

Initial Disposition and Review Hearings

By Sara DePasquale
UNC School of Government
sara@sog.unc.edu

Dispositional Hearings

Informal

No burden
on any party

Inquisitive

Best Interests
Standard

Rules of Evidence
do not apply

Relevant,
reliable, and
necessary

Purposes of Disposition

Design a plan that reflects

- consideration of facts
- child's needs and limitations
- family's strengths and weaknesses

If possible,

- keep child at home
- use appropriate community resources for care, supervision, treatment
- to strengthen home situation



G.S. 7B-901(c) Initial Disposition

Reunification Efforts Not Required

- In department custody
- Shall
- If make written findings of one of the following
- unless the court concludes that there is compelling evidence warranting continued reunification

G.S. 7B-901(c)

Order and Required Findings for Ceasing Reunification Efforts: G.S. 7B-901(c)

When a child is placed in DSS custody, the court must order (unless exception below applies) that reasonable efforts are not required if it makes written findings that

- ☐ A court of competent jurisdiction determines or has determined that an aggravated circumstance exists because the parent committed, encouraged, or allowed any of the following on the child:
 - ☐ sexual abuse;
 - ☐ chronic physical or emotional abuse;
 - ☐ torture;
 - ☐ abandonment;
 - ☐ chronic or toxic exposure to alcohol or controlled substances that causes impairment of or addiction in the child; or
 - ☐ any other act, practice, or conduct that increased the enormity or added to the injurious consequences of the abuse or neglect.
- ☐ The parent's rights to another child were involuntarily terminated by a court of competent jurisdiction.
- ☐ A court of competent jurisdiction determines has determined that the parent
 - ☐ committed murder or voluntary manslaughter of another child of theirs;
 - ☐ aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of this child or another of the parent's children;
 - ☐ committed felony assault resulting in serious bodily injury to this child or another of the parent's children;
 - ☐ committed sexual abuse against this child or another of the parent's children; or
 - ☐ has been required to register as a sex offender on any government-administered registry.

District court =
competent
jurisdiction;
clear, cogent and
convincing evidence

In re N.R.R.N., 911 SE2d
510 (2025)



Any other act or practice increased enormity or added to
injurious consequences of A/N

In re L.N.H., 382 N.C. 536 (2022)

Ex: Implausible Explanation, colluded with father

In re A.W., 377 N.C. 238 (2021)

Chronic physical abuse
or emotional abuse

In re R.L., p.15

- Judicial notice of “chronic” (continuing again and again for a long time; always present)
- Not bound to apply
- COA precedent
 - In re B.L.M.-S., 294 N.C. App. 44 (2024)
 - In re N.N., 296 N.C. App. 159 (2024)

Notice

1

DSS not required to
specify factor

In re R.L., relying on In re
L.N.H.

2

Precedent: does not
require DSS to
request relief of
efforts

In re B.L.M.-S.

Impact on permanency planning: Remove/exclude reunification

In re R.G., 292 N.C. App. 572 (2024)
G.S. 7B-906.2(b)



Review Hearing

Custody removed from
parent,
guardian,
custodian

Review

- 12 months from date petition filed
- Demonstrate circumstances resolved
- Safe home
- Absent extraordinary circumstances, terminate jurisdiction

Oct. 1, 2025
G.S. 7B-906.2(d2)

Safe Home

A home in which the
juvenile is not at
substantial risk of physical
or emotional abuse or
neglect

G.S. 7B-101(19)

Changing from Review to PPH track

Removal only if

Factor under
7B-503(a)(1) – (4) or 7B-901(c)

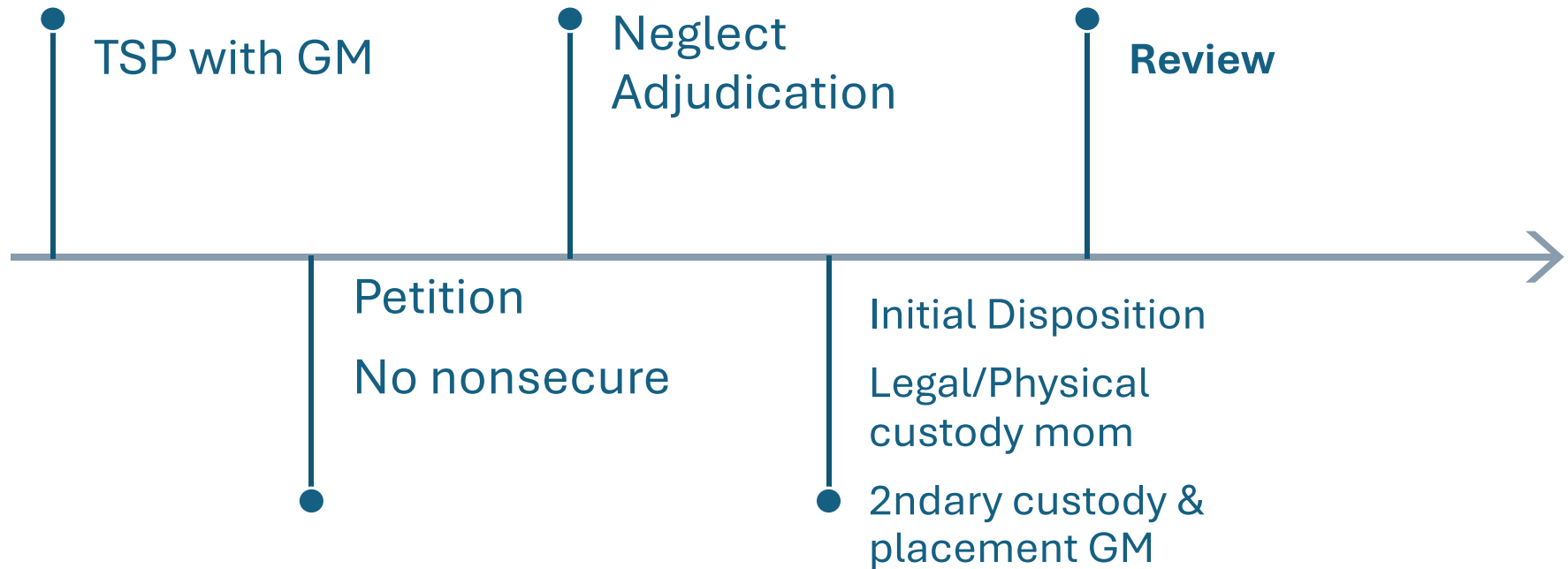
Occurred since last hearing

Or parent, guardian, custodian
consents



Review Hearing: Right Track

In re J.Q. (p. 18)





Remove, Cease Efforts, Custody to GM,
Schedule PPH

Eliminating Reunification

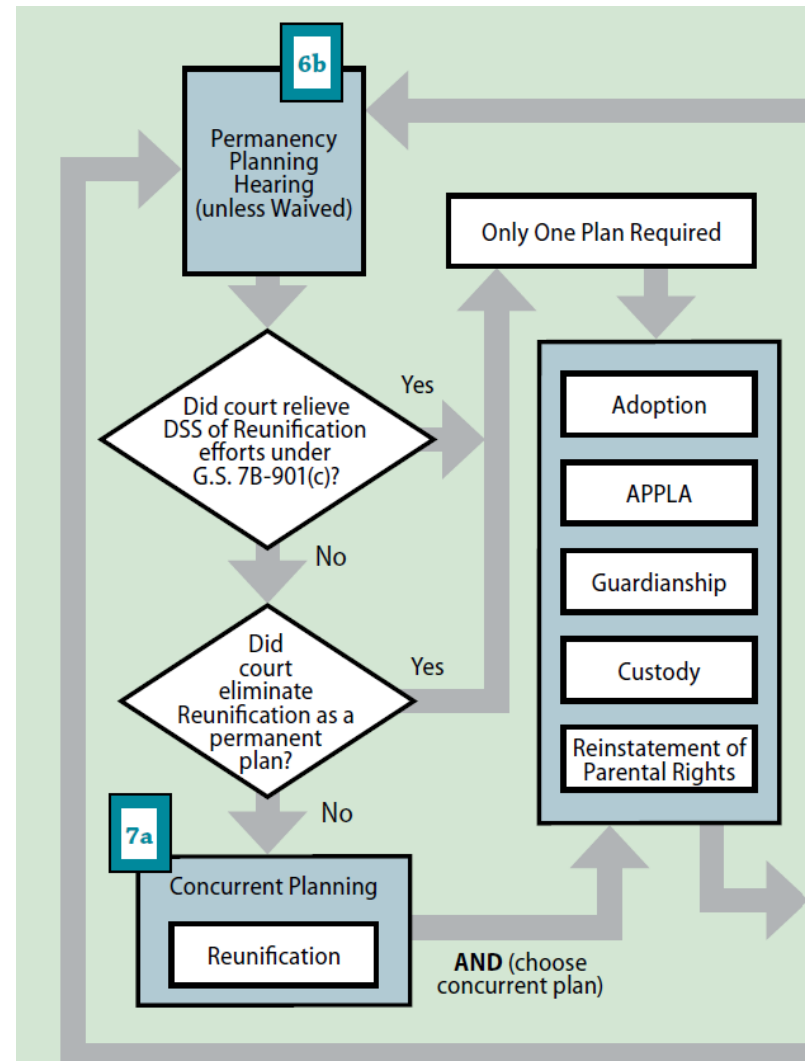
By

Jacky Brammer, IDS Parent Defender Office

Sara DePasquale, UNC School of Government

PERMANENCY PLANNING

G.S. 7B-906.2





Eliminate Reunification

In re N.M.W., p. 21

7B-906.2(d)
Findings

NCSC
precedent,
In re L.L.

Concurrence:
? In re civil
penalty

Eliminate Reunification Findings

In re L.L. (p. 40)

G.S. 7B-906.2



(d) At any permanency planning hearing under subsections (b) and (c) of this section, the court shall make written findings as to each of the following, which shall demonstrate the degree of success or failure toward reunification:

- (1) Whether the parent is making adequate progress within a reasonable period of time under the plan.
- (2) Whether the parent is actively participating in or cooperating with the plan, the department, and the guardian ad litem for the juvenile.
- (3) Whether the parent remains available to the court, the department, and the guardian ad litem for the juvenile.
- (4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.

7B-906.2(b) ~~=====~~

NC Supreme Court Opinion Clarifies and Changes Findings Required in A/N/D Orders

This entry was contributed by Sara DePasquale on January 21, 2025 at 7:38 am and is filed under Child Welfare Law.



On December 13, 2024, the NC Supreme Court published *In re L.L.*, an appeal of a permanency planning order (PPO) that awarded custody to a non-parent. In the PPO, the court awarded permanent custody to the child's foster parents rather than the child's maternal grandfather. In achieving this permanent plan, the court eliminated reunification with the child's mother as a permanent plan. The issues for appeal focused on whether the trial court made the necessary statutory findings for placement with a non-relative and for eliminating reunification as a permanent plan. The Court of Appeals held the required findings were not made. See 291 N.C. App. 402 (2023) (unpublished). The Supreme Court reversed the Court of Appeals and addressed what findings are required for both non-relative placement and the elimination of reunification as a permanent plan. The answer may surprise you and will have an impact on court orders moving forward.

Jacky





Parent's Constitutional Rights to Children Preservation:

What is necessary?

“At the dispositional hearing, he opposed DSS's recommendation, testified that he had the ability to care for Katy, and specifically requested the court to allow Katy to remain in his custody.”

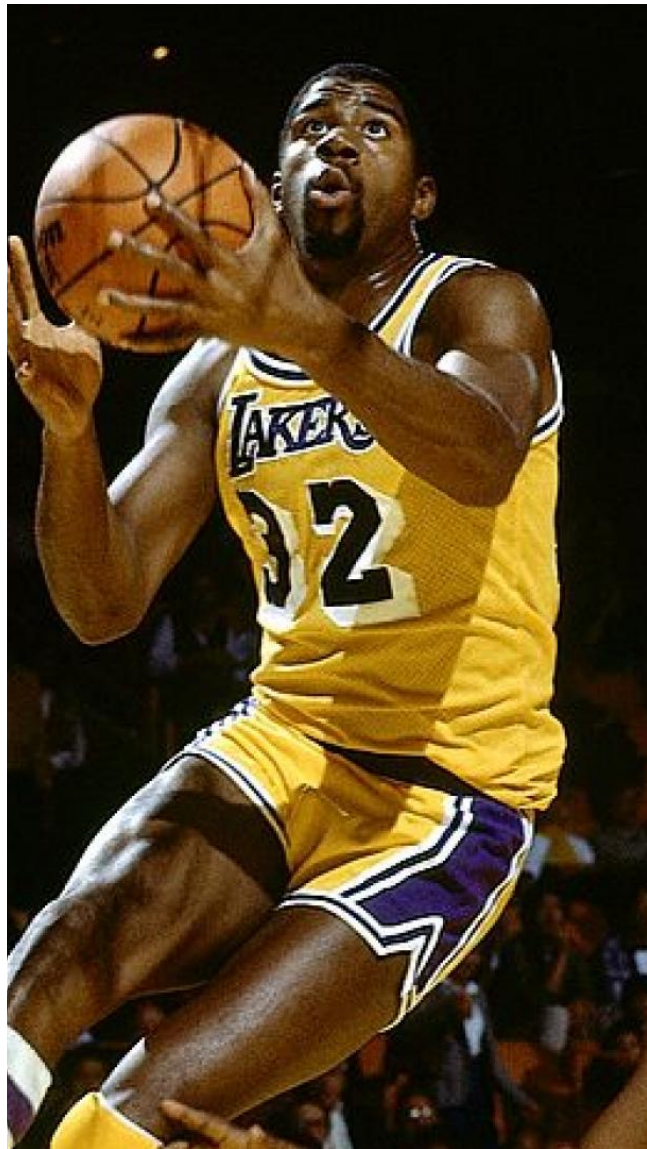
Preserved?

“Respondent-Parents were on notice that guardianship was at issue and opposed the guardianship recommendations by CCDHS and the guardian ad litem at the permanency planning hearing. Counsel for Respondent-Parents presented evidence through cross-examination to show they had substantially complied with their case plans, and there had been no determination as to Respondent-Parents' culpability for Maury's injuries. Counsel specifically objected to the recommendation of guardianship, which the trial court specifically found in the order, and counsel argued it was premature to award guardianship as there had been no determination of Respondent-Parents' culpability, and they had done everything within their power to be reunited with Maury.”

Preserved?

When asked if he wanted to be the primary caretaker, and if the Court should maintain the current plan, the respondent-father testified yes. During closing arguments, Respondent-father's counsel stated that respondents “have felt fit the entire time to get their kids back.”

Preserved?



Jacky Brammer, Assistant Parent Defender

Jacky.L.Brammer@nccourts.org

919-354-7230

OFFICE OF THE PARENT DEFENDER

*The Office of the Parent Defender provides
and promotes high quality legal
representation for parents affected by the
child welfare system (DSS).*



FIRST, Let's go back to 2021 and 2022



- “A parent may not object to a trial court's rendition of an order or findings of fact, even if these are announced in open court at the conclusion of a hearing. If a party has presented evidence and arguments in support of her position at trial, has requested that the trial court make a ruling in her favor, and has obtained a ruling from the trial court, she has complied with the requirements of Rule 10 and she may challenge that issue on appeal. An appeal is the procedure for objecting to the trial court's findings of fact and conclusions of law.” In re BRW, 278 NC App 382 (2021)



- “There are no ‘magic words’ such as ‘constitutionally-protected status as a parent’ that must be uttered by counsel, nor is the parent's counsel required to object to certain evidence or specific findings of fact to preserve the constitutional issue. DSS may present evidence that a parent is unfit or otherwise has acted inconsistently with their constitutionally-protected status. Unless the parent presents no evidence and makes no arguments, the parent has raised the constitutional issue by responding to DSS's arguments.” In re JN, 381 NC 131 (2022) (Earls, J., concurring)

**IS THIS CORRECT IN
2026?**

Ways To Say That Someone Is Wrong

- That's incorrect.
- That's not right.
- That's not accurate.
- You're mistaken.
- That's not true.
- You're incorrect.
- That's wrong.
- You're mistaken about that.
- That's not correct.
- I'm afraid you're mistaken.
- That's not the case.
- That's a fallacy.
- You've got it wrong.
- That's an error.

Why is it wrong? What do
you need?



-
- “Thus, under *In re J.N.*, a parent who merely argues against a child's removal, or against the child's placement with someone else, does not adequately preserve the constitutional issue. To preserve it, the parent must inform the trial court and the opposing parties that the parent is challenging the removal on constitutional grounds and articulate the basis for the constitutional claim... Thus, the parties opposing the parent's argument must be given notice of the constitutional challenge so that they can present evidence to rebut it.”

In re KC, 386 NC 690 (2024)

-
- “Moreover, because of this need to provide notice to the opposing parties, the preservation requirement applies even if the trial court addresses the constitutional claim on its own initiative in its order. A trial court's findings are limited to evidence in the record. Without notice that the parent is asserting a constitutional claim, the opposing parties will not know that they must present evidence that would support the necessary findings to reject the claim.”

In re KC, 386 NC 690 (2024)

WHAT DOES THIS MEAN IN
PRACTICAL TERMS?



“CONSTITUTIONAL RIGHTS”

“DUE PROCESS”

“CONSTITUTIONALLY
PROTECTED STATUS”

Two different but similar cases.

The parent “presented evidence regarding her ability to care for the children, opposed the recommendation of guardianship, and requested that the trial court reject the recommendation of guardianship and allow a trial home placement.”

“Respondent-Mother testified that she complied with her case plan and is capable of caring for Zeke. She opposed the recommendation of guardianship by specifically asking the trial court to ‘grant reunification in this case and a possible trial placement.’”

Preserved?

- Yes, at the time to both.

In re BRW, 278 NC App 382 (2021), overruled by In re KC , 386 NC 690 (2024)

In re ZRFD, 285 NC App 247 (2022) (unpublished)

- Now, under KC? No.

“At the dispositional hearing, he opposed DSS's recommendation, testified that he had the ability to care for Katy, and specifically requested the court to allow Katy to remain in his custody.”

Preserved?

- COA said yes, NCSC said no.

In re KC, 288 NC App 543 (2023), reversed, 386 NC 690 (2024)

“Mother challenged evidence from DSS about her participation in services and testified about her recent progress; she testified her goal was to be reunified with the juveniles and that she had ‘hesitation’ with guardianship; and she argued that she was actively engaged in services, was working towards reunification, and requested that guardianship not be granted.”

Preserved?

-
- Yes, at the time. “The trial court then determined Mother was unfit and had acted inconsistently with her constitutionally protected status. Mother could not object at the hearing to the trial court's determinations not yet entered in a written order. After a review of the record, we are satisfied Mother sufficiently preserved her challenges to the trial court's determinations that she was unfit and acted inconsistently with her constitutionally protected status by her evidence, arguments, and opposition to guardianship at the trial.”

In re KR, 290 NC App 552 (2023) (unpublished)

- Now, under KC? I say no.

“Respondent-Parents were on notice that guardianship was at issue and opposed the guardianship recommendations by CCDHS and the guardian ad litem at the permanency planning hearing. Counsel for Respondent-Parents presented evidence through cross-examination to show they had substantially complied with their case plans, and there had been no determination as to Respondent-Parents' culpability for Maury's injuries. Counsel specifically objected to the recommendation of guardianship, which the trial court specifically found in the order, and counsel argued it was premature to award guardianship as there had been no determination of Respondent-Parents' culpability, and they had done everything within their power to be reunited with Maury.”

Preserved?

-
- Yes, at the time. “Like our holding in In re B.R.W., we hold Respondent-Parents preserved their challenges to the trial court's determinations that they were unfit and acted inconsistently with their constitutionally protected statuses by their evidence, arguments, and opposition to guardianship at the permanency planning hearing.”

In re MJB, 289 NC App 268 (2023) (unpublished)

- Now, under KC? I say no.

“DSS and EBCI both filed court reports recommending Josh be placed in guardianship with the foster parents and specifically argued in support of this recommendation at the hearing. Mother testified extensively, presented her own witnesses, and her counsel argued during closing arguments ‘I believe that changing the plan [from reunification to guardianship] at this point in time based on all of her progress would, would be a miscarriage of justice for her when she has worked so hard to . . . get this child back in her life.’”

Preserved?

-
- Pre-NCSC KC and still no. “She did not contend guardianship would be improper on constitutional grounds or that Mother was a fit and proper parent...Thus, we hold Mother failed to preserve her argument as to her constitutionally protected status as a parent and decline to address this issue.”

In re JO, 293 NC App 556 (2024)

Trial attorney says, “But a parent has a right to put their child where they want them to be. If I tell my child to sit in that chair and they're not doing it. I've got a right to pick them up and put them there.”

Preserved?

- NO! “Defense counsel's statement did not inform the trial court or opposing parties Defendant-Father was making a constitutional argument. Thus, we cannot consider Defendant-Father's constitutional claim on appeal.”

Zubchevich v. Zubchevich, No. COA25-796 (July 15, 2026)

When asked if he wanted to be the primary caretaker, and if the Court should maintain the current plan, the respondent-father testified yes. During closing arguments, Respondent-father's counsel stated that respondents “have felt fit the entire time to get their kids back.”

Preserved?

- No. “While the term “fit” is used, the In re J.O. court requires that counsel argue that respondent ‘was a fit and proper parent.’ Counsel opining that respondents ‘felt fit’ is not an argument that respondents were indeed fit and proper parents. [Respondent-Father’s testimony] merely restat[ed] the purpose of his presence at the hearing. Our caselaw clearly holds that preservation of constitutional issues requires something more. We therefore deem both respondents' constitutional issues waived.”

In re KM, 298 NC App 434 (2025) (unpublished)

“At the hearing, counsel for Respondent-Father, while asking the trial court to reunify the juvenile with Respondent-Parents, expressly argued: ‘The parents have done nothing contrary to their constitutional rights.’ The GAL argues the citing of the word constitutional is not an automatic legal argument in itself.”

Preserved?

- Unclear, but likely yes. COA considered the constitutional issue and vacated, but mostly blamed the trial court's lack of clarity in FOF/COL.

In re SABS, 923 SE2d 631 (2025) (unpublished)

-
- What if no constitutional magic words?
 - Maybe dismissal on appeal of issue
 - Pure BI, abuse of discretion, statutory compliance which allows a plan to be “achieved” without consideration of reunification.

In re TS, 298 NC App 699 (2025)

In re BRW, 381 NC 61 (2022)

NCGS 7B-906.2(b)

In re AC, 280 NC App 301 (2021)

Q & A

Jacky Brammer
Jacky.L.Brammer@nccourts.org

OFFICE OF THE PARENT DEFENDER

*The Office of the Parent Defender provides
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Gag Orders

§ 7B-904

Authority over parents
of juvenile adjudicated
as abused, neglected, or
dependent.

Child's
Treatment

If BIC for child for adult to be
directly involved in child's
treatment

G.S. 7B-904(b)

Adult's Treatment

Adult undergo psychiatric,
psychological, or other treatment
or counseling to remedy behaviors
or conditions that led to juvenile's
removal or adjudication

G.S. 7B-904(c)

Money

Pay costs of child's treatment

Reasonable sum to support child
(ability to pay and in child's best
interests)

G.S. 7B-904(a), (d)



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington, D.C. 20201 | www.acf.hhs.gov

July 29, 2022

Dear Colleague:

The Administration for Children and Families' (ACF) Children's Bureau (CB) and Office of Child Support Enforcement (OCSE) value collaborative efforts that stabilize and reunify the children and families we serve. This letter highlights a new question and answer (Q&A) in the [Child Welfare Policy Manual](#) (CWPM) regarding when it is appropriate for a title IV-E agency to secure an assignment of the rights to child support for a child receiving title IV-E foster care maintenance payments (FCMPs) in accordance with section 471(a)(17) of the Social Security Act. ACF encourages child welfare agencies to implement across-the-board policies that require an assignment of the rights to child support for children who receive title IV-E FCMPs only in very rare circumstances. [See CWPM, Section 8.4C, Question #5.](#)

OCSE relies on the IV-E agency to refer cases as appropriate. ACF wants to ensure that only cases that have been thoroughly reviewed, and will not disrupt the reunification process, are referred to the state IV-D agency for the establishment of paternity or a support order. This approach allows the

Steps

Parenting Class

Transport juvenile if in home

Appropriate step to remedy conditions

G.S. 7B-904(d1)

What was the
basis of the
adjudication?

What brought
this child into
care?



*CONDITIONS
THAT LED TO
THE CHILD'S
REMOVAL*
NOT LIMITED TO
PETITION OR
ADJUDICATION

- “Trial judge... has the authority to order a parent to take any step reasonably required to alleviate any condition that directly or indirectly contributed to causing the juvenile’s removal from the parental home.”
- 7B-904 authorizes court who gains a better understanding of relevant family dynamic to modify and update case plan in subsequent review hearings
- ONGOING EXAMINATION of circumstances

BUT



Judge does
not have
unlimited
authority

Gag Order and Social Media

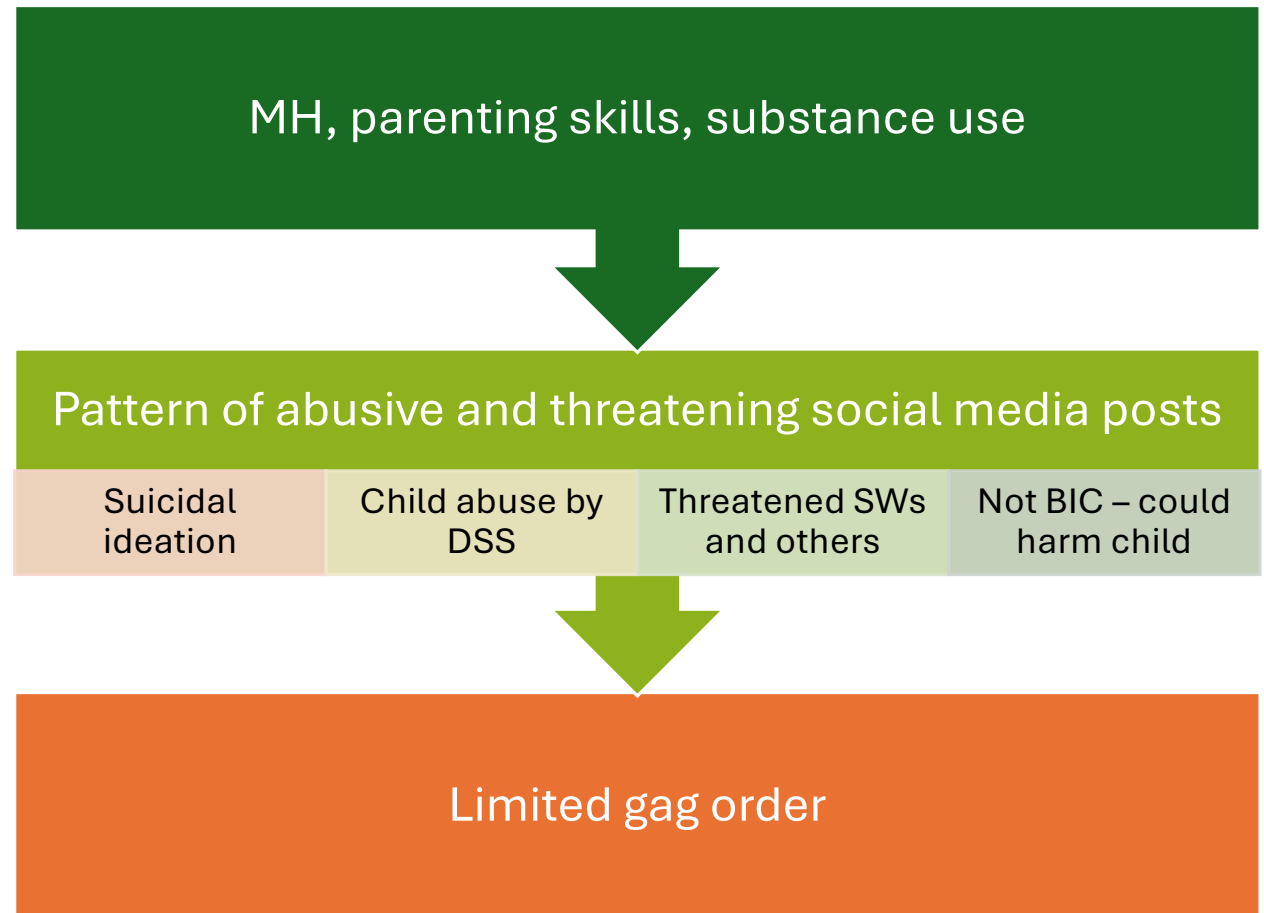
In re M.B., p 20

PPO:

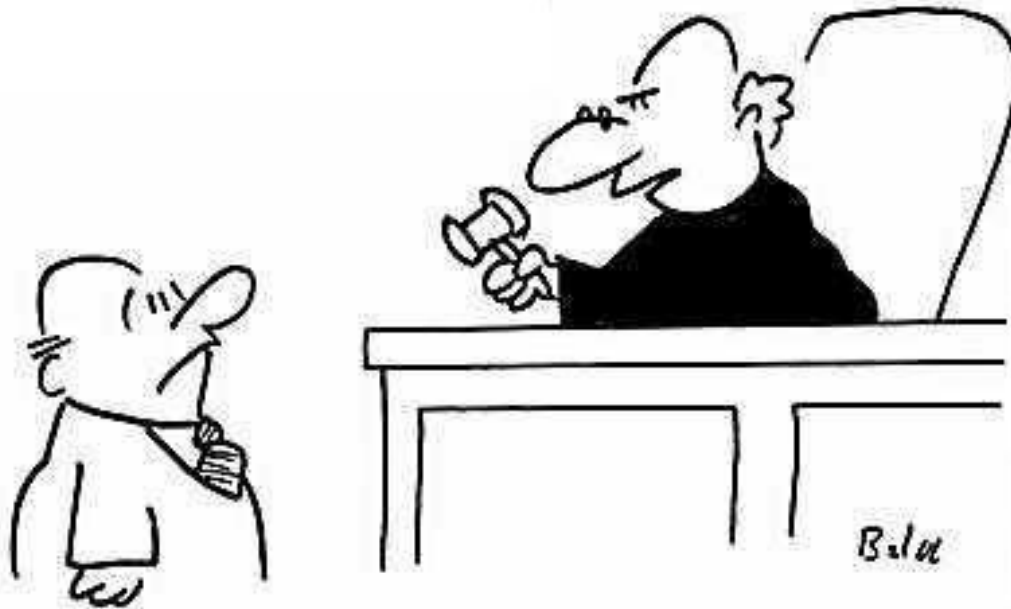
Mother not discuss case plan or people involved with case on social media

Challenge: exceed dispositional authority and violate constitutional rights

Nexus (G.S. 7B-904)



NONCOMPLIANCE, G.S. 7B-904(e); -406(c)



**"Mr. Moyes, That will be a ten minute misconduct
for contempt of court. Please proceed to the penalty
box"**

Reasonable Efforts and Reasonable Accommodations

- Adequacy of Services
- Waived
- Time to raise is it not on appeal

