

Child Welfare Statutory Time Requirements Report

Fiscal Year 2020
(July 1, 2019-June 30, 2020)



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I. Annual Reporting Requirements

Pursuant to Utah Code Ann. § 62A-4a-207, the Child Welfare Legislative Oversight Panel is charged with receiving a report from the Judicial Branch prior to October 1 of each year. The report shall identify the cases not in compliance with the time limits established in Section 78A-6-306 (1)(a), regarding shelter hearings, Section 78A-6-309, regarding pretrial and adjudication hearings, Section 78A-6-312, regarding dispositional hearings and reunification services, and Section 78A-6-314, regarding permanency hearings and petitions for termination, and the reasons for noncompliance.¹

II. Data

The data in this report consists of all new cases that entered the court system via a shelter hearing during FY 2020. (See Overview of Child Welfare Measures-July 1, 2019 to June 30, 2020 attached at page 9.) Included in this report are any cases that were previously active cases at some stage of the proceedings and had a subsequent hearing during FY 2020. Thus, the data represents a snapshot of all child welfare court proceedings during the one-year timeframe, rather than tracking each individual case from start to finish in a single report.

Shelter Hearings (§78A-6-306)(1)(a)

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after the removal of the child from the child's home by the division.

Of 1,248 shelter hearings, 1,245 shelter hearings or 99.8% occurred within the 72 hour requirement. Cited reasons for delay were the court's calendar and a staff calendaring error.

Pretrial and Adjudication Hearings (§78A-6-309)

(1) Upon the filing of a petition, the clerk of the court shall set the pretrial hearing on the petition within 15 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.

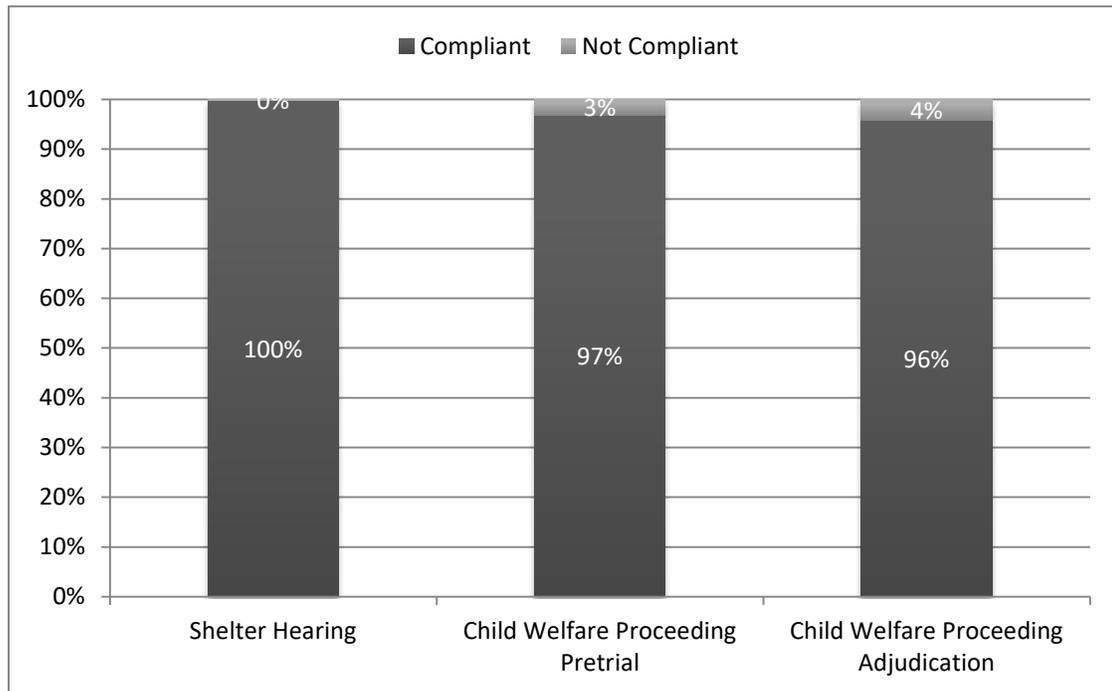
(2) The pretrial may be continued upon motion of any party, for good cause shown, but the final adjudication hearing shall be held no later than 60 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.

Of 1,455 pretrial hearings, 97% occurred within the 15-day requirement. Of the cases that were not compliant, the most common reason for delay was stipulation

¹ U.C.A. §62A-4a-207(4)(c).

of the parties. Adjudication of the petition must take place within 60 days of the shelter hearing. Of 1,399 adjudication hearings, 96% were held within the required time frame. The primary contributing factor to noncompliant cases in this category was stipulation of the parties.

Figure 1. Shelter Hearings, Child Welfare Proceedings Pretrial & Adjudication



Dispositional Hearings and Reunification Services (§78A-6-311, 312)

Pursuant to §78A-6-311(2) a dispositional hearing “shall be held no later than 30 calendar days after the date of the adjudication hearing.”

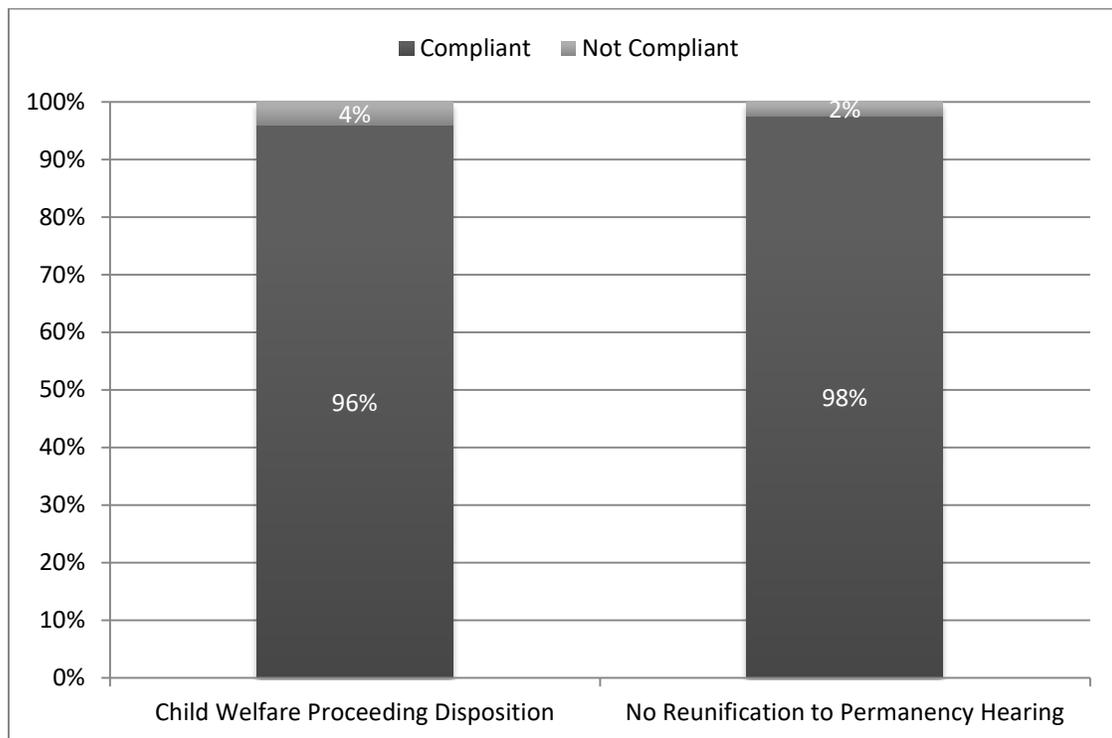
In many cases, dispositional orders are entered at the adjudication hearing. Of 1,408 dispositional hearings, 96% occurred within the 30-day requirement. Most of the remaining cases were impacted by a stipulation of the parties or emergency related reasons directly linked to the current coronavirus pandemic.

§78A-6-312(10)(c): If, at any time, the court determines that reunification is no longer a minor’s primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

- (i) 30 days after the day on which the court makes the determination described in this Subsection(10)(c); or*
- (ii) The day on which the provision of reunification services, described in Section 78A-6-314, ends.*

Of the 245 cases in which the court terminated reunification services, permanency proceedings were conducted within 30 days of the no reunification decision in 98% of the cases. The most frequent reason cited for delay was emergency related reasons directly linked to the current coronavirus pandemic.

Figure 2. Child Welfare Disposition & No Reunification



Permanency Hearings and Petitions for Termination (§78A-6-314)

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a child who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor’s home.

Of the 1,068 cases, 90% had a permanency hearing within 12 months of removal. The most frequently cited reason for delay was emergency related reasons directly linked to the current coronavirus pandemic which impacted 51% of the cases outside of standard. Another 30% were impacted by a stipulation of the parties.

(9) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

In the 347 cases in which the final plan was to proceed toward termination of parental rights, 78% of those petitions were filed and a pre-trial scheduled within 45 calendar days. The court sets a termination of parental rights pretrial hearing if the child's permanency goal is changed to adoption, but must rely on counsel for the timely filing of petitions for termination.

While there are multiple reasons for delay at this stage of the proceeding, the most common reason was due to a stipulation of the parties, which accounted for 43% of cases outside of standard. Delay can be due, in part, to a general reluctance to petition for termination of parental rights unless a child is already placed in a home likely to result in adoption. Delay may also result from the state's inability to locate one or both of the parents for service of the petition, or when paternity questions are unresolved. Additionally, termination of parental rights pretrial hearings were not deemed mission-critical as the Utah Judiciary implemented its Pandemic Response Plan.

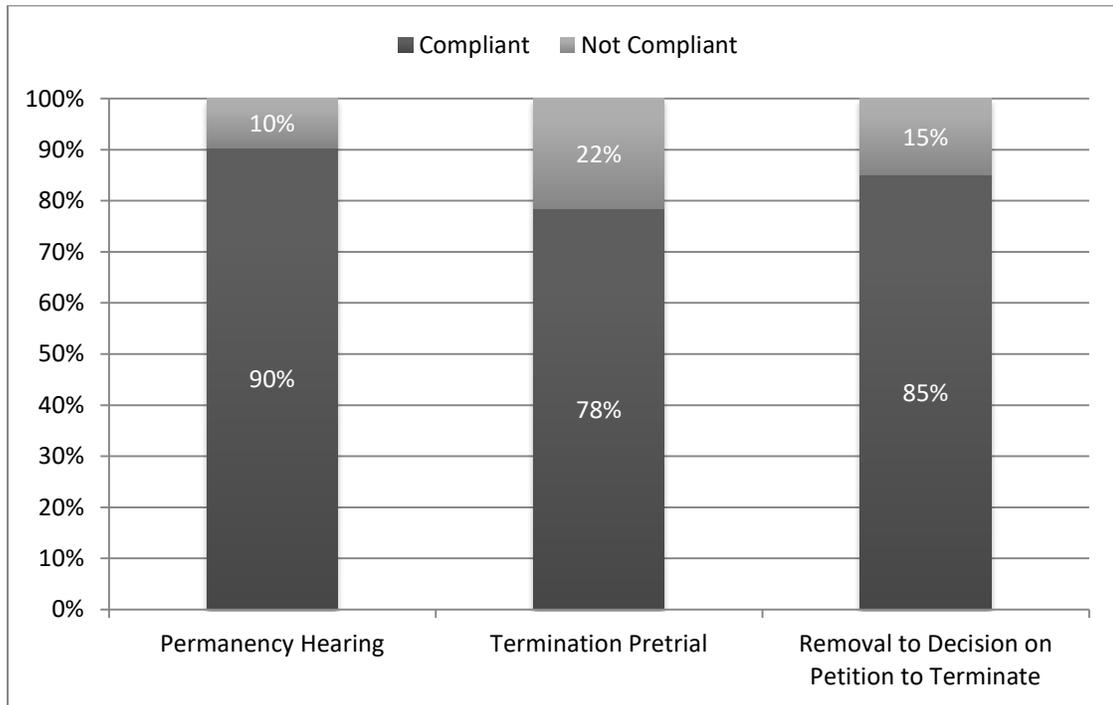
Decisions on Petitions to Terminate Parental Rights (§78A-6-314)

(12)(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

When measuring the timeliness of decisions on termination petitions, 85% of the 134 cases in this category met the statutory requirement. Almost half of the noncompliant cases were attributed to a stipulation of the parties. Timeliness in this area is also reliant on both the court and counsel. After the court renders a decision, the court requires the prevailing party to submit a proposed order to the court for signature.

In addition, the statute allows the court to enter up to two 90-day continuances of reunification services following the 12-month permanency hearing. Continuances are granted in specific circumstances in which the parent has complied with the child and family plan and reunification is likely within the 90 day period. Decisions to grant extensions must be balanced against the child's need for permanency. In cases in which a second 90-day extension is granted, timelines will frequently be pushed beyond the 18-month time limit set forth in 78A-6-314(12).

Figure 3. Permanency & Termination Measures



Protective Services Supervision Petitions §78A-6-309

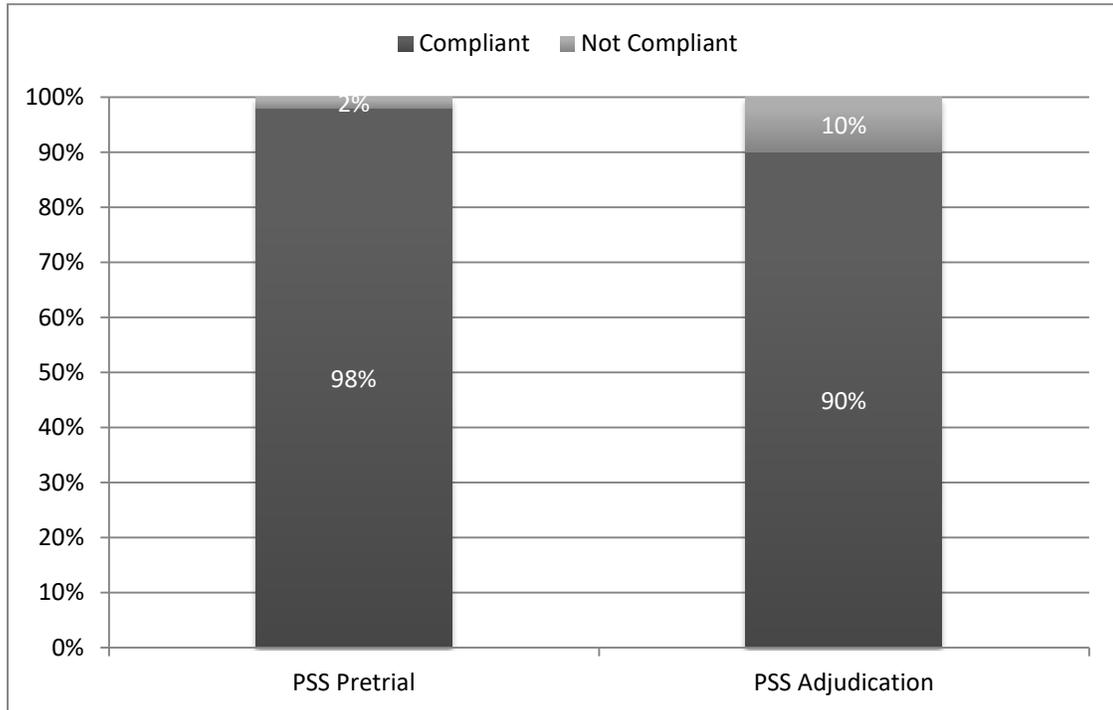
(1) Upon the filing of a petition, the clerk of the court shall set the pretrial hearing on the petition within 15 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.

(2) The pretrial may be continued upon motion of any party, for good cause shown, but the final adjudication hearing shall be held no later than 60 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.

In Protective Services Supervision (“PSS”) cases, families receive court-ordered services from the Division of Child and Family Services while the children remain in their homes or the home of a relative. PSS cases must be set for pretrial in 15 days and for an adjudication trial in 60 days. Although the statutory guidelines do not require the judiciary to report information regarding the timeliness of PSS cases, this information has been reported since 2004 because it represents a significant volume of petitions filed.

During FY 2020, 1,331 PSS petitions were filed. Pre-trial hearings were held within 15 days of filing in 98% of the cases. During the same period, 1,180 PSS cases were tracked from filing to adjudication and 90% received the required adjudication hearing within 60 days.

Figure 4. Protective Supervision Services Measures



III. Reasons for Delay and Delay Reduction Strategies

The CARE child welfare time line reporting system allows clerks to document the reasons for non-compliant cases in which a hearing is not timely held. The most frequently cited reasons for delay in FY2020 involved stipulated agreements of the parties and other-emergency. The “Other-Emergency” reason for non-compliance was created March 24, 2020 to adequately capture court delays due to the COVID-19 pandemic.

On March 13, 2020, the Utah Supreme Court and Judicial Council issued an Administrative Order with the purpose of bringing uniformity to the operation of the Utah courts during the COVID-19 pandemic. In this order, the courts identified mission-critical functions of the judiciary at each court level. Juvenile court judges were directed to continue all hearings until after June 1, 2020, with the exception of shelter hearings, child welfare adjudication and disposition hearings, and any other hearings involving a child being at imminent risk of abuse, neglect, or dependency.

The March 13, 2020 Administrative Order required, absent exigent circumstances, all hearings to be conducted on the papers or by remote transmission, and provided that any child welfare timeline may be extended by the court. The March 13, 2020 Administrative Order has since been replaced by updated administrative orders and the current Administrative Order regarding

the COVID-19 pandemic, issued on June 26, 2020, maintains the same language regarding required hearings and extending child welfare timelines.

The Juvenile Court also continues to manage the need to grant appropriate continuances against compliance with statutory timeframes. This involves a delicate balance between applying time standards and the overarching need to provide for the safety, well-being and permanency of court involved children.

The Juvenile Court engages in a process of continuous quality improvement in measuring and reporting compliance data. To improve performance, the Board of Juvenile Court Judges, Trial Court Executives, and Clerks of Court generally review child welfare time line data biannually and monitor progress with statutory compliance. The Juvenile Court has fully implemented electronic filing of court documents pursuant to Rule 4-901 of the Code of Judicial Administration. The availability of electronic case records improves accuracy of record keeping and data quality. The Court continues to work to improve data entry, data quality, and reporting to more effectively identify, track, and address cases not in compliance with statutory time lines.

IV. Conclusions

The judiciary thanks the Panel for this opportunity to report and share information on the efforts of Utah's Juvenile Court to ensure timely permanency for children. As always, legislative representatives are welcome to observe child protection proceedings to gain a better understanding of the child welfare process. The Juvenile Court encourages all legislators to take advantage of this opportunity to observe juvenile court practice first hand. Please contact Neira Siaperas, Juvenile Court Administrator, or Daniel A. Meza Rincon, Assistant Juvenile Court Administrator to facilitate court observation or supply any additional information that the Panel may require.

	Statutory Deadline	Incident Count	Compliant	Not Compliant	Percent Compliant	Percent Compliant within 15 Days after Benchmark	Percent Compliant within 30 Days after Benchmark
Shelter	3 days	1,248	1,245	3	99.8%	100%	100%
Child Welfare Proceeding Pretrial	15 days	1,455	1,410	45	97%	99%	100%
Child Welfare Proceedings Adjudication	60 days	1,399	1,340	59	96%	98%	99%
Child Welfare Proceeding Disposition	30 days	1,408	1,351	57	96%	99%	99%
No Reunification to Permanency Hearing	30 days	245	239	6	98%	98%	98%
Permanency Hearing	12 months	1,068	966	102	90%	95%	96%
Termination Pretrial	45 days	347	272	75	78%	83%	88%
Removal to Decision on Petition to Terminate	18 months	134	114	20	85%	86%	89%
PSS Pretrial	15 days	1,331	1,304	27	98%	100%	100%
PSS Adjudication	60 days	1,180	1,064	116	90%	95%	98%

Overview of Child Welfare Measures—July 1, 2019 to June 30, 2020
[Last run date: September 9th, 2020]