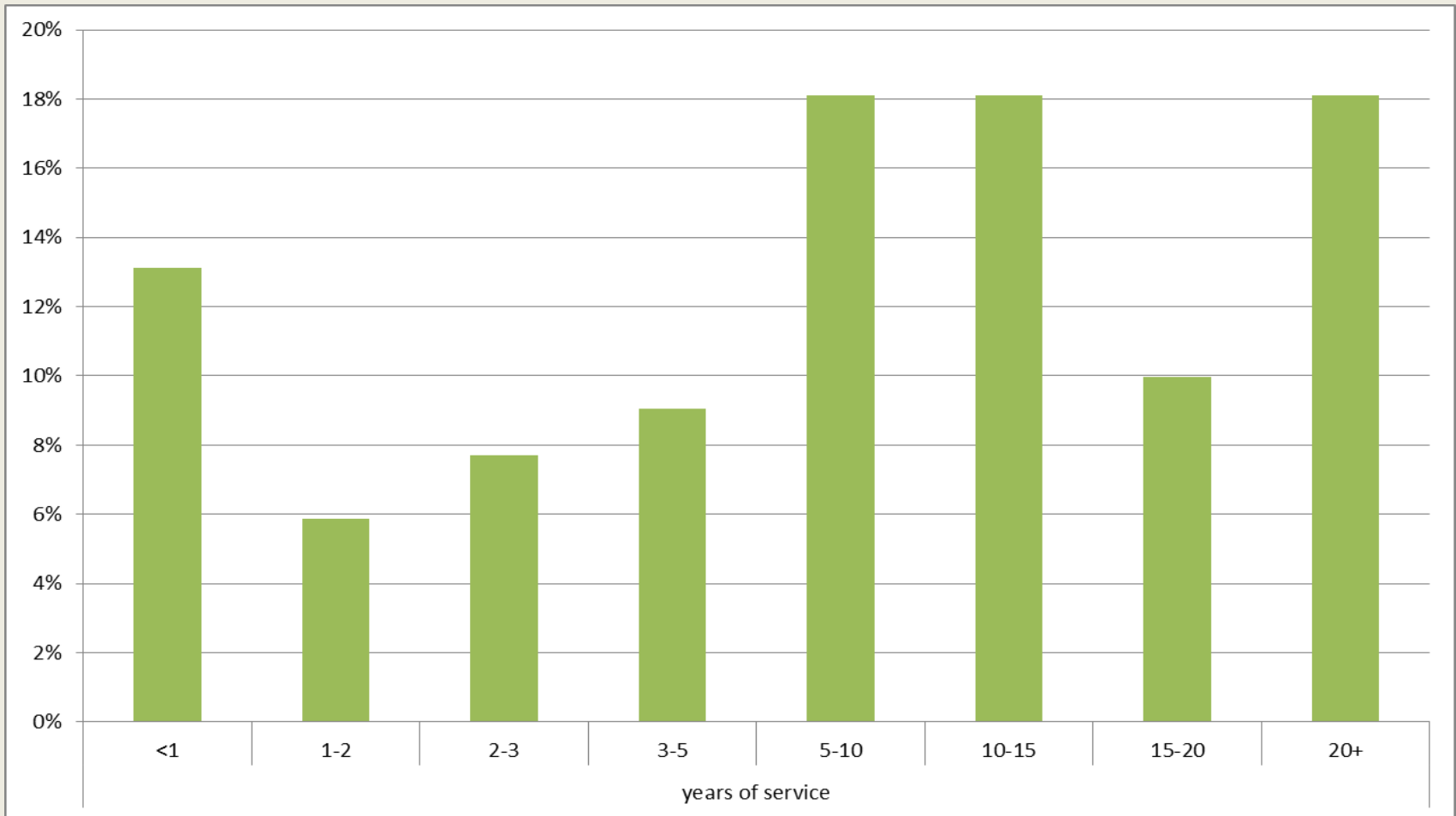




# Committee on Child Protection

October 23, 2014

# Family Services Employees August 2014





# Committee on Child Protection

Information Sharing &  
Communication

# Issues

Vermont State Police report on the death of D.S.:

- Information in DCF's possession concerning the mother's boyfriend was not shared with the police, who did not interview the boyfriend
- The "Rutland County Deputy State's Attorney did not receive nor request the full DCF investigative file." Similarly, the attorney representing D.S. "did not receive, nor request, the full DCF ... file"
- Different units within DCF failed to share relevant information

Witnesses testified concerning lack of information sharing & communication between DCF and:

- Individuals who report child abuse and neglect
- Law enforcement officers and the parties to a CHINS proceeding
- The General Assembly and the public

# Information Sharing Between DCF & Reporters of Abuse - Background

33 V.S.A. § 4913 requires that a mandated reporter who has “reasonable cause to believe that any child has been abused or neglected” shall report within 24 hours to DCF. Mandated reporters include:

- Doctors, nurses, and other medical workers
- Child care workers and social workers, including DCF employees
- Educators, including teachers, principals, and administrators
- Law enforcement officers
- Camp owners, administrators, and counselors
- Clergy

A person who violates § 4913(a) shall be fined not more than \$500, and a person who violates “with the intent to conceal abuse or neglect” shall be imprisoned not more than six months and/or fined not more than \$1,000. § 4913(f).

Any other person who is not a mandated reporter, but has reasonable cause to believe that any child has been abused or neglected, “may report.” § 4913(c).

# DCF's Duty to Share Information

33 V.S.A. § 4913(b): DCF shall inform the person who made the report under subsection (a) of this section [a mandated reporter]:

- (1) whether the report was accepted as a valid allegation of abuse or neglect
- (2) whether an assessment was conducted and, if so, whether a need for services was found
- (3) whether an investigation was conducted and, if so, whether it resulted in a substantiation

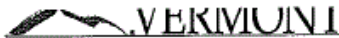
# Policy & Practice

## DCF Policy 51

- Requires that supervisors ensure that mandated reporters are informed whether their referral was accepted

## Practice

- Testimony



Department for Children and Families  
Family Services Division  
103 South Main Street, Osgood 3  
Waterbury, VT 05671-2401

Agency of Human Services  
Family Services Division  
Child Safety Unit  
Child Protection Hotline  
Telephone: 1-800-649-5285  
Fax: 802-241-3301

[www.dcf.state.vt.us/fsd](http://www.dcf.state.vt.us/fsd)

October 22, 2014

[REDACTED]

Dear [REDACTED]

Thank you for the report you made to the Vermont Department for Children and Families Child Protection Hotline on October 22, 2014 regarding the [REDACTED] family. We have carefully reviewed the information you provided. In some situations, we contact other sources to obtain additional information. We have determined that, based on available information and current law and department policy, we will not be initiating an investigation/assessment at this time. Your report will be kept on file and re-reviewed in the event additional information is received on this family.

There are times when a family is already working with a social worker. If that is the case, the information reported is given to that worker.

I understand it is not easy to make such a report of child abuse or neglect. I appreciate your efforts to help this family. If you receive additional information or you continue to have concerns, please call our office and an intake worker will take your information.

Sincerely,

Denise LaForce  
Supervisor

259 NA



# Issues & Options: Reporters

- Mandated reporters' desire for more detailed information: Statutory change
- Mandated reporters' complaints that never received letter, or that it was late: Unclear how amending statute would fix this problem
- Require, or permit, broader disclosure of information to nonmandated reporters: Statutory change
- Issue: Potential conflict with confidentiality
- Suggestion: Expanding "cone of confidentiality"

# Information Sharing Between DCF, Law Enforcement, & Court Parties

33 V.S.A. § 4921, upon request, DCF:

- Shall release “redacted investigation file” to parents etc., and person alleged to have abused the child
- Shall disclose all records to a court, parties to a juvenile proceeding, law enforcement officers “engaged in a joint investigation,” State’s Attorney or Assistant Attorney General, and “other State agencies conducting related inquiries or proceedings”

# Policy & Practice

## Policy

- DCF Rules (9004.01, 9004.02, 9004.03) and Policy 56 track statute

## Practice

- Commissioner Schatz testified on September 11, 2014, that there is “no legal impediment” to sharing information with law enforcement and service providers
- Testimony as to day-to day practice varies

# Issues & Options: Law Enforcement & Court Parties

- VSP report highlighted that the State's Attorney and child's attorney did not get full file. Who was at fault?
- Amend 33 V.S.A. § 4921 to remove "upon request"?
- Other issues: Matter communication & no statutory fix?

# Options: Information Sharing Between DCF, General Assembly, & Public

- Establishing oversight committee or body
- Modifying confidentiality laws to allow more public information



# Committee on Child Protection

Discussion



# Committee on Child Protection

Substance Abuse

# Statute

33 V.S.A. § 4912(6) defines “harm” as including a failure to supply a child with adequate food, clothing, shelter, or health care

Failure by a parent to care adequately for a child as a result of substance abuse can establish a basis for DCF intervention under the statutory definitions of “abuse or neglect” and “harm”

Case law



# Policy

Current DCF policy addresses four scenarios:

- Pregnant woman's use of drugs
- Parent's use of drugs if a child is less than six years old
- Methamphetamine use and production
- Drug testing

# Pregnant Woman's Use of Drugs

Policy 51: DCF will accept a report when:

- Woman is pregnant and either parent has a “substantial history with DCF.” The intervention will begin one month before the due date
- Physician certifies or the mother admits to using illegal substances during the last trimester of her pregnancy
- Newborn has a positive toxicology screen for illegal substances
- Newborn has been deemed by a medical professional to have Neonatal Abstinence Syndrome as the result of maternal use of illegal substances or prescription medication, or to have Fetal Alcohol Spectrum Disorder
- There is likely to be a serious threat to a child's health or safety due to the mother's substance abuse during pregnancy

# Parent's Use of Drugs When Child Under Six

DCF Rule 2002.04 lists “additional considerations” in determining whether a report will be accepted, including:

- “a parent or caretaker of a child under the age of six ... has a current pattern of use of illegal substances or misuse of prescription drugs and the child lacks age-appropriate supervision as a result; or is regularly impaired by use of alcohol and the child lacks age-appropriate supervision as a result”

# Meth & Testing

- Methamphetamine
- Drug testing

# Issues & Options: Basis Intervene

Committee could:

- Take no action
- Explicitly define “harm” in 33 V.S.A. § 4912 as including exposing a child to illegal substances
- Better define circumstances under which DCF should accept a report concerning parent’s or caregiver’s substance abuse
- Wait for results of DCF’s consultation with the National Center on Child Welfare and Substance Abuse

# Issues & Options: Drug Testing

Committee could:

- Take no action
- Encourage or mandate increased use of testing in statute
- Strengthen monitoring of conditional custody orders

# Issues & Options: Cycles of Treatment, Relapse, & New Interventions

Committee could:

- Take no action
- Recommend statutory changes to allow DCF and the courts to monitor families over a longer period of time



# Committee on Child Protection

Discussion





# Committee on Child Protection

Role of the Guardian Ad Litem  
(GAL)

# Statutory duties of GAL: CHINS context

## General Role:

- Act as independent parental advisor and advocate whose goal is to safeguard the child's best interest and rights.

## Court Proceedings Role:

- Meet with child, child's attorney, and others, and review court filings and case documents.
- Discuss options with child and child's attorney, and help child's attorney in advising the child about options.

## Outside Court Role:

- Meet with child at least monthly, attend social services and school meetings, speak regularly to all parties involved.

# Vermont GAL Program

- Administered from the Office of the Court Administrator within the Judiciary.
- Currently 290 active volunteer GALs in VT, with the equivalent of 1.4 full-time supervising coordinators, covering about 60% of the State.

# Issues & Options: Coordinators

There are not enough coordinators to provide supervision and mentoring to volunteers across the State. Committee could:

- Take no action
- Increase resources available to GAL program budget for staffing
- Require at least one dedicated GAL coordinator for each county

# Issues & Options: Scope of Cases

GALs are currently assigned to cases on many other dockets, reducing GAL resources available for CHINS proceedings. Committee could:

- Take no action
- Narrow the scope of the types of cases to which GALs can be assigned

# Issues & Options: Information Sharing

GALs are not called upon to share all the information they have during the CHINS process.

Committee could:

- Take no action
- Require judges to consistently request status updates from GAL at pre-trial proceedings
- Require judges to inquire of GAL about sufficiency of evidence presented at hearing



# Committee on Child Protection

Discussion



# Committee on Child Protection

Lunch Break: Data on Regional Variation  
&  
The State's Role in Monitoring Results





# Committee on Child Protection

Conditional Custody Order (CCO)

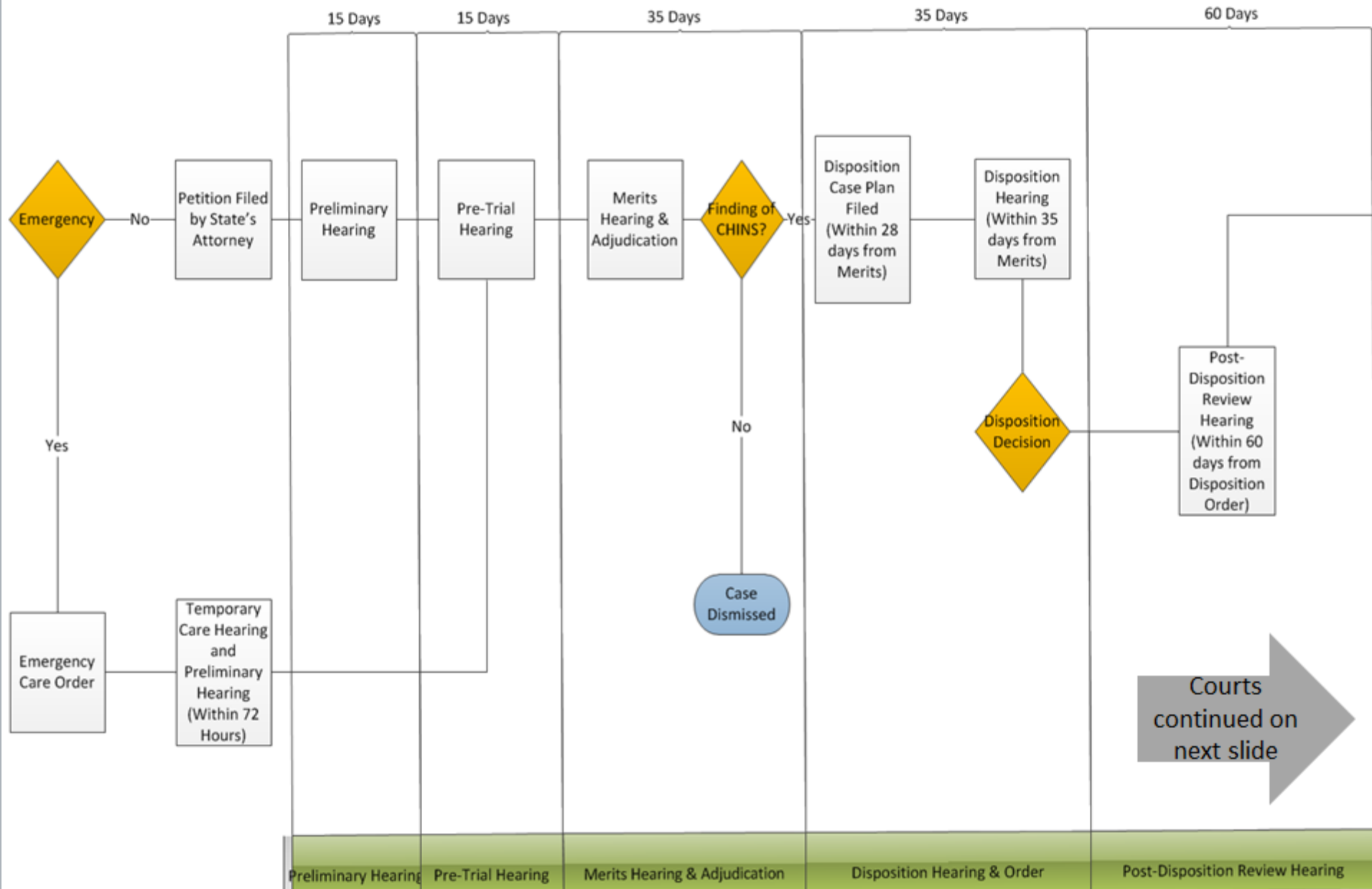
# Statutory definitions

(5) "Conditional custody order" means an order issued by the court in a juvenile proceeding conferring legal custody of a child to a parent, guardian, relative, or a person with a significant relationship with the child subject to such conditions and limitations as the court may deem necessary to provide for the safety and welfare of the child. Any conditions and limitations shall apply only to the individual to whom custody is granted.

\*\*\*

(24) "Protective supervision" means the authority granted by the court to the Department in a juvenile proceeding to take reasonable steps to monitor compliance with the Court's conditional custody order, including unannounced visits to the home in which the child currently resides.

# Courts



# CCO in CHINS: Emergency Care Hearing

If the Court determines that the child may safely remain in the custody of the parent subject to conditions and limitations necessary to protect the child pending a temporary care hearing, the Court may deny the request for an emergency care order and issue an emergency conditional custody order.

33 V.S.A. § 5305

# CCO in CHINS: Temporary Care Hearing

- Court must consider custody in preferential order. Courts must first look to return custody to custodial parent/guardian under a CCO “subject to conditions and limitations...necessary and sufficient to protect the child.”
- If returning home is contrary to the child’s welfare, the Court must issue an order transferring temporary legal custody to non-custodial parent, relative, person with significant relationship to child, or DCF.

33 V.S.A. § 5308

# CCO in CHINS: Disposition

- Court may issue a CCO to:
  - Custodial parent, guardian, or custodian
  - Noncustodial parent
  - Relative
  - Person with a significant relationship with the child
- In each scenario, Court may issue a CCO for a fixed period of time not to exceed two years
- When custody is given to anyone other than custodial parent/guardian, the Court “shall schedule regular review hearings to evaluate progress toward reunification”
- When custody given to custodial parent, court “shall schedule regular review hearings to determine whether conditions continue to be necessary”

33 V.S.A. § 5318

# Protective Supervision

The judge has discretion to:

- Place the child under **protective supervision**, giving DCF the right to make unannounced home visits in order to ensure compliance with the conditions of custody.
- Require the custodian to permit the child's attorney and/or GAL to meet with the child at reasonable times and places, with reasonable advance notice to the custodian.

# Issue & Suggestions: Standards

There is a lack of consistent standards for DCF's role in monitoring & oversight of children placed with parents or relatives under CCOs.

Committee could:

- Take no action
- Require judges to place children under protective supervision by DCF
- Create standard protective conditions



# Issue & Suggestions: Placement Safety

CCOs can be issued based on inadequate information because there is no examination by DCF of the safety of the proposed placement.

Committee could:

- Take no action
- Require evidence be presented and findings made about safety of placement before judge can issue a CCO

# Issue & Suggestions: Monitoring

The statute does not specifically set forth regular monitoring of conditional custody orders, or require reporting on how the child is doing or whether the parent is achieving goals. Committee could:

- Take no action
- Require review hearings at regular intervals
- Require reporting on child well-being and parent progress



# Committee on Child Protection

Discussion

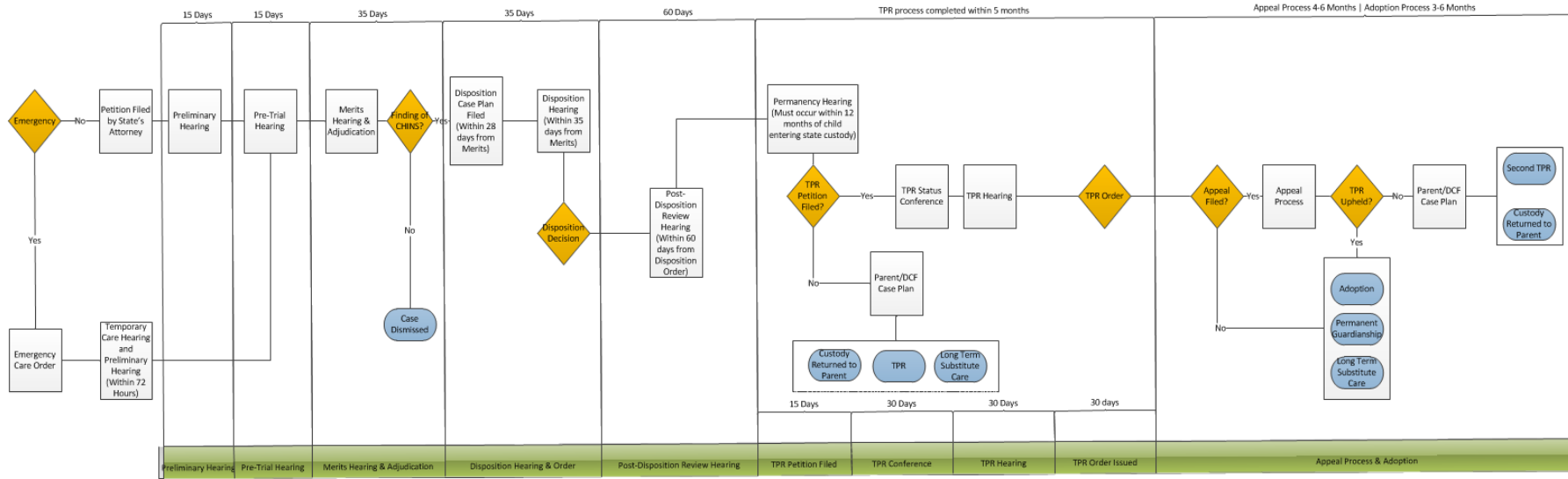


# Committee on Child Protection

Delays in Court Proceedings

# CHINS flow chart

Courts



# Statutory Time Frames

- Emergency care order → temporary care hearing & order: 72 hours (3 days)
- Merits hearing & adjudication w/in 60 days of temporary care order
- File case plan w/in 28 days
- Disposition hearing & order w/in 35 days of merits adjudication
- Permanency hearing w/in 12 months of DCF placement

# Reality

- Merits hearing & adjudication w/in 60 days of temporary care order
  - 45% cases do not meet this time frame
- Disposition hearing & order w/in 35 days of merits adjudication
  - 55% cases do not meet this time frame
- Statutory time periods are not binding [In re D.D., 194 Vt 508 (2013)]

# Proffered Reasons for Delay

- Increased cases loads & resources
- Assigned attorneys covering multiple counties & scheduling difficulties
- Lack preparation by assigned attorneys
- Lack preparation by DCF
- Adjournments granted by courts



# Committee Options

- Increase resources
  - Temporary - cyclical
  - Permanent
- Use of technology
- Provide DCF with its own attorneys
- Create a separate office to represent children as opposed to parents

# Committee Options (cont.)

Enforce statutory time frames

- How?

Overrule VT Sup. Court?

- How ensure compliance?

Dismissal of petition?

# Committee Options (cont.)

- What are the rewards for doing a good job and the penalties for not?

33 V.S.A. § 5107 (contempt power), a court “has the power to punish any person for contempt of court for disobeying an order of the Court or for obstructing or interfering with the proceedings of the Court or the enforcement of its orders”

- Attorneys – failure to prepare & failure to appear
- DCF - failure to prepare & file paperwork

# Committee Options - Quick Fixes

- Appeals after a merits hearing delay the process
- Open adoptions → reduce contested cases, esp. TPRs
- Allow hearsay at merits hearings
- Limit discovery
- Allow DCF workers to remove a child
- Allow DCF workers to do the affidavit in support of emergency care orders



# Committee on Child Protection

Discussion



# Committee on Child Protection

Providing Judges With All Relevant  
Information;

Role Of Schools & Educators



# Committee on Child Protection

October 23, 2014