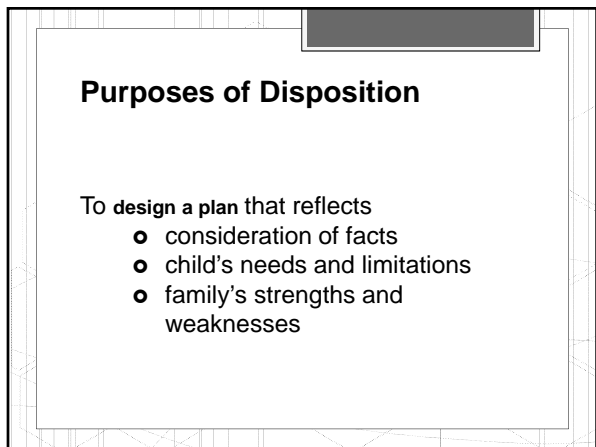


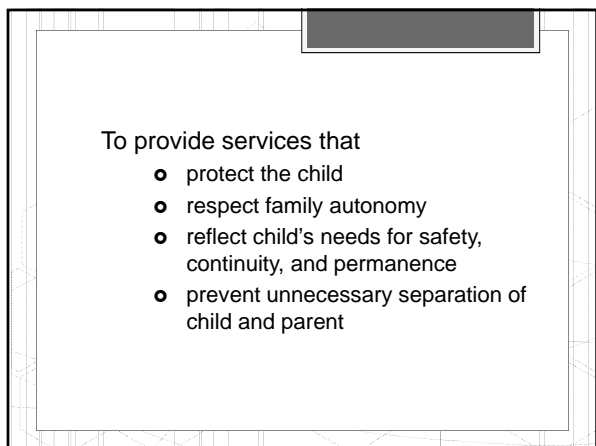
Disposition
Hearing
and
Options



Purposes of Disposition

To design a plan that reflects

- consideration of facts
- child's needs and limitations
- family's strengths and weaknesses



To provide services that

- protect the child
- respect family autonomy
- reflect child's needs for safety, continuity, and permanence
- prevent unnecessary separation of child and parent

If possible,

- keep child at home
- And use appropriate community resources for care, supervision, and treatment
- to strengthen home situation

Best interests are paramount

What are the best interest factors?

No hard and fast rule

Purpose
Sections of
Statutes &
Case Law

Disposition hearing, -901

- o immediately following adjudicatory hearing
- o must conclude within 30 days after adjudicatory hearing
- o may be informal

Who has the burden of proof

What is the burden of proof?

0% 50% 100%

Propriety
Clear and Convincing Evidence
Beyond a Reasonable Doubt

Best Interests of the Child

Rules of Evidence are Relaxed

Evidence

- Pre-disposition report by DSS
 - “sufficient social, medical, psychiatric, psychological, and educational information”
 - Results of G.S. 7B-503 evaluation
 - Placement plan
 - Treatment plan

Who Participates?


- parties have right to present evidence, be heard, and present evidence

Others??

- May consider evidence or testimony from any person who is not a party
 - > if relevant, reliable, & necessary
 - > to determine child's needs and most appropriate disposition
 - > Who can that be? Do they become a party?

Court shall inquire... (-901)

- Identity/location of any missing parent
- Paternity
- Identify and notify relatives as potential resource (placement or support)



Dispositional Options

At disposition (or any review) the court may:

- Dismiss
- Continue the case to allow parent to take appropriate action

If child needs more adequate care or supervision

- Leave child in the home with DSS or other supervision, subject to conditions
- Place in custody or parent, relative, other suitable person
- Place child in DSS custody
- Appoint a guardian for the child

Order an examination to determine the child's needs, then

- order needed treatment, surgery, or care if the parents cannot or will not provide
- order the parent to pay the cost, if able; otherwise, may order county

Evidence of child with mental illness or developmental disability

Refer to LME for "appropriate action"

- interdisciplinary evaluation
- mobilization of resources

May not commit the child to a state hospital or development disabilities center


Before Order Return to Home Removed From

- If physical abuse
- Responsible individual history of violent behavior
- Must consider opinion of MH professional who performed -503(b) eval.

Nonremoval parent

- What do you do?
- Constitutional Rights?
- Is the parent out of state?
- Does the ICPC apply if so?
- Other issues?

ICPC, G.S.7B-3800
AAICPC Regulations



A map of the United States with state abbreviations. The map includes insets for Alaska and Hawaii. The map is shaded in a light gray color.

Who Does it Apply to?

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

In re Rholetter, 162 N.C. App. 653
(2004)

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

Can You Reconcile the Two?

- G.S. 7B-3800 Article II(d): Placement vs. Regulation No. 3
- What about parent's constitutional rights?
- In re Emoni W., 305 Conn. 723 (2012)
- Can request a courtesy check
- Expedited home evaluation request

Expedited home study: Reg No. 7

- Placement with parent/step/grand; sibling, aunt/uncle, non-agency guardian
- Criteria
 - Unexpected dependency – sudden or recent death, incarceration, or incapacitation of parent
 - Child = 4 or younger (includes older siblings)
 - Any child in sibling group has substantial relationship
 - Child currently in emergency placement

Relative

- Before ordering out-of-home placement: consider whether a relative is willing and able to provide proper care and supervision in a safe home.
- If such a relative is available: order placement with the relative unless you find that the placement would be contrary to the child's best interests.
- Placement of a juvenile outside of the state must comply with the ICPC.

Court must verify

- Understands legal significance
- Will have adequate resources to appropriately care for juvenile
 - Applies to guardians

Visits – Regulation No. 9
Social or cultural experience of short duration
Need express "terminal date"

1 day 30 days 30+ days: school vacation period

Request for home study: rebuttable presumption intent is proposed placement

Guardian, -600

- "best interests"
- "care, custody, and control of juvenile"
- May consent...
- Continues until terminated, emancipated, or 18

Terminating a Guardianship

- No longer BIC
- Guardian unfit or neglected duties or unwilling/unable
- Order jurisdiction terminated

Does ICPC apply to Guardianships?

- *In re J.E.*, 182 N.C. App. 612 (2007)
- not apply to PPO of guardianship to grandparents in VA
- (relied on Rholetter reasoning)

Nonplacement Issues, -904

- > to participate in the child's treatment
- > to undergo treatment or counseling
- > to pay the cost of treatment or care
- > to attend parental responsibility classes if available
- > to take the child to appointments
- > to take steps to remedy conditions that led to the adjudication or the child's removal

Pay reasonable sum of support if find ability to do so

Disposition (& Review) Orders

1. must be based on evidence in the record
2. must include sufficient findings and conclusions
3. must include precise terms of the disposition:
 - kind,
 - duration,
 - person responsible for carrying it out, and
 - person or agency with custody

4. if the child is removed from the home

- a. address visitation
- b. do not delegate visitation decisions
- c. address possible relative placements
- d. address authority to consent to treatment
- e. schedule a review hearing unless reviews are properly waived

-507(a) required findings

5. If child is placed or continued in DSS custody:

- a. find that child's return home would be contrary to the child's best interest
- b. make findings about reasonable efforts
- c. make clear what is expected re: future efforts – specify plan or concurrent plans
- d. state that placement and care are DSS's responsibility
[May order specific placement after considering DSS's recommendations]

6. must be signed and filed within 30 days

Noncompliance

Now, it can be appealed

Standard of Review

Question of Law:
1. de novo review

Adjudication:
1. Are findings supported by clear, cogent, and convincing evidence?
2. Do the findings support the conclusions?

Disposition:
1. Did the court abuse its discretion?
2. Did the court act within its authority?
3. Did the court make sufficient findings about relevant best interest factors?
