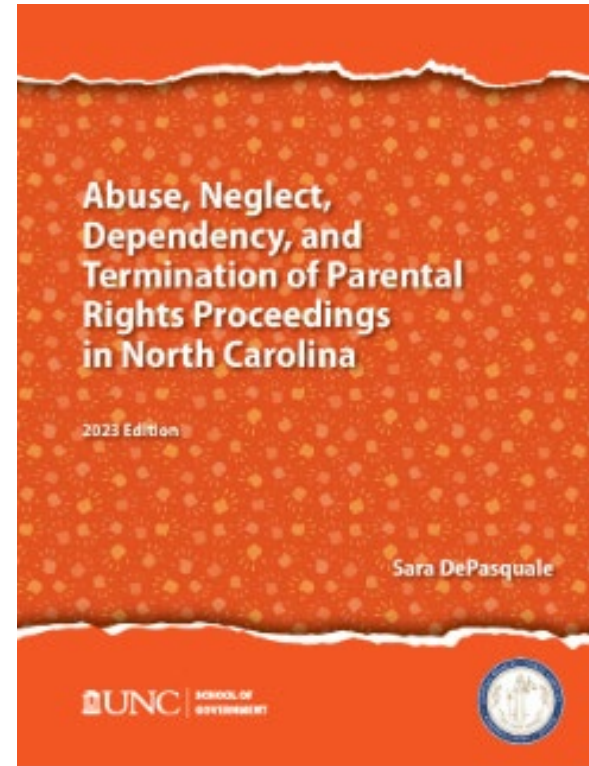


Dispositional Alternatives



Chapter 7

What are we talking about?

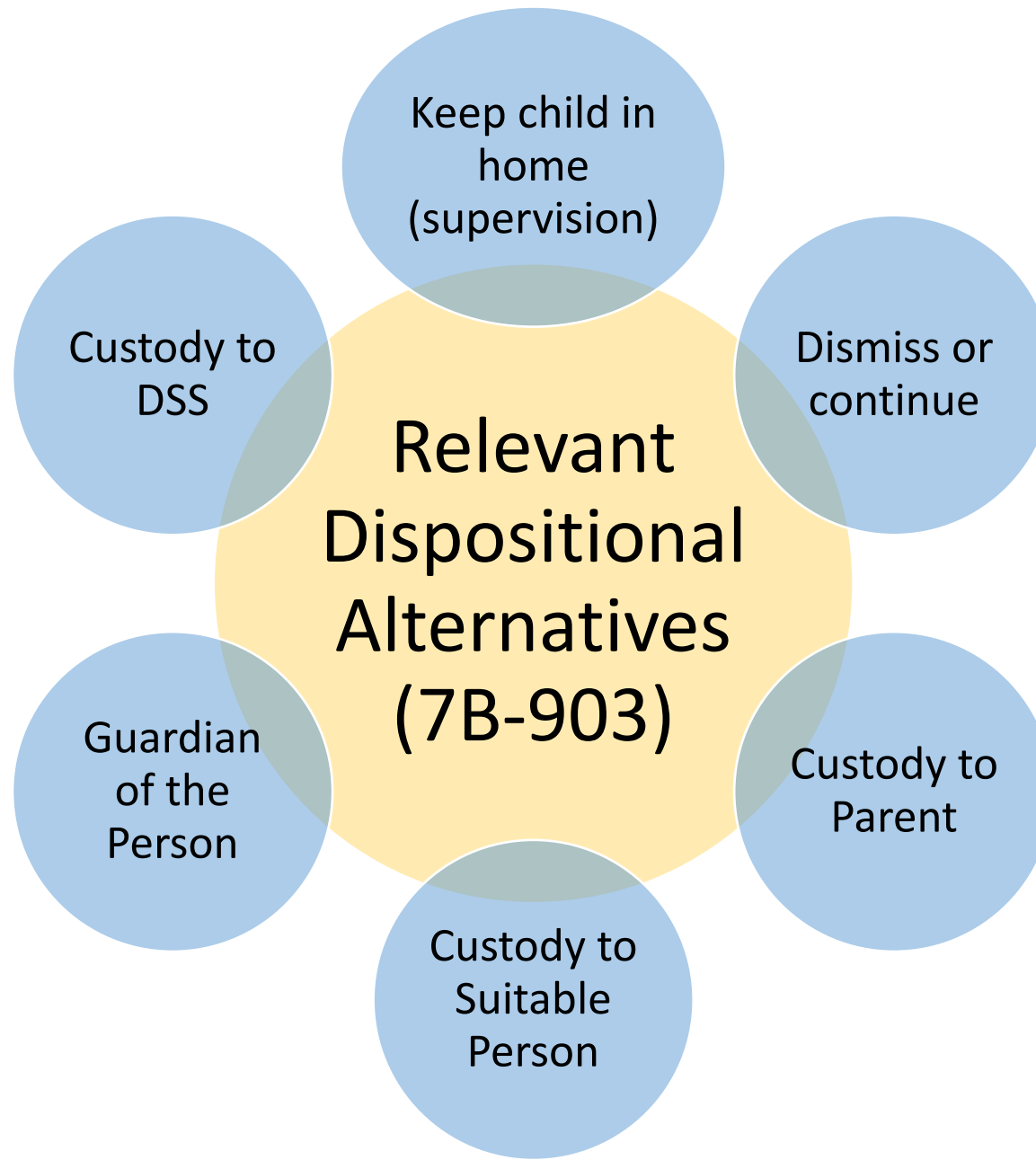
G.S. 7B-903

Placement and Custody Issues

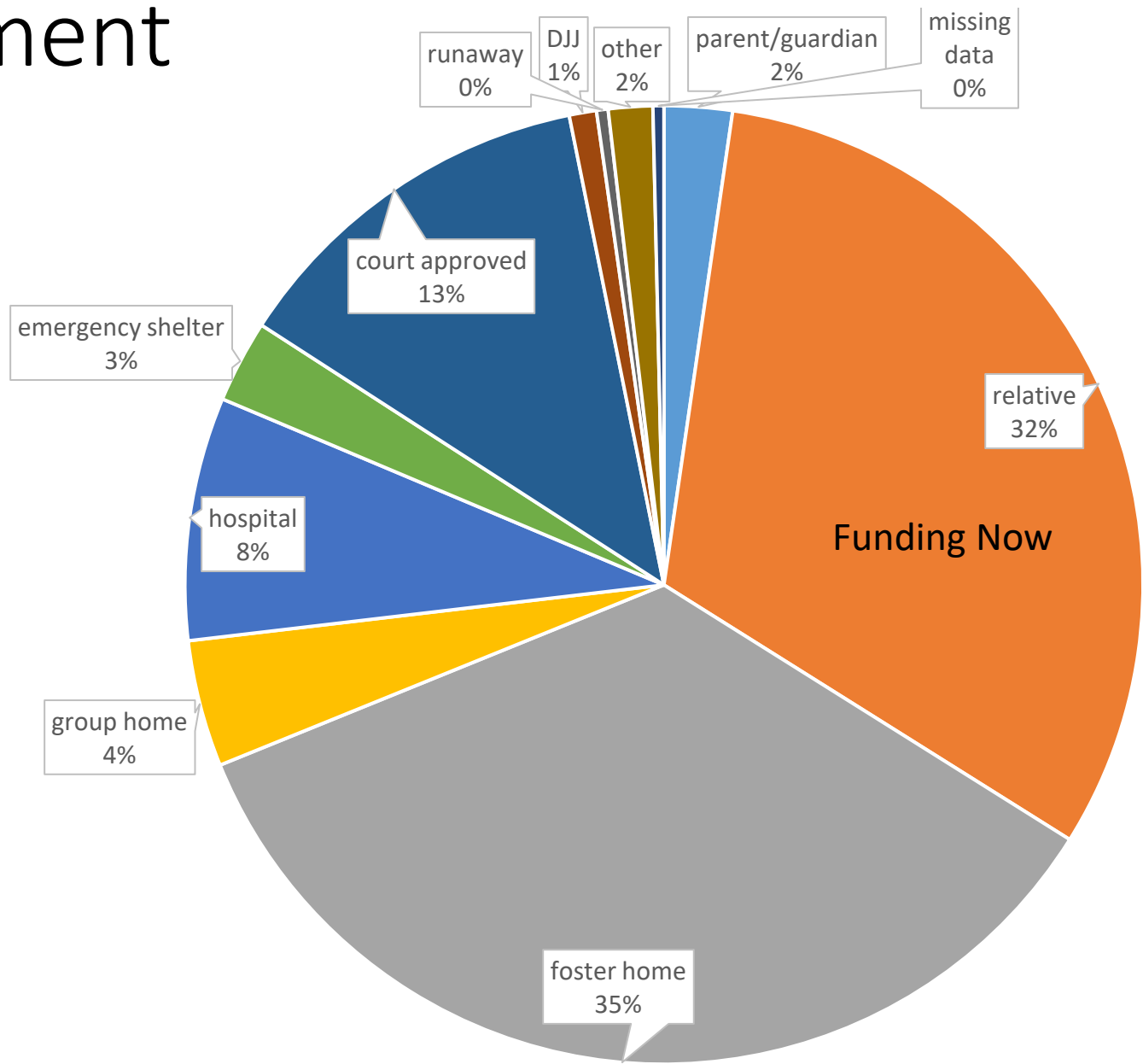
We will discuss

- Priorities in Dispositional Alternatives
- Factors to Consider
- Required Findings
- Constitutional Rights

At Any Dispositional Hearing: May Combine



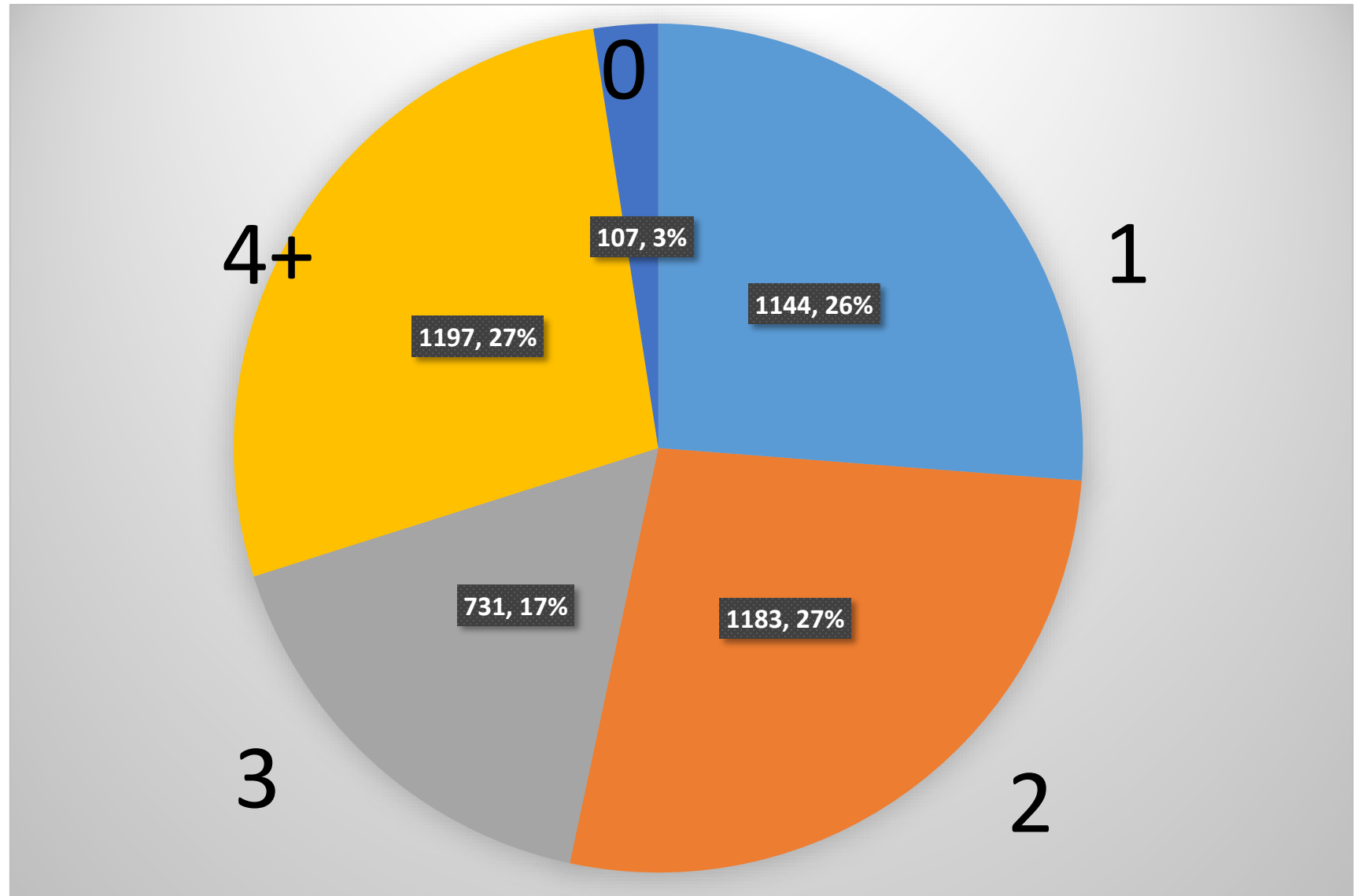
Initial Placement FY 23-24



parent/guardian relative foster home group home hospital emergency shelter court approved DJJ runaway other missing data

Number of Placements in 1st Year

How Does Your Judicial District Compare?



KIDS



KIDS: Questions for you

How do you minimize changes in placement?

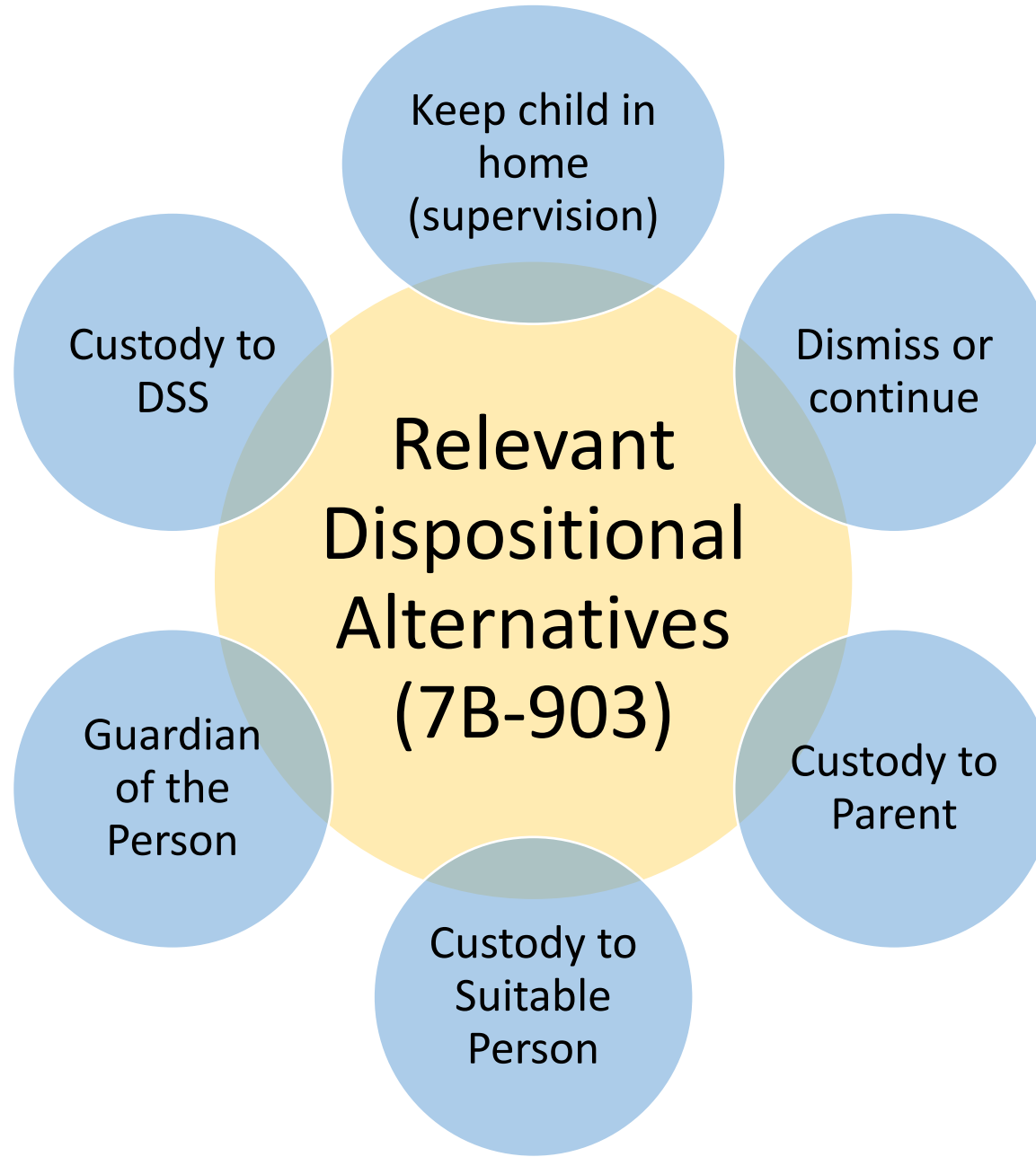
How do you minimize disruption for child?

Are there specific factors you should be considering under the Juvenile Code? Other laws?

ESSA

Tomorrow

Who Has Priority for Placement?



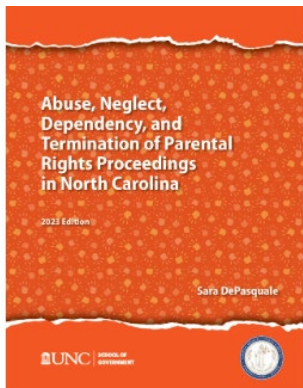
Parent

Relative

Nonrelative
Kin

Other

P. 7-24



** If Indian child, ICWA preferences apply

Parent

Nonremoval

- What is the basis for not awarding custody?
- In re S.J.T.H., 258 N.C. App. 277 (2018)

Removal



- Return physical custody
 - If in DSS custody, must have hearing w/ finding proper care and supervision in a safe home
 - Before DSS recommends return of physical custody, DSS observe 2 visits unless did so when recommending unsupervised visits
 - G.S. 7B-903.1(c)

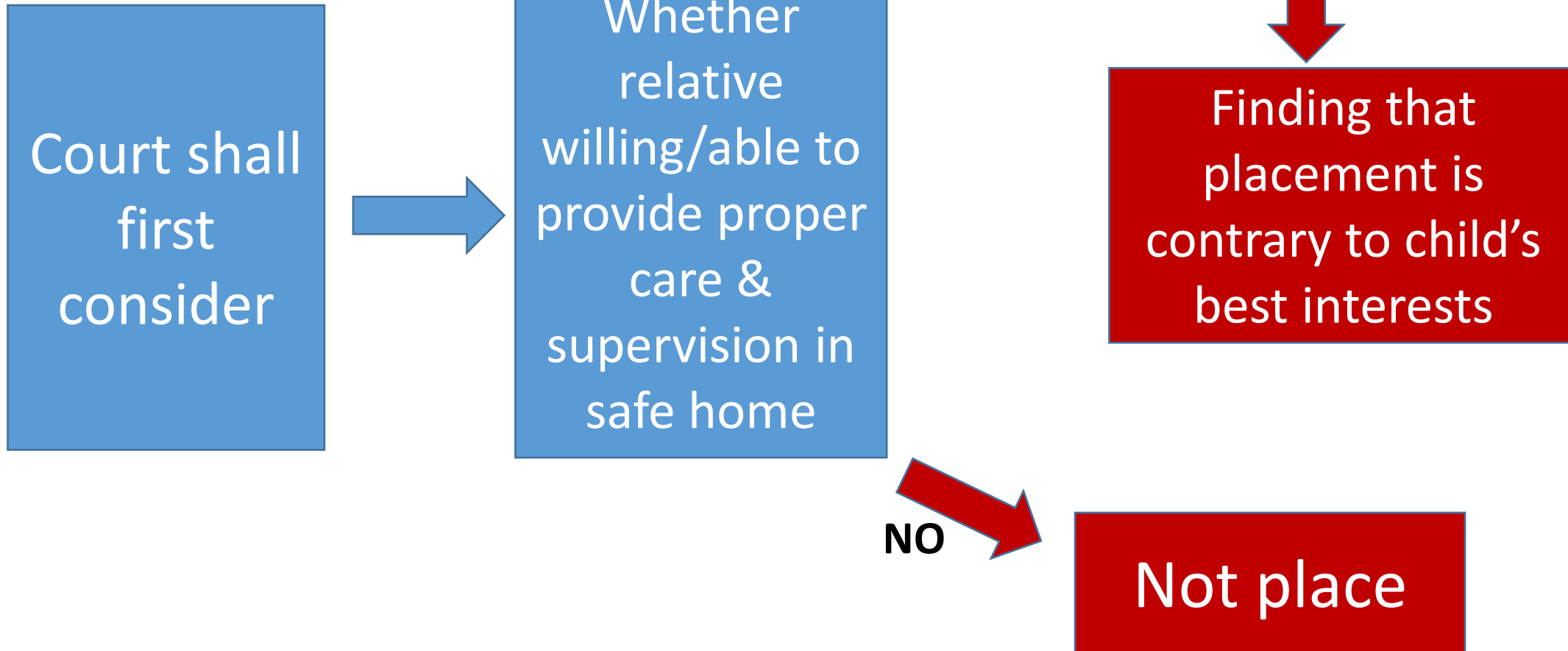
“Safe Home”

- What does it mean?
- G.S. 7B-101(19)
 - A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect

≠



Relative



KIDS

In re L.L.
386 N.C. 706 (2024)

Reversing the court of appeals and upholding the trial court's PPO. Trial court satisfied G.S. 7B-903(a1) by considering placement with grandfather and did not abuse its discretion by determining placement with foster parents to be in the child's best interest. This opinion holds that G.S. 7B-903(a1) does not require any written findings or a specific sequence of findings.

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

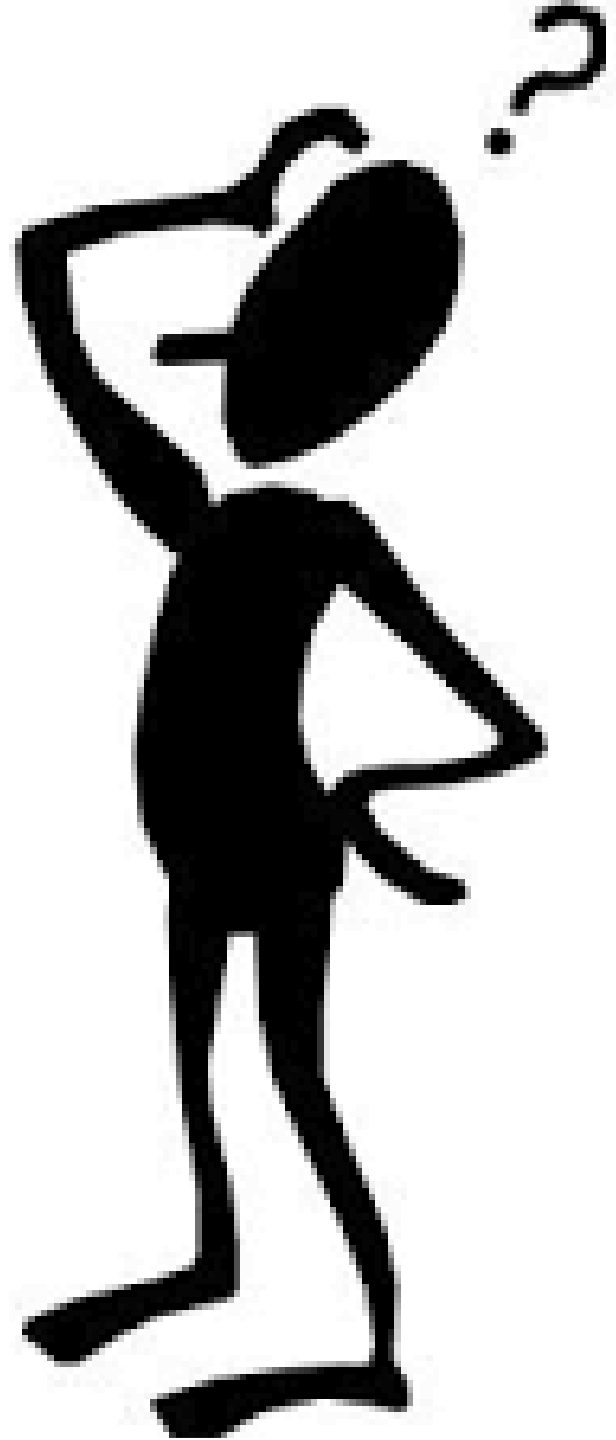


This entry was contributed by Sara DePasquale on January 21, 2025 at 7:38 am and is filed under Child Welfare Law.

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.

Who is a relative

No Priority Between
Relatives



Nonrelative Kin

- Who is that?
 - G.S. 7B-101(15a)
- Is consideration of nonrelative kin mandatory?

What About Siblings?

Director shall make reasonable efforts to place together

- Unless document contrary to safety or well-being of any of the siblings

If unable, reasonable efforts to provide frequent sibling visitation and ongoing interaction

- Unless document contrary to safety or well-being of any of the siblings

Non-parents: 3 of the Dispositional Options

Custody to
relative, suitable
person, private
agency

Guardianship
(7B-600)

DSS custody

DSS
custody
S.L. 2025-16

Court order for facility that is
unlicensed or not licensed for
juveniles

G.S. 7B-906.2(b1): DSS move for
hearing before move child when
criteria met; caretaker gets to act as
party

7B-600
Guardianship

```
graph TD; A[7B-600 Guardianship] --> B[Before permanent plan]; A --> C[As permanent plan]; B --> D[Terminate on BIC finding]; C --> E["Terminate under 7B-600(b)(i)-(v*) criteria"]
```

The diagram is a flowchart illustrating the termination criteria for 7B-600 Guardianship. It starts with a blue box at the top labeled '7B-600 Guardianship'. This box branches into two paths: a yellow box on the left labeled 'Before permanent plan' and an orange box on the right labeled 'As permanent plan'. The yellow box further branches into a yellow box labeled 'Terminate on BIC finding'. The orange box further branches into an orange box labeled 'Terminate under 7B-600(b)(i)-(v*) criteria'.

Before
permanent plan

Terminate on
BIC finding

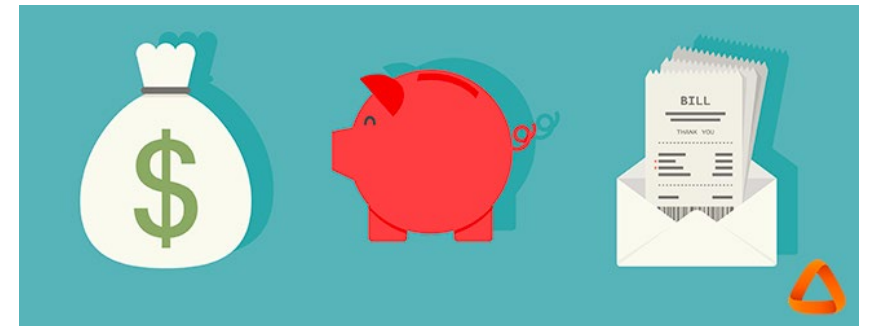
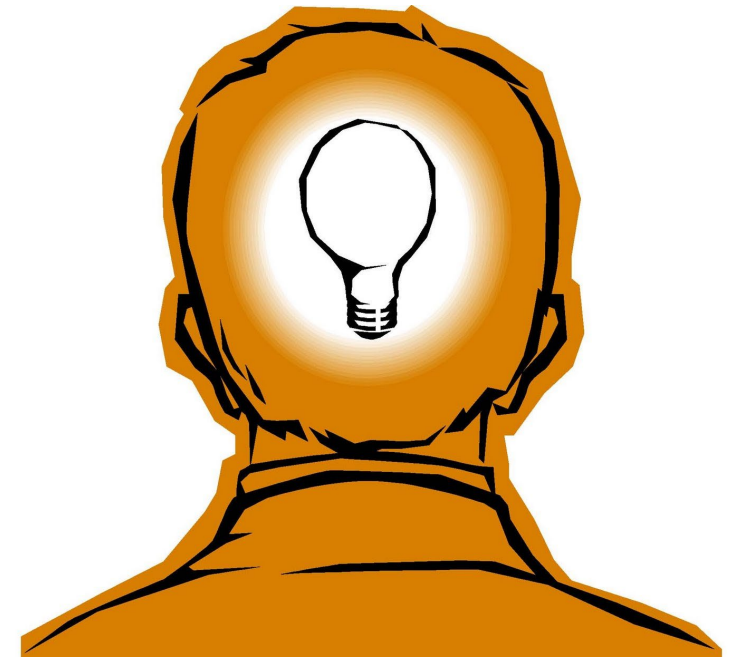
As permanent
plan

Terminate under
7B-600(b)(i)-(v*)
criteria

Guardianship or Custody to Non-Parent Findings

- Verification
 - Understands Legal Significance

- Has Adequate Resources



What if you do not verify both prongs for all possible custodians/guardians?

Case Name & Citation	Case Description
<u>In re J.D.M.-J.</u> ___ N.C. App. ___ (June 19, 2018)	Evidence was insufficient to support the court's findings verifying the custodians had adequate resources to appropriately care for the children and understood the legal significance of the placement as required by G.S. 7B-906.1(j). Read More
<u>In re K.B.</u> ___ N.C. App. ___, 791 S.E.2d 669 (2016)	The court must verify a proposed guardian has adequate resources to care for the child. Without evidence of monthly expenses and income, the evidence was not sufficient to support the court's finding that the proposed guardian had adequate resources to appropriately care for the child. Read More
<u>In re L.M.</u> 238 N.C. App. 345 (2014)	A parent's progress and/or a child's preference (that he or she be returned to his or her parent) is not conclusive on a court's best interests determination. When ordering guardianship, the court must verify the proposed guardian understands the legal significance of the guardianship and accepts the responsibility. Read More

Findings required re: parent's



What statute requires
these findings?

Before BIC



When Are These Findings Required?

Non-Parent

- Custody
- Guardianship

Timing

- Permanent order (PPH)
- BUT, initial, nonremoval parent
 - In re S.J.T.H.

Waivable?

YES

What is Unfit?



Parental Unfitness

Owenby v. Young , 357 N.C. 142 (2003).

“[A] natural parent has forfeited his or her constitutionally protected status [upon a] finding of any one of the [TPR] grounds in N.C.G.S. §7B-1111.”

In re Nesbitt, 147 N.C. App. 349 (2001).

”[E]ven if it were shown, ...that a particular couple desirous of adopting a child would best provide for the child’s welfare, the child would nonetheless not be removed from the custody of its parents so long as they were providing for the child adequately.”

Adjudication of abuse, neglect, or dependency

- Is that sufficient to show unfitness or neglect?

What is acting inconsistently with parental rights?



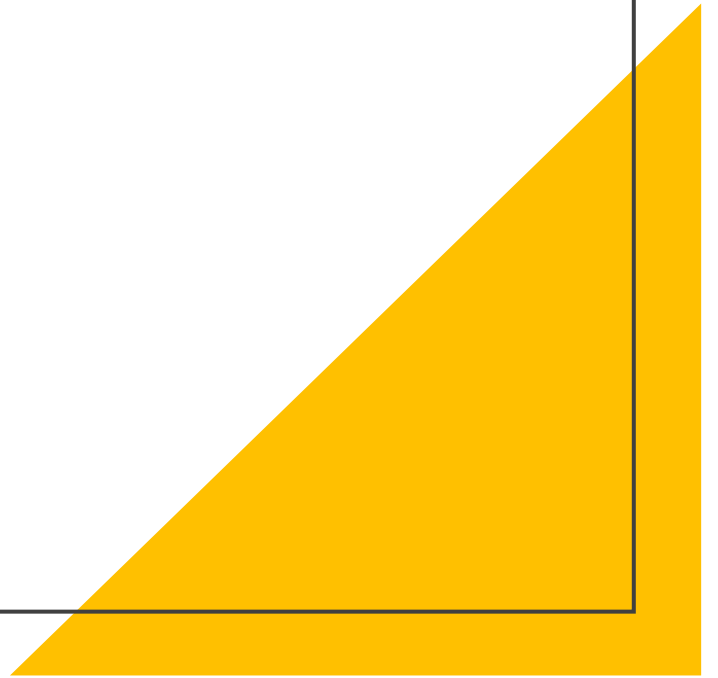
Conduct and Intent
Viewed Cumulatively

Example

In re B.R.W., 381 N.C. 61 (2022)

Affirmed PPO of guardianship to grandmother.

What did it say?

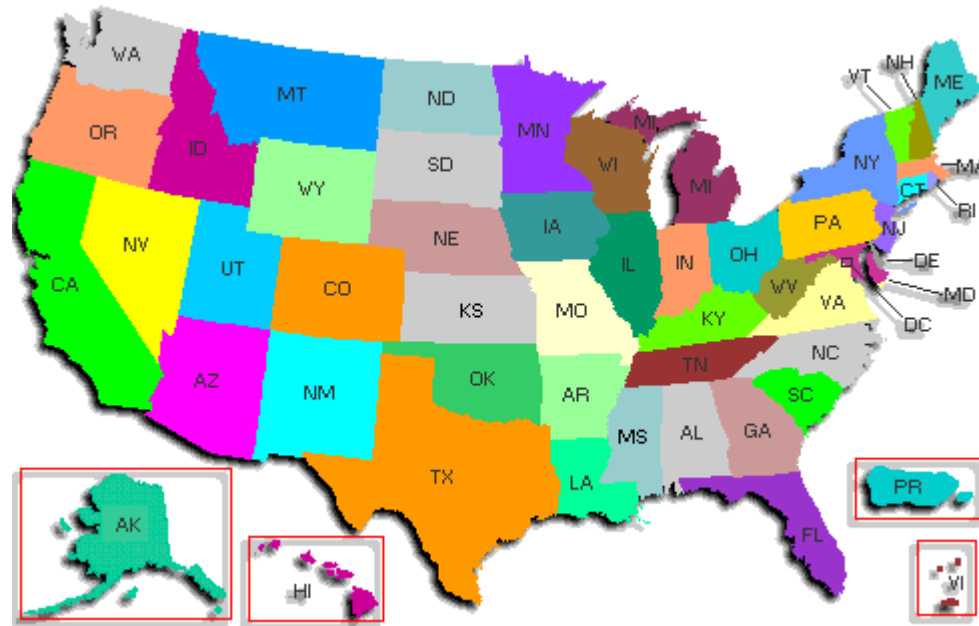


KIDS: What are your thoughts re: unwed father

- If he does not know about child's birth?
- If he knows but takes minimal or no action to take responsibility?
- If he believes he is the father and contacts DSS after case has been initiated?

ICPC, G.S.7B-3800

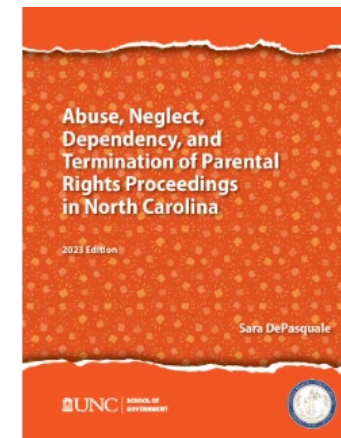
AAICPC Regulations





When Does It Apply?

- Out-of-State Placement
 - Foster Home
 - Preliminary to possible adoption
 - Residential Placement
 - Institutional Care of Delinquent Children



Regulation 3: Parent Placement

- Definition of “foster care” includes 45 CFR 1355.20
AND
 - “if 24-hour-a-day care is provided by the child’s parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship)”
- Non-removal parent
 - Court has no evidence parent unfit
 - Court not seek evidence of fitness
 - Court immediately relinquish jurisdiction upon placement

Open Question in NC

- G.S. 7B-3800 Article II(d): Placement

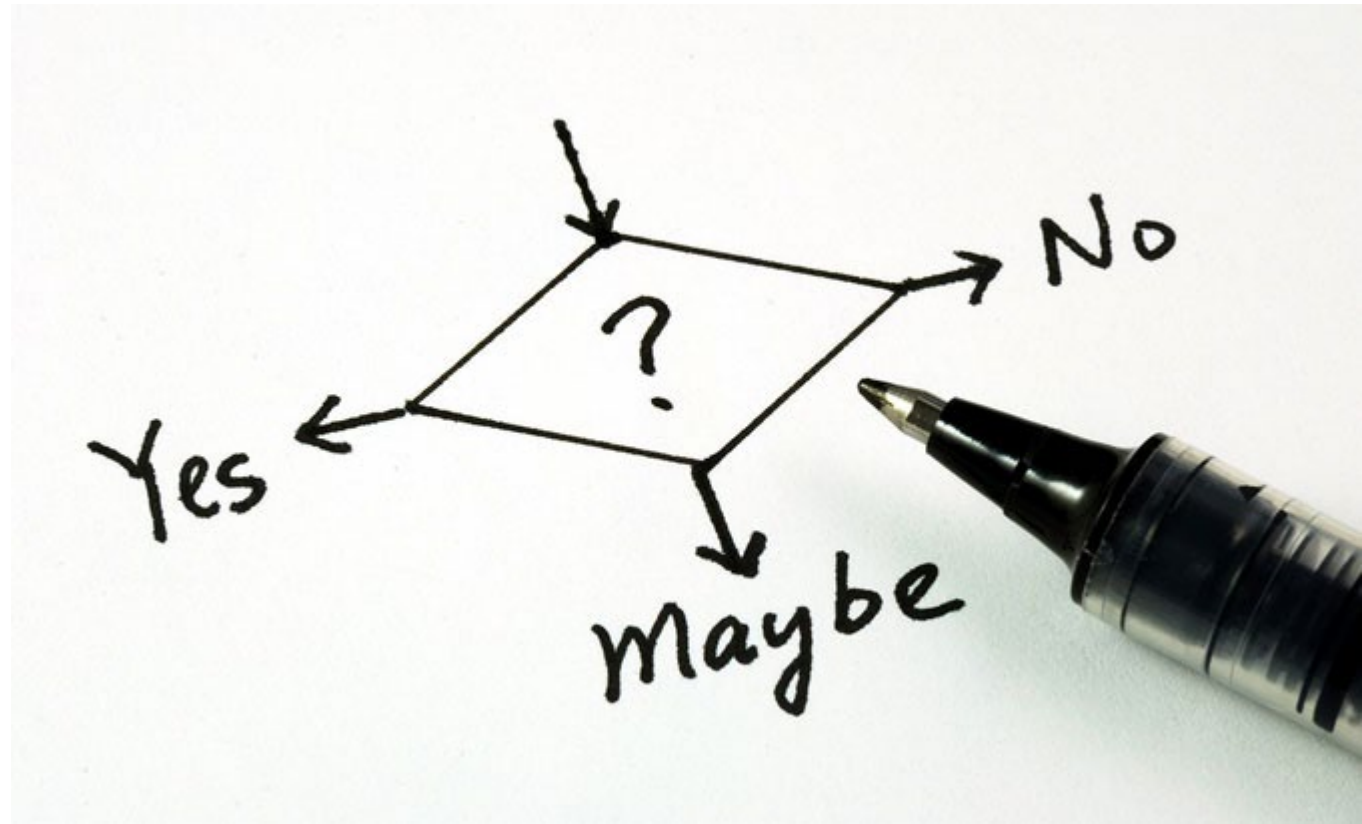
vs.

Regulation No. 3

- What about parent's constitutional rights?
- Can request a courtesy check

Guardianship & Custody

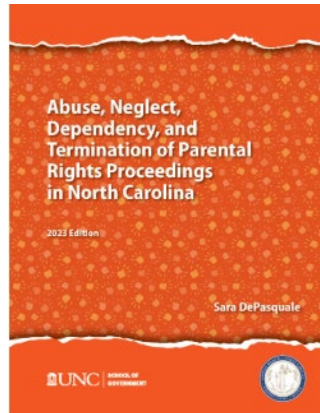
Inclusive of decision-making



G.S. 7B- 906.1(e)(2)

- Consider and if relevant make findings on
 - Legal guardianship/custody and
 - Rights & responsibilities that should remain with the parents
- If none specified in order, rights (except for visitation) are lost
 - *In re M.B.*, 253 N.C. App. 437 (2017)

KIDS



Chapter 7

NC DHHS Division of Social Services Child Welfare Manual “Permanency Planning”

On the Civil Side

A UNC School of Government Blog



Child Welfare Case Compendium

Keep KIDS in Mind



Benchmark