



# MILLE LACS BAND OF OJIBWE

*Judicial Branch of Tribal Government*

## IN THE COURT OF CENTRAL JURISDICTION

### COURT ORDER 52

#### *In the Matter of Children's Placement Changes and Trial Home Visits*

Effective Date: March 17, 2020

WHEREAS, by enacting Title 8, Children and Families, of the Mille Lacs Band Statutes, the Band established provisions that will “. . . secure for each child who may come before the Court of Central Jurisdiction such care, guidance and control preferably in his[/her] own home, as will serve his[/her] welfare and the best interest of the Bands.” 8 MLBSA §1(a). The Federal Foster Care Program, authorized by title IV-E of the Social Security Act, as amended, helps to provide funding for safe and stable out-of-home care for children until the children are safely returned home, placed permanently with guardians or adoptive families or placed in other planned arrangement for permanency, such as extended foster care. Compliance with Title IV-E implementing regulations at 45 CFR parts 1355, 1356, and 1357 and Minn. State Chapter 26N. Northstar Care for Children is crucial in securing valuable financial assistance for Band member children and their caregivers. The Children's Court has been authorized to “. . . issue all orders necessary to ensure the safety of children . . . within the boundaries of the reservation, as well as other children who have been declared wards of the Children's Court.” 8 MLBSA § 3111(a).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT that these procedures are adopted to govern changes of children's placement and the commencement and termination of trial home visits in cases arising under Title 8 MLBSA §3111 et seq.

#### *1. Change of Child's Placement*

When a child has been adjudicated to be a Child in Need of Protection or Services under 8 MLBSA § 3151 and the Court has ordered continuing removal of that child from the home of a parent, guardian or custodian, and out-of-home placement, it is critical to the Court's exercise of continuing supervision of the child and family, that the Court be aware at all times of the location of the child.

##### *A. Mille Lacs Band Family Service's Discretion.*

If the Court has ordered the out-of-home placement of a child and has granted Mille Lacs Band Family Services discretion as to where to place the child, and subsequent to the hearing when such discretion was granted, Family Services finds it necessary for the child's health, safety and welfare to move the child to a different placement, Family Services must file an Action Form with the Court. The Action Form shall contain the name(s) of the

former placement, the name(s) of the new placement, and the reason(s) for the change. The Action Form shall be filed as soon as possible after the child's move to the new placement, and in any event, no later than the next court working day.

*B. No Discretion to Family Services*

There are instances in which the Court may order the out-of-home placement of a child, and requires that unless exigent circumstances arise, that the child is not to be removed from the placement without court approval. After the hearing when the placement is ordered, if Family Services comes to have reason to believe that it is necessary to the child's health, safety and welfare for that child to be moved to an alternative placement, the Solicitor General shall file a motion with the Court seeking permission for the move. The motion, which shall be served on all parties to the child protection action, shall specify the name(s) of the current placement, the name(s) of the proposed new placement, the factual basis of the request to change placement, and the level of urgency for the change. A proposed order shall accompany the motion for change of placement. The Court shall schedule a hearing on the motion as soon as practicable. In cases of the need for emergency removal of the child however, the provisions of 8 MLBSA § 3144 shall apply.

*2. Commencement of Trial Home Visit*

When a child has been adjudicated to be a Child in Need of Protection or Services pursuant to 8 MLBSA § 3151, and the parent(s), guardian(s), and custodian(s) have made significant progress on their case plan(s) and in eliminating the circumstances leading to the child's out-of-home placement, the Court may order that the child have a trial home visit with his or her family. If the trial home visit is to commence in the future and not on the day of the hearing, Mille Lacs Band Family Services shall file an Action Form notifying the Court within two (2) court working days of the start of the trial home visit.

*3. Termination of Trial Home Visit*

If circumstances arise that place a child on a trial home visit at substantial risk of death, injury, or serious emotional harm, or if the parent(s) is not able to provide the child with the basic necessities of life, the Mille Lacs Band Family Services may remove the child from the home and place the child temporarily according to 8 MLBSA § 3144(b)-(d). Removal is deemed to occur when the child is taken from the parent(s)' home without the parent(s)' consent and where the parent(s) cannot have the child returned upon demand. After the child is removed, Mille Lacs Band Family Services shall contact the Court within eight (8) business hours. Actual notice to the Court, by the filing of an Action Form, shall be made by Mille Lacs Band Family Services within twelve (12) hours of the child's removal. The Action Form shall specify the date of removal, the facts supporting the interruption and/or termination of the home visit, and the name(s) of the individual(s) that the child has been newly placed with.

If a child is to be returned to foster care, including relative care, or to the care of a noncustodial parent, the Solicitor General shall file a motion to terminate the trial home visit no later than 12:00 p.m. (noon) of the second court working day following the removal. The motion shall

set out the grounds for requesting the termination of the trial home visit and be accompanied by an affidavit of the facts supporting the motion, and a proposed order. Copies of the motion, the affidavit and the proposed order shall be served on all parties. The Court shall set the motion to terminate the trial home visit for a hearing within ten (10) calendar days of the filing of the motion to terminate.


IT IS SO ORDERED.

A handwritten signature in blue ink, reading "Ramona Applegate", is written over a horizontal line.

Ramona Applegate

Interim Chief Justice

Dated this 17<sup>th</sup> day of March, 2020

A handwritten signature in blue ink, reading "David S. Christensen", is written over a horizontal line.

David S. Christensen

District Court Judge

Dated this 17<sup>th</sup> day of March, 2020