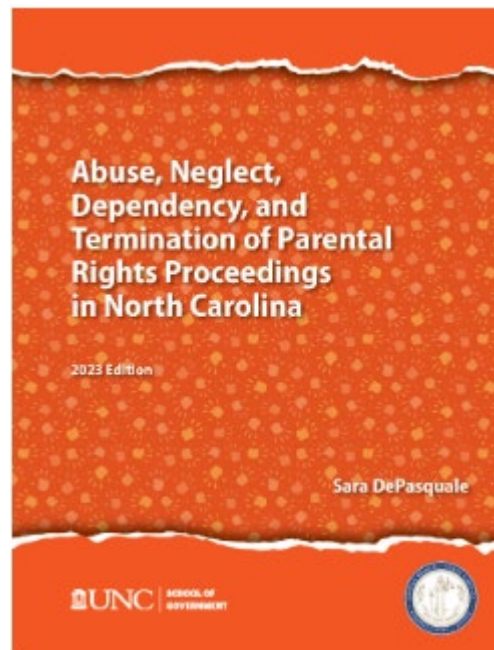


Nonsecure Custody



Chapter 5

Two Kinds of Nonsecure Custody Orders

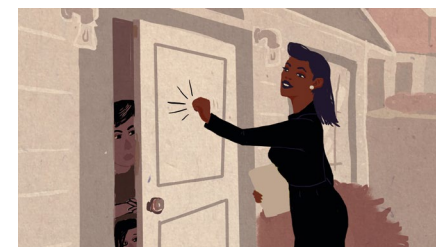
Initial

Continued

STATE OF NORTH CAROLINA		File No.
County		In The General Court Of Justice District Court Division
IN THE MATTER OF		ORDER FOR NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY) G.S. 7B-502 through -505.1, -508
Name And Address Of Juvenile		
Juvenile's Date Of Birth	Age Race Sex	
Name And Address Of Parent/Guardian/Custodian/Caretaker		
		Name And Address Of Parent/Guardian/Custodian/Caretaker

STATE OF NORTH CAROLINA		File No.
County		In The General Court Of Justice District Court Division
IN THE MATTER OF		ORDER ON NEED FOR CONTINUED NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY) G.S. 7B-506
Name Of Juvenile		

Leading Up to Court



Need for
immediate
removal

The Statutes

G.S. 7B-

- -502 (Authority, ex parte/notice)
- -503 (Criteria)
- -504 (Initial order, take physical custody)
- -505 (Placement)
- -505.1 (Medical consent/CME)
- -506 (Con't nonsecure)
- -507 (Findings, services)
- -508 (Telephone)

- -302(c), (d) (Assessment, immediate removal)
- -403 (verified petition)
- -404 (clerks office closed)
- -405 (commencement of an action)
- -905.1 (visitation)
- -3800 (ICPC)

Does your judicial district
have an administrative order
that delegates authority to
issue nonsecure custody
order to someone other than
a judge?

S.L. 2025-16,
Oct 1, 2025

Can only be a magistrate

Impacts

How many people available to respond to an after hours request



How soon the hearing on the need for continued nonsecure custody must happen

Have you had a DSS
social worker or attorney
call you about NSC
before they've filed a
petition?

Starts with

STATE OF NORTH CAROLINA				File No.	
County				In The General Court Of Justice District Court Division	
IN THE MATTER OF				JUVENILE PETITION (ABUSE/NEGLECT/DEPENDENCY)	
<i>Name And Address Of Juvenile</i>					
<i>Juvenile's Date Of Birth</i>	<i>Age</i>	<i>Race</i>	<i>Sex</i>	G.S. 7B-101, -400, -402	
<i>Name Of Petitioner</i>					
				<i>Condition Alleged</i>	
				<input type="checkbox"/> Abused <input type="checkbox"/> Neglected <input type="checkbox"/> Dependent	

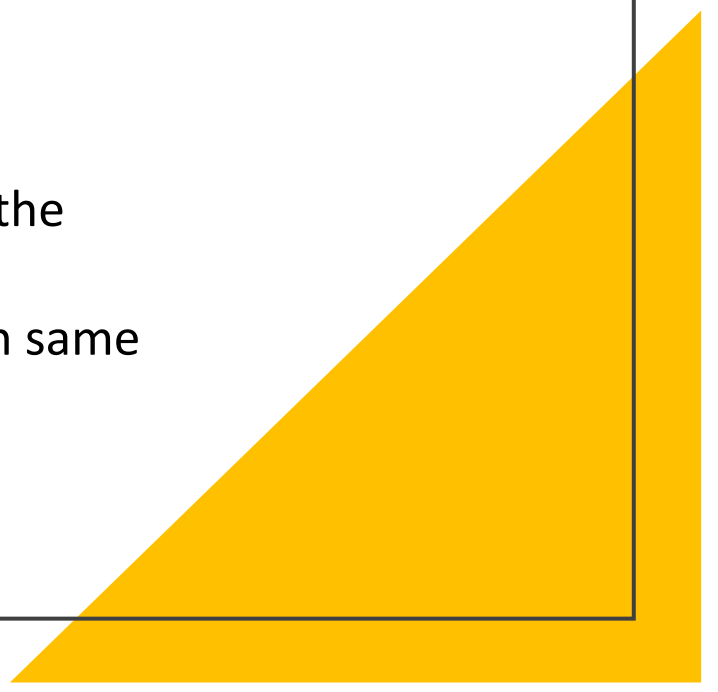
Filed during or after hours

Request for nonsecure custody

Statute Does Not Specify

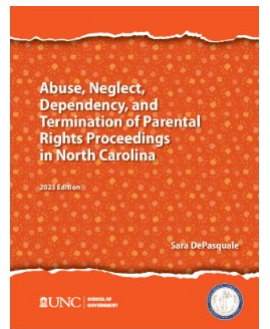
- who may make the request
- written vs. oral request
- time period* for making the request

Ex parte but...

- Telephone notice to attorney / office if seeking after hours
 - When
 - DSS has written notice respondent represented by attorney in the matter
 - Attorney representing respondent in another juvenile matter in same county involving another child of respondent
 - NOT provisional counsel
- 
- A large yellow triangle is positioned in the bottom right corner of the slide, pointing towards the top right.

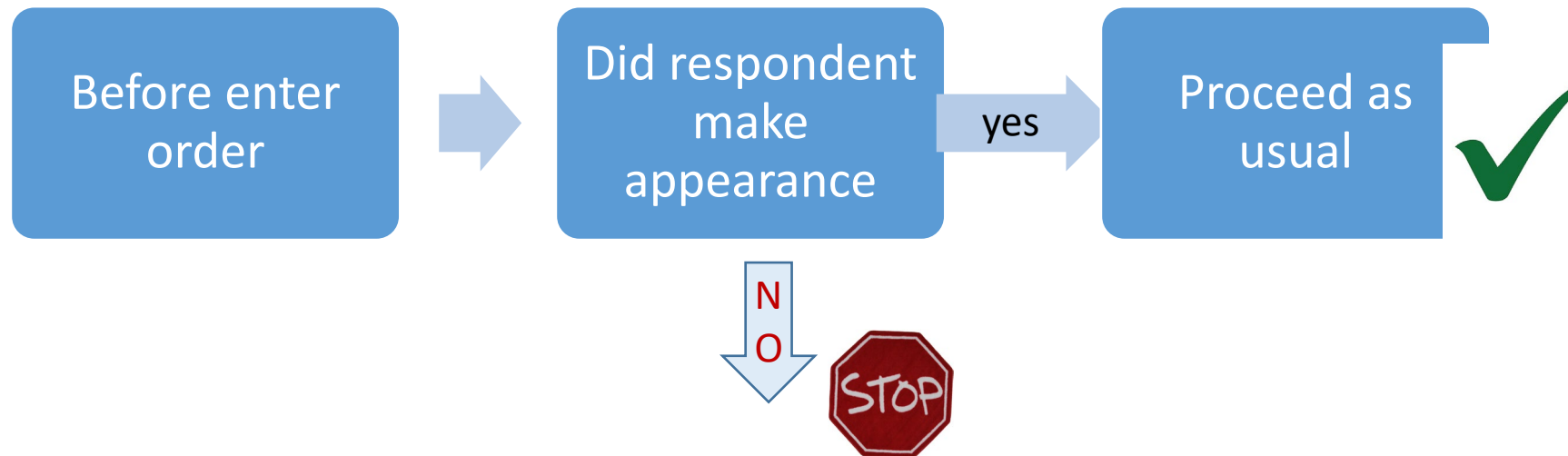
Servicemembers Civil Relief Act (SCRA)

50 App. U.S.C. §§ 3901 et seq



Chapter 13.6

Obligation on the court & petitioner



STATE OF NORTH CAROLINA		File No. <input type="text"/>
<input type="text"/> County		In The General Court Of Justice
<i>Name And Address Of Plaintiff</i> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		SERVICEMEMBERS CIVIL RELIEF ACT DECLARATION
VERSUS		
<i>Name And Address Of Defendant</i> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
		G.S. Ch. 127B, Art. 4; 50 U.S.C. 3901 to 4043

50 U.S.C. 3931: Affidavit/Declaration*

- Under penalty of perjury
- Personal knowledge
- Supporting facts

In military
service



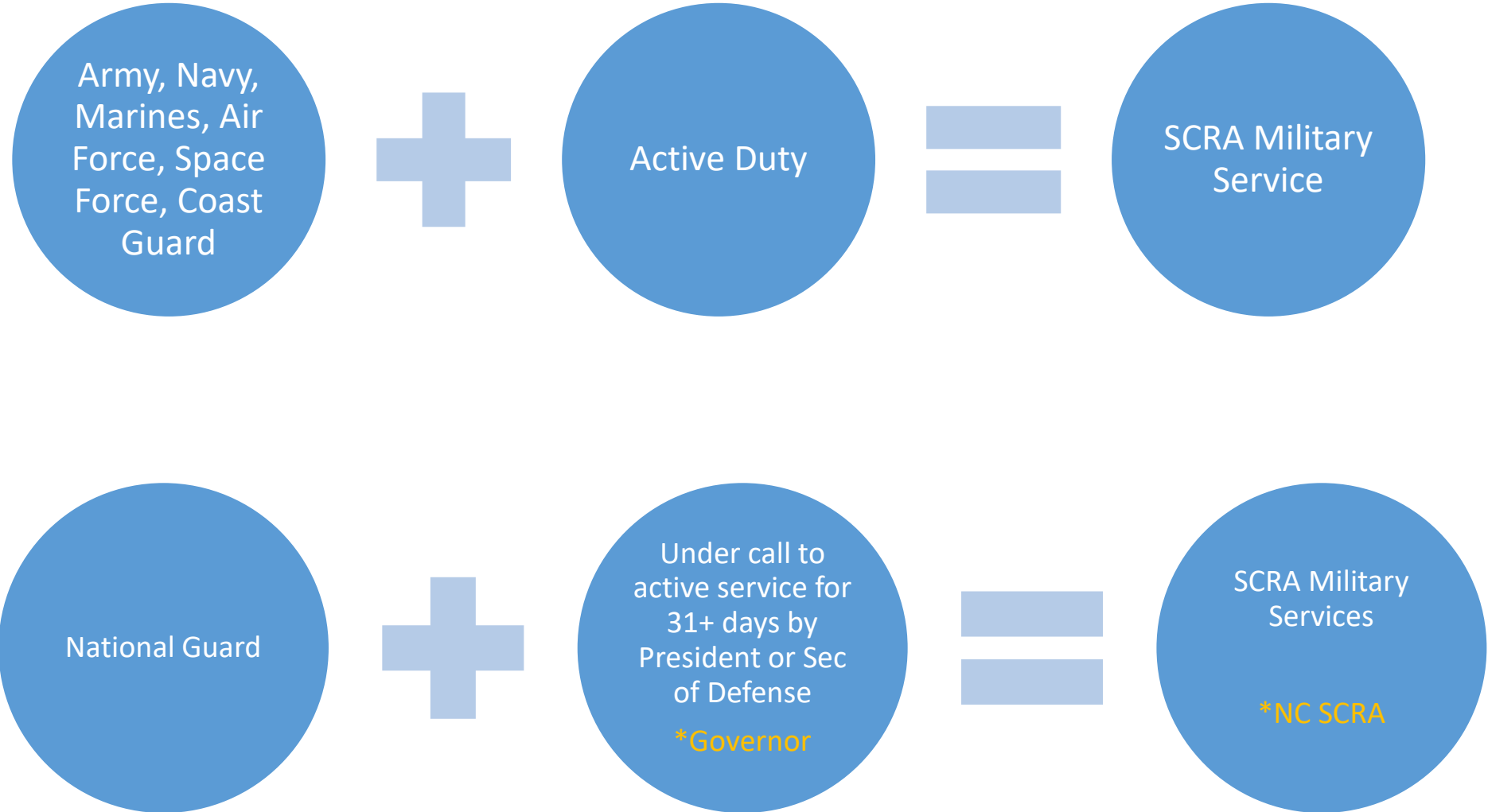
Not in military
service



Unable to
determine



What is military service?



In Military Service

50 U.S.C. 3931

- Appoint Attorney
 - Locate Servicemember
 - Determine if stay needed
- Min 90-day stay if
 - Defense can't be presented w/o servicemember
 - Attorney can't find or determine if meritorious defense exists

50 U.S.C. 3932

- Servicemember has actual notice
- Min 90-day stay if duty materially affects ability to appear
 - Date of when can appear
 - Letter from C.O. military leave not authorized

Specific criteria in G.S. 7B-503



Reasonable factual
basis to believe

allegations
in petition
are true

Specific criteria in G.S. 7B-503

Based upon the verified petition, this Court has jurisdiction over the subject matter of this proceeding and of the person of the juvenile.

1. As grounds for the issuance of this Order, the Court finds that there is a reasonable factual basis to believe that the matters alleged in the petition are true, that there are no other reasonable means available to protect the juvenile, and (check one or more)

- ☐ a. the juvenile has been abandoned.
- ☐ b. the juvenile has suffered physical injury, sexual abuse, or serious emotional damage as defined by G.S. 7B-101(1)e.
- ☐ c. the juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection.
- ☐ d. the juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment.
- ☐ e. the parent, guardian, custodian, or caretaker consents to the nonsecure custody order.
- ☐ f. the juvenile is a runaway and consents to nonsecure custody.

Must have 1

Specific criteria in G.S. 7B-503

No other reasonable means to protect juvenile

- **first consider** release of juvenile to parent, relative, guardian, custodian, or other responsible adult

Why does that matter?

<https://www.youtube.com/watch?v=dn3IWob9u7I> (up to sec. 42)

● 1 Speech to Judge

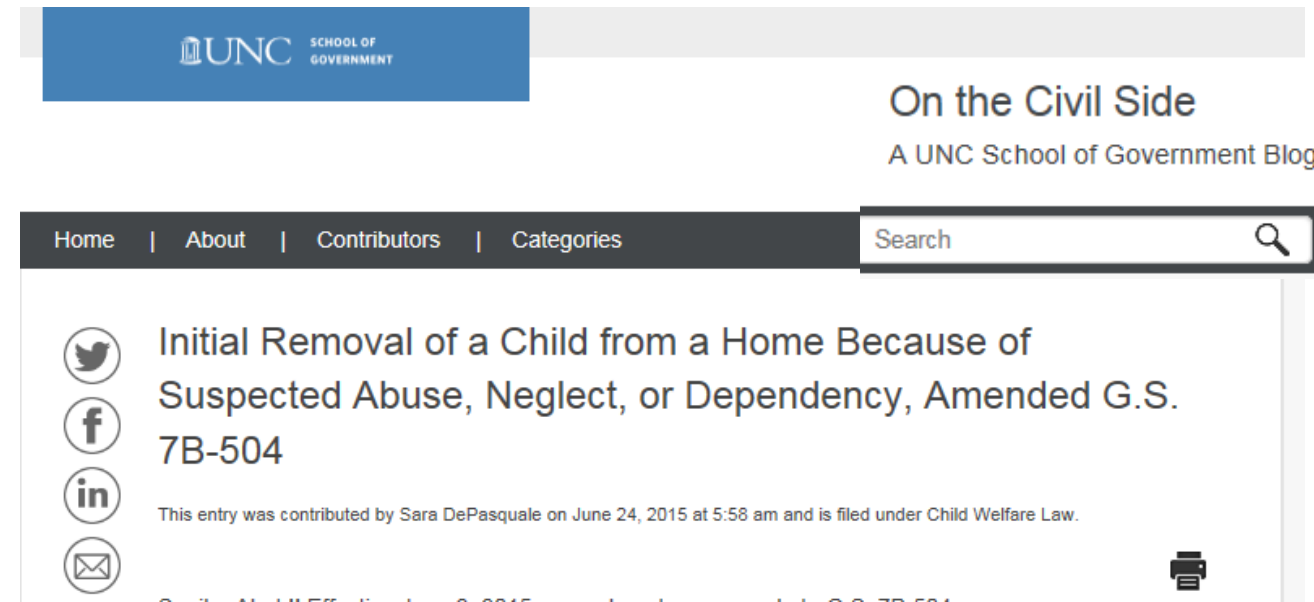
Imagine you are 7 yrs old and After being reccomanded to get help you are put into a foster home and you dont know anyone you begin to wonder what you did so wrong to be put here, you wonder if your Sam, yep OK & you think about how long ure gonna be here. After a yr passes you begin to wonder if they are gonna forget about you. After another yr goes by you wonder if they are OK ab they feed, water a house. After Another yr you find out your dads in georgia and all you wonder and all you want is the love & Embrace of ur family

Initial nonsecure custody order = removal order

Applies to Law Enforcement or other authorized person

Additional findings re: entry into home

You may want to ask is the child in temporary custody?



The screenshot shows the header of a blog post from the UNC School of Government. The header includes the UNC School of Government logo, the title "On the Civil Side", and the subtitle "A UNC School of Government Blog". Below the header is a navigation bar with links for Home, About, Contributors, and Categories, and a search bar. The main content area displays the title of the blog post, "Initial Removal of a Child from a Home Because of Suspected Abuse, Neglect, or Dependency, Amended G.S. 7B-504", along with social media sharing icons for Twitter, Facebook, LinkedIn, and Email. A note indicates that the entry was contributed by Sara DePasquale on June 24, 2015 at 5:58 am and is filed under Child Welfare Law. A printer icon is visible in the bottom right corner.

UNC SCHOOL OF GOVERNMENT

On the Civil Side
A UNC School of Government Blog

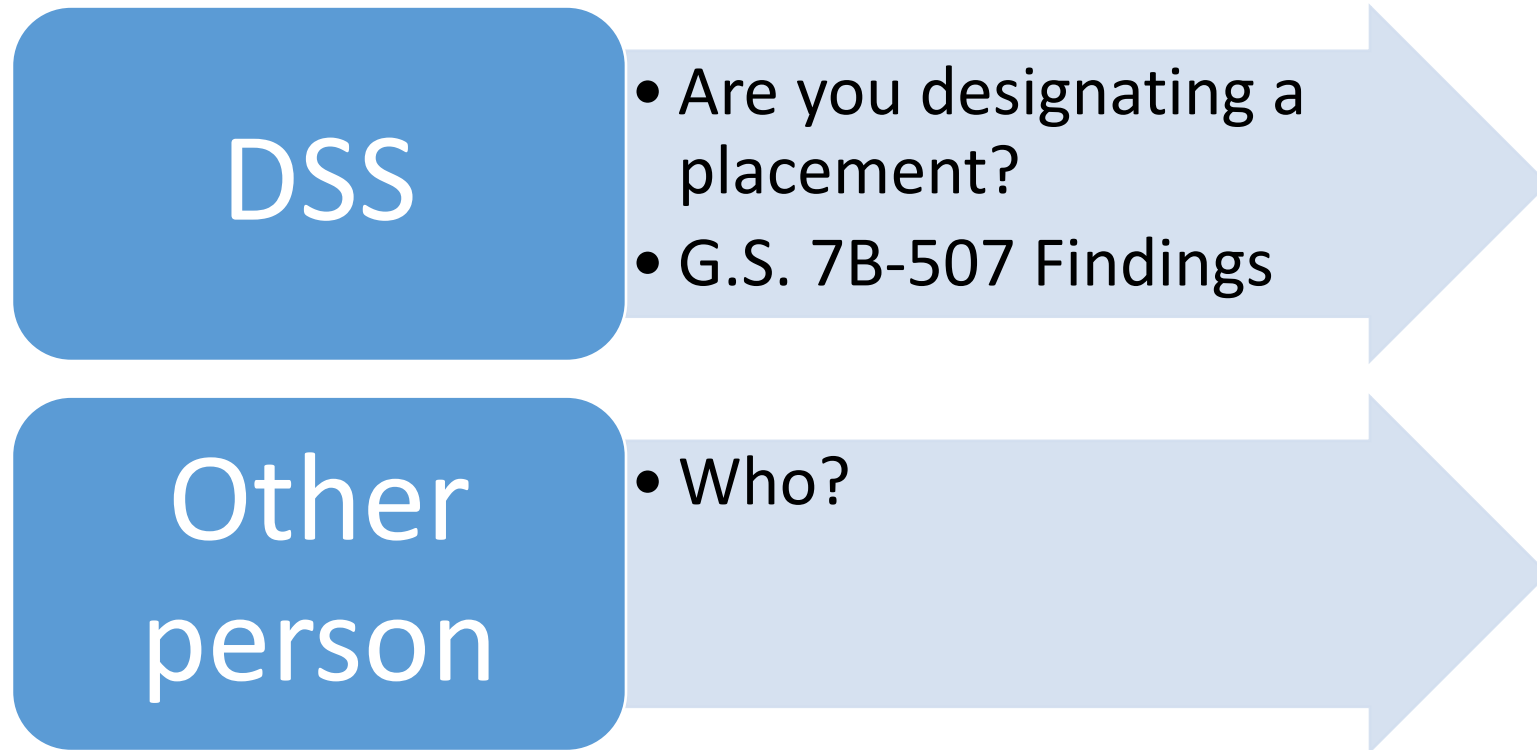
Home | About | Contributors | Categories Search

Initial Removal of a Child from a Home Because of
Suspected Abuse, Neglect, or Dependency, Amended G.S.
7B-504

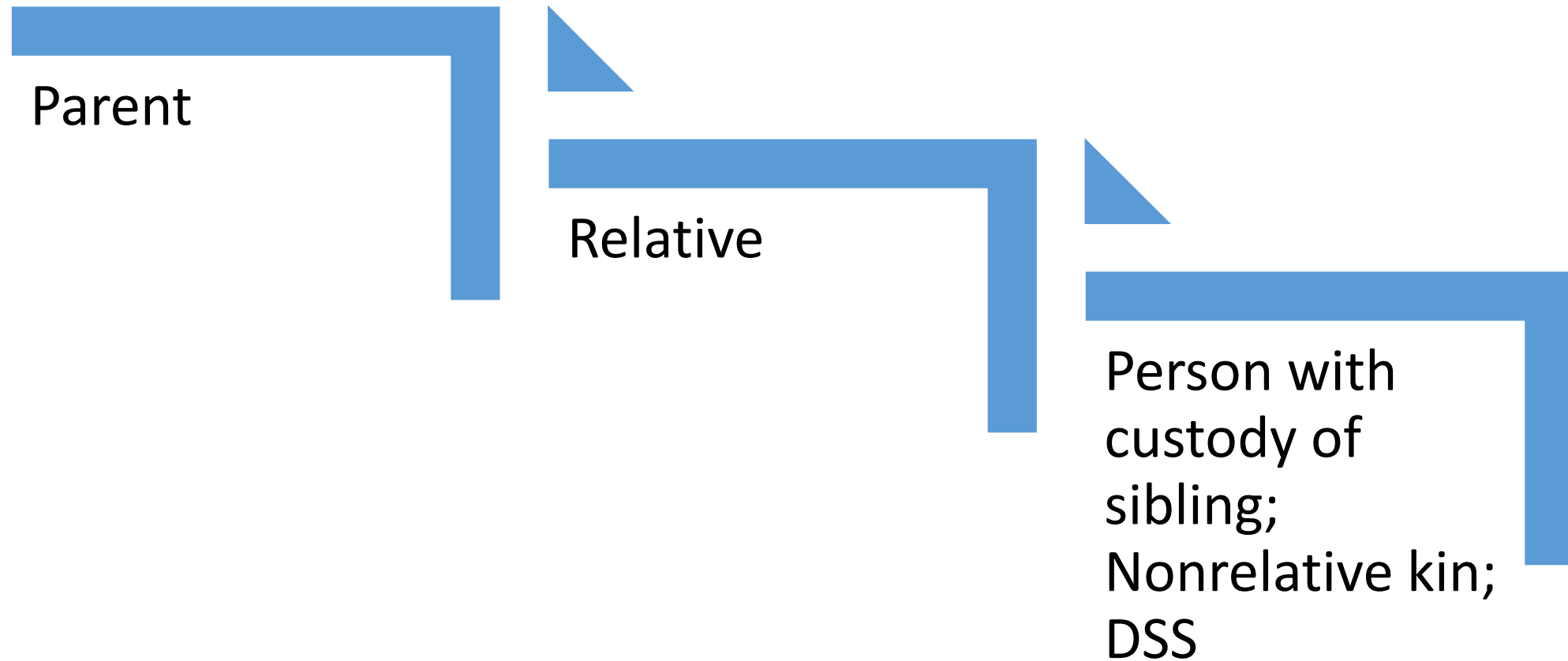
This entry was contributed by Sara DePasquale on June 24, 2015 at 5:58 am and is filed under Child Welfare Law.

Printer icon

Who Gets Custody: G.S. 7B-505



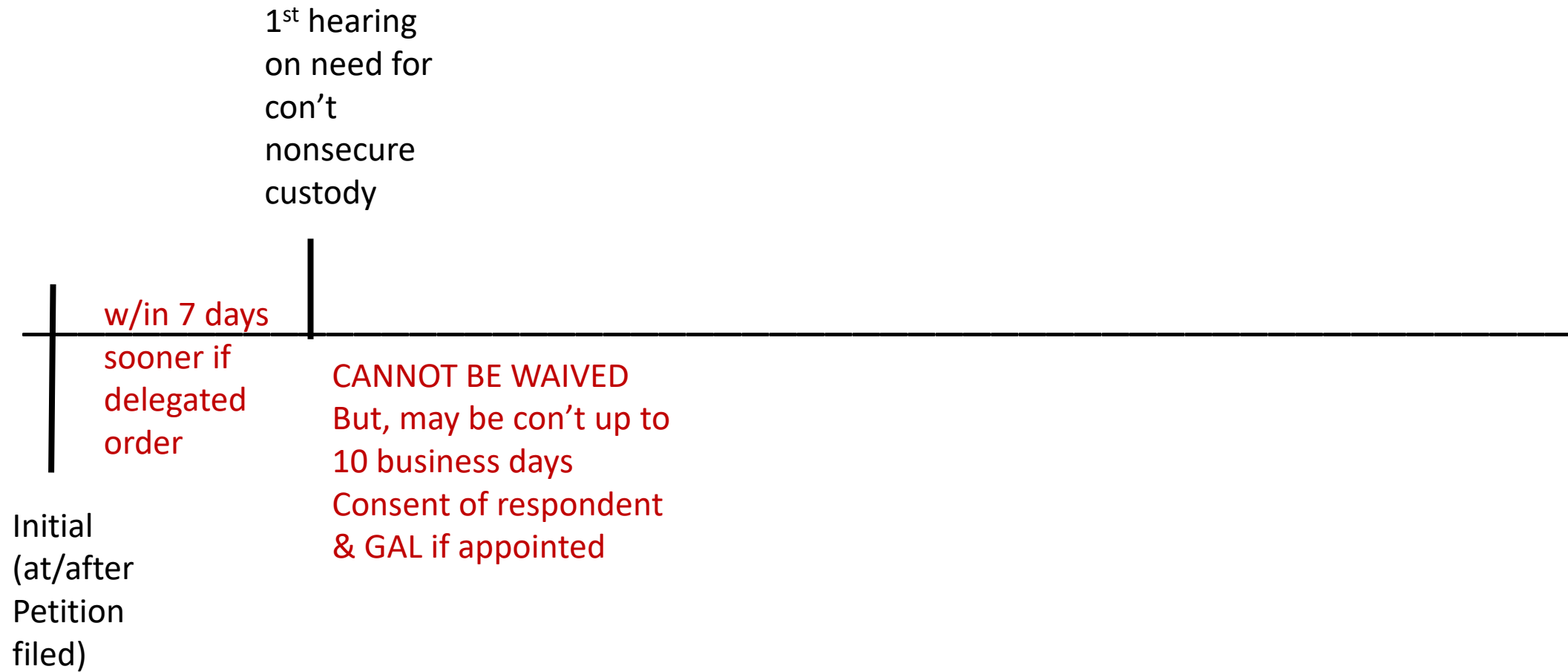
Placement Priority



Is child remaining in community of residence BIC?



<https://www.youtube.com/watch?v=Gb8BGKqVVZM> (to 1:17)



What's happening from parents perspective?

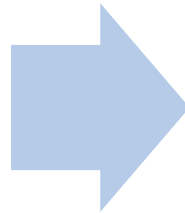


Hearing on need for continued nonsecure custody

- Same criteria but procedure is different

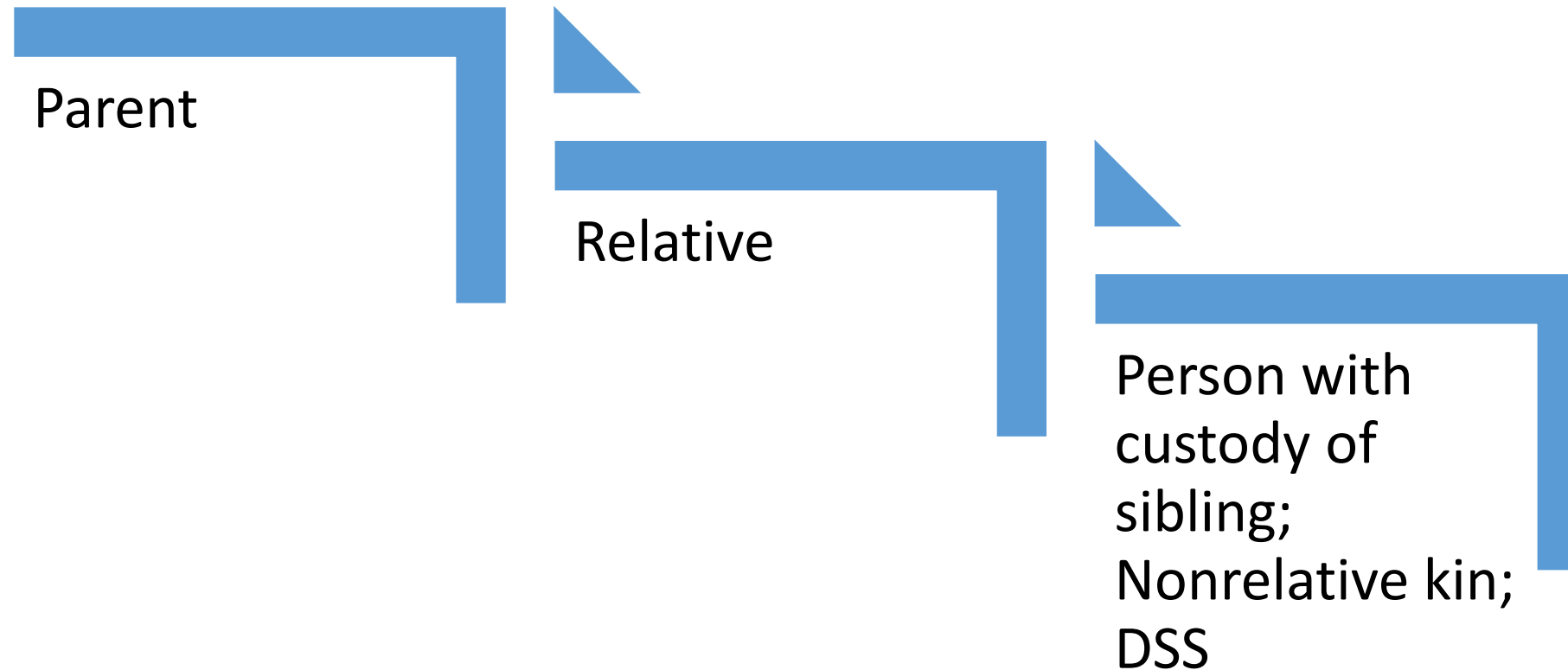
DSS Burden: Clear & Convincing

Child's Placement
in Custody is
Necessary



Court looks to G.S.
7B-503 Criteria

Any party may schedule hearing on placement



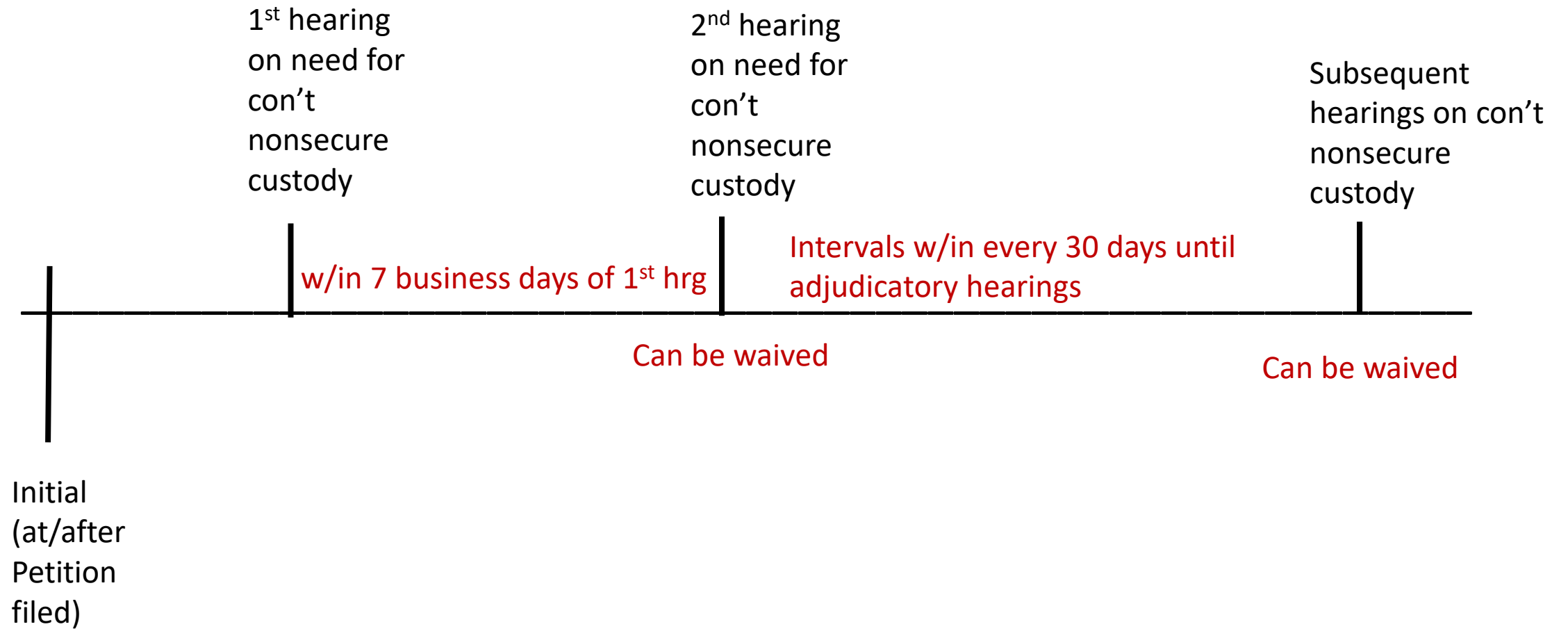
Not an adjudication on the merits

Cannot order dismissal to dispose of action



Additional considerations

- Medical consent
 - CME
- Psychotropic and Other Medications/Special Needs; Medical Appts
- Visitation – parent and/or sibling
- ICWA
- Education (ESSA)
- What else?
- How soon to schedule next hearing



Other Requirements

Both

- Order DSS notice relatives & other persons w/ legal custody of sibling(s)
- ICWA
- May order notice to state tribe

Continued

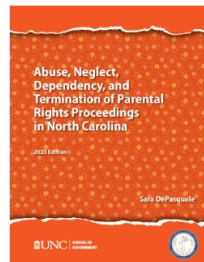
- Inquiry/findings missing parent & paternity
- Inquiry re: other juveniles in the home
- Non-emergency/non-routine medical
- Visitation

25 U.S.C. 1901 *et seq*, 25 C.F.R. Pt. 23

U.S. Department of the Interior
Indian Affairs



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Chapter 13.2

Applies to “Child Custody Proceedings”

Foster Care Placement



Preadoptive Placement



Termination of Parental Rights



Adoptive Placement

Mandatory Inquiry by Court

- At commencement of a child-custody proceeding
- Of each participant
- Do you know or have reason to the know the child is an Indian child
- Responses on the record
- Instruct parties to inform court if subsequently receives info that provides reason to know

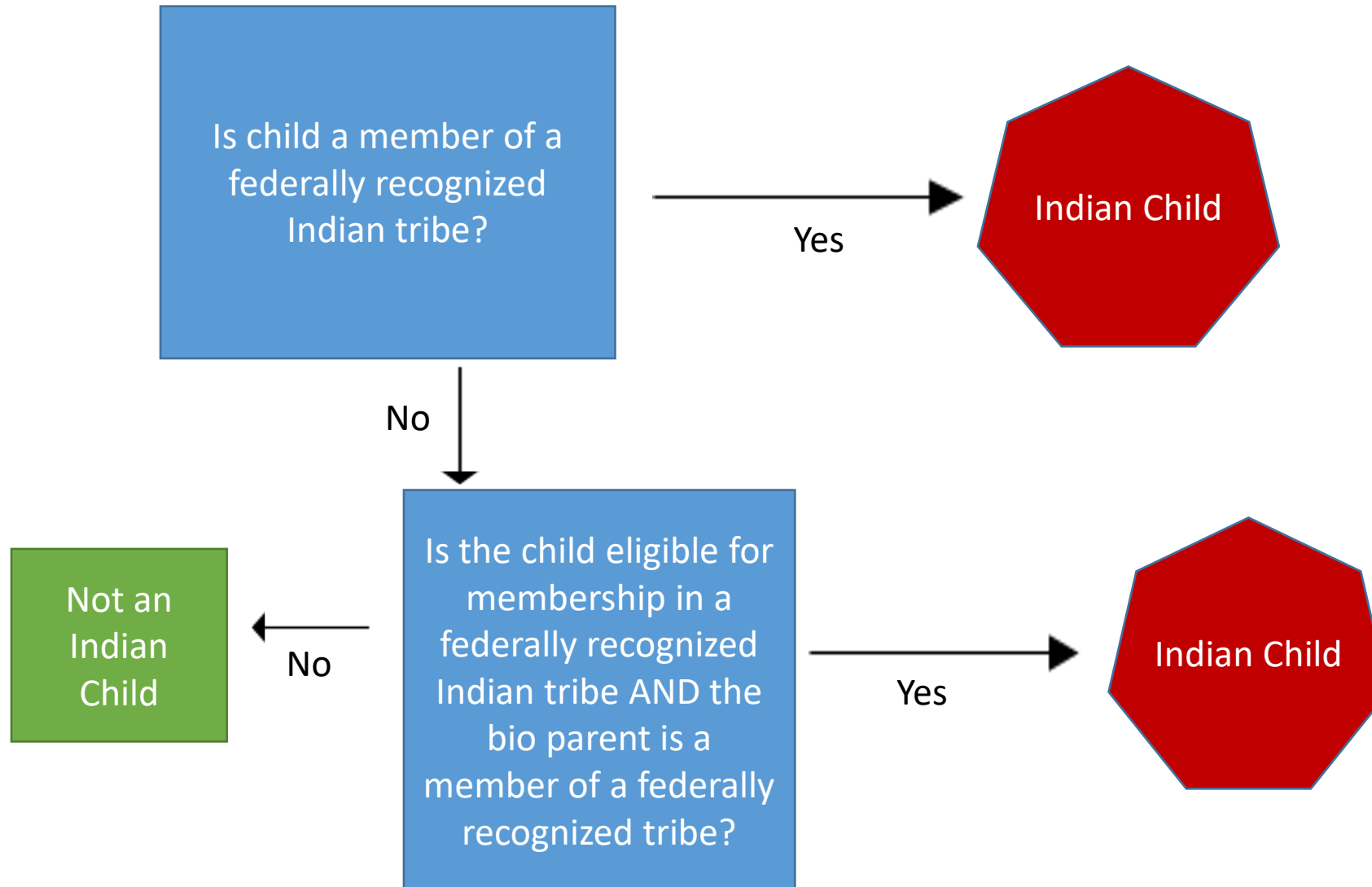
Quick Reference Sheet for State Court Personnel



U.S. Department of the Interior, Bureau of Indian Affairs
Final Rule: Indian Child Custody Proceedings
25 CFR 23

25 C.F.R. 23.107

Indian Child, 25 U.S.C. 1903(4)



ICWA Inquiry

Biological Parent	Child	Indian Child Status
	Child is Member	KNOW INDIAN CHLID
Parent is a member	Child is eligible for membership	KNOW INDIAN CHILD
Parent is a member	Child is not eligible for membership	NOT AN INDIAN CHILD
Parent has ancestry with federally recognized tribe but is not a member	Unknown if child is eligible for membership	NO REASON TO KNOW <i>In re C.C.G.</i> , 380 N.C. 23 (2022) (CAUTION: some COA opinions say otherwise)
Parent has ancestry with federally recognized tribe	Child is not eligible for membership	NOT AN INDIAN CHLID
Parent has ancestry with federally recognized tribe	Child is eligible (If child becomes a member)	REASON TO KNOW (Know)

Notice

- Registered/Certified Mail, Return Receipt
- Parents
- Indian custodians
- Tribe
- Copy to Regional Director
- Specific Contents
 - Include right to intervene

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.gov

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006 See Reverse

If Indian child,
ICWA
Requirements


Placement Preferences

Active Efforts

Qualified Expert Witness re:
serious emotional or physical damage
to child

TPR: Beyond a Reasonable Doubt of
serious emotional or physical damage
to child

Orders



Must include
findings of fact &
the evidence
relied upon

Entered w/in 30
days

Not appealable

Keep KIDS in Mind

A blue scroll graphic with a dark blue border and rounded corners. The scroll is partially unrolled, with the word "Benchmark" written in white text in the center. The scroll is positioned horizontally, with the unrolled portion extending from the left side.

Benchmark