

Management of Child Welfare Cases

It's Possible!

Justice Berger concurring

In re J.A.S.F. (6/17/26)

“Chances are you have heard the familiar aphorism that justice delayed is justice denied. It is frequently invoked by judges as if merely uttering the words was a safeguard. But the phrase is meaningless when the courts allow cases to languish for no apparent reason, especially in child abuse, neglect, and dependency cases like this one.”

Today's Topics

Timeframes

Entry of Orders

Practical Considerations

Purpose is Informative

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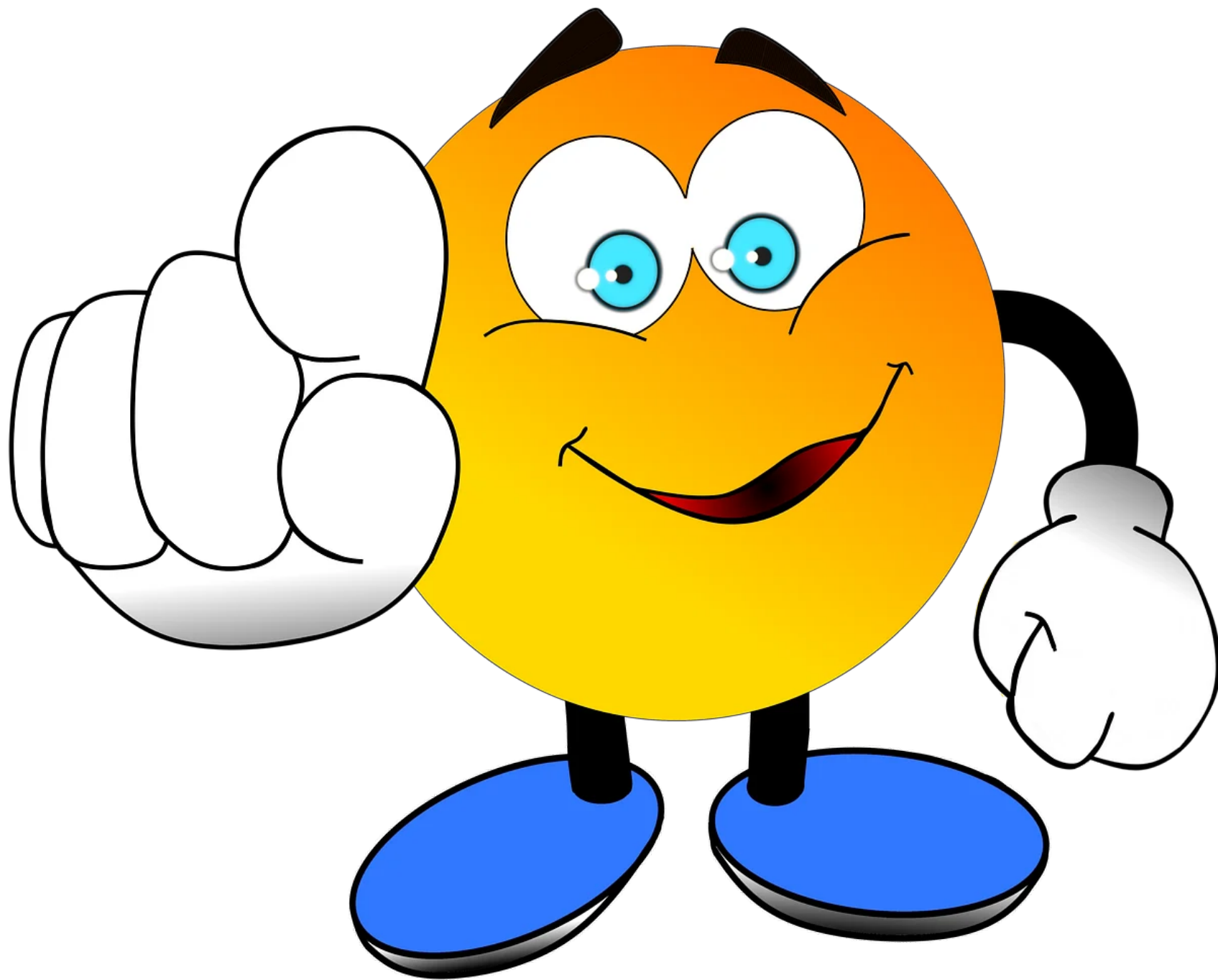
- Provide procedures
- Protect constitutional rights
- Develop appropriate disposition
- Best interest of juvenile
- Safety, continuity, and permanence
- Reasonable period of time

Justice Berger concurring

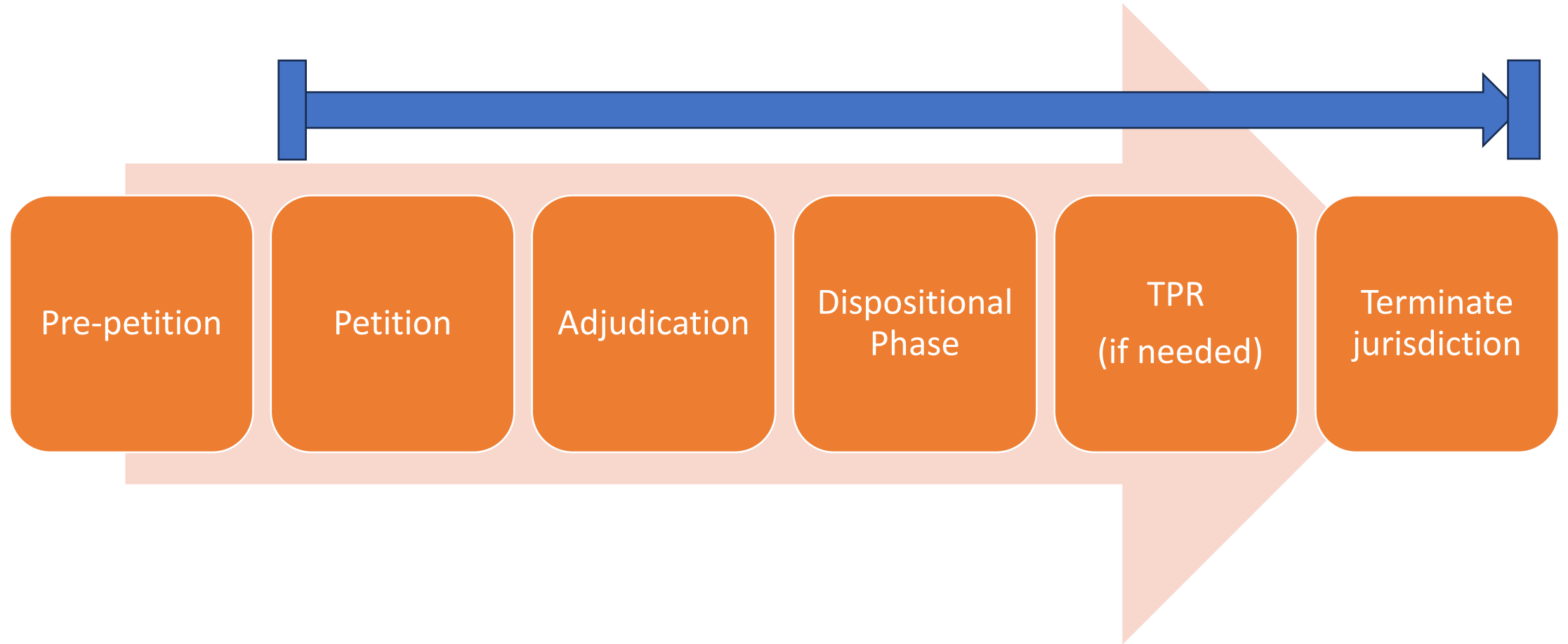
In re J.A.S.F. (6/17/26)

“This Court’s inexcusable delay in resolving the petition for discretionary review here undermines the Juvenile Code’s goal of providing children with permanency within a *reasonable* time....

Cases cannot simply move, or not move, through the system with no one at a supervisory level noticing, and no apparent consequences for delay, other than to the children left in limbo for significant portions of their formative years.”



Juvenile Code Provides a Road Map for All Stages



TPR Fast Track



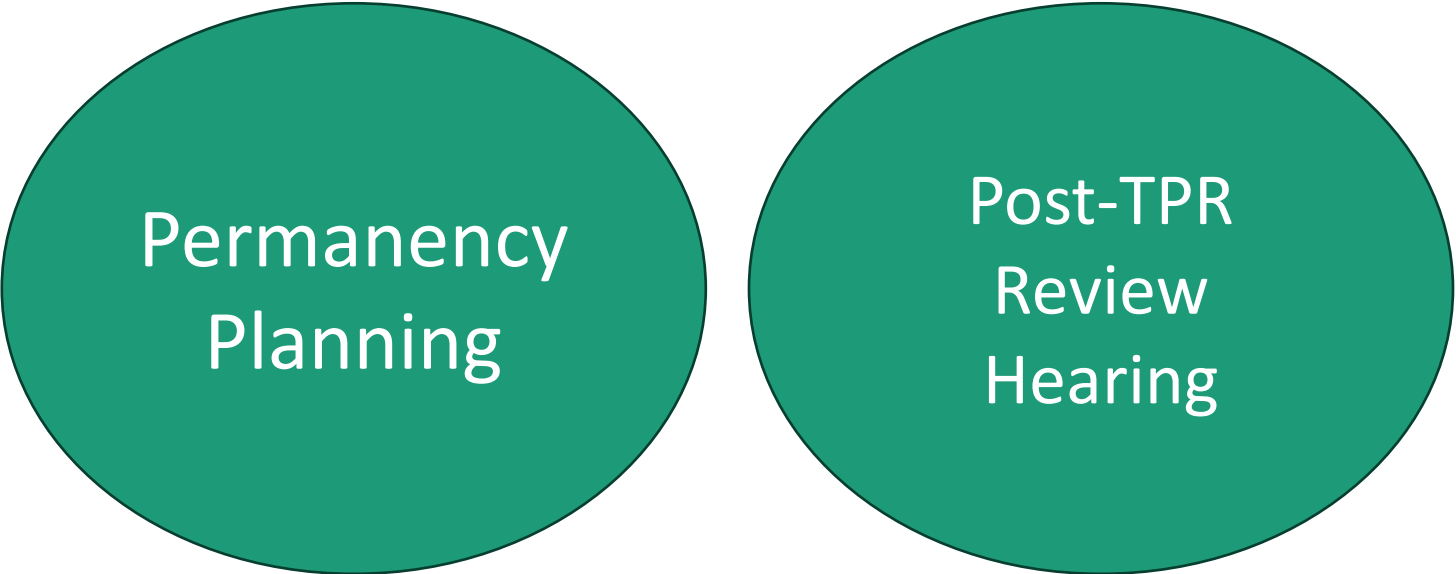
- Pretrial Hearing
- TPR Hearing within filing petition/motion

Hearing on
unknown parent



W/in 10 days after petition filed
(or next term)

Post TPR



Permanency
Planning

Post-TPR
Review
Hearing



A/N/D Continuance

G.S. 7B-803



1. Good cause for as long is reasonably required to receive additional evidence, reports, assessments court requested, expeditious discovery, other information needed for BIC
2. Otherwise extraordinary circumstances when necessary for proper administration of justice or in BIC

TPR Continuance

G.S. 7B-1109

Petition/
Motion
filed

Adjudicatory
Hearing

W/in 90 days

1. Good cause for up to 90 days from date of petition to receive additional evidence, reports, assessments court requested, expeditious discovery, other information needed for BIC
2. If beyond 90 days, for extraordinary circumstances when necessary for proper administration of justice and must state grounds for granting continuance

Disfavored!

A/N/D Manual, Ch. 4.5

NOT!

Crowded
dockets

Resolution of
pending criminal
charges arising
from same
incident

Respondent's
lack of
transportation

Lack of
preparation
when due to
own
circumstances

Witness
testimony with
vague offer of
proof

Rule 3.1
Guidelines for Resolving Scheduling
Conflicts

General Rules of Practice for the
Superior and District Courts

Priority and Resolution

- Appellate over Trial
- Trial
 - Capital case
 - Designated exceptional case
 - Class A-E felony and trial reasonably expected to last more than 1 week
 - Civil action scheduled as first case for trial at superior court session
 - Contested TPR, A/N/D adjudication, child custody, ED, alimony/post-separation

Attorney scheduling conflict

- Written notice to opposing counsel, clerk of all courts, appropriate judges (Sr. Resident and/or Chief; otherwise judges presiding over matters)
- Judges promptly confer, resolve the conflict, and notify counsel of resolution
 - Factors in Rule 3.1(c)

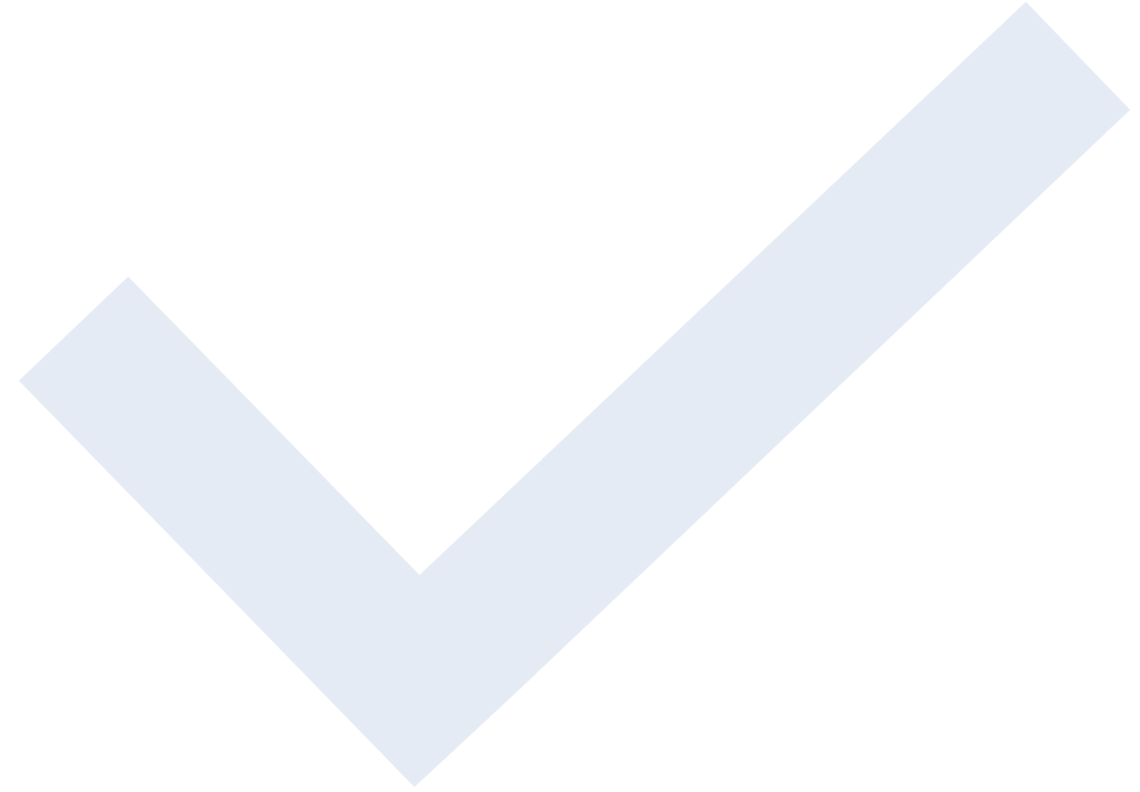


Pre-Trial Hearings and Orders





Discovery

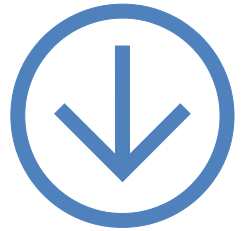


A/N/D Manual
Ch. 4.6



Stips and Consent

A/N/D Manual
Ch. 6.3.D. & 6.5



Parties: Intervention & Removal





WebEx Hearings

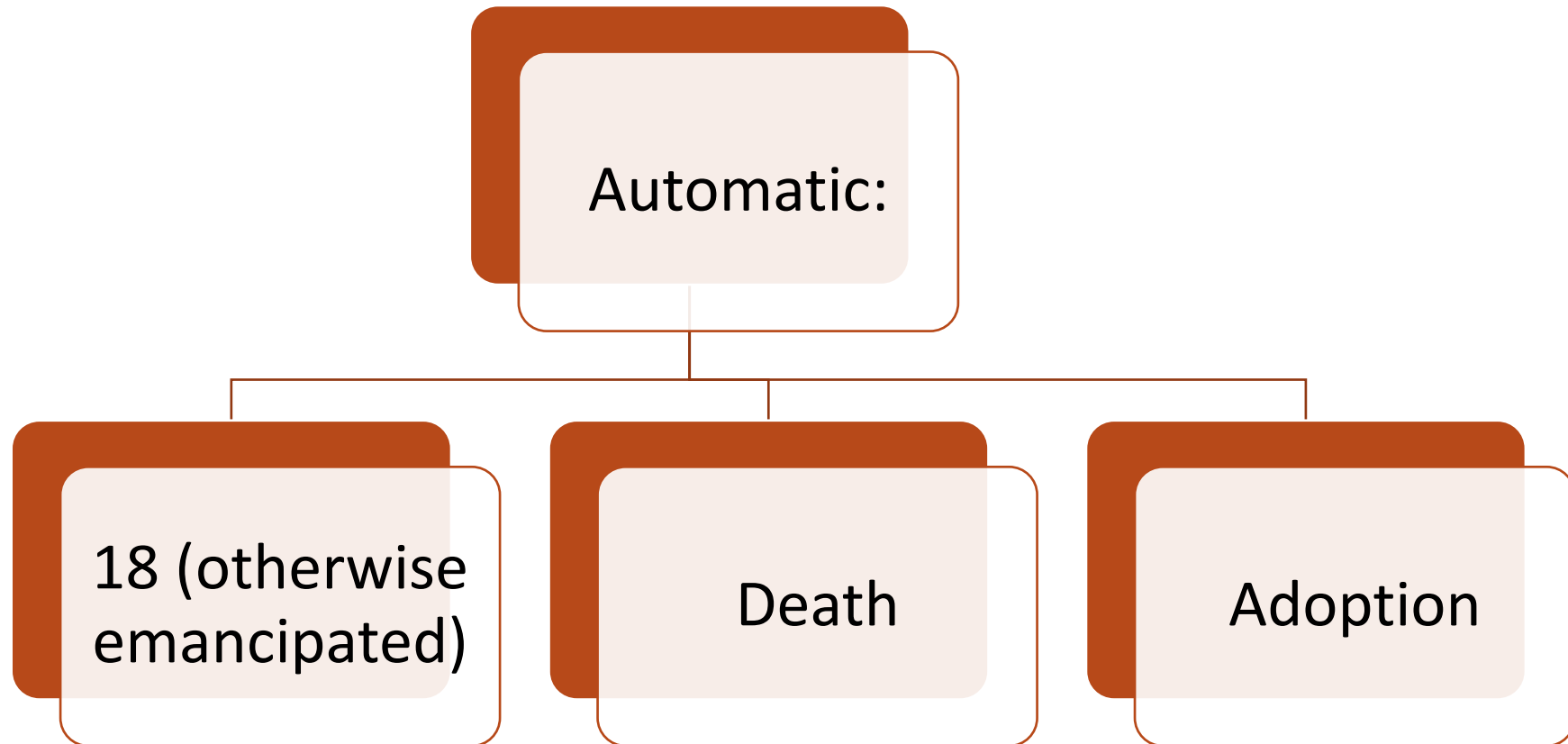




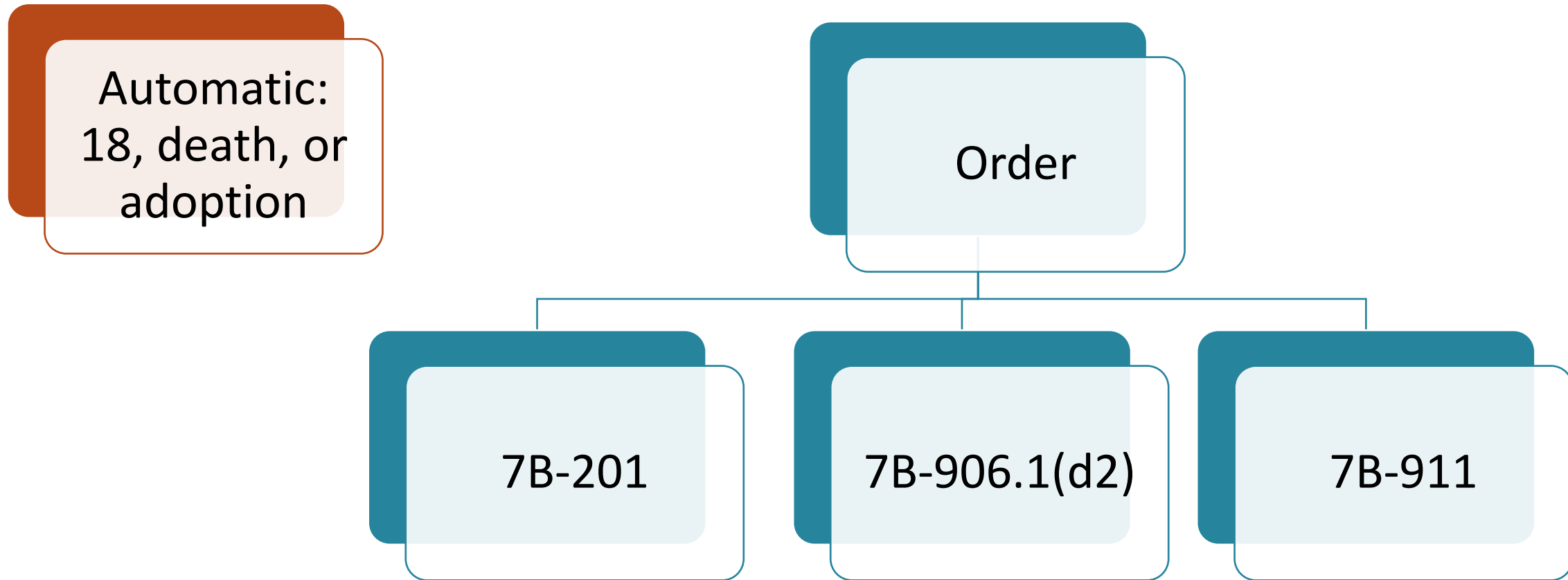
Other Ideas?



Terminating jurisdiction



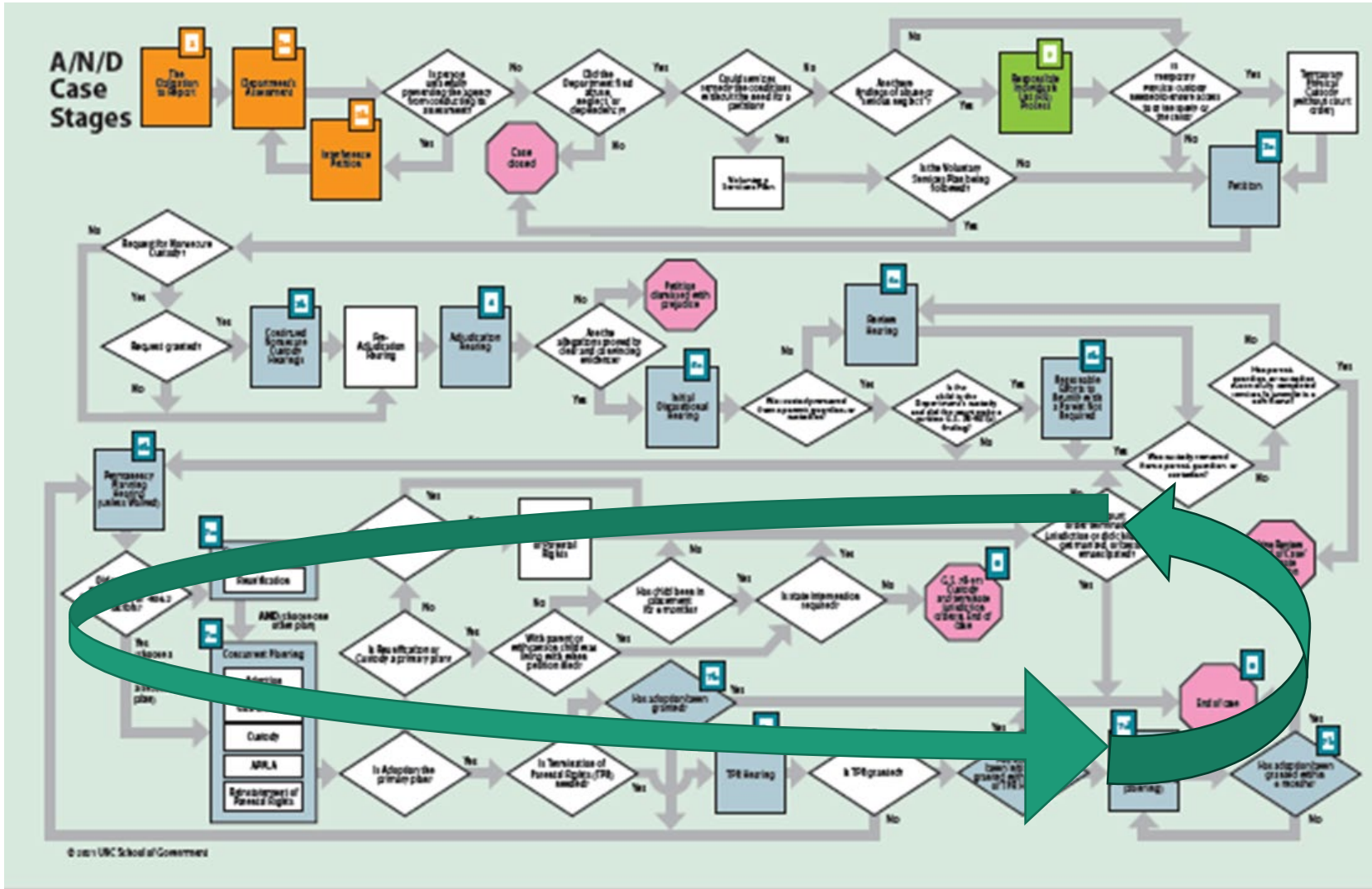
Terminating jurisdiction



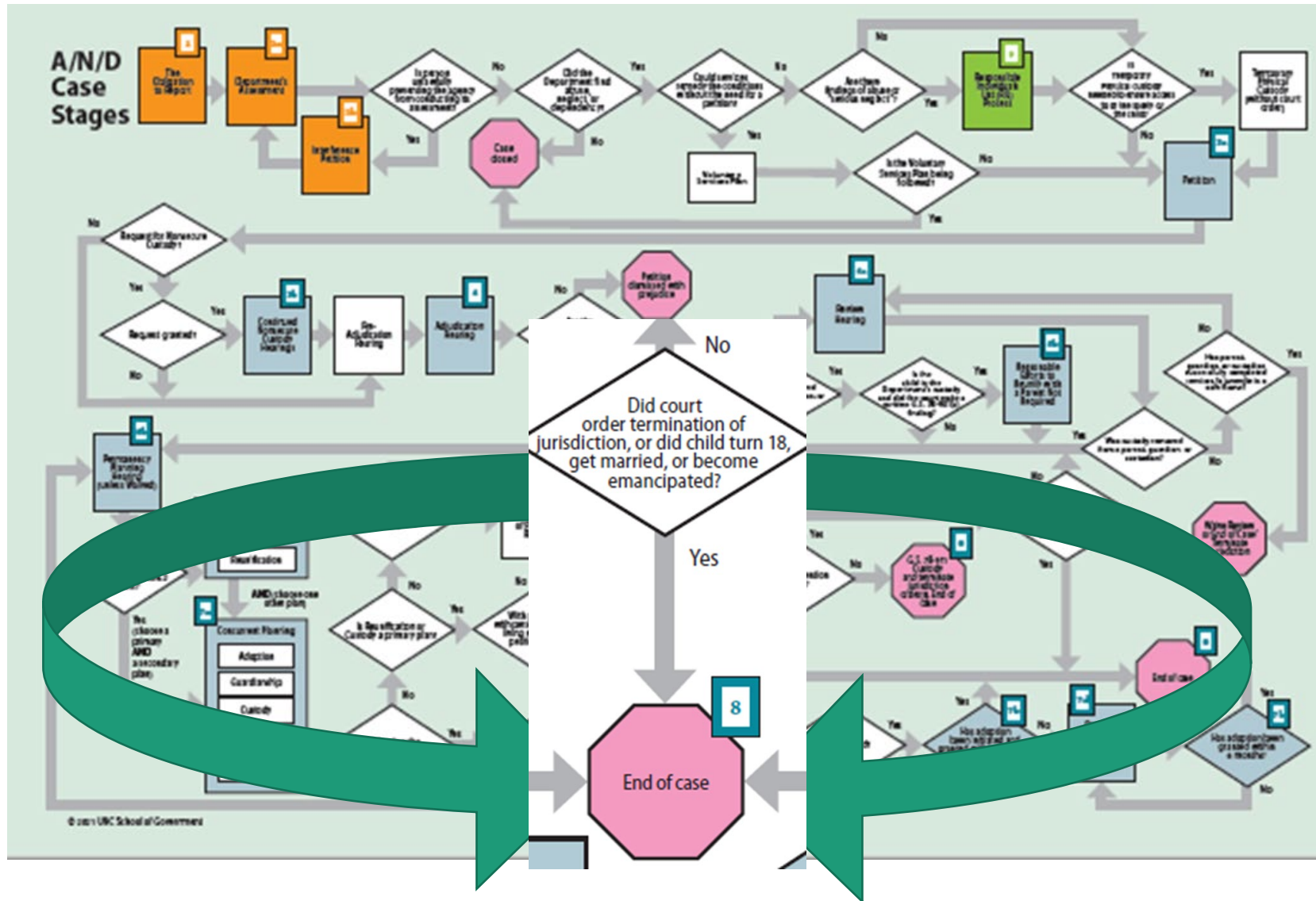
Effect: Termination of Jurisdiction

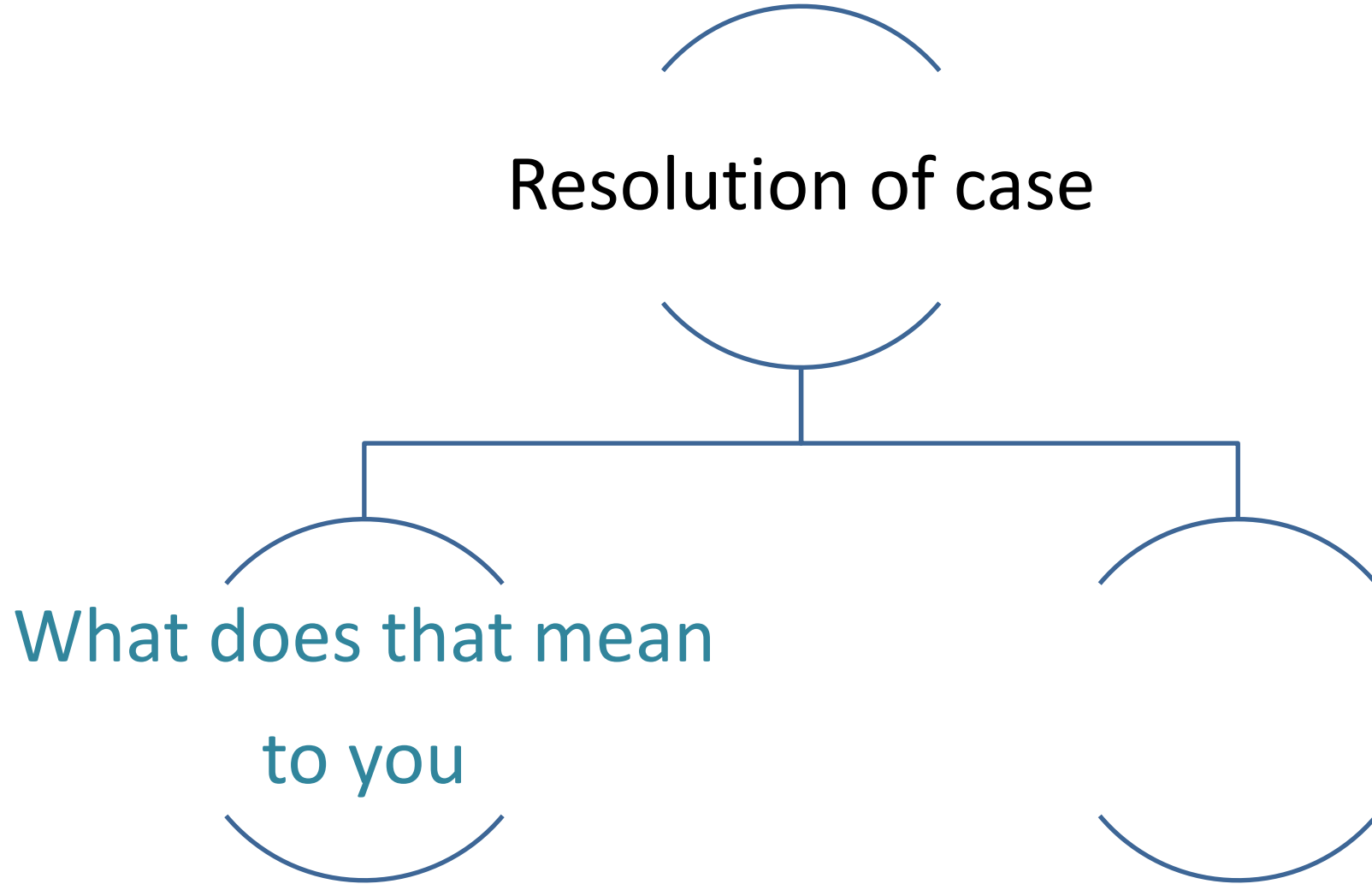
- No modification or enforcement of previously entered order
- Child's legal status & custodial rights revert to pre-petition unless
 - 7B-911 order
 - TPR order
 - Applicable law or valid order in another civil action provide otherwise

Without terminating jurisdiction



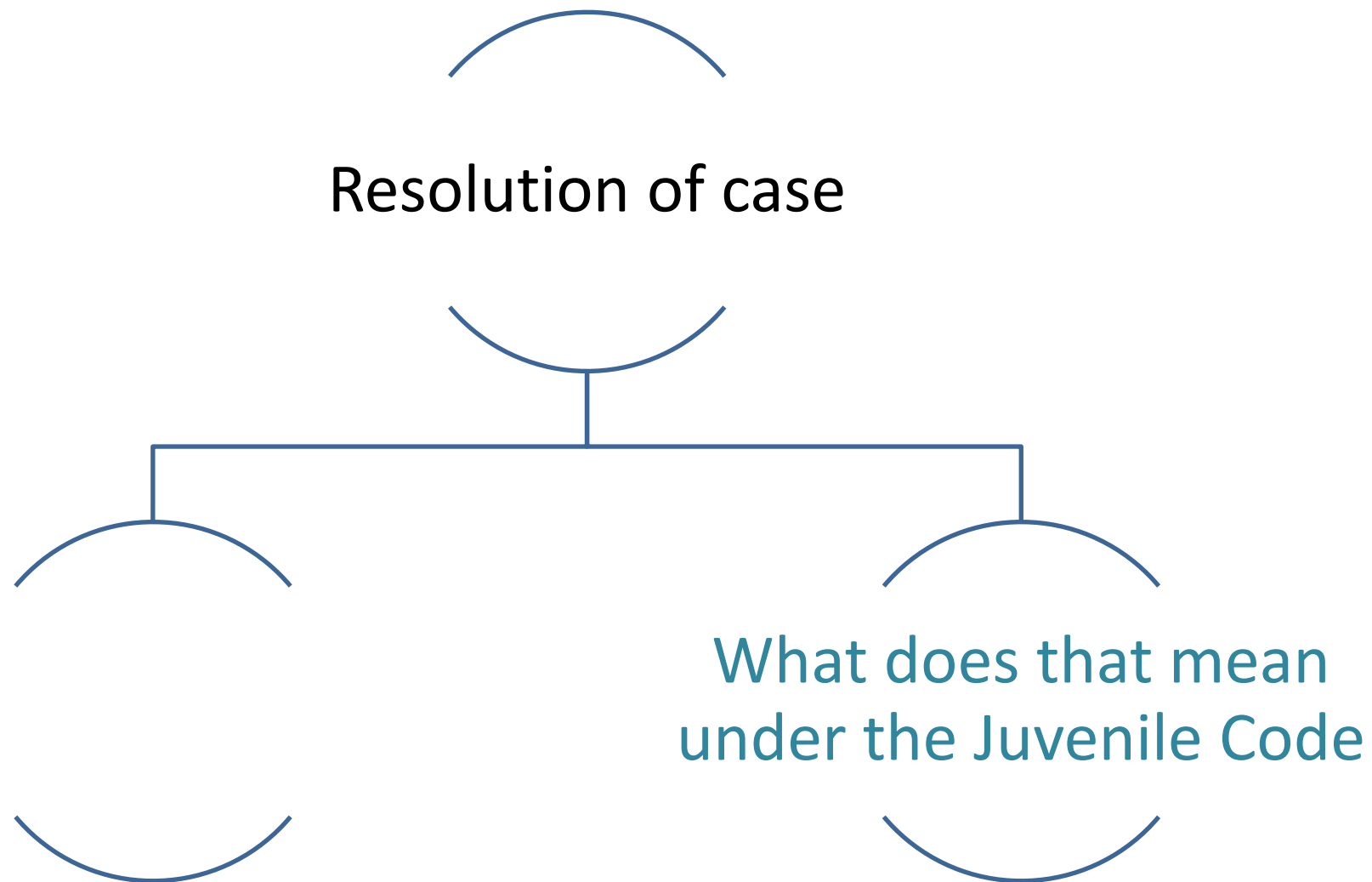
Stopping the Loop





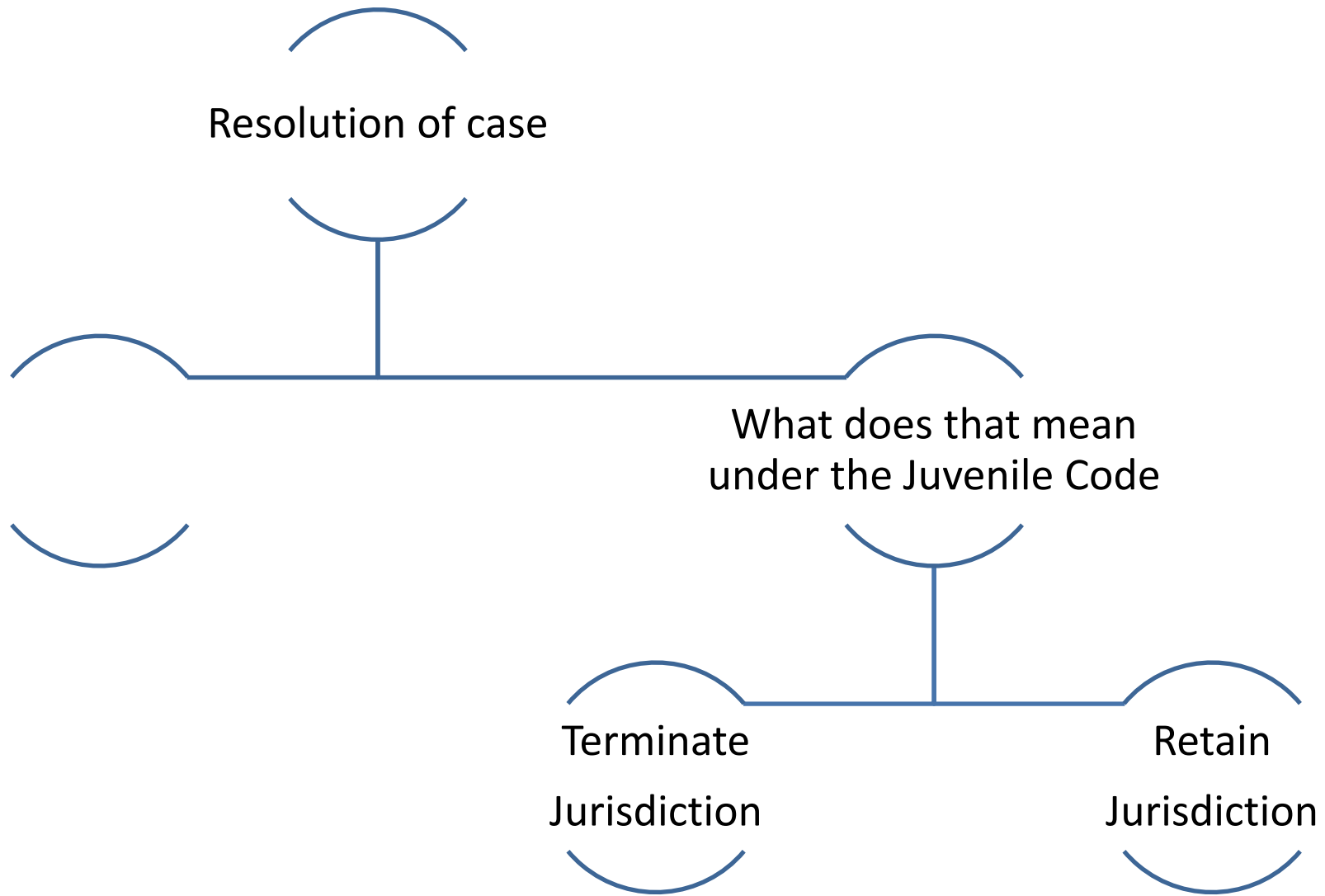
Resolution of case

What does that mean
to you

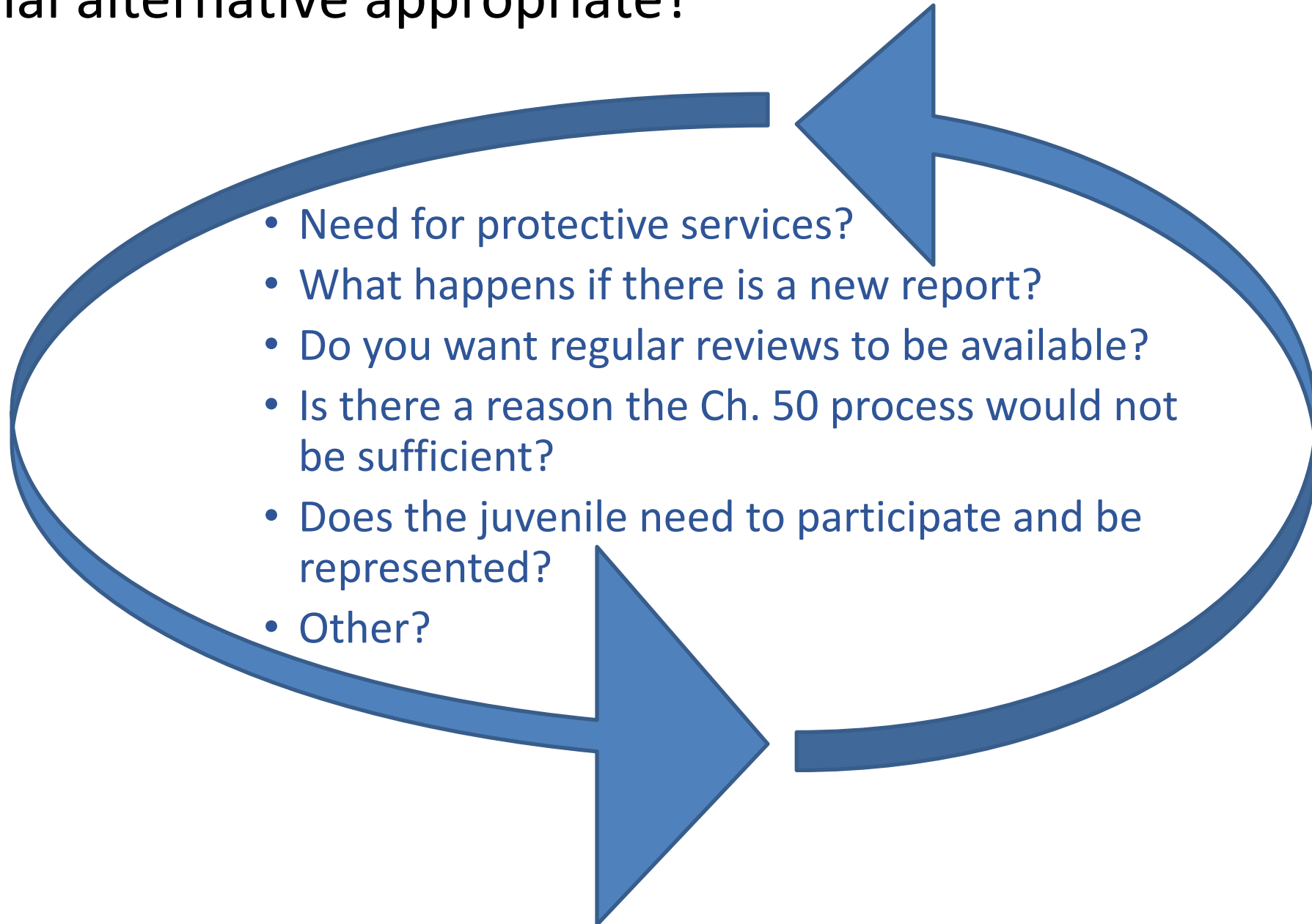


Resolution of case

What does that mean
under the Juvenile Code



Do you want to be in the loop or is a different dispositional alternative appropriate?

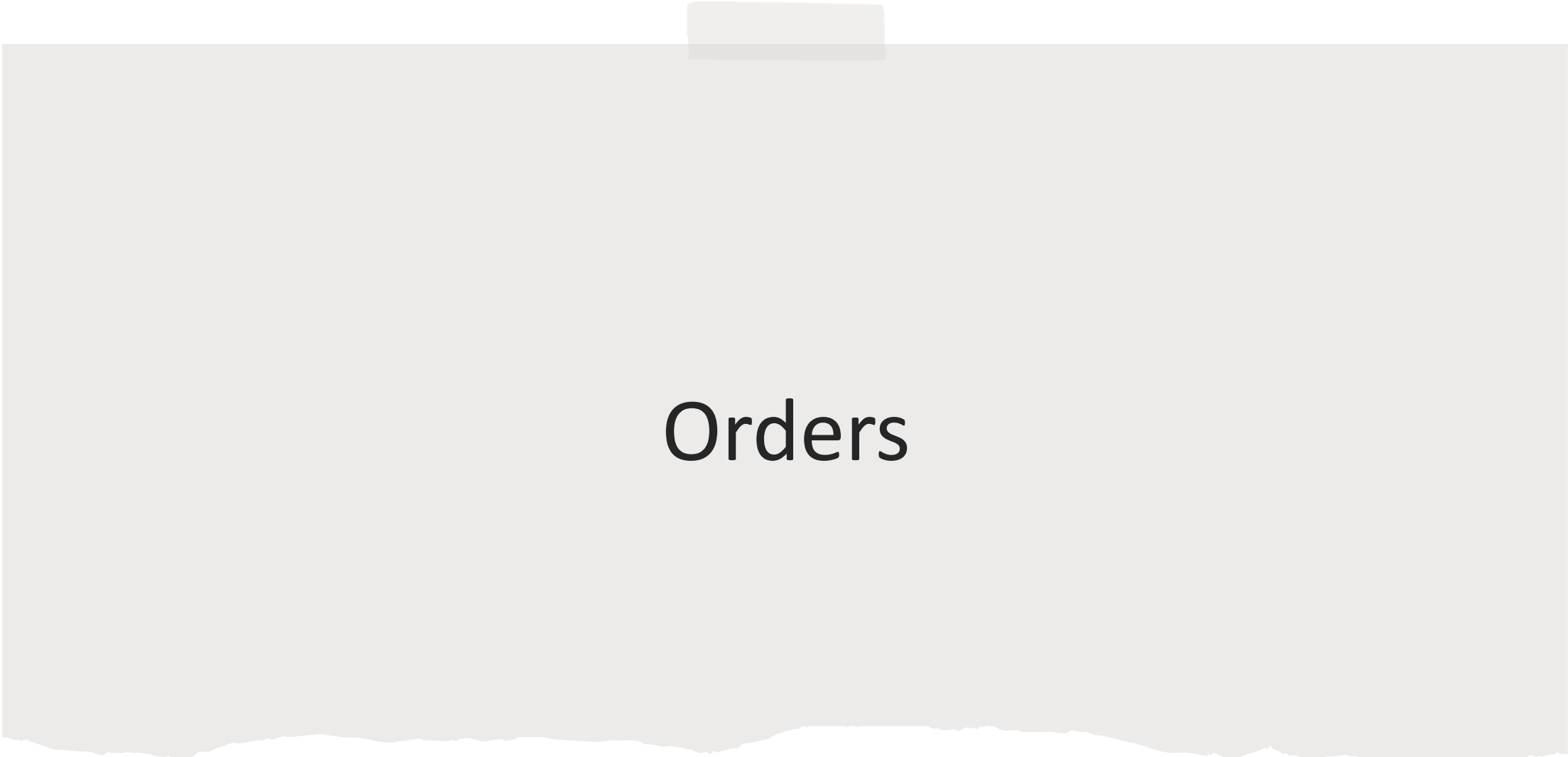




Staying in the loop 7B-906.1(n)

The court may

- Waive
- Require written reports to the court in lieu of hearing
- Order PPH less often than every 6 months



Orders

A/N/D Manual
Ch. 4.9

Rendition

The child is neglected based on the following findings of fact, which are based on clear and convincing evidence ...

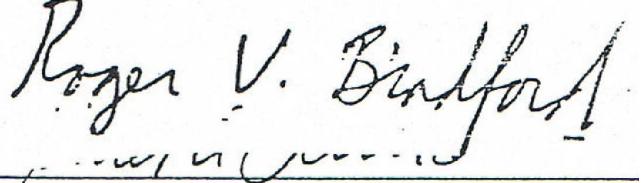


Notes about Rendition

Trial court has the discretion to reopen the case and admit additional testimony

Entered: Rule 58

- In Writing
- Signed by Judge
- Filed by Clerk



Judge Roger V. Bradford

FILED
NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2013 DEC -3 PM 12:04 DISTRICT COURT DIVISION
MOORE COUNTY 02 Cvd 1315
MOORE COUNTY, O.S.C.
LARA (formerly VAN BOURGONDIE) GERHAUSER, :
Plaintiff, BY  :
Vs. :
MARTIN R. VAN BOURGONDIE, :
Defendant. :

ORDER

Entry of Order

w/in 30 days of
completion of
hearing

Clerk shall
schedule hearing

Entered within
10 days of
hearing

Remedy?

File for a Writ of Mandamus

“The appropriate remedy for a trial court’s failure to enter a timely order is mandamus, not a new hearing.”

In re T.H.T., 362 N.C. 446 (2008)

TIPS

- Temporary order until final order is drafted, so parties can leave with decree in hand
- Note: Rarely contains findings to survive appellate review or funding requirements

STATE OF NORTH CAROLINA		File No.	
County		In The General Court Of Justice District Court Division	
IN THE MATTER OF:		JUVENILE ORDER	
Name And Address Of Juvenile 			
Juvenile's Date Of Birth	Age		
		G.S. Ch. 7B	
The following persons were present at the hearing:			
NAME	RELATIONSHIP/TITLE	NAME	RELATIONSHIP/TITLE

In re J.B., 172 N.C. App. 1 (2007)

"This Court has previously held that pursuant to the provisions of N.C. Gen. Stat. § 1A-1, Rule 58 of the Rules of Civil Procedure, after 'entry' of judgment in open court, a trial court retains the authority to approve the judgment and direct its prompt preparation and filing." *Hightower v. Hightower*, 85 N.C. App. 333,

In re A.B., 239 N.C. App. 157

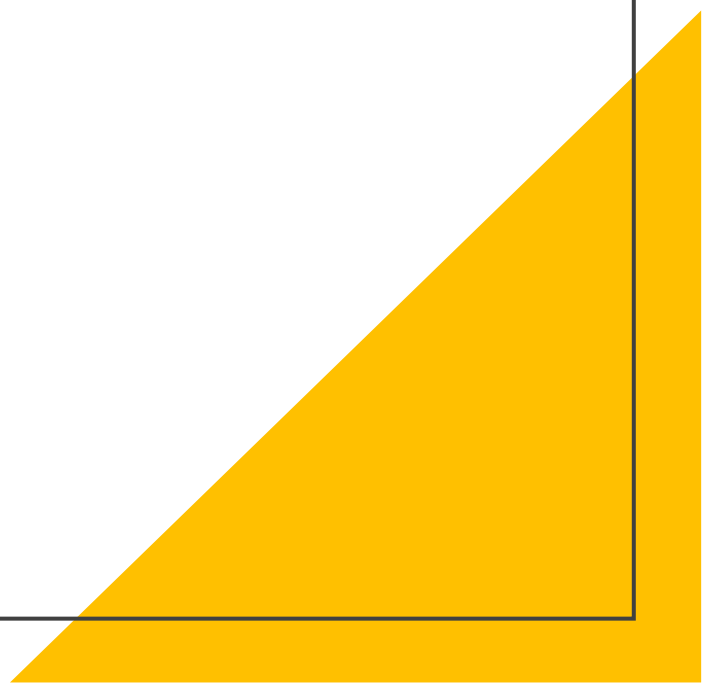
First, the order is the responsibility of the trial court, no matter who physically prepares the draft of the order. See *In*

Set deadlines

“A lawyer shall act with reasonable diligence and promptness in representing a client.” RPC 1.3



Comments to RPC 1.3

- Professional shortcoming = procrastination
 - Adverse affect because of changed conditions
 - Unreasonable delay can lead to anxiety and undermine confidence
 - Carry through to conclusion all matters undertaken for a client
- 
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Attorney Drafts

Tips

- Instruct parties how to communicate with you about drafts (email, etc.)
- Remind parties to copy the other parties on all communications



Other Ideas?



Avoid This:

“We agree with Caldwell DSS that the significant delay before the trial court entered its 2009 permanency planning order is deplorable....

we cannot condone such astonishing disregard for the best interests of the juveniles and the interests of the parties in this matter.”

In re E.K., 202 N.C. App. 309, 316 (2010)

“We note that the trial court violated N.C. Gen.Stat. § 7B–1109(e) and N.C. Gen.Stat. § 7B–1110(a) by entering its termination order roughly six months after the adjudicatory and dispositional hearing.”

In re S.Z.H., 247 N.C. App. 254, 266 (2016)