

Disposition, Review, and
Permanency Planning Hearings

- Overview
- Visitation
- Reasonable Efforts
- Waiving Review Hearings
- Converting to Chapter 50
- Terminating Jurisdiction

Overview

- What are these Review and PP hearings?

Evidence

- Relaxed Rules of Evidence
- No "burden;" BIC paramount

Review Hearings

90 days **6 months**

Permanency Planning Hearings

12 months

After initial order
removing custody

Or, w/in 30 days after cease reunification

NOTICE

906.1(d) Criteria for each hearing:

Waived

GAL
any other person/agency the court specifies

906.1(d) Criteria for each hearing

- Consider all, written findings on relevant
- Services offered to reunite with either parent
 - Reports on visitation
 - Whether reunification efforts would be futile or inconsistent with child's safety needs
 - when and if TPR should be considered

906.1(d)

- Reports on child's placements, goals of foster care plan, role of current foster parent

906.1(d)

- If child is 16 or 17, report on independent living assessment and if appropriate an independent living plan

-906.1(d)

- Any other criteria court deems necessary

Permanency Planning, -906.1(e)

Not placed with parent, consider all, written findings of relevant

- Possible to place w/ parent w/in 6 months
 - If not, why such placement not in BIC
- If not,
 - Guardianship or custody to suitable person and what rights/responsibilities remain w/ parents
 - Pursue Adoption? If so, any barriers?
 - Stay in current placement or not and why

-906.1(e)

- Since initial PP, whether DSS has made reasonable efforts to implement the plan
- Any other criteria court deems necessary

Consider # of moves

- Video, start at 1:18
- <https://www.youtube.com/watch?v=dn3lWob9u7I>

-906.1(l) refers to -507

Permanency Planning Order

- Specific findings as to best plan of care to achieve safe, permanent home for juvenile w/in a reasonable period of time
- why TPR is not required if child in DSS custody 12 months
- 30 days following completing of hearing

Visitation, -905.1

If custody or juvenile placed out of home

- “Provide for Appropriate visitation”
 - Best interests of juvenile
 - Consistent with health and safety

If custody or placement responsibility with DSS,
Order must contain minimum

- Frequency
- Length of visit
- Whether supervised

DSS Director Discretion

- Unless court orders otherwise,
 - Who supervises
 - Location
 - Change day/time if scheduling conflict, illness, or extraordinary circumstances
- May temporarily suspend if determined not in juvenile's health and safety, but shall expeditiously file motion for review

Reasonable Efforts

- If child is placed or continued in DSS custody, back to -507(a)
 - Any order for continued nonsecure, dispositional order, or review order

Remember??

- 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]

Cease Reasonable Efforts, -507(b)

Written findings of fact of 1 of the 4

- efforts clearly would be futile or inconsistent with child's health, safety, and need for a safe, permanent home within a reasonable time; or
- a court has determined that parent has subjected child to aggravated circumstances; or
- a court has involuntarily terminated the parent's rights to another child; or
- a court has determined that the parent has committed a criminal offense specified in the statute

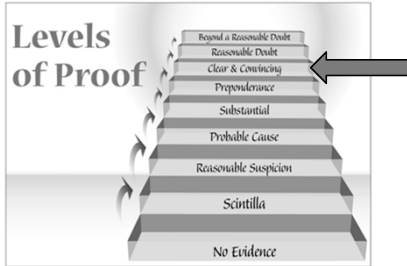
Waiving Review Hearings

- 7B-906.1(k)

Waive Review (or longer than 6 months)

- 906.1(n) factors
- Resided in placement at least 1 year
- Placement is stable and con't is BIC
- Neither BIC nor rights of parties require 6 mo. Reviews
- All parties aware motion for review at any time
- Ordered relative/other suitable person guardian or permanent custodian

What Standard of Proof



How Do You Get From 7B to 50?

Must be at disposition or after

G.S. 7B-911

Remember, 7B-200

Must Find:

1. at least 6 months after court determined permanent plan was custody to proposed custodian
 - unless custody is to
 - parent or
 - person child lived with when petition was filed
2. No need for state intervention on behalf of juvenile

**Existing Civil Action
= Modification**

Must comply with Chapter 50 statute on modification

Findings required to modify

- In relation to the last order in the civil case, findings must be sufficient to show
 - a substantial change of circumstances affecting the welfare of the child since entry of that order
 - that placing custody with the proposed custodian is in the child's best interest



Existing Action

- If civil action is in another county, which county is more appropriate for venue?
- After consulting court in other district, juvenile court may transfer either case. [GS 7B-200(c)]
- Court must determine whether
 - someone needs to be joined as a party to the civil action and/or
 - caption of action should change

No Existing Civil Action

- This initiates it
- Court shall designate parties & most appropriate caption
- Civil filing fee waived unless court orders a party to pay
- Comply with Chapter 50 statutes

Initial or modification order

- Order must include findings to support conclusion that court has subject matter jurisdiction
- If custody is to a parent,
 - the standard is best interest and
 - the findings may be supported by the greater weight of evidence

Initial or modification order

If custody is to a non-parent,

1. findings must be sufficient to conclude each parent
 - has neglected the welfare of the child, or
 - is unfit, or
 - has acted in a way that is inconsistent with the parent's constitutionally protected status as a parent; and
2. those findings must be made by clear and convincing evidence; and
3. then court may consider best interest

What is the court ordering?

- award of custody: joint or sole (exclusive)
- visitation
 - ✓ Court may deny a parent reasonable visitation only after finding
 1. parent is unfit person to visit the child, or
 2. visitation rights are not in child's best interest.
 - ✓ Court may not delegate visitation to party with custody

Some orders might include provision:

- limiting parent's access to records of child's health, education, and welfare [GS 50-13.2(b)]
- relating to taking child out of state [G.S. 50-13.2(c)]
- if the court finds domestic violence has occurred, relating to protection under G.S. 50B-3(a1), (2), (3) [GS 50-13.2(b)]
- specifying authority for custodian to consent for medical care, psychiatric treatment, etc. [G.S. 122C-3(20)]

You control when/how a case ends (G.S. 7B-201)

- Jurisdiction ends when
 - Juvenile is 18, married, or emancipated
 - Adoption
 - UCCJEA issues
 - Otherwise, the court either retains or terminates jurisdiction

Terminating Jurisdiction

- Any orders in the case are null and cannot be modified or enforced
- Child's and parties' status is either
 - (1) as it was before petition was filed, or
 - (2) as determined by law or a valid court order in another proceeding

If guardianship or custody order needs to remain in effect, court might waive review hearings, but should not terminate jurisdiction

CAUTION!

NEVER say that a case is
"closed" or "inactive"

Distinguish terminating jurisdiction and waiving reviews [-201 vs. -906.1(n)]
