

CHAPTER 1B
MISSING PARENT IN A RSA 169-C CASE

***SUPPLEMENT TO
PROTOCOLS RELATIVE TO ABUSE AND NEGLECT CASES AND
PERMANENCY PLANNING
(Revised April 2003)***

FOR USE IN THE NEW HAMPSHIRE CIRCUIT COURTS



**DEVELOPED BY THE MODEL COURT PROJECT
IN COOPERATION WITH THE
NEW HAMPSHIRE COURT IMPROVEMENT PROJECT**

**July 1, 2020
(Revised October 15, 2021)**

INTRODUCTION AND ACKNOWLEDGMENTS

In 2008, the National Council of Juvenile and Family Court Judges selected the Franklin and Concord courts to become a Model Court, part of a national grant program designed to promote innovative and positive change in child protection proceedings. After the end of the grant program, New Hampshire's Model Court Project continued to act as a laboratory, developing and implementing best practices to improve outcomes for children and youth and families. The New Hampshire Model Court Project includes representatives from the New Hampshire Circuit Court, CASA of New Hampshire, the Division for Children, Youth and Families (DCYF), parent attorneys, the Judicial Council and the New Hampshire Court Improvement Project (CIP).

The *Protocols Relative to Abuse and Neglect Cases and Permanency Planning* (Revised 2003 and further revised 2020 by adding *Chapter 1B-Missing Parent in a RSA 169-C Case*), and all forms promulgated for use with these protocols, are mandatory for use by the New Hampshire Circuit Court. These protocols are the work of the Model Court and Court Improvement Projects and a multidisciplinary committee that has worked, tirelessly since 2018, on this endeavor.

We know it is extremely important to identify and locate a missing parent as early as possible in a RSA 169-C case. We know from the Adoption and Safe Families Act that not doing so can mean significant delays for parents and children, including extended time in out-of-home placements and delayed permanency hearings. We also know that such delays are inconsistent with a child's need for security, sense of safety, and overall well-being. Timely permanency may also be significantly impacted for parents and children. The 2020 Missing Parent Protocols were developed to address these concerns. They were also developed to ensure our common understanding in the handling of a child protection case when there is a missing parent.

Insofar as these protocols suggest any interpretation of the law, the reader should bear in mind that the interpretation of the law, as it applies to any given case, is within the sole province of the trial judge, subject to review by the New Hampshire Supreme Court. These protocols do not create substantive rights that do not currently exist and should not be considered as superseding any constitutional or statutory rights of parties to proceedings in RSA 169-C cases.

Special thanks are extended to Kristy Lamont, who has kept the engine of the Model Court Project running smoothly. Special thanks are also extended to the Court Improvement Project's David Sandberg and Marge Therrien, who spent countless hours

researching best practices as well as drafting, editing and formatting these protocols. Finally, thanks go to members of the Model Court Executive Committee, all of whom have given, and continue to give, so generously of their time. They and their staff have made these 2020 protocols possible:

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Administrative Order 2020-11
(Amended October 15, 2021)**

The *Protocols Relative to Abuse and Neglect Cases and Permanency Planning* (Revised 2003) are further revised by the addition of the 2020 Protocols, consisting of *Chapter 1A-Parental Fitness Hearing in a RSA 169-C Case* (which replaces *Chapter 1A-Bill F. Hearing*) and *Chapter 1B-Missing Parent in a RSA 169-C Case*.

Effective June 1, 2020, *Chapter 1A-Parental Fitness Hearing in a RSA 169-C* and **such future updates or revisions to the protocols as may become necessary from time to time, and** all forms promulgated for use with these protocols are hereby made mandatory for use by the New Hampshire Circuit Court.

Effective July 1, 2020, *Chapter 1B-Missing Parent in a RSA 169-C Case* and **such future updates or revisions to the protocols as may become necessary from time to time, and** all forms promulgated for use with these protocols are hereby made mandatory for use by the New Hampshire Circuit Court.

This order is made pursuant to Supreme Court Rule 54 in order to manage the case flow and ensure the timely disposition of the matters addressed in the protocols.

Originally issued - May 11, 2020
Amended - October 15, 2021



David D. King
Administrative Judge
New Hampshire Circuit Court

TABLE OF CONTENTS

CHAPTER 1 B - MISSING PARENT IN A RSA 169-C CASE

*This protocol chapter is a supplement to the
Protocols Relative to Abuse and Neglect Cases and Permanency Planning
Revised April 2003*

INTRODUCTION 1

PART A MISSING PARENT IN A RSA 169-C CASE

PROTOCOL 1 DEFINING A MISSING PARENT IN A RSA 169-C CASE 2

**PROTOCOL 2 AFFIDAVIT TO IDENTIFY AND/OR LOCATE A PARENT,
GUARDIAN OR PUTATIVE FATHER 2**

**PROTOCOL 3 THE COURT’S OVERSIGHT ROLE WHEN THERE IS A
MISSING PARENT IN A RSA 169-C CASE 3**

**PROTOCOL 4 THE COURT’S ORDER WHEN THERE IS A MISSING
PARENT IN A RSA 169-C CASE 5**

**PART B MISSING PARENT IN A RSA 169-C CASE IS IDENTIFIED
AND/OR LOCATED**

**PROTOCOL 5 MISSING PARENT IN A RSA 169-C CASE IS IDENTIFIED
AND/OR LOCATED..... 6**

**PROTOCOL 6 DCYF FILING NOTICE/MOTION REGARDING MISSING
PARENT, GUARDIAN OR PUTATIVE FATHER..... 6**

**PROTOCOL 7 THE COURT’S ISSUANCE OF SUMMONS AND
REQUESTS TO LAW ENFORCEMENT..... 8**

**PROTOCOL 8 SCHEDULING A NOTIFICATION OF RIGHTS AND
CONSEQUENCES HEARING 12**

PROTOCOL 9	THE COURT CONDUCTING A NOTIFICATION OF RIGHTS AND CONSEQUENCES HEARING.....	12
PROTOCOL 10	THE COURT'S NOTIFICATION OF RIGHTS AND CONSEQUENCES ORDER.....	13
See also Revision History	16

INTRODUCTION

“The early identification, location and engagement of the father [or mother] are critical.”

National Council Juvenile and Family Court Judges Enhanced Resource Guidelines (2016)

Since the enactment of the Adoption and Safe Families Act (ASFA) in 1997, which emphasizes the importance of **timely permanency** for children/youth in out-of-home placement cases, identifying and locating missing parents has gained widespread attention and importance for several reasons. (1)

Delays in identifying and/or locating a missing parent often result in significant delays in the court conducting the ASFA-mandated permanency hearing. Such delays prolong a child’s uncertainty about her/his future which is inconsistent with a child’s need for security and a sense of well-being. (2) Consequently, it is extremely important that missing parents of children involved in RSA 169-C proceedings be identified and/or located as soon as possible.

As set forth in the National Council of Juvenile and Family Court Judges’ Enhanced Guidelines, as well as in child welfare and legal literature (3), additional benefits are associated with the early identification and location of a missing parent. These may include:

- the child(ren) being placed with the parent;
- strengthening the parent-child relationship, and the parent serving as an important visitation resource for the child;
- the parent connecting the child protection agency with relatives who are able and willing to provide support for the child, including placement;
- the parent’s social security benefits aiding the child; and
- the parent providing health information which may be of value to foster parents, health care professionals and others who are assisting the child.

**PART A
MISSING PARENT IN A RSA 169-C CASE**

PROTOCOL 1 DEFINING A MISSING PARENT IN A RSA 169-C CASE

For purposes of these protocols, the court and parties should construe a “missing parent” in a RSA 169-C case involving a petitioned parent to mean:

- a parent who is **named** in a RSA 169-C petition involving their child(ren) but whose **address/location** is **unknown**. This parent may be a petitioned parent (alleged to have abused or neglected the child(ren)) or a non-petitioned parent (not alleged to have abused or neglected the child(ren));
- a parent who is **unnamed** in a RSA 169-C petition involving the petitioned parent and their child(ren); or
- a **putative father** who is known to DCYF when a RSA 169-C petition is filed or who becomes known to DCYF after a petition is filed.

COMMENTS

An **individual for whom DCYF believes paternity testing is required should NOT be named** as a **parent** on a RSA 169-C petition. When a parent is named on a RSA 169-C petition, that person is automatically made a party to the case and entitled to all confidential information. Instead, DCYF should file a Motion for Paternity Testing for Putative Father as set forth below in Protocol 6, C.

A RSA 169-C petition may be filed against a guardian of a child(ren) and if so, these protocols will apply. Guardian is defined in RSA 169-C:3, XIV.

When a parent is **served with a RSA 169-C petition** and subsequently **does not appear or participate in the case**, this parent is considered to be **“disengaged”** rather than “missing.” These protocols are NOT intended to apply to a disengaged parent.

**PROTOCOL 2 AFFIDAVIT TO IDENTIFY AND/OR LOCATE A PARENT,
GUARDIAN OR PUTATIVE FATHER**

When there is a missing parent in a RSA 169-C case, the court should expect that DCYF, consistent with its practice, will submit an **Affidavit to Identify and/or Locate a Parent, Guardian or Putative Father (NHJB-3031-F and hereinafter referred to as “Affidavit”)** prior to every RSA 169-C hearing and with its court report and/or proposed order.

COMMENTS

RSA 169-C includes definitions of a parent, RSA 169-C:3, XXI, and guardian, RSA 169-C:3, XIV.

New Hampshire statutes, including RSA 169-C, do not specifically define the term “putative father.” In considering who may be a putative father, the court may look to other statutory definitions, including RSA 170-B:2, III (Definitions, Birth Father), RSA 170-B:5 (Persons Required to Execute a Surrender of Parental Rights), and RSA 170-B:6 (Notice to Person Claiming Paternity and Hearing to Determine Right to Surrender).

Additionally, the court may consider the following description of a “putative father”, which “generally means a man whose legal relationship to a child has not been established but who is alleged to be or claims that he may be the biological father of a child who is born to a woman to whom he was not married at the child’s birth.” (4)

PROTOCOL 3 THE COURT’S OVERSIGHT ROLE WHEN THERE IS A MISSING PARENT IN A RSA 169-C CASE

The court’s oversight role when there is a missing parent in a RSA 169-C case is to ensure DCYF submits an Affidavit to Identify and/or Locate a Parent, Guardian or Putative Father prior to every RSA 169-C hearing and makes reasonable efforts to identify and/or locate a missing parent.

In carrying out this oversight role, the court should do the following:

- **Prior to Every RSA 169-C Hearing, Review the Affidavit to Identify and/or Locate a Parent, Guardian or Putative Father**

When there is a missing parent in a RSA 169-C case, the court should, **prior to every RSA 169-C hearing**, review DCYF’s Affidavit to Identify and/or Locate a Parent, Guardian or Putative Father.

COMMENTS

As set forth in the Introduction to these protocols, and in addition to timely permanency hearings and timely permanency for parents and children, the benefits associated with the early identification and/or location of a missing parent may include:

- the child(ren) being placed with the parent;
- strengthening the parent-child relationship, and the parent serving as an important visitation resource for the child;

- the parent connecting the child protection agency with relatives who are able and willing to provide support for the child, including placement;
- the parent's social security benefits aiding the child; and
- the parent providing health information which may be of value to foster parents, health care professionals and others who are assisting the child.

The Fostering Connections Act (PL 110-351) "requires due diligence to identify and provide notice to all relatives **within thirty (30) days** of removal. This includes non-resident, non-custodial fathers and paternal relatives. The court should ask what actions the social worker has taken to identify and locate the father." This requirement is "subject to exceptions due to family or domestic violence."

- **At Every Hearing, Conduct a Colloquy with DCYF about the Affidavit**

When there is a missing parent in a RSA 169-C case, the court should, **at every RSA 169-C hearing**, conduct a **colloquy** with DCYF about the Affidavit. This colloquy should include, but not be limited to, the following:

- what **reasonable efforts** DCYF has made **to date**, as described in the Affidavit, to identify and/or locate the missing parent, including whether DCYF has, consistent with its practice, **asked the petitioned parent** for the missing parent's name and his/her address or last known address; and
- if **DCYF has not submitted an Affidavit** before the hearing, inquire about DCYF's reasonable efforts to date to locate/identify a missing parent, and require DCYF to submit the Affidavit describing these efforts to the court and all parties **within five (5) calendar days** of the hearing.
- **At Every Hearing, Ask Parties About the Missing Parent and/or Relatives of the Missing Parent**

At every hearing, the court should ask the parties if anyone knows the name and/or address of the missing parent and his/her relatives. If known, the court should instruct the party or parties to provide this information to DCYF.

COMMENT

The **Notice to Petitioned Parent (NHJB-2192-F)** informs a parent of the consequences of a missing parent being identified and/or located. This includes but is not limited to the court terminating an out-of-home placement for a child(ren) and placing the child(ren) in the physical custody of a missing parent if that parent is identified and/or located.

**PROTOCOL 4 THE COURT'S ORDER WHEN THERE IS A MISSING
PARENT IN A RSA 169-C CASE**

When there is a missing parent in a RSA 169-C case, the court's order should set forth:

- whether DCYF **submitted**, prior to the hearing, an **Affidavit** to Identify and/or Locate a Parent, Guardian or Putative Father. If not, require DCYF to submit the Affidavit to the court and all parties **within five (5) calendar days** of the hearing; and
- whether DCYF has made **reasonable efforts to date** to identify and/or locate the missing parent.

**PART B
MISSING PARENT IN A RSA 169-C CASE IS
IDENTIFIED AND/OR LOCATED**

**PROTOCOL 5 MISSING PARENT IN A RSA 169-C CASE IS IDENTIFIED
AND/OR LOCATED (Revised 10/15/21, see Revision History)**

When there is a missing parent in a RSA 169-C case who has been identified and/or located:

- If the now-located parent was a petitioned parent (alleged to have abused or neglected the child(ren)), then DCYF will notify the court of the missing parent's address for service and the normal RSA 169-C process will occur and the subsequent **protocols, with the exception of Protocol 7, A, 1, will not apply.** Instead, the court will proceed according to RSA 169-C, beginning with the scheduling of a Preliminary Hearing on that parent's petition.
- If the now-located individual was not originally a petitioned parent (not alleged to have abused or neglected the child(ren)), DCYF will decide whether or not to file a RSA 169-C petition against the parent.
 - If DCYF files a RSA 169-C **petition** against the missing parent who is identified and/or located, the court will be notified of the parent's address in the newly filed petition and the normal RSA 169-C process will occur and the subsequent **protocols, with the exception of Protocol 7, A, 1, will not apply.** Instead, the court will proceed according to RSA 169-C, beginning with the scheduling of a Preliminary Hearing on that parent's petition.
 - If DCYF **does not** file a RSA 169-C **petition** against the parent, the parent will be either a non-petitioned parent or putative father and the subsequent **protocols will apply.**

**PROTOCOL 6 DCYF FILING NOTICE/MOTION REGARDING MISSING PARENT
GUARDIAN OR PUTATIVE FATHER**

When there is a missing parent, as defined in Protocol 1, who has been identified and/or located, the court should expect that DCYF will file the multipurpose form **Notice Regarding Missing Parent or Guardian, Motion to Join Missing Parent or Motion for Paternity Testing for Putative Father (NHJB-3171-F and referred to as "Notice/Motion Regarding Missing Parent, Guardian or Putative Father")** and that DCYF will proceed as follows:

A. Parent Initially Named on the RSA 169-C Petition

If the individual identified and/or located was initially named as a petitioned or non-petitioned parent on the RSA 169-C petition, the court should expect that DCYF will promptly file the **Notice/Motion Regarding Missing Parent, Guardian or Putative Father** for this parent, in order to provide the court with the parent's address for service. DCYF **does not need to include a request that the parent be joined** to the RSA 169-C case, as court staff will have already entered this parent as a party when the petition was initially filed.

COMMENT

The Petition for Abuse/Neglect, RSA 169-C (**NHJB-2113-F**) includes a section for the petitioner to list the names of the child's father and mother as well as the address, telephone number, email and date of birth for each parent. When a parent's name is included on the petition, whether the parent's address is known or unknown, court practice is to enter this parent as a party to the RSA 169-C case and proceed accordingly.

B. Non-Petitioned Parent Not Initially Named on the RSA 169-C Petition and Paternity Testing Not Required

If the individual identified and/or located by DCYF was NOT initially named as the parent on the RSA 169-C petition, and DCYF has concluded that paternity testing is NOT required, the court should expect that DCYF will promptly file the **Notice/Motion Regarding Missing Parent, Guardian or Putative Father** for this non-petitioned parent, to provide the court with the parent's name and address for service and to motion the court for **the non-petitioned parent to be joined** to the RSA 169-C case.

C. Individual Identified and/or Located is a Putative Father and Paternity Testing Requested

If the individual identified and/or located by DCYF is a putative father and DCYF believes paternity testing is required, the court should expect that DCYF will promptly file the **Notice/Motion Regarding Missing Parent, Guardian or Putative Father** to motion the court for paternity testing for this individual, consistent with DCYF's practice.

COMMENTS

An **individual for whom DCYF believes paternity testing is required should NOT be named** as a **parent** on a RSA 169-C petition. When a parent is named on a RSA 169-C petition, that person is automatically made a party to the case and entitled to all confidential information. Instead, the court should expect DCYF to file a **Notice/Motion Regarding Missing Parent, Guardian or Putative Father** as set forth above.

New Hampshire statutes, including RSA 169-C, do not specifically define the term “putative father.” In considering who may be a putative father, the court may look to other statutory definitions, including RSA 170-B:2, III (Definitions, Birth Father), RSA 170-B:5 (Persons Required to Execute a Surrender of Parental Rights), and RSA 170-B:6 (Notice to Person Claiming Paternity and Hearing to Determine Right to Surrender).

Additionally, the court may consider the following description of a “putative father”, which “generally means a man whose legal relationship to a child has not been established but who is alleged to be or claims that he may be the biological father of a child who is born to a woman to whom he was not married at the child’s birth.” (5)

PROTOCOL 7 THE COURT’S ISSUANCE OF SUMMONS AND REQUESTS TO LAW ENFORCEMENT (Revised 10/15/21, see Revision History)

The court’s issuance of summons and requests to law enforcement should be handled as follows:

A. Parent Who is Either Initially Named on the RSA 169-C Petition or Not Initially Named on the RSA 169-C Petition, and DCYF Has Concluded Paternity Testing Not Required

Upon receipt of the **Notice/Motion Regarding Missing Parent, Guardian or Putative Father** for a parent who is either initially named on the RSA 169-C petition or not initially named on the RSA 169-C petition and for whom DCYF has concluded paternity testing is not required, the court shall:

1. issue a summons, by the end of the next business day, to the parent, to be served by the appropriate law enforcement authority, consistent with RSA 169-C:8. The service packet should include the following:
 - Petition/Affidavit for Abuse/Neglect in the RSA 169-C case involving their child(ren);
 - All court orders mailed to date in the RSA 169-C case involving their child(ren). However, if orders are voluminous, court staff should only include the Adjudicatory Hearing Order/Consent in Lieu of Adjudicatory Hearing Order (if applicable) and the most recent court order in the service packet and all other orders may be mailed to the parent after service is accomplished; and
 - For now-located Petitioned Parent:
 - Notice to Petitioned Parent;
 - Notice of Preliminary hearing; and
 - Notice of the next scheduled hearing for any other petitioned parent; OR

For now-located Non-Petitioned Parent:

- Notice Form (Notice to Non-Petitioned Parent Who is a Household Member or Notice to Non-Petitioned, Non-Household Member);
 - Notice of a Notification of Rights and Consequences hearing; and
 - Notice of the next scheduled hearing for the petitioned parent.
2. send DCYF a copy of the entire service packet, and send notice of the hearing scheduled above to all other parties in the RSA 169-C case; and
 3. give instructions to the law enforcement authority to fax or deliver to the court the return of service immediately upon completion of service. If the return of service is faxed, the original should be subsequently mailed to the court.
 4. when the court receives the return of service document from law enforcement, or when the missing parent completes an acceptance of service document, the court shall promptly send a copy of such document to DCYF.

B. Individual Identified and/or Located is Putative Father and Paternity Testing Requested

Upon receipt of the **Notice/Motion Regarding Missing Parent, Guardian or Putative Father**, including a request from DCYF for paternity testing for a putative father who is identified and/or located, the court should add the putative father as a “participant” and proceed as set forth below. The putative father is NOT joined as a “party” to the RSA 169-C case until and unless paternity is established and DCYF requests the individual be joined to the RSA 169-C case. Therefore, the putative father will not be sent the petition/affidavit and all court orders to date in the RSA 169-C case, consistent with RSA 169-C:25 (Confidentiality).

I. Court Order

The court should promptly issue an order for paternity testing that includes the following:

- order the putative father to participate in paternity testing as arranged by DCYF;
- order the person with physical custody to make the child(ren) available for paternity testing;
- order DCYF to expeditiously schedule paternity testing; and
- order DCYF to file, **within 45 calendar days** of the paternity order, the paternity results or, if the results are unavailable, an explanation as to why the results are pending and when it is projected they will be received by DCYF and filed with the court.

The court shall, **within five (5) calendar days** of DCYF's motion requesting paternity testing, mail the paternity testing order to the putative father. Additionally, the court shall mail this order to all parties in the RSA 169-C case.

COMMENT

Requiring the results of paternity testing to be filed within 45 calendar days of the court's order for such testing is based on DCYF indicating paternity testing takes approximately thirty (30) days.

II. Paternity Results Received by DCYF

If the **paternity results show that the putative father is the biological father**, the court should expect DCYF to file a motion attaching the paternity results and **requesting the parent be joined as a party** to the RSA 169-C case. Also, the motion should include a request the court send the biological father the petition/affidavit and all court orders to date in the RSA 169-C case, consistent with RSA 169-C:25 (Confidentiality).

If the **paternity results do not indicate the putative father is the biological father**, the court should expect DCYF to file the paternity results with the court, requesting no further involvement of that individual in the RSA 169-C case.

Unless DCYF files a RSA 169-C petition against the individual for whom paternity is established, this individual's **designation changes** from **putative father** to **non-petitioned parent**.

III. Paternity Established

As ordered, DCYF should file, **within 45 calendar days** of the paternity order, the paternity testing results.

If paternity is established, the court should expect that DCYF will include a **motion for the non-petitioned parent to be joined** to the RSA 169-C case and a request the court send the petition/affidavit and all court orders to date in the RSA 169-C case, consistent with RSA 169-C:25 (Confidentiality).

Additionally, DCYF may request orders that include but are not limited to the following:

- Order the non-petitioned parent to cooperate with DCYF, including participating in a social study as required by RSA 169-C:18, V;
- Order the non-petitioned parent to participate in services, including supervised visitation or other ancillary services as deemed appropriate by DCYF and approved by the court; and/or

- Order the child(ren) to remain in DCYF's legal custody or legal supervision, pending a social study and further court hearing.

Upon receipt of such a motion from DCYF, the court shall promptly rule on the motion for joinder and shall:

1. issue a summons, by the **end of the next business day**, to be served by the appropriate law enforcement authority, consistent with RSA 169-C:8.

The service packet should include the following:

- **Petition/Affidavit** for Abuse/Neglect in the RSA 169-C case;
- **Notice Form** (Notice to Non-Petitioned Parent Who is a Household Member or Notice to Non-Petitioned, Non-Household Member);
- **Notice of a Notification of Rights and Consequences hearing**, to be held **within seven (7) calendar days** of DCYF's filing of a motion with paternity results in which paternity is established;
- **Notice for the next scheduled hearing for the petitioned parent;** and
- **All court orders mailed to date** in the RSA 169-C case. However, if orders are voluminous, court staff should only include the Adjudicatory Hearing Order/Consent in Lieu of Adjudicatory Hearing Order (if applicable) and the most recent court order in the service packet and all other orders may be mailed to the non-petitioned parent after service is accomplished.

COMMENT

Once paternity is established and a non-petitioned parent is joined as a party to the RSA 169-C case, having the court send to this parent the petition/affidavit and all court orders to date in the RSA 169-C case is consistent with RSA 169-C:25 (Confidentiality).

2. send DCYF a copy of the entire service packet, and send notice of the Notification of Rights and Consequences hearing for the non-petitioned parent to all parties to the RSA 169-C case; and
3. give instructions to the law enforcement authority to fax or deliver to the court the return of service immediately upon completion of service. If the return of service is faxed, the original should be subsequently mailed to the court.
4. when the court receives the return of service document from law enforcement, or when the missing parent completes an acceptance of service document, the court shall promptly send a copy of such document to DCYF.

PROTOCOL 8 SCHEDULING A NOTIFICATION OF RIGHTS AND CONSEQUENCES HEARING

The court should schedule a Notification of Rights and Consequences hearing as follows:

- **within seven (7) calendar days** of DCYF's filing of the Notice/Motion Regarding Missing Parent, Guardian or Putative Father, when there is a **non-petitioned parent** and paternity testing is not required; or
- **within seven (7) calendar days** of DCYF's filing of a motion and paternity results in which paternity is established for a putative father.

PROTOCOL 9 THE COURT CONDUCTING A NOTIFICATION OF RIGHTS AND CONSEQUENCES HEARING

At a Notification of Rights and Consequences hearing, the court:

5. Shall review the **Acknowledgement of Possible Consequences to Parental Rights in Abuse and Neglect Cases (NHJB-2209-F)** with the non-petitioned parent and:
 - a. determine, pursuant to RSA 169-C:15, IV, whether the parent understands the possible consequences to his/her parental rights based upon the court's prior finding that the child(ren) is(are) abused and/or neglected;
 - b. review the information about the parent's right to request a parental fitness hearing to obtain custody of his/her child(ren), pursuant to RSA 169-C:19-e and, pursuant to *In re Bill F.*, 145 NH 267, 274 (2000), that a parental fitness hearing addresses physical custody only, and that a court order in a RSA 169-C case vesting a fit parent with physical custody is not a permanent order of custody, and expires upon closure of the RSA 169-C case; and
 - c. have the parent sign the Acknowledgement form stating that he/she understands the consequences to parental rights in abuse and neglect cases, consistent with RSA 169-C:15, IV.
2. Should, if applicable, discuss the following: **visitation** with the parent(s) and/or siblings; **evaluation, examination and treatment** for the child(ren), parent(s), guardian, custodian, and/or household member subject to the petition; **services** for the child(ren) and/or parent(s); and/or **financial affidavit** for a parent(s);

3. Should, if applicable, discuss the **social study, case plan, and dispositional order**, as set forth below in Protocol 10; and/or
4. Should, if applicable and if previously scheduled in the RSA 169-C case, discuss the **permanency hearing**, pursuant to the Permanency Hearing Protocols.

PROTOCOL 10 THE COURT'S NOTIFICATION OF RIGHTS AND CONSEQUENCES ORDER (Revised 10/15/21, see Revision History)

After conducting a Notification of Rights and Consequences hearing, the court should mail, **within fourteen (14) calendar days**, a **Notification of Rights and Consequences Hearing Order (NHJB-3172-F)**. The order should be mailed to all parties to the RSA 169-C case, along with a copy of the signed Acknowledgement of Possible Consequences to Parental Rights in Abuse and Neglect Cases form (NHJB-2209-F).

The court order should include the following:

A. Findings of Fact

1. The **date of the RSA 169-C court order** in which the court 1) found reasonable cause to believe the child(ren) is(are) abused and/or neglected, or 2) found the child(ren) is(are) abused and/or neglected;
2. The **date of the last hearing convened** in the RSA 169-C case;
3. That the court reviewed with the parent, and the parent signed, the **Acknowledgement of Possible Consequences to Parental Rights In Abuse and Neglect Cases (NHJB-2209-F)** and that the court has determined, pursuant to RSA 169-C:15, IV, that the parent understands the possible consequences to his/her parental rights based on the above court finding(s) that his/her child(ren) is(are) abused and/or neglected; and
4. That the court reviewed with the parent his/her **right to request a parental fitness hearing** to obtain custody of his/her child(ren), pursuant to RSA 169-C:19-e, and that a parental fitness hearing addresses physical custody only, pursuant to *In re Bill F.*, 145 NH 267, 274 (2000). A court order in a RSA 169-C case vesting a fit parent with physical custody is not a permanent order of custody, and expires upon closure of the RSA 169-C case.
5. That the mother/father indicated that DCYF, pursuant to RSA 169-C:19-e, notified the parent of her/his right to request a parental fitness hearing.

B. Orders

1. **Visitation** with the parent(s) and/or siblings; **evaluation, examination and treatment** for the child(ren), parent(s), guardian, custodian, and/or household member subject to the petition; **services** for the child(ren) and/or parent(s); and/or **financial affidavit** for a parent(s).
2. **Social Study** (may be required if the RSA 169-C case is post-disposition.)

That the parent shall participate in a social study if he/she has not already done so, which DCYF shall file **within thirty (30) calendar days** of this order. DCYF shall complete a social study, pursuant to RSA 169-C:18, V, "consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family, including sibling relationships and residences for the appropriateness of preserving relationships between siblings who are separated as a result of court ordered placement, and submit it in writing to the court prior to the final disposition of the case."

3. **Case Plan** (Required if the RSA 169-C case is post-disposition.)

That DCYF shall review the existing **case plan** and, if necessary, shall file **within thirty (30) calendar days** of this order an amended case plan. DCYF shall complete a specific case plan, pursuant to RSA 169-C:21, II, "which shall include, but not be limited to, the services the child(ren) placing agency will provide to the child(ren) and family." The case plan should also include the conditions each parent shall need to meet before the child(ren) is/are returned home.

4. **Dispositional Order** (Required if the RSA 169-C case is post-disposition.)

That DCYF shall review any existing **dispositional order** and, if necessary, may file, pursuant to RSA 169-C:22, a motion for modification of the dispositional order, alleging a change in circumstances requiring a different disposition. If such a motion is filed, the court shall, pursuant to RSA 169-C:22, conduct a hearing on the motion to modify the dispositional order.

C. OTHER

If a parental fitness hearing has been requested by a parent who has not been charged with abuse or neglect, pursuant to RSA 169-C:19-e, the **date for such hearing** should be included in the court's order.

1. See e.g. Michigan Absent Parent Protocol: Identifying, Locating, and Notifying Absent Parents in Child Protection Proceedings, State Court Administrative Office and Governor's Task Force on Children's Justice (Jan. 31, 2008).
2. See e.g. Developmental Issues for Young Children in Foster Care, Committee on Early Childhood, Adoption and Dependent Care, American Academy of Pediatrics (Nov. 2000)
3. See e.g. L. Pilnik and J. Kendall, Engaging Non-Custodial Fathers in Child Welfare Cases", American Humane Assoc., ABA Center on Children and the Law, and National Quality Improvement Center (2010); Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases, American Bar Association (2006); Hon. Leonard Edwards, Engaging Fathers in the Child Protection Process: The Judicial Role, 69 *Juvenile and Family Court Journal* (Spring 2009)
4. See e.g. Child Welfare Information Gateway (30 June 2010). "The Rights of Unmarried Fathers." U.S. Department of Health and Human Services. (2018)
5. See e.g. Child Welfare Information Gateway (30 June 2010). "The Rights of Unmarried Fathers." U.S. Department of Health and Human Services. (2018)

Revision History:

Original Protocols, effective July 1, 2020.

Revision in *italics*, effective October 15, 2021:

In Protocol 5:

When there is a missing parent in a RSA 169-C case who has been identified and/or located:

- If the now-located parent was a petitioned parent (alleged to have abused or neglected the child(ren)), then DCYF will notify the court of the missing parent's address for service and the normal RSA 169-C process will occur *and the subsequent **protocols, with the exception of Protocol 7, A, 1, will not apply.** Instead, the court will proceed according to RSA 169-C, beginning with the scheduling of a Preliminary Hearing on that parent's petition.*
- If the now-located individual was not originally a petitioned parent (not alleged to have abused or neglected the child(ren)), DCYF will decide whether or not to file a RSA 169-C petition against the parent.
 - If DCYF files a RSA 169-C **petition** against the missing parent who is identified and/or located, the court will be notified of the parent's address in the newly filed petition and *the normal RSA 169-C process will occur and the subsequent **protocols, with the exception of Protocol 7, A, 1, will not apply.** Instead, the court will proceed according to RSA 169-C, beginning with the scheduling of a Preliminary Hearing on that parent's petition.*

In Protocol 7(A)(1):

- All court orders mailed to date in the RSA 169-C case involving their child(ren). However, if orders are voluminous, court staff should only include the *Adjudicatory Hearing Order/Consent in Lieu of Adjudicatory Hearing Order (if applicable)* and the most recent court order in the service packet and all other orders may be mailed to the parent after service is accomplished. This requirement is consistent with *In re R.H.*, ____ N.H. ____, ____ A.3d ____ (2021); and

Protocol 7(A)(2):

send DCYF a copy of the entire service packet, and send notice of the Notification of Rights and Consequences hearing for the non-petitioned parent to all parties to the RSA 169-C case; and

Protocol 7(A)(3):

when the court receives the return of service document from law enforcement, or when the missing parent completes an acceptance of service document, the court shall promptly send a copy of such document to DCYF.

Protocol 7(B), III(1)

- **All court orders mailed to date** in the RSA 169-C case. However, if orders are voluminous, court staff should only include the *Adjudicatory Hearing Order/Consent in Lieu of Adjudicatory Hearing Order (if applicable)* and the most recent court order in the service packet and all other orders may be mailed to the non-petitioned parent after service is accomplished.

Protocol 7(B), III(2)

send DCYF a copy of the entire service packet, and send notice of the Notification of Rights and Consequences hearing for the non-petitioned parent to all parties to the RSA 169-C case; and

Protocol 7(B), III(4)

when the court receives the return of service document from law enforcement, or when the missing parent completes an acceptance of service document, the court shall promptly send a copy of such document to DCYF.

Protocol 10:

After conducting a Notification of Rights and Consequences hearing, the court should mail, **within fourteen (14) calendar days**, a **Notification of Rights and Consequences Hearing Order (NHJB-3172-F)**. The order should be mailed to all parties to the RSA 169-C case, *along with a copy of the signed Acknowledgement of Possible Consequences to Parental Rights in Abuse and Neglect Cases form (NHJB-2209-F)*.