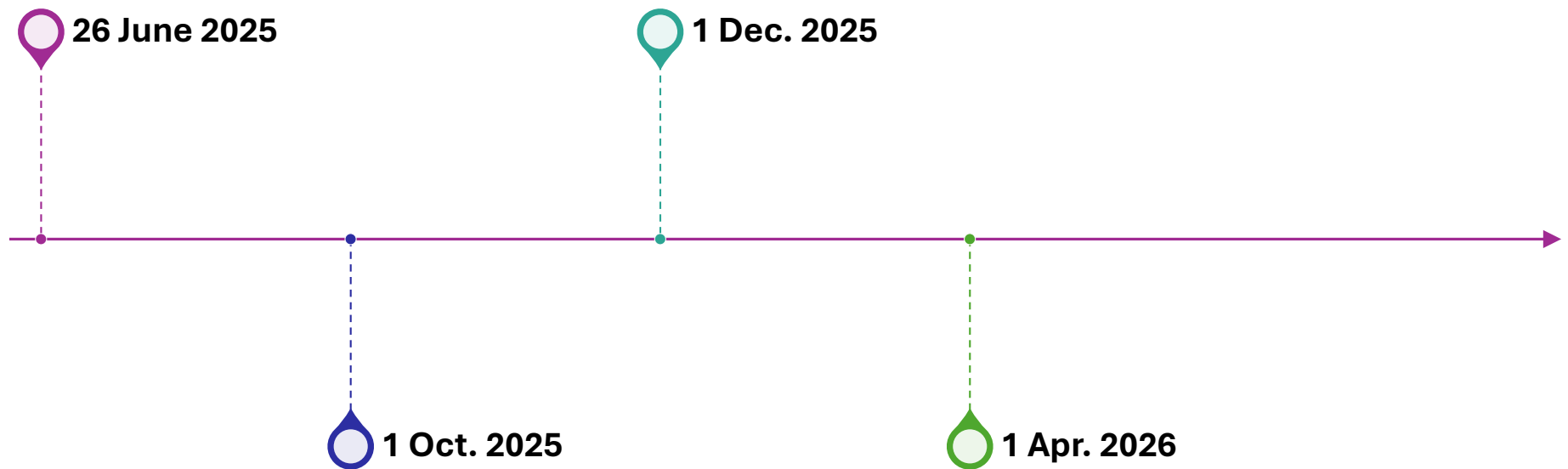


Legislative & OPD Update

Annick Lenoir-Peek, Parent Defender

Jacky Brammer, Assistant Parent Defender

HB612





Effective June 26,
2025



Jurisdiction
Retention
and
Termination

Unsupervised Visitation and Return of Custody



Jacky's Tips for Attorneys

- Applies specifically to DSS observations/recommendations and documentation about it
- BIOC vs safe home
- Doesn't apply to non-removal parent
 - "the parent" "from whom the juvenile was removed"
- Things statute DOESN'T restrict
 - Visits can seemingly be at any location
 - Visits don't have to be as structured as "supervised"
 - Asking DSS/court for placement instead of custody
 - Asking Court for custody/unsupervised visits outright





Dispositional
Alternatives-
Placement
of a Juvenile
in DSS
Custody



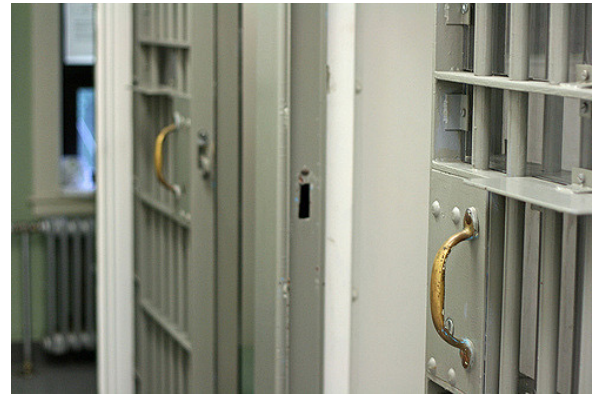
Jacky's Tips for Attorneys

- Old rule – child in nonsecure can be put into custody of “a person designated in order”
- New rule – now expressly includes nonremoval parent as nonsecure custody option
- Only “temporary custody” can be awarded prior to adjudication - *In re O.S.*, 175 N.C. App. 745, 749 (2006)
- Bring in constitutional rights at disposition



Emergency Motions Under G.S. 7B-903.2

Child Support and Authority Over Parent, Guardian, Custodian, and Caretaker



Jacky's Tips for Attorneys



- Old rule – court had JD to order parent [to do stuff] served w/ summons
- New rule – court has JD to order parent [to do stuff] that court has PJ over – seemingly parent has to have appeared and/or confirmed counsel who appeared
- Old rule – court could order parent, “if able,” to pay child support
- New rule – court must find ordering parent to pay is BI
 - Factors – parent’s economic situation – *Dunn v. Covington*, *In re Nesbitt* – cost of housing, classes, drug screens, transportation especially if in response to case plan
 - Go-by Motion on our website
- Seems to have no bearing on DSS’ ability to pursue child support outside of 7B court or another judge to order it
 - Motion to stay in that proceeding – one district court judge can’t overrule another
 - Get it in the order that it’s not BI and parent can present to CSE

Reinstatement of Parental Rights



Jacky's Tips for Attorneys

Discovery

7B-1114(a)

No right to counsel



Two More to Be Aware Of:

- DSS oversight by DHHS
- KinGAP v. GAP
 - Removed from their home
 - At least six months with licensed prospective relative guardian
 - No reunification or adoption
 - Child at least 10 years old
 - Child in DSS custody at time of guardianship
 - 14 and older need to be consulted
 - May continue through Foster Care 18-21 (if ordered at 16 or 17)





Jacky's Tips for Attorneys

- 108A-74(a5) – Christal's Law
- NCDHHS can investigate county DSSs and have access to records in response to complaints
- Child Welfare Services Constituent Concerns Office
 - 919.527.6340
 - DSSwebRequestsChildwelfare@dhhs.nc.gov
- 7B-302.1
 - Old rule – none other than NCAC – not SMJ
 - New rule –
 - conflict when AND report involves employee or relative
 - Foster parent
 - County manager or commissioner
 - Minor parent in DSS custody has child
 - Juvenile already in DSS custody
 - Catchall up to DSS director
- Referral to another county
- File complaints
- Also pre-adjudication change of venue and substitute of parties
- Anecdotally could lead to loss of visitation OR more tight compliance
- KinGAP relation to guardian financial verification?



Child Support



Effective October 1,
2025

Conflicts of Interest



Parties





Jacky's Attorney Tips

- Old rule – foster parents were parties
- New rules – foster parents CAN, not must be party through permissive intervention
- Oppose their intervention – as not “necessary to elicit full and accurate information pertaining to the welfare of the child” – foster parents can still be witnesses at disposition - *In re T.H.*, 232 N.C. App. 16 (2014)



Delegation; After Hours



Co-
Guardians

Rule 17
GALs

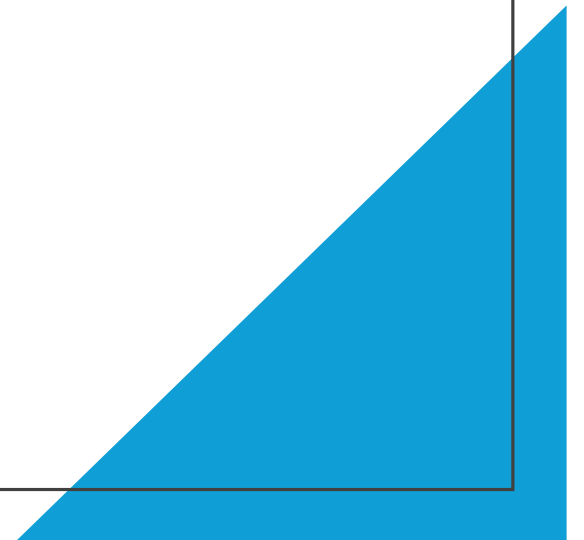




Jacky's Attorney Tips

- Applies to minor parents (R17 GAL), not minor children (regular GAL)
- Younger children can plead guilty, sign relinquishment
- Consider opposing motion for R17 GAL – calling minor parent as witness to explain themselves and show competency, etc.
 - *In re Q.B.*, 375 NC 826 (2020) – competency about ability to understand proceedings and aid attorney
 - *In re J.A.A.*, 175 NC App 66 (2005) – R17 GAL “divest the parent of their fundamental right to conduct his or her litigation according to their own judgment and inclination”
 - *In re A.S.Y.*, 208 NC App 530 (2010) – R17 GAL “represent to the fullest extent possible and to do all things necessary to secure a [favorable] judgment”

Post-Petition Agreements



Expungements

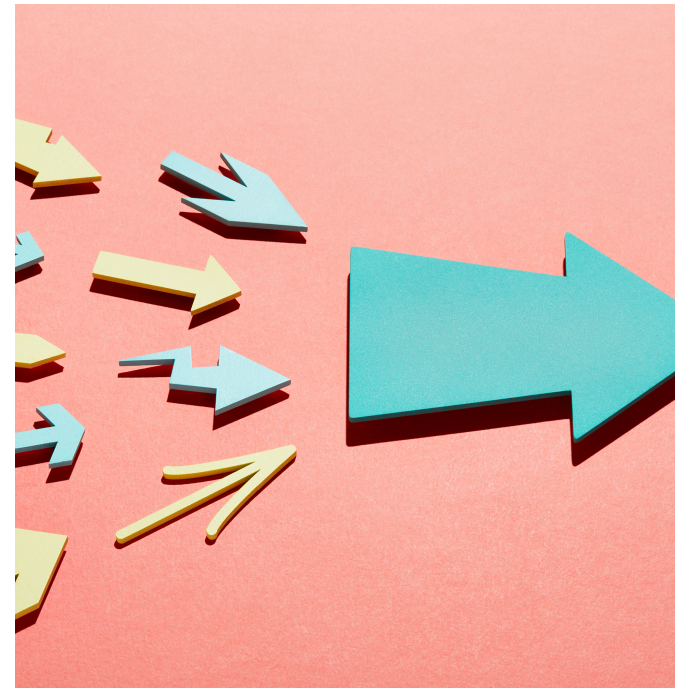


Permanency Planning



Jacky's Attorney Tips

- Differentiate between custodial and noncustodial parents
 - “a parent” vs “the parent” – depends on “removal”
 - Pre-petition – noncustodial >, post-adjudication – custodial >
 - Be wary of one-sided stipulations – *In re E.P.-L.M.*, 272 N.C. App. 585 (2020), *In re T.C.*, No. COA25-71 (2025)
- Old rule – court could order any dispositional alternatives including removing child from custodial parent – 7B-906.1(d1), (d2)
- New rule – court can only remove child from custodial parent if series of aggravating factors – abandonment, harm, risk of harm, etc. – similar to 901(c)
- Protect custodial parent's rights – “the parent” – and get DSS out of the case – 7B-911 order “shall” be entered and JD terminated if case plan progress and “safe home”





Effective December 1,
2025

Child Abuse





Effective April 1, 2026

DSS & DHHS

7B-101(14a): Legal counsel for the department. – An attorney representing the department in proceedings under this Subchapter, regardless of whether the attorney is a county attorney, department attorney, or contract attorney.

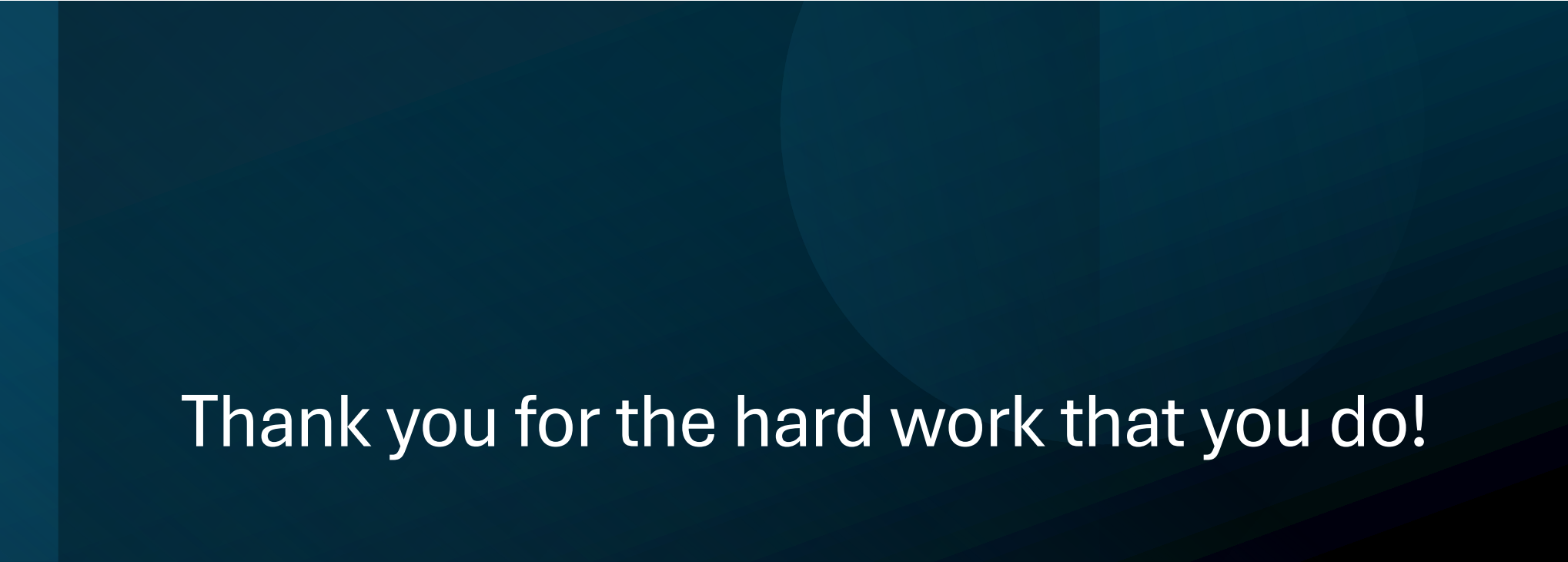
122C-252.2: DHHS is required to consult with hospitals, health plans, and DSS to have uniform roles and responsibilities for providing services to juveniles in DSS custody and at a hospital for mental health.

OPD Update

New attorney

New survey

How can we help?

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Thank you for the hard work that you do!

Annick Lenoir-Peek
Parent Defender