

## Court Hearings in Abuse, Neglect and Dependency Cases

Statute/Event	Timing	Criteria or Factors Considered (Consult statute. List below may be highlights only.)	Procedural Requirements	Decisions to Be Made
<p><b>Initial Non-secure Custody Order</b></p> <p><b>7B-500, 7B-502 7B-503, 7B-504 7B-505, 7B-508</b></p>	<p>On motion of DSS for nonsecure custody.</p> <p>Initial non-secure custody order may be granted ex parte or after a hearing, but <u>not</u> before a petition is filed.</p> <p>Chief district court judge, by administrative order filed with clerk, may authorize others to enter orders.</p>	<ul style="list-style-type: none"> <li>• Court must first consider release of juvenile to parent, relative, guardian, custodian, or other responsible adult.</li> <li>• Court may order nonsecure custody only if there is a reasonable factual basis to believe (i) allegations in petition are true and (ii) no other reasonable means is available to protect the juvenile.</li> <li>• In addition, court must find one of the following:               <ol style="list-style-type: none"> <li>1. Child has been abandoned</li> <li>2. Child has suffered physical injury or sexual abuse</li> <li>3. Child is exposed to substantial risk of physical injury or sexual abuse . . .</li> <li>4. Child is in need of medical treatment . . .</li> <li>5. The parent, guardian , or custodian consents to nonsecure custody</li> <li>6. The juvenile is a runaway and consents to nonsecure custody</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Court should either see and read the petition or, if request is by phone, confirm that it has been filed and have it read aloud.</li> <li>• If the clerk’s office is closed, petition must be filed with magistrate.</li> <li>• An order for nonsecure custody must be in writing.</li> <li>• An order made by telephone must include name and title of person authorizing custody; name, title, and signature of official entering the order; and hour and date of authorization.</li> </ul>	<p>Applying statutory factors, court must determine</p> <ul style="list-style-type: none"> <li>• whether child should be removed from custody of the parent, guardian, custodian, or caretaker pending a court hearing, and if so,</li> <li>• where the child should be placed.</li> </ul> <p>[Note that social worker or law enforcement may assume temporary custody under 7B-500 and 7B-501, without a court order, where the child might be injured or it might be impossible to take the child into custody if it were first necessary to obtain a court order. Child must be released unless petition is filed and nonsecure custody order is entered within 12 hours (24 hours if weekend or holiday is involved) after child was taken into custody.]</p>
<p><b>Hearings on Need for Continued Non-secure Custody (7-day Hearing)</b></p> <p><b>7B-500, 7B-502 7B-503, 7B-504 7B-505, 7B-506, 7B-507</b></p>	<p>Hearing must be within 7 days after removal-sooner if order signed by delegee.</p> <p>Second hearing within 7 days, then within 30-day intervals.</p>	<ul style="list-style-type: none"> <li>• Court applies same criteria as above, from 7B-503, to determine need to continue nonsecure custody.</li> <li>• Court must make findings as to reasonableness of DSS’s efforts to prevent need for placement.</li> <li>• Court must inquire as to the identity and location of any missing parent, whether paternity is at issue, and any efforts to identify or locate and serve a missing parent or to establish paternity.</li> <li>• Court must inquire about other children in the home</li> <li>• If continued placement is necessary, court must inquire as to available relatives.</li> </ul>	<p>Burden of proof is on DSS, and standard of proof is clear and convincing evidence.</p> <p>Nonsecure custody hearings may be informal (the formal rules of evidence do not apply).</p>	<p>The court must decide whether the child should remain in nonsecure custody and, if so, where the child should be placed. Court must determine whether reasonable efforts have been made and whether they should continue.</p> <p>Order must contain findings and conclusions and must be entered within 30 days after the hearing.</p>

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<b>Adjudicatory Hearing</b>  <b>7B-801, 7B-802, 7B-805, 7B-807, 7B-902</b>	<p>Must be held within 60 days of filing of the petition unless court finds good cause for continuance.</p> <p>Any order granting a continuance should be in writing.</p>	<p>Court must determine that it has subject matter jurisdiction.</p> <p>The question of whether the juvenile is abused, neglected, or dependent must be answered in relation to the definitions of those terms in G.S. 7B-101.</p> <p>The burden of proof is on the petitioner, DSS.</p>	<p>Rules of Civil Procedure and Rules of Evidence apply unless G.S. Ch. 7B provides a different procedure or rule.</p> <p>Court should inquire about need for appointment of counsel, guardian ad litem for the child, or guardian ad litem for a parent.</p> <p>The hearing must be recorded.</p> <p>The hearing is open to the public unless court makes findings to support closing the hearing.</p>	<p>Court must determine</p> <ol style="list-style-type: none"> <li>whether allegations in the petition are proven by clear and convincing evidence and</li> <li>whether evidence supports findings from which the court can conclude that the child is abused, neglected, or dependent.</li> </ol> <p>Court adjudicates the existence or nonexistence of the condition(s) alleged in the petition and either (i) adjudicates the juvenile abused, neglected, or dependent or (ii) dismisses the petition.</p> <p>After an adjudication, the court decides whether to proceed to disposition or set a date for a dispositional hearing.</p>
<b>Dispositional Hearing</b>  <b>7B-507, 7B-900 through 7B-905</b>	<p>Should be heard immediately following adjudication, but must be concluded within 30 days after the adjudication hearing.</p>	<p>The court must hear evidence relating to and consider</p> <ul style="list-style-type: none"> <li>the child's needs,</li> <li>family and community resources available to meet those needs,</li> <li>the child's best interest,</li> <li>the state's objectives (a safe, permanent home for the child within a reasonable period of time), and</li> <li>statutorily authorized dispositional alternatives.</li> </ul> <p>If the child is out of the home, the court must determine whether reasonable efforts have been made to prevent or eliminate the need for the child's placement and whether reunification efforts should be made prospectively.</p>	<p>Dispositional hearings may be informal (strict adherence to the rules of evidence is not required).</p> <p>Disposition is in the court's discretion; the statute does not assign a burden of proof.</p> <p>Order must be entered within 30 days after the hearing.</p>	<p>Court must design appropriate plan to meet the child's needs and the state's objectives. The court must determine:</p> <ul style="list-style-type: none"> <li>who should have legal custody of the child</li> <li>where child should be placed or who should be authorized to make that decision</li> <li>services the child and parents should receive</li> <li>a visitation plan if the child is out of the home</li> <li>expectations of all parties before the next hearing.</li> <li>date of next hearing</li> </ul>

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<b>Review Hearings</b>  <b>7B-507, 7B-906</b>	If child is removed, must be held within 90 days after dispositional hearing, then at least every six months.	Court must consider all relevant criteria set out in G.S. 7B-906(c).	Same as for dispositional hearings (above).  Court may waive reviews only after making findings required by G.S. 7B-906(b).  Reviews not required after child returns home.	Similar to dispositional hearing (above)  Whether child's placement should continue or change.  Whether provisions in prior order should continue or be changed.
<b>Permanency Planning Hearing</b>  <b>7B-907</b>	If child is removed, must be held within 12 months after initial order removing child from home, then at least every 6 months.  Also required within 30 days after a court's decision that reasonable efforts are not required or shall cease.	All relevant criteria set out in G.S. 7B-907.  1. Can juvenile be returned home immediately or within 6 months? 2. If not (or if unlikely), <ul style="list-style-type: none"> <li>• should guardianship or custody with relative or other suitable person be ordered, and if so, what rights and responsibilities should remain with parents?</li> <li>• should adoption be pursued, and if so, are there barriers to the child's adoption?</li> <li>• should child remain in current placement or be placed in another permanent living arrangement and why?</li> </ul> 3. Whether DSS has made reasonable efforts to reunify or to implement the permanent plan? Should those efforts continue? 4. Any other criteria the court deems necessary.	Same as for review hearings (above).  May be combined with regular review hearing.	Court must make specific findings as to best plan of care to achieve a safe, permanent home for the child within a reasonable period of time.  Court may make any authorized disposition.  Court must determine whether reasonable efforts have been made and whether they should continue.  If child is not returned home, court must order DSS to carry out the plan and document the steps in the plan.  If applicable, court should determine whether an exception in 7B-907(d) applies to relieve DSS of duty to file a petition or motion to terminate parental rights.

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<b>Termination of Parental Rights Hearing</b>  <b>7B-1100 through 7B-1112</b>	Hearing on petition/motion for tpr must be heard within 90 days after filing unless court for good cause continues the hearing pursuant to G.S. 7B-1109(d).  Any order for a continuance should be in writing.	First, there is an adjudicatory hearing to determine whether grounds for termination exist. The formal rules of evidence apply. Court must determine whether the petitioner or movant has proved by clear and convincing evidence facts from which the court can conclude that the alleged ground for termination exists.  If the court adjudicates one or more grounds for termination, the court conducts a dispositional hearing. There is no burden of proof and the decision of whether to terminate the parent's rights is in the court's discretion. The court must consider factors set out in 7B-1110 and determine whether terminating the parent's rights is in the child's best interest.	Court should inquire about need for appointment of counsel, guardian ad litem for the child, or guardian ad litem for a parent.  Court must appoint GAL for child who does not already have one if the parent contests material allegations of the petition or motion.  Order must be entered within 30 days after the hearing.	The court must determine whether grounds for termination have been proven by clear and convincing evidence, and if the court adjudicates one or more grounds, whether it is in the child's best interest to terminate parental rights.  If a determination is made that grounds do not exist or that it is not in the child's best interest to terminate parental rights, the court must dismiss the petition or motion.
<b>Post-termination of parental rights placement court review</b>  <b>7B-908</b>	Within 6 months of the termination and every 6 months thereafter until entry of final order of adoption.	Court must consider criteria set out in 7B-908(c).  1. Adequacy of the plan for a permanent placement and efforts to implement the plan 2. Whether child has been listed for adoptive placement with the N.C. Adoption Resource Exchange, the N.C. Photo Adoption Listing Service (PALS), or other specialized adoption agency 3. Efforts previously made by DSS or other agency to find a permanent home for the child	Procedural requirements are the same as in dispositional and review hearings.	The court, after making findings of fact, affirms the plans for the child or requires specific additional steps necessary to accomplish a permanent placement that is in the child's best interests.