

**ENTITLEMENT TO COUNSEL IN ABUSE, NEGLECT, AND DEPENDENCY PROCEEDINGS**  
**AFTER A PERMANENT PLAN HAS BEEN IMPLEMENTED**

**Introduction:**

G.S. 7B-602 provides that, when a juvenile petition alleges abuse, neglect, or dependency, the respondent parents have a right to appointed counsel if they are indigent. G.S. 7A-451(b) further provides that entitlement to the services of counsel continues through any critical stage of the action or proceeding. When the court has been relieved of the duty to conduct periodic reviews of a child's placement but has retained jurisdiction, the court may not waive or refuse to conduct a hearing if any party files a motion seeking review. However, there is little guidance in the General Statutes or case law about whether those hearings constitute a critical stage of the proceedings for which there is an entitlement to counsel for an indigent party.

IDS believes that, after a child's permanent plan has been implemented and no regular judicial reviews of the placement are scheduled but a motion for review has been filed, the presumption should be that the proceeding is not a critical stage and that there is no entitlement to counsel. However, there may be circumstances when the presiding judge determines that the proceeding is a critical stage and that a particular indigent party is entitled to the services of counsel. These circumstances may include, but are not limited to, motions filed by the Department of Social Services (DSS) or the Guardian ad Litem (GAL) seeking to change the child's permanent plan or motions filed by the guardian or custodian seeking to resign or be relieved of custody.

**IDS Policy:**

Rather than maintaining juvenile court jurisdiction, IDS recommends that, once a permanent plan is established and no further reviews are scheduled, the court should terminate jurisdiction and put the parties back where they were before DSS involvement, or convert the case to a Chapter 50 custody case pursuant to G.S. 7B-911.

If the court has been relieved of the duty to conduct regular reviews of a child's placement, but has retained jurisdiction and a motion for review has been filed, IDS will pay for the representation if the court concludes that it is a critical stage of the proceedings and that there is an entitlement to the continued services of counsel pursuant to G.S. 7A-498.3(a)(1) (stating that IDS shall be responsible for providing counsel and related services in cases in which an indigent person is subject to a deprivation of a constitutionally protected interest and is entitled by law to legal representation). If a judge makes such a determination, the judge should enter an order of reappointment or an order of entitlement to the continued services of counsel with specific findings about why those services are required.

**Questions:**

If you have questions about this policy or its application in a specific case, please contact:

- ✓ IDS' Parent Representation Coordinator, Wendy Sotolongo, at (919) 354-7230 or [Wendy.C.Sotolongo@nccourts.org](mailto:Wendy.C.Sotolongo@nccourts.org); or
- ✓ IDS' Assistant Director/General Counsel, Whitney Fairbanks, at (919) 354-7200 or [Whitney.B.Fairbanks@nccourts.org](mailto:Whitney.B.Fairbanks@nccourts.org).

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**Authority:**

G.S. 7A-451; 7A-498.3; 7B-602.