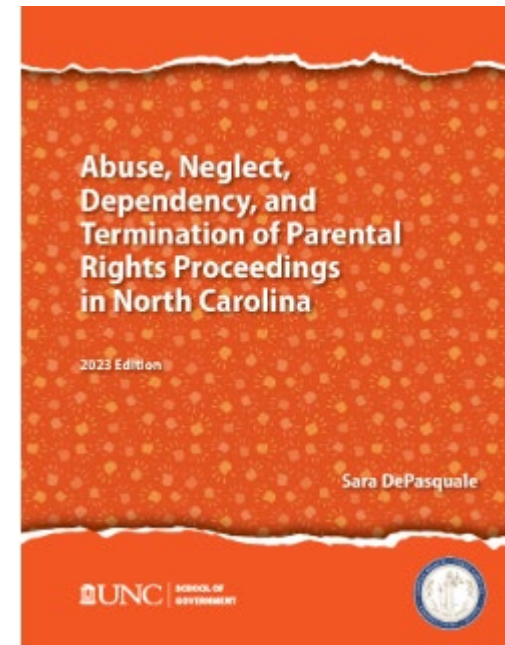
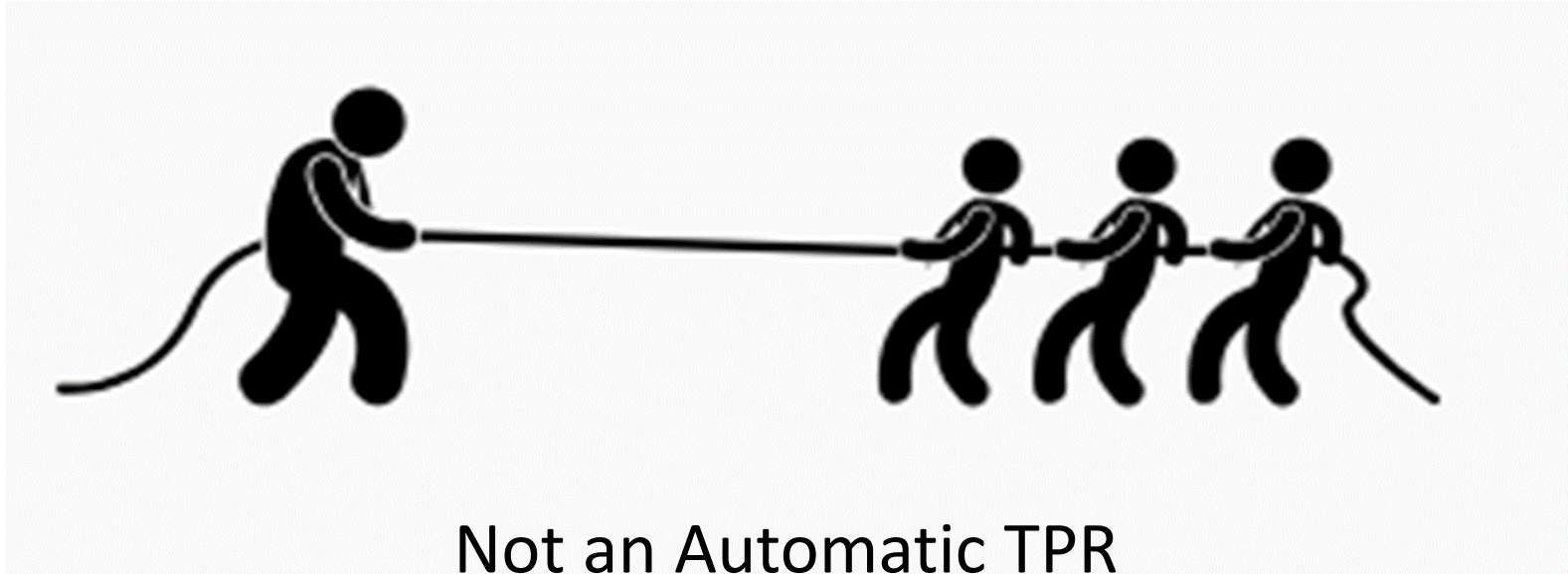


TPR: The Disposition



Chapter 9.12

Ground(s) found



Adjudication

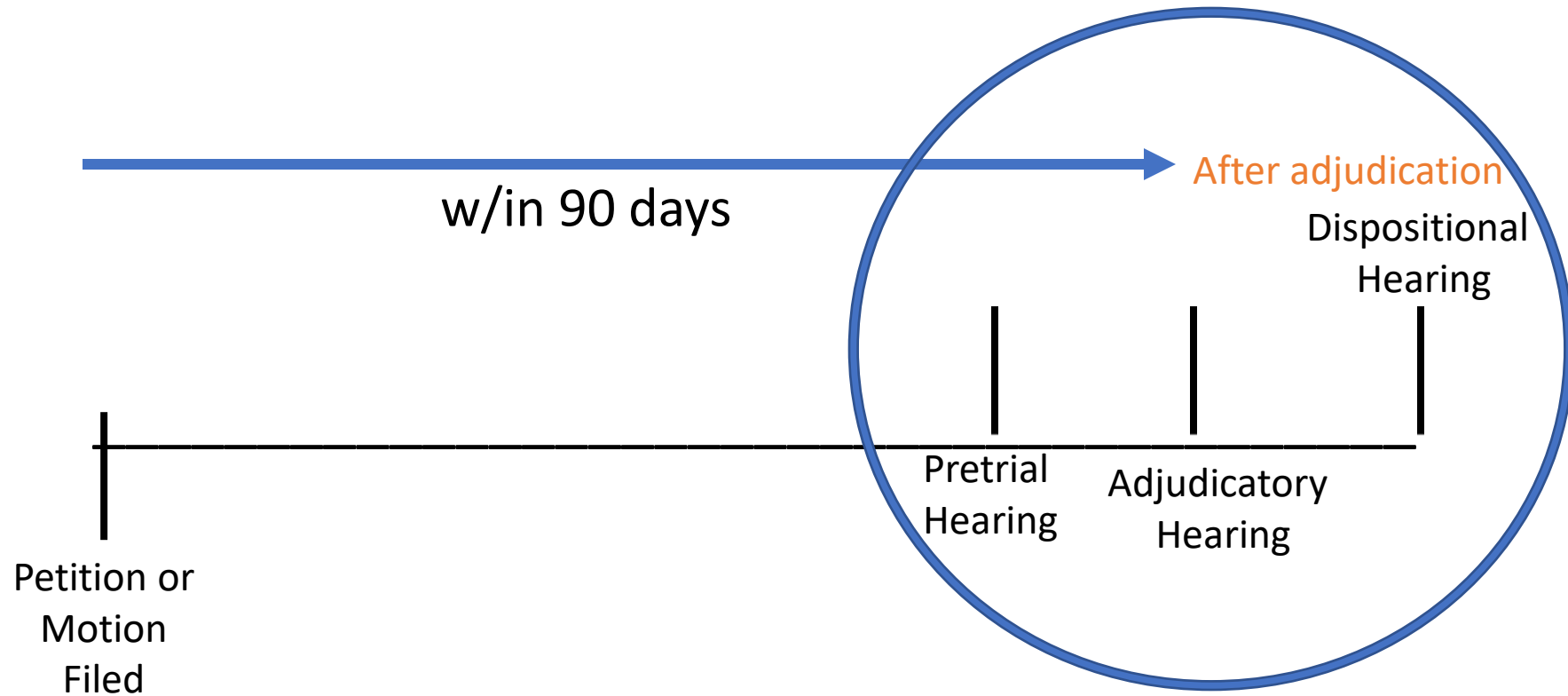


Disposition

Disposition
= Child's
Best
Interests

- Focus of this session
 - Review
 - procedure
 - best interests factors
- KIDS: What do you consider?

Timing



Dispositional Hearing

Relevant

```
graph TD; A[Relevant] --> B[Reliable]; B --> C[Necessary to determine best interests];
```

Reliable

Necessary to determine best interests

**BURDEN OF
PROOF**



G.S. 7B- 1110 Six Factors

1. Age
2. Likelihood of adoption
3. Will TPR aid in accomplishing permanent plan
4. Bond between juvenile & parent
5. Quality of relationship between juvenile & proposed placement provider
6. Any relevant consideration



The TPR Dispositional Stage, the Juvenile's Best Interests, and the N.C. Supreme Court

This entry was contributed by Sara DePasquale on May 7, 2021 at 7:11 am and is filed under Child Welfare Law.



Since January 1, 2019, termination of parental rights (TPR) orders are appealed directly to the North Carolina Supreme Court. In August 2019, the Supreme Court published its first appellate opinions under this new TPR appellate procedure. Between August 2019 and today, the Supreme Court has decided 134 TPR opinions, all of which are published. Each of those published opinions from our state's highest court established or reinforced a precedent. Perhaps because of that, new and old arguments have been raised before the Supreme Court in those TPR appeals. This post focuses on what the Supreme Court has held when addressing the dispositional stage of the TPR.

For context, a TPR consists of two stages. *In re Montgomery*, 311, N.C. 101 (1984); *In re A.U.D.*, 373 N.C. 3 (2019). The first stage is the adjudication where the alleged ground(s) must be proved by clear, cogent and convincing evidence. G.S. 7B-1109(f); -1111(b). If the petitioner meets their burden, the court proceeds to the second stage – the dispositional stage. G.S. 7B-1110(a). At disposition, the court has discretion to not terminate the parent's rights despite the existence of a ground based on the court's determination of whether the TPR is in the child's best interests. G.S. 7B-1110(a), (b). The determination of best interests must be based on the individual circumstances related to each child. *In re J.J.H.*, 376 N.C. 161 (2020).

What is a relevant factor?

- When there is conflicting evidence about that factor
- Best practice: address them all

Relevant Findings

- Will TPR aid in accomplishing permanent plan

Relevant Findings



- Likelihood of adoption
- Quality of relationship between child & proposed adoptive placement
 - Lack of adoptive placement is not a bar

Relevant Findings

- Likelihood of adoption
 - Additional Considerations
 - If child 12, consent to adoption required
 - Standing to file petition – placement by consent/relinquishment
 - Both can be waived, BUT should not be in TPR



A Minor's Consent to Adoption: Where and in What Proceeding Is It Waived?

This entry was contributed by Sara DePasquale on March 5, 2021 at 4:55 pm and is filed under Adoptions.



North Carolina adoption laws are codified in G.S. Chapter 48. I find it to be one of the more difficult Chapters to navigate because it consists of interrelated Articles and Parts. As you get familiar with the Chapter, the procedures and requirements become less challenging to piece together. It is imperative to know these procedures because "the law governing adoptions in North Carolina is wholly statutory." Boseman v. Jarrell, 364 N.C. 537, 542 (2010).

Under North Carolina adoption laws, before an adoption of an unemancipated minor may be granted, certain consents must be obtained. See G.S. 48-3-601 through -603. One required consent is from the minor adoptee if they are 12 years old or older. G.S. 48-3-601(1). However, that minor's consent may be waived when the court issues an order based upon a finding that it is not in the minor's best interests to require their consent. G.S. 48-3-603(b)(2).

What court has jurisdiction to enter the order waiving the minor adoptee's consent?

Relevant Finding

- Bond between juvenile & parent

Relevant Finding

- Any relevant consideration

Other Factors: Not Determinative

Availability of Relative

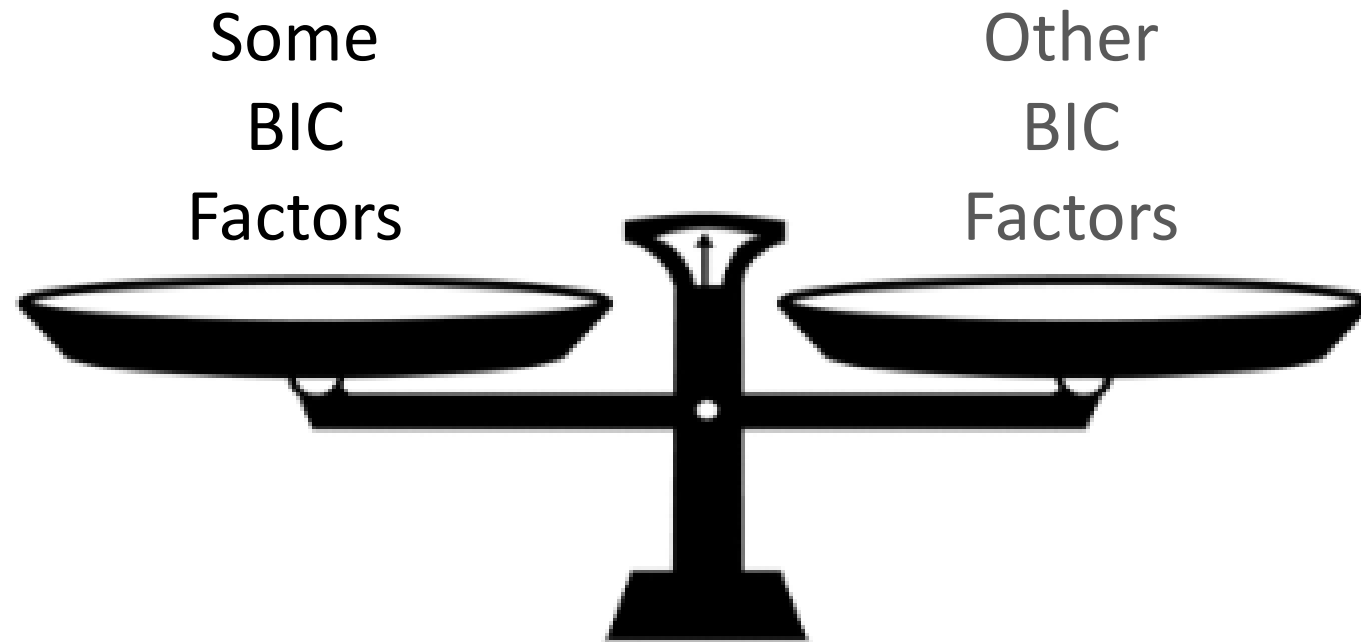
Child's Preference

Parent's Progress on Case Plan

Court Is Not Required to

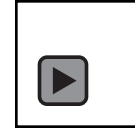
- Make finding on all evidence presented
- State every option it considered

Discretion/Abuse of Discretion



Rendering your judgment

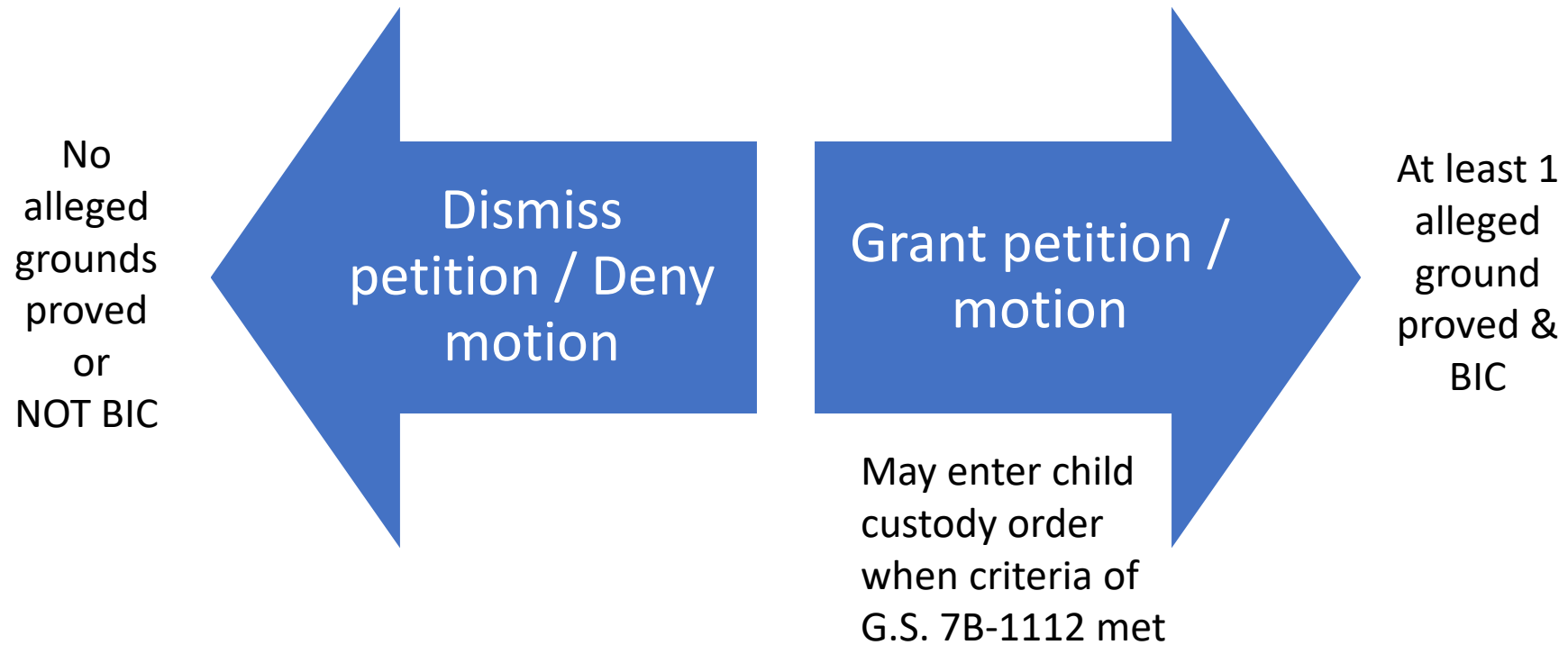
- Things to consider



Tips on
handling
difficult
courtroom
situations?



Order either



If child 12+

- Copy served directly on child



Effect of Order

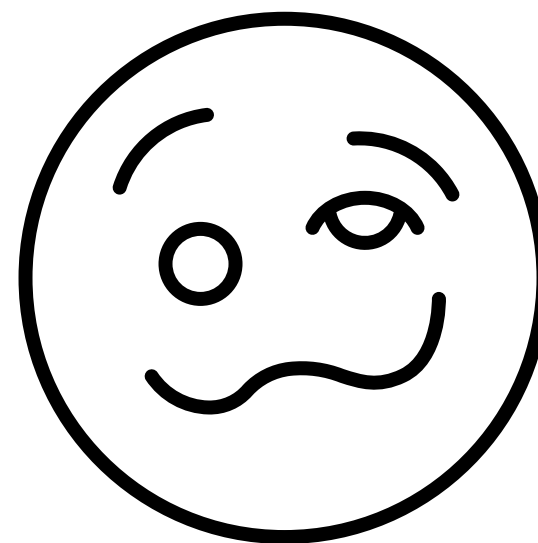
G.S.
7B-1112

- Completely & permanently severs relationship except
 - Child entitled to inherit (until adopted)
 - Child support arrears

Collateral legal consequences for parent

Appeals

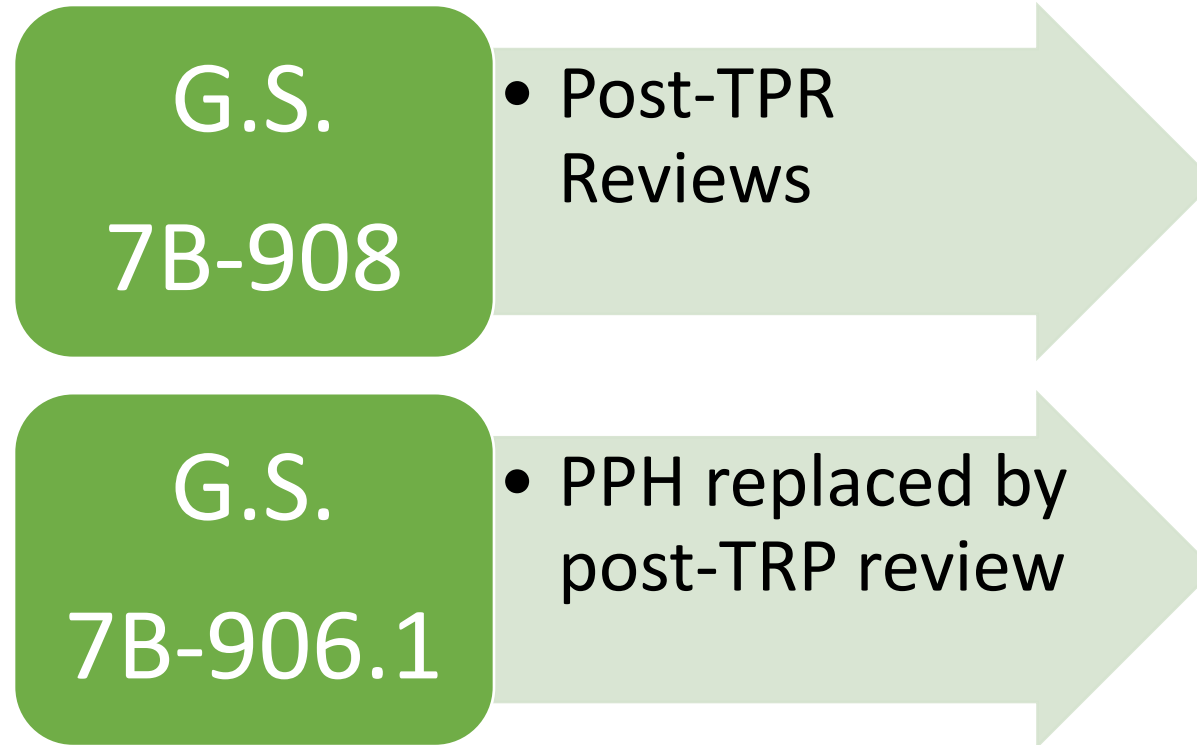
- After disposition order
- The order is not automatically stayed
- Appeal of cease and TPR
 - *cure deficient findings in cease



TPR is granted

Where are you in the A/N/D case?

Hearings Continue in A/N/D



Is child in DSS
(agency) custody

YES →

Post TPR Review
Hearing

NO ↓

No Post-TPR Review
Hearing

PURPOSE:

Ensure reasonable
efforts to provide for
permanent plans for the
child, consistent with
BIC, is being made

Post-TPR Reviews

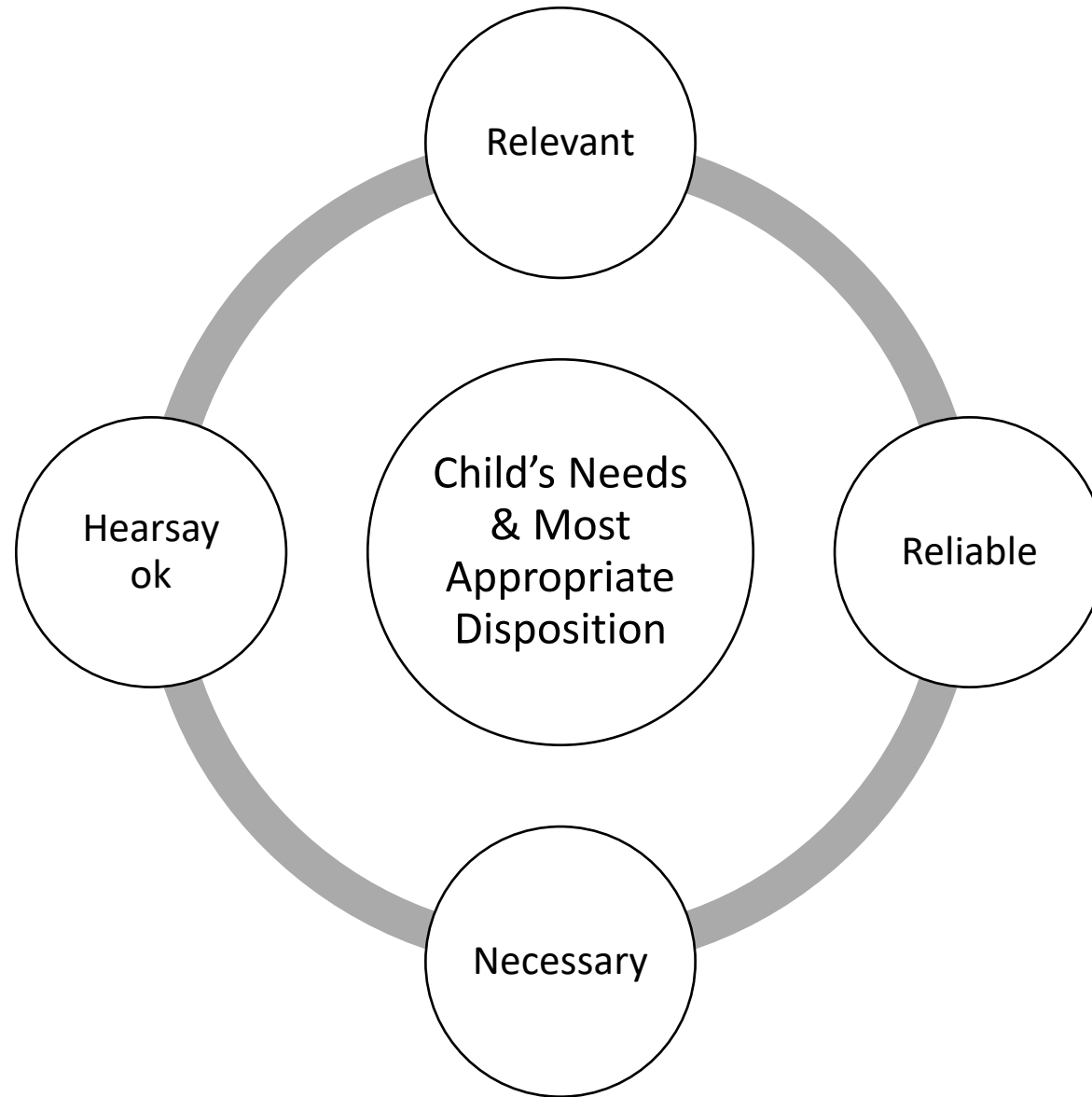
- W/in 6 months of TPR hearing initiated by
 - Guardian
 - DSS (or agency) w/ custody thru court order or relinquishment
 - Any person child resided continuously w/ for 2 years preceding petition/motion
 - Child's GAL
- Who's Missing?
 - Parent
 - Adoption Petitioner

Notice to & participation at hearing

Limited to

- Child (notice: 12+ y.o.)
 - Legal custodian or guardian
 - Person caring for child
 - GAL(if any); Court may appoint GAL at 1st hearing
 - Other specified person by agency/court
-
- Parent only if appeal of TPR w/ stay

Evidence



Order

- Findings:
 - Adequacy of plans by DSS & efforts made for permanent placement
 - Whether child listed on or exempt from recruitment programs
 - Efforts previously made by DSS to find permanent home
 - Whether current placement BIC
- Decretal
 - Must affirm DSS plan or order different plan
 - May order concurrent plans and specify efforts to accomplish a permanent plan
 - If not placed with prospective adoptive parents, may order placement that is BIC after considering DSS recs

Timing of hearings

- W/in every 6 months until adopted
- When adopted, DSS file notice with court w/in 10 days (not send adoption decree)

Keep KIDS in mind

