

Improvement Periods

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Types of Improvement Periods

- Pre-Adjudicatory Improvement Period: WV Code Section 49-4-610(1)
- Post-Adjudicatory Improvement Period: WV Code Section 49-4-610(2)
- Post-Dispositional Improvement Period: WV Code Section 49-4-610(3)

Acknowledgment of Problem

- The prerequisite to filing a motion for an improvement period is as follows: Does the Respondent Parent acknowledge that abuse and/or neglect has occurred? If so, has the Respondent Parent identified the abuser?
- The Supreme Court of Appeals of West Virginia has set forth the requirement of acknowledgment of a problem in *WV DHHR ex rel. Wright v. Doris S.*, 475 S.E. 2d 865 (1996).

Acknowledgement of Problem

- Encourage the Respondent Parent that the nature of abuse and neglect proceedings is remedial, not punitive, and that acknowledgment of a problem is the first step in a remedial process.

Practical Tips to Help a Respondent Parent Acknowledge a Problem

- Recognize that a Respondent Parent comes to the table as a broken individual, who may have suffered trauma in his/her past that has been untreated.
- Seek to show compassion and care through a tangible act of kindness that will build trust and rapport.

Practical Tips to Help a Respondent Parent Acknowledge a Problem

- Assist the Respondent Parent from the tendency to “get in the weeds” of focusing on all allegations/facts presented by the Department, and focus on the “big picture.”
- Set up counseling or treatment with trusted professionals that can help the Respondent Parent understand the issues.

Pre-Adjudicatory Improvement Period

- Pursuant to WV Code Section 49-4-610(1), the Court may grant a three (3) month improvement period (with no extension available) prior to a finding that a child is abused or neglected.
- WV Code Section 49-4-610(1) requires the Respondent Parent to (a) file a written motion; and (b) demonstrate, by clear and convincing evidence, that the he/she is likely to fully participate in the improvement period.

Pre-Adjudicatory Improvement Period

- WV Code Section 49-4-610(1) requires the Court to review the improvement period at both the 60 day mark and the 90 day mark.
- WV Code Section 49-4-610(1) requires the Department to submit an individualized family case plan, as well as a progress report in 60 days.

Post-Adjudicatory Improvement Period

- Pursuant to WV Code Section 49-4-610(2), the Court may grant a six (6) month improvement period (with a three month extension available) after finding that a child is abused or neglected.
- WV Code Section 49-4-610(2) requires the Respondent Parent to (a) file a written motion; and (b) demonstrate, by clear and convincing evidence, that the he/she is likely to fully participate in the improvement period. If previously granted a pre-adjudicatory improvement period that was not successfully completed, then Respondent Parent must show a substantial change in circumstances that demonstrates the Respondent Parent is likely to fully participate in a further improvement period.

Post-Adjudicatory Improvement Period

- WV Code Section 49-4-610(2) requires the Court to review the improvement period at both the 30 day mark and the 90 day mark.
- WV Code Section 49-4-610(2) requires the Department to submit an individualized family case plan, as well as a progress report in 60 days.

Post-Dispositional Improvement Period

- Pursuant to WV Code Section 49-4-610(3), the Court may grant a six (6) month improvement period (with a three month extension available) as a disposition.
- WV Code Section 49-4-610(3) requires the Respondent Parent to (a) file a written motion; and (b) demonstrate, by clear and convincing evidence, that the he/she is likely to fully participate in the improvement period. If previously granted an improvement period, then Respondent Parent must show a substantial change in circumstances that demonstrates the Respondent Parent is likely to fully participate in a further improvement period.

Post-Dispositional Improvement Period

- WV Code Section 49-4-610(3) requires the Court to review the improvement period at both the 60 day mark and the 90 day mark.
- WV Code Section 49-4-610(3) requires the Department to submit an individualized family case plan, as well as a progress report in 60 days.

Written Motion for Improvement Period

- Has the Respondent Parent previously been granted an improvement period?
- Is the Respondent Parent reasonably likely to full participate in the terms and conditions of an improvement period?
- Will the Respondent Parent participate in the Multi-Disciplinary Team process, and follow all recommendations, including parenting, adult life skills, a psychological evaluation, counseling, and/or substance abuse treatment?

Written Motion for Improvement Period

- Will the Respondent Parent sign any necessary consent or release forms to allow their progress to be checked?
- Will the Respondent Parent be honest with the Multi-Disciplinary Team and service providers?
- Will the Respondent Parent keep appointments with service provider or make arrangements to reschedule, if necessary?
- Has the Respondent Parent participated in all Court proceedings to date?

Written Motion for Improvement Period

- Will the Respondent Parent participate in the development of a Family Case Plan and comply with same?
- If an improvement period is granted, does it cause unnecessary delay in establishing permanency for the minor child? Is an improvement period in the best interest of the child?
- Does the Respondent Parent understand that they are responsible for the initiation and completion of all terms of the improvement period?

How long can a Respondent Parent have consecutive improvement periods?

No combination of improvement periods or extensions should result in a child remaining in foster care for more than 15 months of the most recent 22 months unless the court finds compelling circumstances that it is in the child's best interests to extend this time limit. W. Va. Code § 49-4-610(9).

When to Object to an Improvement Period

- Child has been abandoned, tortured, chronically abused or sexually abused.
- The Respondent Parent has not demonstrated, by clear and convincing evidence, that they are likely to fully participate in an improvement period.
- An improvement period would jeopardize the best interests of the child.

When to Object to an Improvement Period

- The parental and custodial rights and responsibilities of the Respondent Parent to another child have been involuntarily terminated, and the circumstances which led to the prior involuntary termination have not been remedied.
- The Respondent Parent is required to register with a sex offender registry, and due to the nature and circumstances surrounding the previous charge, preservation of the family is not in the child's best interest.

When to Object to an Improvement Period

- Parent has committed murder or voluntary manslaughter of another of his or her children, another child in the household, or the other parent of his or her children; has attempted or conspired to commit murder or voluntary manslaughter or has been an accessory before or after the fact of either crime; has committed unlawful or malicious assault resulting in serious bodily injury to the child or to another child in the household or to the other parent of his or her children; has committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent.

When to Move the Court to Terminate an Improvement Period

- Any party may move to revoke an improvement period. W. Va. Code § 49-4-610(7).
- The Respondent Parent has not participated and/or satisfied the terms and conditions of the improvement period.

What is the Guardian ad Litem's responsibility during an improvement period?

When appropriate, evaluate any available improvement periods and actively assist in the formulation of an improvement period and service plans. The GAL is to monitor the status of the child and progress of the parent(s) in satisfying the conditions of the improvement period by requiring updates or status reports from agencies involved with the family.

Appendix A – Section D(3)