

JUVENILE COURT HEARINGS

Petition filed/Nonsecure custody order granted—at time of removal of child.

Nonsecure custody hearing on need for continued custody—7 days after nonsecure order entered but may be continued up to 10 business days with consent of parties.

Second nonsecure custody hearing--7 business days after first nonsecure custody hearing unless waived with the consent of all parties.

Subsequent nonsecure custody hearings-- Every 30 days until adjudication unless waived with the consent of all parties.

Adjudication/Disposition hearing--- 60 days from filing of the petition

First Review hearing--- 90 days from disposition.

Second review hearing--- 6 months from first review

Permanency planning hearing--- 12 months from nonsecure order OR 30 days from order that reasonable efforts are not required or shall cease.

Subsequent permanency planning hearings--- Every 6 months until plan achieved.

TPR petition, if necessary--- TPR petition shall be filed within 60 days of permanency planning hearing.

Post TPR or relinquishment hearings to review adoption plan--- Every 6 months until the child is placed and an adoption petition filed.

NONSECURE CUSTODY HEARINGS
7B-503 to 7B-507

ISSUES TO BE ADDRESSED

1. Need for continued custody. Same criteria for granting nonsecure custody: abandonment, physical injury or sexual abuse or risk of those, failure to provide medical treatment to prevent serious physical harm that may result in death, disfigurement or substantial impairment of bodily functions. Remember—rules of evidence do not apply.
2. Appointment of attorneys and GAL, if not already done.
3. Evidence on reasonable efforts to prevent placement or why not possible.
4. Evidence, including testimony of parents, to identify parents of all children and efforts to find missing or unknown parents.
5. Evidence on relatives willing and able to provide proper supervision in a safe home and whether placement is in child's best interest. Does the ICPC apply? Can a Regulation 7 expedited order be used now?
6. Does ICWA apply? Are children members of a federally recognized Indian tribe?
7. Are there other children in the home, and if so, what has the CPS investigation shown about them and what action has DSS taken?
8. Are there UCCJEA issues in this case? Is there an outstanding custody order involving this child in another state?
9. What is the visitation plan for the family pending the next continued custody hearing or the adjudication hearing?
10. What kind of case plan is DSS proposing? What steps/services could be ordered/agreed to now? Is a signed release of information form needed now?

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN REGULATION 7

In an attempt to address the recurring problem of placement delays when the ICPC is required, in 1996 the Compact Administrators adopted ICPC Regulation 7, which provides for expedited ICPC procedures when the court finds the child meets the criteria for priority ICPC status and enters a priority placement order.

Priority ICPC status may be designated when the prospective placement is

- (1) With a relative listed in Article VIII (parent, stepparent, grandparent, adult brother, sister, aunt or uncle) or guardian
AND
 - The child is under two years of age OR
 - The child is currently in an emergency shelter care facility OR
 - The child has spent a substantial amount of time with the prospective placement.

- (2) In any case when 30 business days have passed since the receiving state Compact Administrator received the ICPC request with proper supporting paperwork but the sending agency has not been informed whether the child may be placed in the receiving state.

These new expedited procedures are designed to be completed in 27 business days, unless the receiving and sending ICPC offices agree in writing on a different time frame or “extraordinary circumstances” make it impossible for the receiving state to comply within the 27 day time frame. In the latter case, the receiving state must notify the sending state within two business days by fax, specifying the extraordinary circumstances and the date when the placement decision will be made.

Jane Malpass
Jane Thompson

STATE OF NORTH CAROLINA
COUNTY _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

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ICPC Priority
Placement Order

It is hereby ordered that the _____ county department of social services shall institute an "ICPC Priority Home Study Request" for the placement of the above-named child(ren) with the following individual(s):

Name(s): _____

Address: _____

The Court finds that this priority placement home study is necessary and further finds:

The proposed placement is with a relative (as specified in Article VIII of the ICPC) and

_____ The child(ren) is/are under two years of age; or

_____ The child(ren) is/are in an emergency shelter, or

_____ The child(ren) has/have spent a substantial amount of time in the home of the proposed placement resource;

AND/OR

The receiving state Compact Administrator has had a properly completed ICPC home study request for the above-named child(ren) for over 30 business days and the _____ county DSS has not been notified whether the child(ren) may be placed in the receiving state.

It is further ordered that the _____ county DSS shall submit this priority placement request to the N.C. Compact Administrator with all appropriate documentation within three business days from receipt of this Court's signed order.

It is further ordered that the North Carolina Compact Administrator shall forward this priority placement request to the receiving state's Compact Administrator within two business days.

This the _____ day of _____, 2002.

District Court Judge

PERMANENCY OPTIONS

The purpose of the foster care system is to provide a safe, caring home for a child while working to find that child a safe, permanent home in a reasonable amount of time. Permanency is a positive, nurturing relationship with at least one adult that is characterized by mutual commitment and is legally secure. Permanency options are reunification, adoption, and court-approved guardianship or custody with a suitable person.

ADOPTION

Adoption is the most legally binding relationship that can be established between a child and an adult who is not the child's birthparent. Adoption should be considered first when reunification is not possible. When a child is placed for adoption after having been in the custody or placement authority of an agency, the child may be eligible for adoption assistance because of his special needs status. Eligibility for these benefits should be established prior to a child's placement for adoption, but must be established prior to the issuance of the Decree of Adoption. If a child is eligible for adoption assistance, that child is eligible whether or not that child resides in North Carolina. If a special needs child has ever been in the custody of a county DSS, he is eligible to apply for adoption assistance even if DSS no longer has custody.

There are several categories of adoption assistance and a child may be eligible for all or some of them:

- *Non-recurring Expenses*— on a one-time basis, up to \$2000 can be paid per child for defraying the cost of adoptions. Examples of activities for this funding are preplacement assessments, attorney fees to complete the adoption, as well as visits with the child prior to an adoptive placement.
- *Adoption Assistance Monthly Cash Payment*—this amount is paid at the same rate as the corresponding State Foster Care payment rate for children who are eligible. This amount is \$315 for children 0-5, \$365 for children 6-12, and \$415 for children 13-18.
- *Adoption Assistance Vendor Payments*—available for conditions that existed prior to the child's placement for adoption. These amounts are available for each adopted child.
 - *Medical Providers*—up to \$1200 per year for medical treatment or services not covered by any medical insurance
 - *Therapeutic Providers*—up to \$1200 per year for non-medical services (example, psychological, tutorial services, therapy, etc).DSS agencies make the payments on behalf of the child and are then reimbursed by the State Division.
- *Medicaid* – Children who receive IV-E adoption assistance benefits are automatically eligible for Medicaid. Children who receive IV-B adoption assistance are eligible for Medicaid if they have special medical or rehabilitative needs and are medically eligible
- *Payment supplement for children with HIV/AIDS and SSA or SSI benefits*
 - Supplement above the monthly adoption assistance payment amount will vary depending on the HIV/AIDS status of the child. The amount will range from \$800--\$1600. This is all state money – no county match needed
 - A child can continue to receive SSA survivor benefits from a deceased parent who was part of the social security system
 - A child may continue to receive SSI disability payments based on the child's disability if the adoptive parents' income meets the eligibility requirements
- *Post-adoption Services*
 - Services should be available to children without regard to income to assure the stability of the adoption placement.

GUARDIANSHIP

Guardianship pursuant to 7B-600 is a permanency option for children that is more secure than custody, but not as secure as adoption. It is appropriately used when reunification and adoption are not possible or appropriate. With guardianship, there is no termination of parental rights and likewise no cessation of the parents' responsibility to pay child support. The guardian has care, custody and control of the child and may represent the child in legal matters before the court. The guardian may consent to certain actions on the part of the child in place of the parent, such as consent to marriage, enlisting in the armed forces, and enrollment in school.

Guardianship awarded as the permanent plan for a child under 7B-907 continues unless the court finds (1) that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, (2) that the guardian is unfit, (3) the guardian has neglected his or her duties or (4) the guardian is unwilling or unable to continue to assume those duties. Guardians are encouraged to apply for TANF, (see information on custody below for payment amounts) and Medicaid or North Carolina Health Choice for Children. Children who are eligible to receive SSI disability will continue to receive these benefits as long as the disability continues, regardless of the income of the guardian. However, TANF funds will be lost in that instance because the child cannot receive both TANF and SSI payments and SSI is the greater amount.

CUSTODY

An appropriate adult can be granted custody of a child. Juvenile court custody, like guardianship above, may be granted at any stage of a juvenile proceeding. However, juvenile court reviews continue until the requirements of 7B-906(b) are met, which allows the court to waive further reviews. Custody is the least permanent option since a parent can file a motion for review, even if mandated reviews have been waived, asking the court for return of the child based on the parent's change in circumstance affecting the welfare of the child. Thus, custody should only be used when reunification, adoption or guardianship is not possible or appropriate. There is no termination of parental rights and likewise no cessation of the parents' responsibility to pay child support. As with guardianship, custodians can apply for TANF payments for the children as "child only" cases. This means there are no time restrictions or work requirements on these TANF payments.

- Payments under TANF:
 - one child - \$181 monthly
 - two children - \$236 monthly
 - three children - \$272 monthly
 - four children - \$297 monthly

Children who are eligible for SSI disability payments will continue to receive them, regardless of the income of the custodian. However, TANF benefits will be lost in that instance because the child cannot receive both TANF and SSI benefits and SSI is the larger amount. Children receiving TANF or SSI benefits are eligible for Medicaid.

CUSTODY and GUARDIANSHIP

An order of custody or guardianship by the juvenile court should be preceded by a thorough discussion with caretakers desiring custody or guardianship about the services and benefits they need to permanently and successfully parent the child. Some services and benefits the caretaker has received may not continue when DSS is no longer the child's custodian. The caretaker may need to apply for other services and benefits and may be expected to pay for those services, such as day care and mental health. If a custody or guardianship plan disrupts and the child returns to DSS custody, the child is not free for adoption since parental rights have not been terminated. Terminating the parents' rights or obtaining a relinquishment from the parents at that point can seriously delay another permanent home for the child.