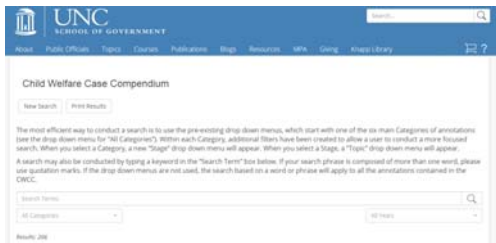


Abuse, Neglect, Dependency Case Update



By: Sara DePasquale
UNC School of Government

1. Procedural Issues

2. Adjudication

3. Dispositions

Standing: In re A.P. (p.4)



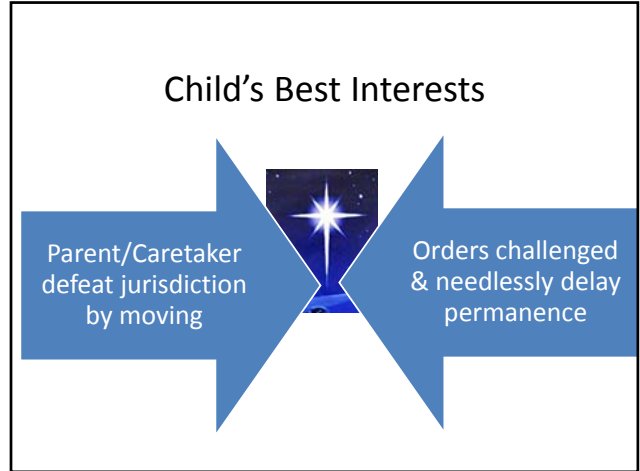
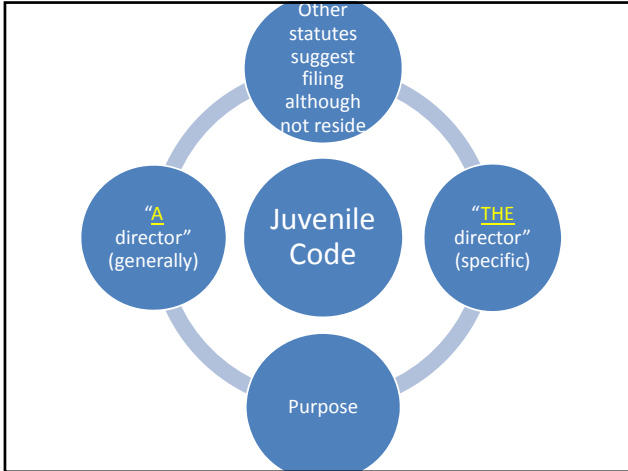
Statutory Interpretation

Court of Appeals

- G.S. 7B-401.1 (parties)
 - G.S. 7B-101(10) (defs)
- DIRECTOR: "...of the county department of social services *in the county in which the juvenile resides or is found...*"

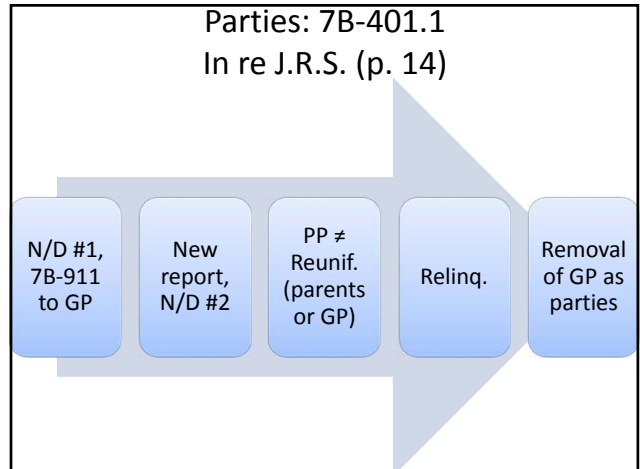
NC Supreme Court

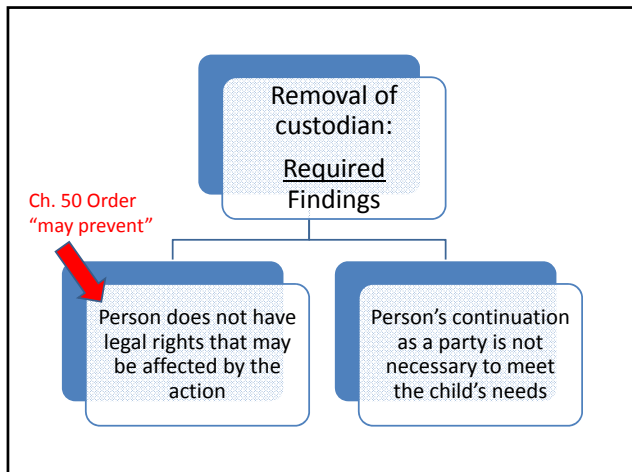
- Interpretation Too Rigid
- Whole-Text Canon



CAUTION

- Proper signature
- Proper verification
- Completion of assessment with substantiation

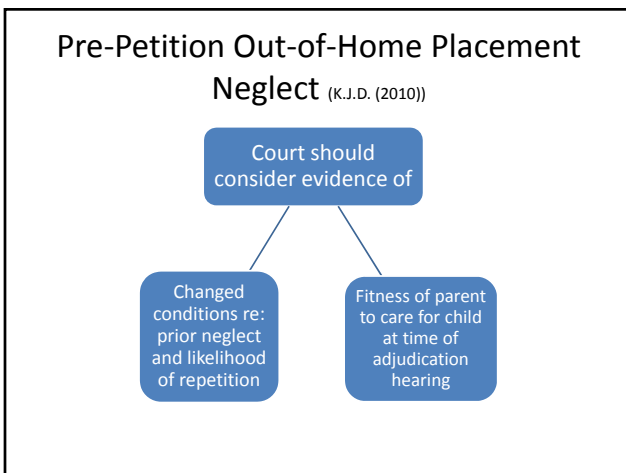




MOU (FY '18-19)
G.S. 108A-74

- Mandated Performance Requirements
- Default
 - Notice to county
 - Performance improvement plan
 - Corrective action plan
 - DHHS take over
 - w/hold federal-state \$

2. Adjudication




Out-of-Home Placements: Neglect

In re H.L. (p. 6)

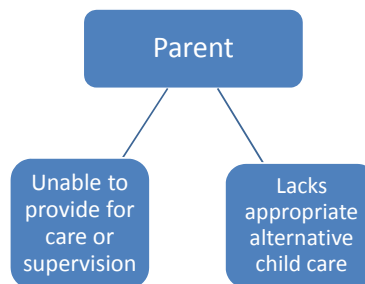
- S.A. (Meth)
- D.V. (Child tug of war)
- TPSA with adult sister
- + drug screens
- Not make progress on case plan
- Risk of harm finding



In re B.P. (p. 7)

- Homeless/laundromat
- Mental health issues/Rx
- Arrested
- DV allegation/Stroller
- Placement with appropriate couple in Cabarrus County
-  No finding of harm or risk of harm & Mom made placement

Out-of-Home Placement: Dependency



Out-of-Home Placements: Dependency

In re H.L.

- Findings did not address either prong

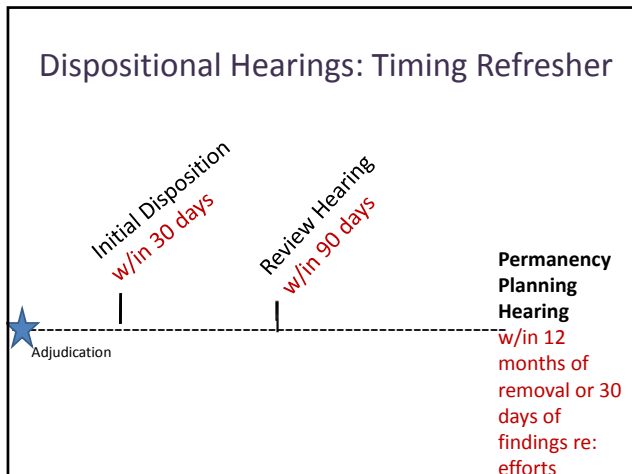


In re B.P.

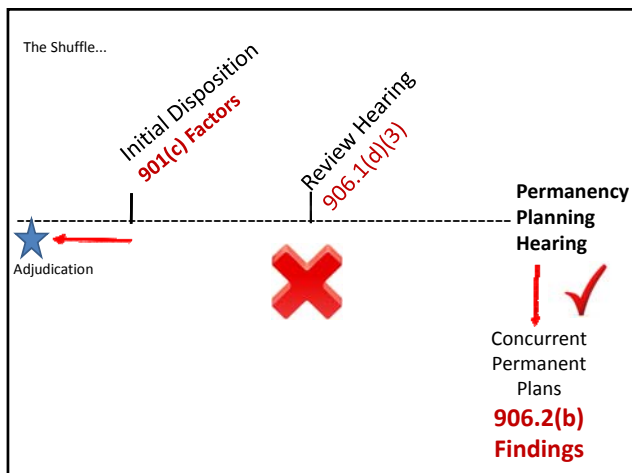
- Appropriate alternative child care
- Mom took action to identify
- Not merely acquiesce to DSS plan



3. Dispositions



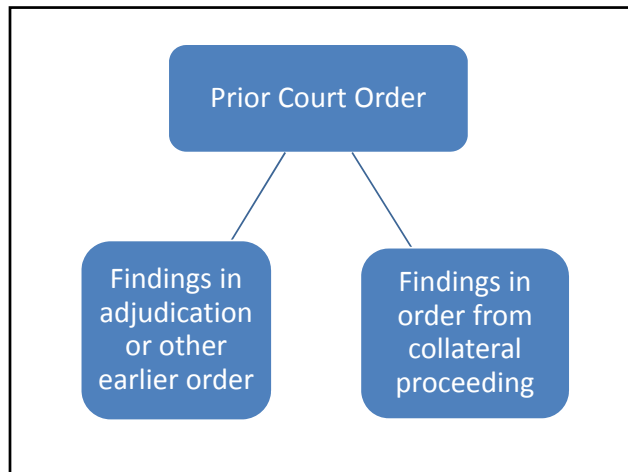
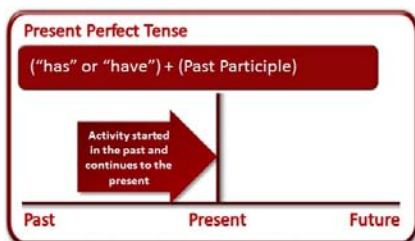
- ### Ceasing Reunification Efforts Refresher
- Findings under
 - G.S. 7B-901(c)..... Long list of aggravating factors
 - G.S. 7B-906.1(d)(3).... Unsuccessful/inconsistent
 - G.S. 7B-906.2(b) Unsuccessful/inconsistent
-
- All in the Timing



- ### In re G.T., affirmed per curiam
- Chronic/toxic exposure to alcohol/controlled substances causing child's impairment or addiction

7B-901(c): Statutory Interpretation

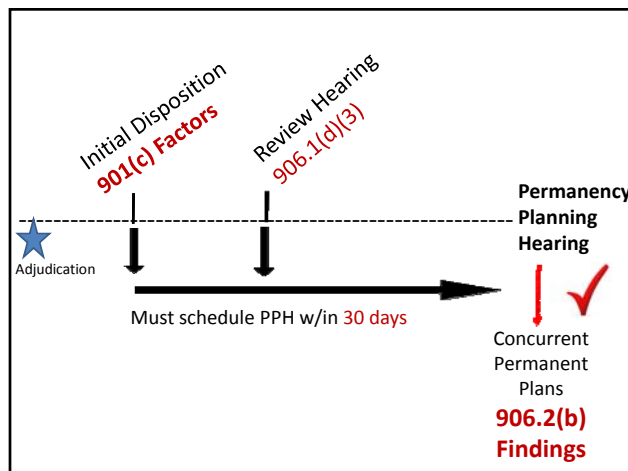
- Makes written findings that a court of competent jurisdiction has determined that aggravating factors exist



H688 (presented to Gov. 6/15)




- A court of competent jurisdiction determines or has determined
- Effective when it becomes law and applies to disposition orders effective on or after that date



Initial Disposition Review
+
Permanency Planning Hearing

★
Adjudication

Is it ok to hold all these hearings on the same day?



In re C.P. (p. 9)
Juvenile Code does not forbid it


In re H.L. (p. 10)
Notice of combined hearing provided; no objection; waived appellate review

Initial Disposition
Review
+
Permanency Planning Hearing

★
Adjudication

7B-903 option

In re H.L.
Guardianship to adult sister
No -901(c) findings
No order DSS engage in reunification efforts
Is that ok?




-901(c) only applies when DSS custody

Initial Disposition Review
+
Permanency Planning Hearing

★
Adjudication


In re H.L.
Combined hearing and order Guardianship to adult sister
Secondary plan reunification but relieved DSS of efforts
Is that ok?
At 1st PPH, must make finding of whether efforts reasonable unless ceased according to this section (G.S. 7B-906.2(b)); did not comply with voluntary case plan



In re C.P.
The 2-Step

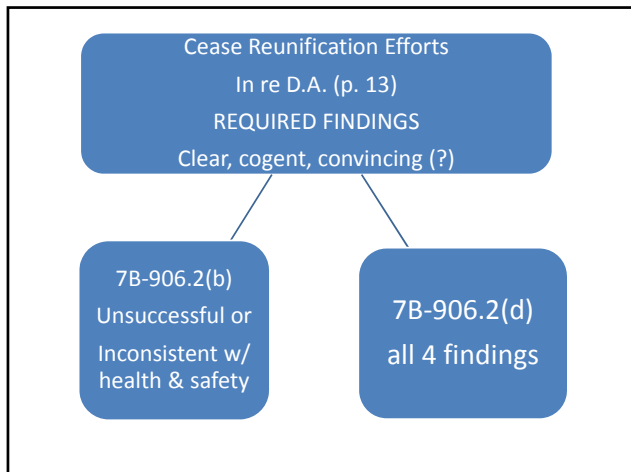
1st PPH

- Reunification required unless 901(c) order
- May cease reunification efforts (In re H.L.)



2nd PPH

- Ok to eliminate reunification



Cease Reunification In re A.A.S. (p 15)

Concurrent Permanent Plans	No Implicit Cease
<ul style="list-style-type: none"> Primary Adoption <ul style="list-style-type: none"> - DSS ordered to file TPR - TPR subsequently granted Secondary Reunification 	<ul style="list-style-type: none"> Distinguish prior case law that order to file TPR implicitly ceased reunification G.S. 7B-906.2 requires concurrent plans w/ efforts provided Not an appealable order

Parent's Rights to Care, Custody, Control

FINDINGS

UNLESS
Clear & Convincing Evidence

- Unfit
- Neglect
- Acted Inconsistently

In re S.J.T.H. (p.11)

Mom	Dad: Appeals Initial Disposition
<ul style="list-style-type: none"> Basis for Neglect Drug Use Prior DSS History Case Plan: 11 mandates 	<ul style="list-style-type: none"> No evidence or findings other than establishing paternity Case Plan = Mom's Custody to DSS/Not Dad

Reverse and remand to address dad's rights
Grant custody unless c,c,c evidence support other disposition

In re D.A. (p.11)

- Applies to permanent custody order when change custody from nonparent (DSS) to nonparent (foster parents)
- De Novo Review
- Insufficient findings
 - Did not include
 - Non-accidental
 - Sole Caregivers

Can Waive Findings In re C.P.

Notice guardianship proposed; opportunity to raise issue

Failed to raise inappropriate dispo on constitutional basis