

DUTY TO CONFER

1. This GAL conferred with [Child/ren/Youth Name(s)], the [City/County] Attorney [Name], and [*insert other applicable roles and names*] about this Motion.
2. [Name(s)] support[s] this Motion.
3. [Name(s)] [does/do] not support this Motion.
4. [Name(s)] [has/have] not responded to this GAL's attempts to confer.

FACTS

5. This case opened on [date] due to concerns related to [what.]
6. This case involves [# Children/Youth]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where].
7. The last hearing in this case was on [date]. During that hearing, this Court [ordered and/or the parties discussed what. *Describe court orders and/or discussions that need review/follow-up sooner rather than later.*]
8. During the [date] hearing, this Court next set this case for a [date and type of] Hearing. The original setting date complied with the hearing timeframes mandated by the Colorado Children's Code, Title 19, C.R.S.
9. [*Feel free to copy/paste this paragraph before/after other fact paragraphs to keep your facts in chronological order.*] On [date, *explain any events requiring a hearing sooner rather than later.*]
10. The March 13, 2020, the Colorado Supreme Court issued an order suspending many court operations and services due to the COVID-19 outbreak. Colorado Supreme Court Order Regarding COVID-19 and Operation of Colorado State Courts ("Colorado

Supreme Court Order”), available at

[https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID-](https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID-19%20Order%2016Mar2020(1).pdf)

[19%20Order%2016Mar2020\(1\).pdf](https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID-19%20Order%2016Mar2020(1).pdf) (last visited April 20, 2020). However, in

recognition of the fact that Colorado courts are “tasked with protecting the basic constitutional rights of the citizens of the state and with providing a forum for addressing matters essential to their safety and wellbeing,” the Order clarified that some “classes of matters or operations may not be suspended and will continue in the state courts.” *Id.*

Among the classes of cases shielded from suspension are “[s]helter hearings in dependency and neglect cases or other juvenile proceedings.” *Id.* As to non-essential matters, the Order clarified that the Chief Judges of each judicial district retains the discretion to determine whether such matters “are necessary to prevent a substantial risk of imminent financial hardship or imminent risk to the health, safety or welfare of any individual or the community at large.” *Id.* Moreover, the Order places an expectation on Chief Judges to “make every effort to facilitate work from remote locations and to minimize or eliminate in-person proceedings and contact.” *Id.*

11. *[Feel free to copy/paste this paragraph before/after other fact paragraphs to keep your facts in chronological order.]* On [date], the [type of] hearing was reset for [date] due to concerns related to COVID-19. The reset date is outside the hearing timeframes required by the Colorado Children’s Code, Title 19, C.R.S.
12. This GAL is concerned that the reset date is not in the best interests of the [Child/ren/Youth.] *[Explain why. For example, “Jose, the 15-year-old Youth in this case, wants to speak with this Court and the parties as soon as possible about his permanency plan. He wants to be adopted as soon as possible, as he is extremely bonded*

and attached to his foster parents. He also wants this Court to enter an order as soon as possible indicating that his primary plan is adoption. He needs to know where his case (and he) is headed and why. And he needs to know these important things as soon as possible.]

13. *[Use this paragraph if you are requesting an in-person hearing.]* This GAL is healthy. This GAL has not been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. The same can be said for the people residing with this GAL.
14. *[Use this paragraph if you are requesting an in-person hearing.]* This GAL spoke with the [Child/ren/Youth, the Child's/Children's/Youth's/Youths' caretaker(s), the Respondent(s Name(s)), Respondent Parent Counsel (Name(s)), the Caseworker (Name), and the CASA(s) Name(s)]. All individuals are healthy. No one has been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. The same can be said for the people residing with the [Child/ren/Youth, the Respondent(s), Respondent Parent Counsel, the Caseworker, and the CASA(s)]. *[Provide additional details regarding anyone else you spoke with about medical status, such as district attorneys, public defenders, doctors, and/or pediatricians.]*
15. *[Use this paragraph if you are requesting a telephonic and/or web-based hearing.]* This GAL spoke with the [Child/ren/Youth, the Child's/Children's/Youth's/Youths' caretaker(s), the Respondent(s Name(s)), Respondent Parent Counsel (Name(s)), the Caseworker (Name), and the CASA(s) Name(s)]. All individuals agree and are available

to attend a [telephonic and/or web-based hearing]. *[Provide additional reasons why a telephonic and/or web-based hearing is necessary in this case.]*

16. *[Provide additional relevant/persuasive facts.]*

LAW

17. The Colorado Rules of Civil Procedure govern all Dependency and Neglect (“D&N”) matters unaddressed by the Colorado Rules of Juvenile Procedure or Title 19 of the Colorado Revised Statutes (“the Colorado Children’s Code”). Although neither the Colorado Rules of Juvenile Procedure nor the Colorado Children’s Code addresses forthwith motions, Colorado Rule of Civil Procedure 121 authorizes such motions. C.R.C.P. 121 § 1-15:1 ¶ 4 (2019) (“Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.”); Comment 3 to 121 § 1-15:1 ¶ 4 (2019) (“Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition. Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination.”).

[Many D&N statutes are below. Feel free to use the ones relevant to/persuasive for your Motion and delete the rest.]

18. *[Use this paragraph in EPP cases.]* The Colorado State Legislature recognized the extremely important policies supporting hearing timeframes in Expedited Permanency Planning (“EPP”) in the legislative declaration section of the Colorado Children’s Code:

The general assembly recognizes the numerous studies establishing that children undergo a critical bonding and attachment process prior to the time they reach six years of age. Such studies further disclose that a child who has not bonded with a primary adult during this critical stage will suffer significant emotional damage which frequently leads to chronic psychological problems and antisocial behavior when the child reaches

adolescence and adulthood. Accordingly, the general assembly finds and declares that it is appropriate to provide for an expedited placement procedure to ensure that children under the age of six years who have been removed from their homes are placed in permanent homes as expeditiously as possible.

§19-1-102(1.6). C.R.S. (2019). These important EPP timeframes are mandated in Article Three of Title 19 - the article of the Colorado Children's Code addressing D&N cases:

Any hearing conducted pursuant to this article 3 in a county designated pursuant to section 19-1-123 regarding a child who is under six years of age at the time a petition is filed in accordance with section 19-3-501(2) must not be delayed or continued unless good cause is shown and unless the court finds that *the best interests of the child will be served by granting a delay or continuance. Whenever any such delay or continuance is granted, the court shall set forth the specific reasons necessitating the delay or continuance and shall schedule the matter within thirty days after the date of granting the delay or continuance.*

§ 19-3-104, C.R.S. (2019). (Emphasis added.)

19. The Colorado Children's Code requires a hearing within 48 hours (excluding Saturdays, Sundays, and legal holidays) of law enforcement placement of a child/youth in a shelter facility or temporary housing facility not operated by the department of human services ("DHS"). § 19-3-403(2), C.R.S. (2019).
20. The Colorado Children's Code requires a hearing within 72 hours (excluding Saturdays, Sundays, and legal holidays) of temporary legal custody being placed with a county DHS or the entry of an emergency protection pursuant to Colorado Revised Statute 19-3-405. § 19-3-403(3.5), C.R.S. (2019).
21. The Colorado Children's Code requires an adjudicatory hearing as soon as possible, but no later than 90 days after service of the D&N petition in a non-EPP case and 60 days after service in an EPP case. § 19-3-505(3), C.R.S. (2019). Delay is authorized only where a trial court finds that *the best interests of the child will be served by the delay and*

where the court sets forth the specific reason why the delay is necessary. *Id.* The adjudicatory hearing must be reset at the earliest possible time following the delay. *Id.*

22. The Colorado Children’s Code authorizes/states a preference for dispositional orders entered at the same time as adjudicatory orders, but requires dispositional orders within 45 days of adjudicatory orders in non-EPP cases and within 30 days of adjudicatory orders in EPP cases. § 19-3-508(1), C.R.S. (2019). Delay is authorized only where a court finds that *the best interests of the child will be served by the delay*. *Id.* A trial court granting a delay must set forth the reasons why the delay is necessary and the minimum amount of time necessary to resolve the reasons for the delay. *Id.* The hearing must be reset at the earliest possibly time following the delay. *Id.*
23. The Colorado Children’s Code requires a hearing on a motion for termination of the parent-child legal relationship within 120 days of the filing of the motion. § 19-3-602(1), C.R.S. (2019). Delay is authorized only where good cause is shown and where the court finds that *the best interests of the child will be served by the delay*. *Id.*
24. The Colorado Children’s Code requires a post-termination review within 90 days of termination. § 19-3-606(1), C.R.S. (2019).
25. The Colorado Children’s Code requires permanency hearings as soon as possible following the initial dispositional hearing, but no later than 90 days after entry of the dispositional order. § 19-3-702(1), C.R.S. (2019). After the initial permanency hearing, additional permanency hearings are required every six months (or more often in a trial court’s discretion or on the motion of a party). *Id.*
26. The Colorado Children’s Code requires periodic reviews at least every six months. § 19-3-703(1), C.R.S. (2019).

ARGUMENT

[Timely and/or Frequent] Hearings are More Critical Now Than Ever.

27. The Centers for Disease Control and Prevention (“CDC”) comments on the harsh emotional realities of the COVID-19 outbreak by indicating, “The outbreak of [...] COVID-19 may be stressful for people. Fear and anxiety about a disease can be overwhelming and can cause strong emotions in adults and children.” CDC, *COVID-19: Daily Life & Coping*, available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html> (last visited April 20, 2020).
28. The CDC reports that children and teens and individuals with mental health conditions and substance use problems may respond more strongly to the stress of this crisis. *Id.* Such stress can include fear/worry about one’s health as well as the health of the individuals one loves, changes in eating/sleeping patterns, difficulty eating/concentrating, worsening of chronic health issues, worsening of mental health conditions, and/or increased use of alcohol, tobacco, or other drugs. *Id.*
29. The CDC warns individuals with mental health conditions and/or substance abuse issues as follows:

People with preexisting mental health conditions should continue with their treatment and be aware of new or worsening symptoms. Additional information can be found at the Substance Abuse and Mental Health Services Administration ([SAMHSAexternal icon](#)) website.

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited April 20, 2020). Bold in original.
30. The CDC indicates that children and teens react to COVID-19, in part, based on what they see from the adults around them. *Id.* Common changes in children/youth can include excessive crying/irritation in younger children, regression, excessive

worry/sadness, unhealthy eating/sleeping habits, irritability/acting out behaviors in teens, poor school performance/avoiding school, difficulty with attention/concentration, avoidance of activities enjoyed in the past, unexplained headaches/pain; and use of alcohol, tobacco, or other drugs. *Id.*

31. One can only imagine how the COVID-19 outbreak is impacting America's children/youth *with D&N cases* – children/youth who may be residing outside of their family homes and who may have already experienced a loss, stress, anxiety, and fear in their short lives. *See* U.S. Department of Health and Human Services, *Adverse Childhood Experiences (ACEs)*, available at <https://www.childwelfare.gov/topics/preventing/preventionmonth/resources/ace/> (last visited April 20, 2020) (explaining that ACEs are traumatic events occurring before age 18 including abuse and neglect, as well as parental mental illness, substance abuse, divorce, incarceration, and domestic violence; by definition, children in the child welfare system have suffered at least one ACE; and recent studies show that children in the child welfare system are far more likely to have experienced at least four ACEs). *See also* *Coronavirus Is Isolating Some Kids in Protective Care From Parents and Services*, available at <https://www.npr.org/2020/03/21/817991076/coronavirus-is-isolating-some-kids-in-protective-care-from-parents-and-services> (last visited April 20, 2020); *Foster care children at risk during COVID-19 pandemic* <https://www.news5cleveland.com/news/coronavirus/foster-care-children-at-risk-during-covid-19-pandemic> (last visited April 20, 2020).
32. The ever-evolving situation and increased stressors caused by the COVID-19 outbreak, render [timely and/or frequent] D&N hearings more important now than ever.

33. In a recent letter addressed to child welfare and judicial leaders regarding the COVID-19 crisis, the Federal Department of Human Services Administration for Children and Families reiterated the timeframes required for many D&N proceedings, findings, and orders and encouraged courts to make case-by-case determinations about hearing dates:

[I]n order to practice in a manner consistent with constitutional principles and to serve the best interests of children, [the Children’s Bureau] encourages all attorneys, courts and administrative offices of the court to [...] *refrain from making sweeping, blanket orders ceasing, suspending, or postponing court hearings; [e]nsure that important decisions about when and how hearing are conducted are made on a case-by-case basis in accordance with the facts of each individual matter[.]*

Federal Department of Health & Human Services Administration on Children, Youth and Families, *Covid-19 Child Legal and Judicial Letter*, 1-2, available at https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf, (last visited April 20, 2020). Emphasis added.

This GAL Respectfully Requests that this Court Immediately Reset the Upcoming [Type of] Hearing Within the Timeframes Required by the Colorado Children’s Code.

34. The current reset date of [date type of] Hearing is out of compliance with the timelines set forth in the Colorado Children’s Code. To meet the timeframes set forth in Colorado Revised Statute [19-3-### (see law section of this motion for the necessary citation)], the [type of] Hearing must occur no later than [date].
35. Colorado Revised Statute [19-3-### (see law section of this Motion for the citation)] authorizes a delay in the [type of] Hearing only if this Court makes specific findings explaining why a delay is in the best interests of the [Child/ren/Youth and state other required findings. See law section of this Motion for those findings.]
36. A delay in this [type of] Hearing is not in the best interests of [this/these Child/ren/Youth.] Additionally, a timely [type of] Hearing meets the standard set forth in

the March 16, 2019, Colorado Supreme Court Order because it is “necessary to prevent a substantial risk of imminent financial hardship or imminent risk to the health, safety or welfare of any individual or the community at large.” *Id.* Colorado Supreme Court Order. *[Explain why the above standards are satisfied in your case. See paragraphs 7, 9, and 12 for helpful facts. Are there issues with services for the Child/ren/Youth/parents? Is/are the Child/ren/Youth placed at home? Could the Child/ren/Youth be returned home with a safety plan? As an example, “Jose, the 15-year-old Youth in this case, wants to speak with this Court and the parties as soon as possible about his permanency plan. He wants to be adopted as soon as possible, as he is extremely bonded and attached to his foster parents. He also wants this Court to enter an order as soon as possible indicating that his primary plan is adoption. He needs to know where his case (and he) is headed and why. And he needs to know these important things as soon as possible.”]*

This GAL Respectfully Requests that this Court Immediately Reset the Upcoming [Type of] Hearing as an [In-Person, Telephonic or Web-Based] Hearing.

37. *[Use this paragraph if you are requesting an in-person hearing.]* The [Children/Youth], the Respondent[s], and all individuals residing with the [Child/ren/Youth] and the Respondent[s] are healthy. More specifically, the [Child/ren/Youth], the Respondent[s], and all of the individuals residing with the [Child/ren/Youth] and the Respondent[s] have not been diagnosed with COVID-19, have not displayed any symptoms of COVID-19, and have not had any known exposure to individuals who have tested positive for COVID-19. *[Provide additional details regarding anyone else you spoke with about medical status, such as district attorneys, public defenders, doctors, and/or pediatricians.]*

38. *[Use this paragraph if you are requesting a telephonic or web-based hearing.]* The March 16, 2020, Colorado Supreme Court Order placed an expectation on Chief Judges to “make every effort to facilitate work from remote locations and to minimize or eliminate *in-person proceedings and contact.*” *Id.* (Emphasis added.)
39. Similarly, in the recent letter addressed to child welfare and judicial leaders regarding the COVID-19 crisis, the Federal Department of Human Services Administration for Children and Families reiterated the timeframes required for many D&N proceedings, findings, and orders and encouraged courts to make case-by-case determinations about hearing dates:
- [I]n order to practice in a manner consistent with constitutional principles and to serve the best interests of children, [the Children’s Bureau] encourages all attorneys, courts and administrative offices of the court to [... *[m]ake maximum use of technology to ensure due process where in-person hearings are not possible or appropriate; [e]nsure parents and youth have access to technology such as cell phones, tablets, or computers with internet access to participate in hearings or reviews and maintain important familial connections; [and c]onsider utilizing CIP funds to support and enhance virtual participation for parents, children, youth, and their attorneys in hearings and reviews[.]*
- Federal Department of Health & Human Services Administration on Children, Youth and Families, *Covid-19 Child Legal and Judicial Letter*, 2. Emphasis added.
40. A [telephonic or web-based] hearing is necessary in this case because *[explain why an in-person hearing will not work. See paragraph 15 for helpful facts.]* This GAL spoke with the [Child/ren/Youth, the Child’s/Children’s/Youth’s/Youths’ caretaker(s), the Respondent(s) Name(s)), Respondent Parent Counsel (Name(s)), the Caseworker (Name), and the CASA(s) Name(s)]. All individuals agree to and are available for a [telephonic and/or web-based type of] Hearing.
41. *[Include any additional arguments and/or requests].*

WHEREFORE, this GAL respectfully requests that this Court reset the upcoming [type of] hearing in this case as outlined above.

RESPECTFULLY submitted this [## day of Month, year].

[Name]
GAL

CERTIFICATE OF DELIVERY OR MAILING

I hereby certify that a true and correct copy of this Forthwith Motion for Second Reset of the Upcoming [Type of] Hearing was hand-delivered, sent by email, or sent in the U.S. mail, first-class, postage prepaid, this [## day of Month, year], duly addressed as follows:

[Name(s) of individual(s) the document was sent to, with address(es) where the document was sent.]

[Name]

<p>[DISTRICT/JUVENILE] COURT, [NAME OF COUNTY], COLORADO [Address] [City], Colorado [zip code]</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>THE PEOPLE OF THE STATE OF COLORADO</p> <p>In the Interest of:</p> <p>[NAME(S)], [Child(ren/Youth)],</p> <p>And Concerning,</p> <p>[NAME(S)], Respondent[s].</p>	
<p>ORDER ON FORTHWITH MOTION FOR SECOND RESET OF THE UPCOMING [TYPE OF] HEARING</p>	

THIS COURT, having reviewed the Forthwith Motion for Second Reset of the Upcoming [Type of] Hearing (“Motion”), and the Court file, having heard any evidence presented and considered the statements of the parties and their counsel, and being fully advised, FINDS:

1. This Court has jurisdiction over the subject matter of this case and the parties to this case.
2. The Motion is well-founded and supported by the evidence and the law.
3. During the [date] hearing, this Court next set this case for a [date and type of] Hearing.
4. On [date], the [type of] hearing was reset for [date] due to concerns related to COVID-19. That [date] reset date does not comply with the hearing timeframes

mandated by the Colorado Children’s Code. Moreover, that reset date is not in the best interests of the [Child/ren/Youth].

- 5. *[Use this paragraph if you are requesting an in-person hearing.]* An in-person hearing is appropriate in this case. The parties to this case and their counsel are healthy. No one has been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. The same can be said for the people residing with the parties.
- 6. *[Use this paragraph if you are requesting a telephonic and/or web-based hearing.]* A [telephonic and/or web-based] hearing is necessary in this case because *[explain why an in-person hearing will not work. See paragraph 14 for helpful facts]*. The parties agree and are available to attend a [telephonic and/or web-based hearing].
- 7. *[Provide additional necessary findings.]*

THEREFORE, THIS COURT ORDERS:

- 1. The Motion is granted.
- 2. The next matter in this case shall be [an/a in-person, telephonic, and/or web-based date type of] Hearing.
- 3. *[Provide any additional necessary orders.]*

DONE this _____ day of _____, 2020.

BY THIS COURT:

JUDGE/MAGISTRATE [NAME]

This Court returned a true and correct signed copy of this Order to the Guardian *ad litem* for distribution of this Order to the parties via the below Certificate of Delivery or Mailing.

[Name]

CERTIFICATE OF DELIVERY OR MAILING

I hereby certify that a true and correct copy of this Order was hand-delivered, sent by email, or sent in the U.S. mail, first-class, postage prepaid, this [## day of Month, year], duly addressed as follows:

[Name(s) of individual(s) the document was sent to, with address(es) where the document was sent.]

[Name]