



Dependency Docket Bench Cards

*for Ohio Juvenile and
Family Court Judges
and Magistrates*



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DEPENDENCY DOCKET

BENCH CARDS

for Ohio Family and Juvenile Court Judges and Magistrates

Ohio's **Dependency Docket Bench Cards** were developed to support judicial officers in their duty to provide comprehensive and timely judicial action in child welfare cases and to encourage best practices. In recognition of the need to assure safe and permanent homes for abused and neglected children and to assist Ohio's juvenile and family courts in performing their critical and highly complex function, the Supreme Court of Ohio assembled a team of highly qualified professionals to create an Ohio-specific resource for navigating these cases. Ohio's **Dependency Docket Bench Cards** are designed to be used in conjunction with the RESOURCE GUIDELINES and the ADOPTION AND PERMANENCY GUIDELINES published by the National Council of Juvenile and Family Court Judges. These bench cards are not intended to serve as an authoritative source, but rather, a resource to inform courtroom practice.

The Court wishes to extend special recognition and tremendous gratitude to **Brenda Rutledge**, Magistrate, Lucas County Juvenile Court, **Carla A. Guenther**, Magistrate, Hamilton County Juvenile Court, and **Victor H. Perez**, Agency Attorney, Seneca County Department of Job and Family Services, who contributed countless hours and dedicated their collective effort, experience, expertise and energy to drafting these cards.

The **Dependency Docket Bench Cards** grew out of the Beyond the Numbers project, a collaborative initiative of the Supreme Court of Ohio and the Ohio Department of Job and Family Services, designed to improve the way courts and agencies and their community partners address child welfare cases. By linking interdisciplinary county teams with resources and education, Ohio's courts and agencies will be better equipped to ensure the safety and well-being of the children at the heart of these cases by assisting them in achieving timely permanency and stability. Comments or questions about the Beyond the Numbers initiative or these bench cards should be directed to:

THE SUPREME COURT *of* OHIO
Children, Families & the Courts Section
65 South Front Street
Columbus, Ohio 43215-3431
614.387.9385

INDIAN CHILD WELFARE ACT (ICWA) CONSIDERATIONS

The Indian Child Welfare Act (ICWA), enacted by Congress in 1978, created certain requirements for child welfare proceedings involving American Indian children to ensure the primacy of tribal decision-making regarding the welfare of Indian children. ICWA sets requirements in a number of areas that potentially impact the ability of state courts to process dependency cases involving Indian children in a timely manner. If the ICWA applies to a child protection proceeding, it is in the child's best interests for the court to ensure compliance with ICWA **from the earliest possible stage of the case.**

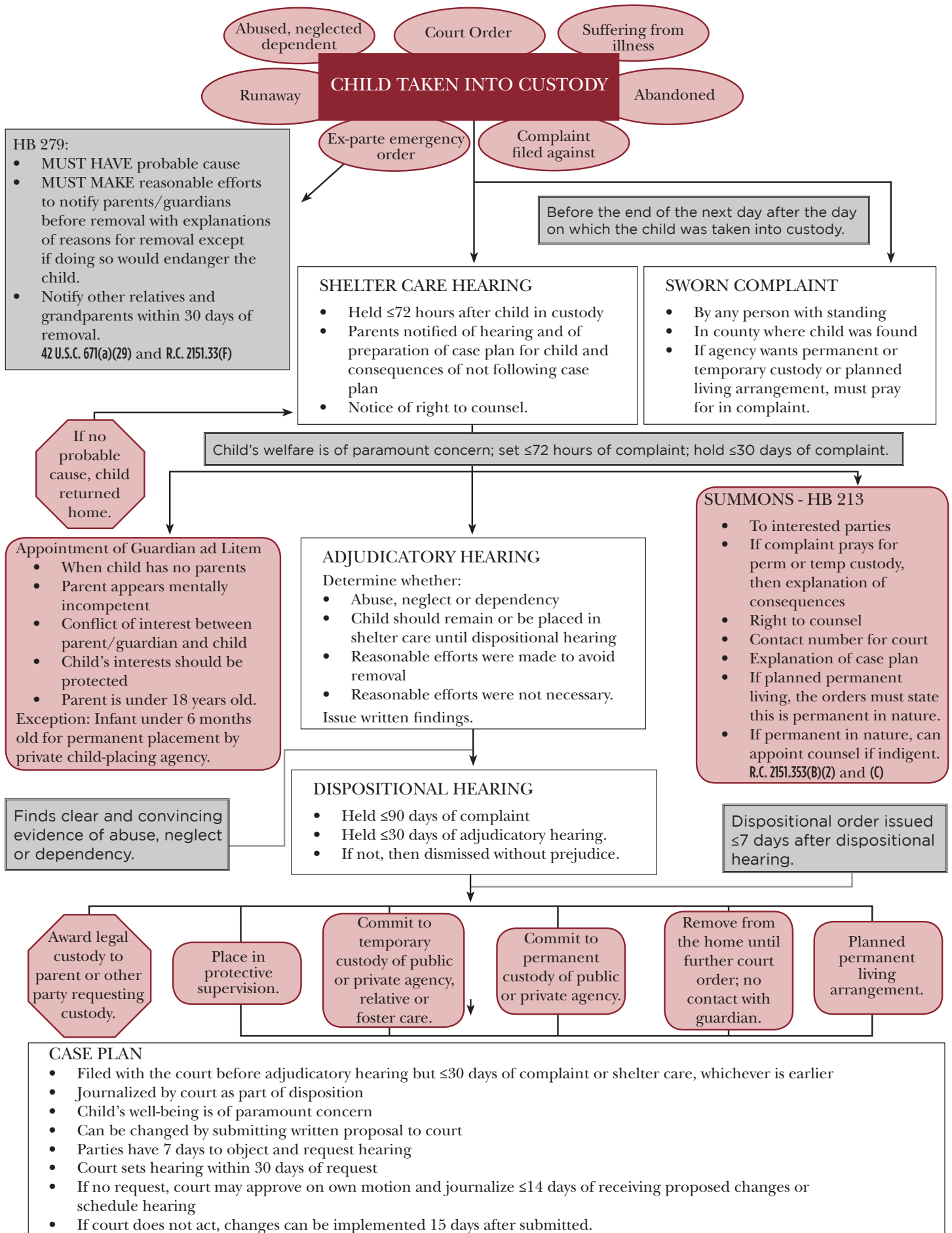
Based on 2003 census data, less than 1.3 percent of Ohio's population reports having some American Indian heritage. Thus, it might be easy to dismiss this important step as inconsequential in Ohio. **However, for those cases where ICWA does apply, the implications are disastrous for the child and all parties and professionals involved in the case when the child's Native American heritage is not identified early in the case.**

Therefore, at the opening of a case, the agency/court should inquire whether the child or parents may be of Indian or Native American heritage. If there is any indication that the family has Indian or Native American heritage, until it is determined that the child or parents are not eligible for enrollment in a federally recognized tribe and therefore not protected under ICWA, the agency/court should proceed as if ICWA would apply. In accordance with ICWA and OAC 5101:2-42-52, the agency must document all efforts to secure verification of the child's heritage and to notify the required parties — the Indian custodian and the tribe(s) — of their rights. Involvement of the child's tribe and extended family as early in the case as possible could assist in assuring that active efforts, requirements, and placement preferences are met.

For children protected under ICWA, the court must determine whether the agency made "active efforts" to identify responsible extended family or other tribal members or Indian families to serve as placement for the child, if necessary. The court must determine whether the agency relied upon the social and cultural standards of the parents' Indian community in assessing the appropriateness of the child's placement. Throughout the court proceedings outlined in Ohio's Dependency Docket Bench Cards, there are other determinations which the court must actively make.

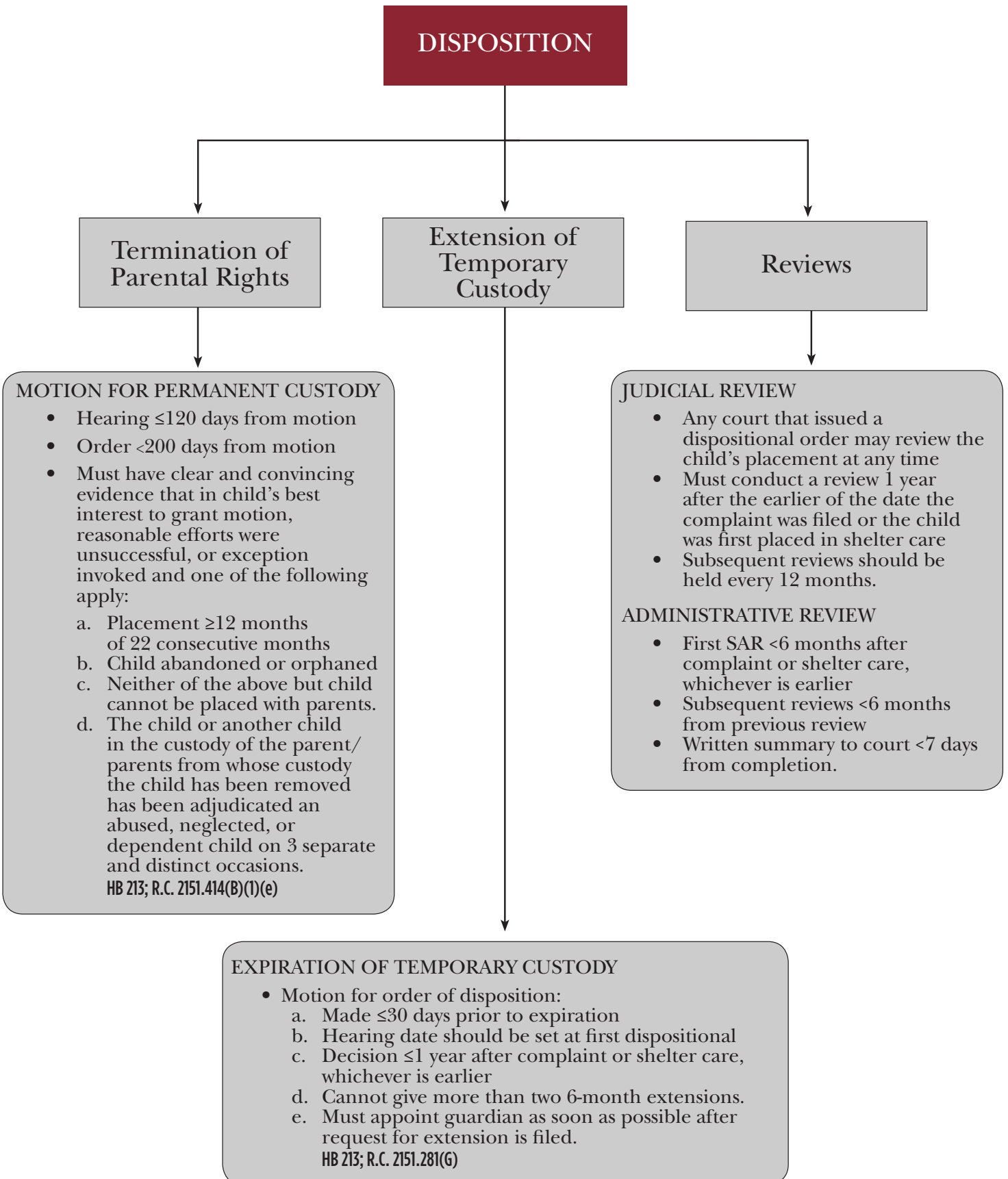
Please refer to the Indian Child Welfare Act Checklists prepared by the National Council of Juvenile and Family Court Judges in June 2003, or the Family, Children and Adult Services Procedure Letter No. 85 for more detailed information regarding hearing procedure, notice, and findings. The National Council's ICWA Checklists were created to assist judges in assuring that the necessary inquiries are being made to determine as early as possible in every case whether ICWA applies. As stated in the introduction to the ICWA Checklists, "[l]eadership by the court is essential to ensure ICWA compliance. These children should not be subject to their placements and permanency plans being disrupted well into the final stages of the case."

DEPENDENCY DOCKET Activity from Filing through Disposition





DEPENDENCY DOCKET Post-Disposition Activity





NOTICE

Prior to taking a child into custody, determine whether one of the following applies: [R.C. 2151.31(D)]; [Juv.R. 6 (A)(3)(g)]

- ❑ reasonable efforts were made to notify the child's parents, guardian or custodian;

OR

- ❑ there were reasonable grounds to believe that notifying the parent would:
 - ❑ jeopardize the physical or emotional safety of the child,

OR

- ❑ result in the removal of the child from the jurisdiction.

Determine if agency provided notice to grandparents and other relatives within 30 days of removal.
HB 279; [42 U.S.C. 671 (a) (29)]; [R.C. 2151.33(F)]

HEARING PROCEDURE

- ❑ Standard of Proof: Probable Cause. [Juv.R. 6(B)]
- ❑ Conducted in-person, by telephone or otherwise (video conference, Web camera). [Juv.R. 6(A)(3)(g)]

FINDINGS

Determine whether there are **reasonable grounds** to believe that: [Juv.R. 6]

- ❑ the child is suffering from illness or injury and is not receiving proper care

AND

- ❑ the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

OR

- ❑ the child is in immediate danger from the child's surroundings

AND

- ❑ that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

OR

- ❑ a parent, guardian, custodian, or other household member of the child has abused or neglected another child in the household,

AND

- ❑ that the child is in danger of immediate or threatened physical or emotional harm;

OR

- ❑ the child has run away from the child's parent, guardian, or other custodian;

OR

- ❑ the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child;

OR

- ❑ the child may abscond or be removed from the jurisdiction of the court or not be brought to court.

REASONABLE EFFORTS FINDING

Determine whether:

the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. If removal occurred under emergency circumstances and the agency had no prior contact, the court is not prohibited from finding the agency made reasonable efforts. [R.C. 2151.31(E)(2)] and [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

OR

the agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home or to make it possible for the child to return home safely as the facts fall within one of the factors contained in R.C. 2151.419(A)(2) and R.C. 2151.31(E)(2). [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

BEST INTEREST FINDING

- ❑ To issue an order granting temporary custody of a child to the public children services agency, the court must find that it would be contrary to the welfare and best interest of the child to continue in the home. [R.C. 2151.33(E)]; [42 U.S.C. 672]
- ❑ The above findings **MUST** be stated in the order if temporary custody is granted to the agency. [R.C. 2151.33(E)]; [42 U.S.C. 672]

INDIAN CHILD WELFARE ACT (ICWA) CONSIDERATIONS

Inquire as to whether the child or parents may be of Native American heritage. [25 U.S.C. 1903, 1912, and 1922] If such heritage is a possibility, until such a determination is made, proceed as if ICWA applies.



ICWA issues should be identified early in the case to avoid delays in caseflow time frames. Refer to the Indian Child Welfare Act Checklists and Native American Directory published by the National Council of Juvenile and Family Court Judges.

NOTE

Magistrates can issue orders. [Juv.R. 40]

CASEFLOW TIME FRAMES

- ❑ If it is determined that there is probable cause for the emergency order:
 1. Set this matter for a shelter care hearing before the end of the next business day (and not later than 72 hours) after the emergency order is issued in order to determine if the child should remain in shelter care. [R.C. 2151.31(E)] and [R.C. 2151.314]; [Juv.R. 7(F)(1)]
 2. Ensure that a complaint is filed or has been filed. [R.C. 2151.31(E)]

- ❑ If a motion for an ex parte Order is denied by the Court, the matter must be set for a shelter care hearing on that motion within 10 days after it was filed. [Juv.R. 13(B)(5)]
- ❑ Journalize the order. [R.C. 2151.31(D)]

ADDITIONAL CONSIDERATIONS FOR AN ORDER WITH COMPLAINT**NOTICE**

Because the court may issue the orders summarily, without notice, or upon a motion by a party, determine whether notice was given to the parties in a manner in which they were likely to get actual notice of the subsequent review hearing to be held within 24 hours, but not later than 72 hours of granting an ex parte order. Where the court has proceeded without notice under Juv.R. 13(D), it shall give notice of the action it has taken to the parties and any other affected person and provide them an opportunity for a hearing concerning the continuing effects of the action. [R.C. 2151.33(D)]; [Juv.R. 13(D) and (E)]

FILING REQUIREMENTS

Filings shall comply with Sup.R. 44 through 47 regarding personal identifiers.

FINDINGS

In addition to the findings outlined above, determine whether:

- ❑ the best interest and welfare of the child appear to require that the order be immediately issued. [R.C. 2151.33 (D)]

COMPLAINT

- Ensure that a complaint has been filed. [R.C. 2151.31(E)(1)]; [R.C. 2151.31(D)] and [R.C. 2151.314(A)]; [Juv.R. 10]
- Filings shall comply with *Sup.R. 44* through *47* regarding personal identifiers.

NOTICE

Determine whether:

- Reasonable oral or written notice of the time, place, and purpose of this hearing has been given to the parents, guardian, or custodian, unless they cannot be found;

AND

- Notice was provided informing the parents, custodian, or guardian that a case plan may be prepared, general requirements of case plans, and the possible consequences of non-compliance with a case plan. [R.C. 2151.314(A)]; [Juv.R. 7(F)(1)]



Determine if agency provided notice to grandparents and other relatives within 30 days of removal. [R.C. 2151.33(F)]



The American Bar Association recommends that the child attend hearings in order to facilitate the child's meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.)



Consider Indian Child Welfare Act issues, if present. Refer to Ex Parte Orders Bench Card.



Depending on how Ohio will adopt and implement Foster Connections, it requires grandparents to be notified.



If the parents, guardian, or custodian did not receive reasonable notice or waive their appearance at initial hearing, upon motion, the court shall promptly hold a rehearing. [Juv.R. 7(G)]

SERVICE

Serve the parties present with the complaint and summons. [R.C. 2151.28(C)]

APPOINTMENTS

- Advise any unrepresented party of their right to counsel, including court-appointed counsel. [R.C. 2151.314(A)]; [Juv.R. 7(F)(2)]



Failure to pay \$25 fee for appointment of counsel is NOT grounds for denial of appointment. [R.C. 120.36(B)] However, the court shall direct the person to pay the application fee at the time the person files an affidavit of indigency or a financial disclosure form with the court or within 7 days of that date. If the person does not pay the application fee within that 7-day period, the court shall assess the application fee at sentencing or at the final disposition of the case. [R.C. 120.36(A)]

- Appoint counsel for the child when abuse is alleged. [Juv.R. 4(A)]
- Appoint counsel for the child, if appropriate, when dependency and/or neglect are alleged. [R.C. 2151.281]; [Juv.R. 4]
- Appoint a guardian ad litem for the child; a guardian ad litem shall comply with *Sup.R. 48*. [R.C. 2151.281(B)]; [Juv.R. 4(B)]; [Sup.R. 48]
- Appoint a guardian ad litem for a minor parent or a parent who appears mentally incompetent. [R.C. 2151.281(C)]; [Juv.R. 4(B)(3)]
- The guardian ad litem may also serve as counsel for the child providing no conflict exists between those roles. [R.C. 2151.281(H)]; [Juv.R. 4]; [Sup.R. 48]



If a conflict exists between the roles and responsibilities of attorney and guardian ad litem, then the court shall appoint another person to serve as guardian ad litem for the ward and the attorney shall remain on the case as attorney. [Juv.R. 4(C)(1) and (2)]



A guardian ad litem and counsel should be present at the shelter care hearing.

HEARING PROCEDURE

- Rules of Evidence: Relaxed. [Juv.R. 7(F)(3)]; [Juv.R. 27(A)]
- Standard of proof: Probable cause. [Juv.R. 6]; [R.C. 2151.31(E)]
- Record all proceedings. [Juv.R. 37(A) and 40(D)(2)]
- The shelter care hearing should be held promptly and not later than 72 hours after the child is placed in shelter care to determine whether shelter care is required. [R.C. 2151.314(A)]



If a party requests an interpreter, has limited English proficiency, or is deaf/hard of hearing, the court shall appoint a qualified interpreter to assist such person. [R.C. 2311.14]; [42 U.S.C. 12181 through 12183]; [Title VI of Civil Rights Act of 1964]

FINDINGS

1. JURISDICTION

Determine whether there is probable cause basis that the child is abused, neglected, or dependent. [R.C. 2151.31(E)]

2. SHELTER CARE DETERMINATION

Determine whether any of the following apply [Juv.R. 7(A)]:

- Protection for the child from immediate or threatened physical or emotional harm
- Protection for the person or property of others from immediate or threatened physical or emotional harm
- The child may abscond or be removed from the jurisdiction of the court
- The child has no parent, guardian, custodian, or other person able to provide supervision and care.

3. RELATIVE AND/OR KINSHIP PLACEMENT

If a shelter care determination is made, determine whether there is an appropriate relative willing to take temporary custody of the child, and, if so, appoint that relative. [Juv.R. 7(F)(3)]; [R.C. 2151.314(B)(2)]

If the court finds that a relative placement is NOT appropriate, set forth the reasons for the determination in writing. [R.C. 2151.314(B)(2)]



The court's consideration of a relative or non-relative for appointment as temporary custodian does not make that relative a party to the proceedings. [R.C. 2151.314(B)(2)]

4A. REASONABLE EFFORTS FINDING

Determine whether:

- the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. If removal occurred under emergency circumstances and the agency had no prior contact, the court is not prohibited from finding the agency made reasonable efforts. [R.C. 2151.31(E)(2)]; [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

OR

- the agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely as the facts fall within one of the factors contained in R.C. 2151.419(A)(2). [R.C. 2151.31(E)(2)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

4B. BEST INTEREST FINDING

To issue an order granting temporary custody of a child to the public children services agency, the court must find that it would be contrary to the welfare and best interest of the child to continue in the home. [R.C. 2151.33(E)]; [42 U.S.C. 672]

- The previous findings **MUST** be stated in the order if temporary custody is granted to the agency. [R.C. 2151.33(E)]; [42 U.S.C. 672]

5. OTHER TEMPORARY ORDERS

- Determine what school district shall bear the costs of education for the child. [R.C. 3313.64]
- The court may order the board of education of the school district in which the child was enrolled immediately prior to the filing of the complaint to release the child's grades, credits, official transcripts, IEPs, and 504 plans to any district or school in which the child enrolls after the complaint is filed. [R.C. 2151.272(B)]



Immediate Enrollment: The child is entitled to immediate enrollment in school as defined by R.C. 3313.64, and the child's enrollment shall not be delayed due to a delay in the school district's receipt of any records required under R.C. 3313.672 or any other records required for enrollment. [42 U.S.C. 11431] No board of education shall withhold the grades, credits, official transcripts, diploma, IEPs, or 504 plans of a pupil for nonpayment of fees for materials used in a course of instruction if a complaint has been filed at any time in a juvenile court alleging that the pupil is an abused, neglected, or dependent child or if the pupil has been adjudicated an abused, neglected, or dependent child. A school board shall require that the grades, credits, official transcripts, IEPs, or 504 plan of a pupil described in this division be transferred immediately upon the receipt of either another district's or school's request for those records under R.C. 3313.672 or a juvenile judge's order under R.C. 2151.272. A board that is required to transfer records may request a copy of any order regarding the child's custody or placement issued pursuant to a complaint filed under R.C. 2151.27. However, a board shall not withhold records required to be transferred under that division pending receipt of a copy of the order. [R.C. 3313.642(D)]

- Ensure that the parents and custodian sign a release of school records, if the child does not return to the original school district.



Issuing school district determination as a separate order will protect the confidentiality of the information regarding the child.

Consider any other temporary orders under **Juv.R. 13**, such as those addressing child support, visitation and restraining orders, orders for forensic mental evaluations, or orders for services necessary to protect the child's best interest and welfare. [R.C. 2151.33]; [Juv.R. 13(B) and Juv.R. 32]

- Where an emergency order is sought regarding medical or surgical care, determine whether the motion is supported by the certification of one or more reputable practicing physicians and find that the treatment appears to be immediately necessary for the child. [Juv.R. 13(C)]
- Order paternity testing, if appropriate. [R.C. 2317.47]



Paternity testing, when appropriate, should be performed as early as possible in the life of the case.

CASEFLOW TIME FRAMES

- Set the adjudication and disposition dates **AND** have notice for those hearings issued to the parties while they are present. [R.C. 2151.28]; [Juv.R. 29]



The adjudication and disposition must be separate hearings. [Juv.R. 34(A)] If the dispositional hearing is held immediately after the adjudicatory hearing, determine whether: 1) All parties have been served with all of the documents required for the dispositional hearing prior to adjudication, including the case plan and the guardian ad litem's written report; [R.C. 2151.35(B)(1)]; [Juv.R. 34]; [Sup.R. 48] **AND 2) All parties consent to the dispositional hearing being held immediately after the adjudication hearing.** [Juv.R. 34(A)]

- The adjudication date **MUST** occur within 30 days of the filing of the complaint, but may be extended for 10 days to allow any party to obtain counsel, or for no more than 30 days in order to obtain service on all parties or any necessary evaluation. [R.C. 2151.28(A)(2)]; [Juv.R. 29(A)]

NOTE

Failure of the court to hold the adjudicatory hearing within these time frames does not undermine the jurisdiction of the court. [Juv.R. 29(A)]

- Disposition **MUST** occur within 90 days of the filing of the complaint or the complaint shall be dismissed without prejudice. [R.C. 2151.35(B)(1)]; [Juv.R. 34(A)]



The order should be distributed to all parties prior to the adjournment of the shelter care hearing.



All parties should be advised that if the child is in care 12 months, the agency shall seek termination of parental rights, absent compelling circumstances, unless the complaint contains a prayer for termination of parental rights.

- Journalize the entry. [Civ.R. 58(A)]; [Sup.R. 71]

PROCEDURAL ISSUES

NOTE

The adjudicatory and dispositional hearings may be held on the same day, if all parties were served with all of the documents required for the dispositional hearing prior to adjudication. [R.C. 2151.35(B)(1)] The adjudication and disposition **MUST be separate hearings.** Juv.R. 34(A) also requires that all parties consent to the dispositional hearing being held immediately after the adjudicatory hearing.

- Unless waived by all parties or unless the due date is extended by the court, the guardian ad litem final report shall be filed with the court and made available to the parties for inspection no less than 7 days before the dispositional hearing. [Sup.R. 48(F)(1)(c)]
- The adjudication date **MUST** occur within 30 days of the filing of the complaint, but may be extended after the filing of the complaint, for good cause shown, for 10 days to obtain counsel or for 30 days to obtain service or any necessary evaluation. [R.C. 2151.28(A)(2)]; [Juv.R. 29(A)]



A strict continuance policy is recommended to ensure court control and compliance with timelines. [Juv.R. 23]; [Sup.R. 41]

- The children services agency must file a case plan. Determine whether the case plan was filed prior to adjudication, within 30 days of the filing of the complaint, or within 30 days from the date the child was first placed in shelter care, whichever was sooner. [R.C. 2151.412(C)]; [Juv.R. 34(F)]
- If there is clear and convincing evidence to support a determination that the child is abused, neglected, and/or dependent, the case may be dismissed if the court finds the dismissal is in the best interest of the child and the community. [Juv.R. 29(F)]
- If there is **not** clear and convincing evidence to support a determination that the child is abused, neglected and/or dependent, the **case must be dismissed.** [Juv.R. 29(F)(1)]

NOTICE

- Ensure that all parties to the action and the guardian ad litem receive reasonable notice of the date, time, place and purpose of this hearing. [R.C. 2151.35(C)]; [Juv.R. 2(Y) and 29(B)(1)]
- Determine whether the foster parent, adoptive parent, or other person with custody of the child was notified of this hearing at which they have the opportunity to be heard. [R.C. 2151.424]



Ensure grandparents and other relatives received notice within 30 days of removal. HB 279. [R.C. 2151.33(F)]

CHILD'S PARTICIPATION

NOTE

A subject child is a party to the action, but that child's appearance may be excused. [R.C. 2151.35(A)(1)]; [Juv. R. 2(Y)]



The American Bar Association recommends that the child attend hearings in order to facilitate the child's meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.)

SERVICE

- Ensure that service of the complaint and the summons was made upon parents, guardian or custodian, and any other person who appears to be a proper or necessary party. [R.C. 2151.28(C)]; [Juv.R. 15]
- The summons must comply with Juv.R. 15 and contain:
 - a summary statement of the complaint;
 - an order to the person to appear at a stated time and place with a warning that the person may lose valuable rights or be subject to court sanction if the person fails to appear at the time and place stated in the summons;

- a statement informing parents, guardian or custodian that a case plan may be prepared, the general requirements of case plans and the possible consequences of noncompliance with a journalized case plan; [R.C. 2151.28(F)(2)]

AND

- a statement advising that any party is entitled to counsel and that the court will appoint counsel if the party is indigent; [R.C. 2151.28(F)(1)]; [Juv.R. 15(B)(3)]

AND

- the name and telephone number of the court employee designated to arrange for the prompt appointment of counsel for indigent persons; [R.C. 2151.28(C)(1)]; [Juv.R. 15(B)(10)]

AND

- the following when appropriate:
 - **(when temporary custody is requested)** an explanation that an adjudication of abuse, neglect or dependency of the child may result in an order of temporary custody that will cause the removal of the child from the parents' legal custody until the court terminates the order or permanently divests parental rights; [R.C. 2151.28(D)]; [R.C. 2151.353(B)]; [Juv.R. 15(B)(7)]

OR

- **(when permanent custody is requested)** an explanation that an order granting permanent custody divests the parents of their parental rights and privileges; [R.C. 2151.28(D)]; [R.C. 2151.353(B)]; [Juv.R. 15(B)(6)]

OR

- **(when planned permanent living arrangement is requested)** an explanation that the granting of such an order will cause the removal of the child from the legal custody of the parents. [R.C. 2151.28(D)]; [R.C. 2151.353(B)]; [Juv.R. 15(B)(6)]

AND

- Notice to caregiver that order is permanent in nature and will provide stable environment until emancipation or court releases from custody. HB 213. [R.C. 2151.353(B)(2)]

APPOINTMENTS

Advise any unrepresented party of their right to counsel, including court-appointed counsel. [R.C. 2151.352]; [Juv.R. 4]



Failure to pay \$25 fee for appointment of counsel is NOT grounds for denial of appointment. [R.C. 120.36(B)] However, the court shall direct the person to pay the application fee at the time the person files an affidavit of indigency or a financial disclosure form with the court or within 7 days of that date. If the person does not pay the application fee within that 7-day period, the court shall assess the application fee at sentencing or at the final disposition of the case. [R.C. 120.36(A)]

- Ensure that a guardian ad litem has been appointed for the child. [R.C. 2151.281(B)(1-3) and (G) and (K)]; [Juv.R. 4(B)]; [Sup.R. 48]; HB 213.
- Ensure that a guardian ad litem has been appointed for a minor parent or a parent who appears mentally incompetent. [R.C. 2151.281(C)]; [Juv.R. 4(B)(3)]; [Sup.R. 48]
- Appoint counsel for the child when abuse is alleged. [Juv.R. 4(A)]
- Appoint counsel for the child, if appropriate, when dependency and/or neglect are alleged. [R.C. 2151.281] and [Juv.R. 4]



The guardian ad litem may also serve as counsel for the child providing no conflict exists between those roles. [Juv.R. 4]



If a conflict exists between the roles and responsibilities of attorney and guardian ad litem, then the court shall appoint another person to serve as guardian ad litem for the ward and the attorney shall remain on the case as attorney. [Juv.R. 4(C) (1) and (2)]; [In re Williams, 101 Ohio St.3d 398, 2004-Ohio-1500]

INDIAN CHILD WELFARE ACT (ICWA) CONSIDERATIONS

- Inquire as to whether the child or parents may be of Native American heritage. [25 U.S.C. 1903, 1912 and 1922] If such heritage is a possibility, until such a determination is made, proceed as if ICWA applies.



ICWA issues should be identified early in the case to avoid delays in caseflow time frames. Refer to the Indian Child Welfare Act Checklists and Native American Resource Directory for Juvenile and Family Court Judges, published by the National Council of Juvenile and Family Court Judges.

HEARING PROCEDURE

- Rules of Evidence: Strict compliance. [Evid.R. 101]; [Baby Girl Baxter, 17 Ohio St.3d 229, 479 N.E.2d 257 (1985)]
- Standard of Proof: Clear and convincing evidence to prove allegations of abuse, neglect or dependency. [R.C. 2151.35(A)(1)]; [Juv.R. 29(E)(4)]
- The burden of proof rests with the agency to establish that reasonable efforts were made to prevent removal, to eliminate continued removal and to reunify the child in his or her home. [R.C. 2151.419(A)(1)]
- At the beginning of the hearing, the court shall inform the parties of the substance of the complaint, the purpose of the hearing and the possible consequences of the hearing. [Juv.R. 29(B)(2)]
- Record the proceeding. [R.C. 2151.35(A)(2)]; [Juv.R. 37(A)]



The court may excuse the attendance of the child at a hearing in neglect, dependency or abuse cases. [R.C. 2151.35(A)(1)]; [Juv.R. 27(A)]



The American Bar Association recommends that the child attend hearings in order to facilitate the child's meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.)

Prior to the child testifying, the court shall assess the competency of the child witness in accordance with Juv.R. 27(B)(2). In a proceeding where a child

is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition in the presence of the court, if the court determines there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as a result of the child's participation at the hearing in accordance with Juv.R. 27(B)(3).

ADMISSION OR DENIAL

The court shall affirmatively inquire whether each party denies or admits the allegations. Failure to deny or admit is deemed a denial of the allegations. The court may not accept an admission without personally addressing each party, and determining both of the following:

1. The party is making the admission voluntarily and understands the nature of the allegations and the consequences of the admission; and
2. The party understands that by entering an admission the party is waiving the right to challenge the witnesses and evidence against the party, to remain silent, and to introduce evidence at the adjudicatory hearing. [Juv.R. 29]

If the allegations are denied, proceed to trial. [Juv.R. 29(E)]

ADJUDICATORY FINDINGS

- Determine whether there is **clear and convincing evidence** to support a determination that the child is abused, neglected and/or dependent. [R.C. 2151.03]; [R.C. 2151.031]; [R.C. 2151.04]; [R.C. 2151.35(A)(1)]; [Juv.R. 29(E)(4)]
- If the child is adjudicated dependent, the court's written findings of fact and conclusions of law shall specify the existence of any danger to the child and any underlying family problems that form the basis of the court's determination. [R.C. 2151.28(L)]

Determine whether the child should remain or be placed in shelter care until the dispositional hearing. Inquire whether the agency made diligent efforts to locate grandparents or adult relatives. [R.C. 2151.28(B)]; [Juv.R. 7(F)(3) and 29(F)(4)]; [42 U.S.C. 675]

- If a shelter care determination is made, determine whether there is an appropriate relative to take temporary custody of the child, and, if so, whether he/she has been appointed.
- If the court finds that the relative placement is NOT appropriate, set forth the reasons **for that determination in writing**.
- If a shelter care determination is made, issue **written findings of fact** that sustain the relative placement conclusion.

NOTE

The court's consideration of a relative for appointment as temporary custodian does not make that relative a party to the proceedings. [R.C. 2151.28(B)(1)]

REASONABLE EFFORTS FINDING

Determine whether:

- the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. If removal occurred under emergency circumstances and the agency had no prior contact, the court is not prohibited from finding the agency made reasonable efforts. [R.C. 2151.31(E)(2)]; [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

OR

- the agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely as the facts fall within one of the factors contained in R.C. 2151.419(A)(2). [R.C. 2151.31(E)(2)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

BEST INTEREST FINDING

To issue an order granting temporary custody of a child to the public children services agency, the court must find that it would be contrary to the welfare and best interest of the child to continue in the home. [R.C. 2151.33(E)]; [42 U.S.C. 672]

The above findings **MUST** be stated in the order if temporary custody is granted to the agency. [R.C. 2151.33(E)]; [42 U.S.C. 672]

CASEFLOW TIME FRAMES

- If the dispositional hearing is held immediately after the adjudicatory hearing, determine whether all parties have been served with all documents required for the dispositional hearing, including the case plan. [R.C. 2151.35(B)(1)]; [Juv.R. 29(F)(2)(a)]
- The dispositional hearing for an adjudicated abused, neglected, or dependent child **MAY** be held immediately after the adjudicatory hearing **ONLY** if all parties were served with all of the documents required for the dispositional hearing prior to the adjudication. [R.C. 2151.35(B)(1)]
- If the dispositional hearing is not held immediately following the adjudicatory hearing, a date must be set for the dispositional hearing that is not more than 30 days after the adjudicatory hearing and within 90 days of the filing of the complaint. [R.C. 2151.35(B)(1) and 2151.28(B)(3)]; [Juv.R. 29(F)(2)(a) and 34(A)]
- Disposition **MUST** occur within 90 days of the filing of the complaint. [R.C. 2151.35(B)(1)]; [Juv.R. 34(A)]
- Journalize the entry within 7 days. [R.C. 2151.35(B)(3)]; [Civ.R. 58(A)]; [Sup.R. 7]



The order should be distributed to all parties prior to the adjournment of the adjudicatory hearing.



Identify a plan for including the attendance of age-appropriate children at the dispositional hearing.

PROCEDURAL ISSUES

- The adjudication and disposition must be separate hearings. [Juv.R. 34(A)]
- If the dispositional hearing is held immediately after the adjudicatory hearing, determine whether:
 - all parties have been served with all of the documents required for the dispositional hearing prior to adjudication, including the case plan and the guardian ad litem's written report; [R.C. 2151.35(B)(1)]; [Juv.R. 34]; [Sup.R. 48]

AND

- all parties consent to the dispositional hearing being held immediately after the adjudication hearing. [Juv.R. 34(A)]
- The disposition must occur within 90 days of the filing of the complaint. [R.C. 2151.35(B)(1)]; [Juv. R. 34(A)]



The dispositional hearing shall be held not more than 30 days after the adjudicatory hearing. [Juv.R. 34]

NOTICE

- Ensure that all parties to the action and the guardian ad litem received proper notice of the date, time, place, and purpose of the dispositional hearing. [R.C. 2151.281(i)]; [Juv. R. 4(E)]
- Determine whether the foster parent, adoptive parent, or other person with custody of the child was notified of this hearing at which they have the opportunity to be heard. [R.C. 2151.424]



Determine if agency provided notice to grandparents and other relatives within 30 days of removal. [R.C. 2151.33(F)]



Notice and the opportunity to present evidence do NOT make the foster parent a party to the action. [R.C. 2151.424(C)]



The American Bar Association recommends that the child attend hearings in order to facilitate the child's meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.)

APPOINTMENTS

- Advise any unrepresented parties of their right to counsel, including court-appointed counsel. [R.C. 2151.352]; [Juv.R. 4(A)]



Failure to pay \$25 fee for appointment of counsel is NOT grounds for denial of appointment. [R.C. 120.36(B)] However, the court shall direct the person to pay the application fee at the time the person files an affidavit of indigency or a financial disclosure form with the court or within 7 days of that date. If the person does not pay the application fee within that 7-day period, the court shall assess the application fee at sentencing or at the final disposition of the case. [R.C. 120.36(A)]

- If any party requests a continuance of the dispositional hearing to obtain or consult counsel, determine whether the hearing should be continued for any reasonable period of time not exceeding 90 days from the date on which the complaint in the case was filed. [R.C. 2151.35(B)(1)]; [Juv.R. 34]

SERVICE

If the complaint seeks temporary custody, planned permanent living arrangement, or permanent custody [R.C. 2151.27(C)], the summons must contain the following required explanations: [R.C. 2151.28(D)]

- An adjudication of the child as either abused, neglected, or dependent may result in an **Adjudication for Temporary Custody** that will cause **removal of the child from the parents' custody until the court terminates the custody order or permanently terminates their parental rights;**

OR

- An **Order for Permanent Custody** will permanently divest parents of their parental rights and privileges;

OR

- An **Order for a Planned Permanent Living Arrangement** will cause the removal of the child from the parents' legal custody if specific criteria under R.C. 2151.353(A)(5)(a) to (c) are found to exist. [R.C. 2151.28(D)] and [R.C. 2151.353(B)]

AND

- Notice to caregiver that order is permanent in nature and will provide stable environment until emancipation or court releases from custody. HB 213. [R.C. 2151.353(B)(2)]
- Unless waived by all parties or unless the due date is extended by the court, the guardian ad litem's final report shall be filed with the court and made available to the parties for inspection no less than 7 days before the dispositional hearing. [Sup.R. 48(F)(1)(c)]
- If a motion in writing has been filed seeking legal custody of the child to be awarded to a person other than the parent, determine whether the motion was properly served on all parties. [R.C. 2151.353(A)(3)]

HEARING PROCEDURE

- Rules of Evidence: Relaxed. (Any evidence from child, guardian, children services or placing agency that is material and relevant, including, but not limited to, hearsay, opinion, and documentary evidence, may be admitted, **except in matters seeking permanent custody.**) [R.C. 2151.35(B)(1) and (2)(b)]; [Juv.R. 34]
- Standard of Proof: Preponderance of the evidence. However, in Permanent Custody and Planned Permanent Living Arrangement dispositions, the standard is clear and convincing evidence. [Juv.R. 29(E)(4)]; for PPLA: [R.C. 2151.353(A)(5)]; for PC: [R.C. 2151.414(B)(1)]



The same hearing officer should preside over the adjudication and disposition. [R.C. 2151.35(B)(2)(a)]; [Juv.R. 34]

- Record the proceeding. [R.C. 2151.35(A)(2)]; [Juv. R. 37(A)]

NOTE

Witness testimony must be sworn. [Evid.R. 603]

- The guardian ad litem's report shall be filed with the court no less than 7 days before the dispositional hearing. The court should use this report to ensure the guardian ad litem has completed all duties required by Sup.R. 48(D)(13). The court may replace any guardian ad litem who is not adequately discharging such duties. [Sup.R. 48(F)]; [R.C. 2151.281]
- Enter appropriate judgment within 7 days after the conclusion of the hearing. [Juv.R. 34(C)]

DISPOSITIONAL FINDINGS

In making dispositional orders, consider the best interest of the child. [R.C. 2151.412(E)]; [2151.414(D)(1)]

In making dispositional orders, include the termination date.

The court may make any of the following orders of disposition: protective supervision, temporary custody, legal custody, permanent custody and planned permanent living arrangement. (See specific Dispositional Hearing, Special Provisions Bench Cards.)

REASONABLE EFFORTS FINDING

Determine whether:

- The agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. If removal occurred under emergency circumstances and the agency had no prior contact, the court is not prohibited from finding the agency made reasonable efforts. [R.C. 2151.31(E)(2)]; [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

OR

- The agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely as the facts fall within one of the factors contained in R.C. 2151.419(A)(2). [R.C. 2151.31(E)(2)]; [Juv. R.27(B)(1)]; [42 U.S.C. 672]

BEST INTEREST FINDING

- To issue an order granting temporary custody of a child to the public children services agency, the court must find that it would be contrary to the welfare and best interest of the child to continue in the home. [R.C. 2151.33(E)]; [42 U.S.C. 672]
- The above findings **MUST** be stated in the order if temporary custody is granted to the agency. [R.C. 2151.33(E)]; [42 U.S.C. 672]

NOTE

Reasonable efforts findings apply to orders for temporary custody, permanent custody, and planned permanent living arrangement dispositions as they are orders that remove the child from the child's home.

NOTE

Additional requirements exist for permanent custody orders. Refer to Special Provisions Bench Cards.

CASE PLAN

- Determine whether the public children services agency has satisfied its requirement to maintain and file a case plan with the court. [R.C. 2151.412]
- If an agreed case plan has been filed with the court, determine whether to approve that case plan. [R.C. 2151.412(D)]

NOTE

The agency shall attempt to obtain agreement among all parties. [R.C. 2151.412(D)]

- In the absence of agreement of the case plan, determine the case plan contents based on the evidence presented at the dispositional hearing using the best-interest test. [R.C. 2151.412(D)]; [Juv.R. 34(F)]

NOTE

The court shall be guided by the general priorities set forth in R.C. 2151.412(G)(1) through (6) when reviewing and approving the case plan.

NOTE

All parties are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the case plan may be held in contempt of court.

[R.C. 2151.412(E)(1)]



Depending on how Ohio will adopt and implement Fostering Connections, it requires assurances that the agency has coordinated with the child's school district to ensure that the child remains enrolled in the school in which the child is enrolled at the time of placement. If remaining at the child's school of origin is not in the child's best interest, the agency must provide immediate enrollment in a new school, with all educational records provided to the school. [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675 (1)(G)] **Immediate Enrollment:** The child is entitled to immediate enrollment in school as defined by R.C. 3313.64, and the child's enrollment shall not be delayed due to a delay in the school district's receipt of any records required under R.C. 3313.672 or any other records required for enrollment.

[42 U.S.C. 11431]

- As part of the dispositional order, journalize a case plan. [R.C. 2151.412(D)]; [Juv. R. 34(F)]

DRUG TREATMENT AND TESTING ORDERS

- If alcohol or other drug addiction of a parent or caregiver of the child was the basis for the adjudication of abuse, neglect or dependence, the court shall issue an order requiring the parent or other caregiver to submit to an assessment and, if needed, treatment from an alcohol and drug addiction program certified by the department of alcohol and drug addiction services. [R.C. 2151.3514(B)]
- The court may order the parent or other caregiver to submit to alcohol or other drug testing during, after, or both during and after, the treatment. The provider shall send the test results to the court and the agency. [42 C.F.R. 2.20]; [R.C. 340.15(B)] and [R.C. 2151.3514]

VISITATION, CHILD SUPPORT AND OTHER RESTRAINING ORDERS

- Address issues of visitation. [R.C. 2151.33(B)]; [R.C. 2151.35(B)(4)]; [Juv.R. 34(H)]
- Address sibling visitation. If siblings have been placed in separate homes, determine whether regular visitation and ongoing contact is occurring among those siblings, unless contrary to the health and welfare determination. [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]
- Determine whether any additional orders or restraint on conduct are necessary. Cite R.C. 2151.353(C) when protective supervision has been ordered, or R.C. 2151.33(B) and R.C. 2151.35(B)(4) when protective supervision has not been ordered, as part of disposition. [Juv.R. 34(H)]

EDUCATION

- If the dispositional Order does not return the child home, determine what district shall bear the cost of education for the child. [R.C. 2151.357] and [R.C. 3313.64] Consistent with the requirement of the Fostering Connections Act, a child shall remain enrolled in the school in which the child is enrolled at the time of placement, unless remaining at the school of origin is contrary to the child's best interest. [R.C. 2151.35(B)(3), 2151.362, 3313.64]; [Juv.R. 34(C)]; [42 U.S.C.A. 675(1)(G)]

NOTE

The court may order the board of education of the school district in which the child was enrolled immediately prior to the filing of the complaint to release the child's grades, credits, official transcripts, IEPs, and 504 plans to any district or school in which the child enrolls after the complaint is filed. [R.C. 2151.272(B)]



Issuing school district determination as a separate Order will protect the confidentiality of the information regarding the child.



Ensure that the parents and custodian sign a release of school records, if the child is not returning to the original school district.



Also, the child is entitled to immediate enrollment in school as defined by R.C. 3313.64, and the child's enrollment shall not be delayed due to a delay in the school district's receipt of any records required under R.C. 3313.672 or any other records required for enrollment. [42 U.S.C. 11431] No board of education shall withhold the grades, credits, official transcripts, diploma, IEPs, or 504 plans of a pupil for nonpayment of fees for materials used in a course of instruction if a complaint was filed at any time in a juvenile court alleging the pupil is an abused, neglected, or dependent child or if the pupil has been adjudicated an abused, neglected, or dependent child. A school board shall require the grades, credits, official transcripts, IEPs, or 504 plan of a pupil described in this division be transferred immediately upon the receipt of either another district's or school's request for those records under R.C. 3313.672 or a juvenile judge's order under R.C. 2151.272. A board that is required to transfer records may request a copy of any order regarding the child's custody or placement issued pursuant to a complaint filed under R.C. 2151.27. However, a board shall not withhold records required to be transferred under that division pending receipt of a copy of the order.

[R.C. 3313.642(D)]

CASEFLOW TIME FRAMES

- Advise the parties of their right to appeal this decision. [Juv.R. 34(J)]
- Journalize the entry within seven days of the dispositional hearing. [R.C. 2151.35(B)(3)]
- Schedule the date for the review hearing to be held pursuant to R.C. 2151.415. [Juv. R. 36]
- Give notice of the review hearing to all parties while they are present. [R.C. 2151.27(D)]; [Juv. R. 10(D) through (F), and 36(A)]



The court should ensure the youth is able to attend hearings. The court should schedule the review to avoid school absences. The court should designate a representative (guardian ad litem, CASA, or counsel) to advise the youth of his/her right to participate in hearings, and shall arrange transportation. The American Bar Association recommends children attend hearings in order to facilitate their meaningful participation in hearings, which has shown to improve case outcomes. [See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.]

FINDINGS

- Determine whether the child can remain in the custody of the parents, guardian or custodian, subject to any conditions and limitations upon the child, the parents, guardian or custodian. [R.C. 2151.353(A)(1)]
- Place any reasonable restriction upon the child, parents, guardian, custodian, or any other person that may include, but is not limited to, any of the following:
 - Order a party to vacate the child's home within 48 hours of the order for an indefinite or specified period of time;
 - Order a party, a parent, or custodian to prevent any person from having contact with the child;
 - Issue an order restraining or otherwise controlling the conduct of any person if the conduct would not be in the child's best interest. [R.C. 2151.353(C)]; [Juv.R. 34(E)]



FINDINGS

- Determine whether the child can and should be returned home with or without orders of protective supervision. [R.C. 2151.417(G)(3)]
- If the child cannot be returned home, determine if the child should remain in the custody of the agency or whether custody should be transferred to another public children services agency, private child-placing agency, or another individual. [R.C. 2151.417(G)(3)]
- An initial order for temporary custody terminates one year after the earlier of the date on which the complaint was filed or on which the child was first placed in shelter care. [R.C. 2151.353(F)]; [Juv.R. 14(A)]

NOTE

Upon the filing of a motion, the temporary custody order continues until the court rules on that motion under R.C. 2151.415.

CASE PLANS [R.C. 2151.412]

- The case plan shall have the following general goals:
 - consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;
- AND**
- to eliminate with all due speed the need for the out-of-home placement so that the child can safely return home. [R.C. 2151.412(G)(1)(b)]
- When a child is in temporary custody and that child was either neglected or abused or witnessed the abuse or neglect of a sibling in his household, the case plan shall include, at a minimum: (1) that the child's parents, guardian, or custodian participate in mandatory counseling; and (2) that the child's parents, guardian, or custodian participate in any supportive services that are provided pursuant to the child's case plan. [R.C. 2151.412(I)]



PROCEDURAL ISSUES: CUSTODY TO NONPARENT

- A proposed legal custodian must be identified in the complaint or motion filed by a party to the proceedings. [R.C. 2151.353]
- The proposed legal custodian must have signed a statement of understanding that complies with R.C. 2151.353(A)(3).
- The proposed legal custodian must be present for the hearing to affirm their intent, demonstrate an understanding of the effect of the custody order and answer any questions from the court or any parties. [R.C. 2151.353(A)(3)(d)]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675(5)(C)]; [R.C. 2151.417(F)] Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

FINDINGS

NOTE

An order of legal custody of a child to a person is intended to be permanent in nature. [R.C. 2151.42(B)]

- In making custody determinations pursuant to R.C. 2151.353, the factors under R.C. 3109.04 may be considered. [R.C. 2151.23(F)(1)]
- When making custody determinations between a non-parent and parent pursuant to R.C. 2151.353, there is no requirement that an unsuitability finding be made. [In re C.R., 108 Ohio St.3d 369, 2006-Ohio-1191, 843 N.E.2d 1188]
- In addition to awarding custody, protective supervision may be granted in combination with those orders. [R.C. 2151.353(A)(1)]; [R.C. 2151.417(G)]
- If protective supervision is ordered, consider placing any reasonable restrictions pursuant to R.C. 2151.353(C).
- An order of legal custody to a person shall not be modified or terminated unless it is found, based on facts that have arisen since the order was issued or that were unknown to the court at that time,
 - that a change has occurred in the circumstances of the child or the person who was granted legal custody;

AND

- that modification or termination is necessary to serve the best interest of the child. [R.C. 2151.42(B)]



NOTICE

Determine whether:

- the notice of the hearing properly contains a full explanation of the effects of permanent custody and the right to counsel, including court-appointed counsel. [R.C. 2151.414(A)(1)]; [Juv.R. 4]

AND

- the complaint containing a request for permanent custody or motion to modify a disposition to permanent custody were properly served on all parties, including the guardian ad litem. [R.C. 2151.414(A)(1)]; [R.C. 2151.28(C)]; [Juv.R. 15]

APPOINTMENTS

- Advise any unrepresented parties of their right to counsel, including court-appointed counsel. [Juv.R. 4]
- Appoint a guardian ad litem for the child; a guardian ad litem shall comply with Sup.R. 48. [R.C. 2151.281(B)]; [Juv.R. 4(B)]; [Sup.R. 48]
- Ensure that a guardian ad litem has been appointed for a minor parent or a parent who appears mentally incompetent. [R.C. 2151.281(C)]; [Juv.R. 4(B)(3)]; [Sup.R. 48]
- The guardian ad litem may also serve as counsel for the child, provided no conflict exists between those roles. [Juv.R. 4]



If a conflict exists between the roles and responsibilities of attorney and guardian ad litem, then the court shall appoint another person to serve as guardian ad litem for the ward and the attorney shall remain on the case as attorney. [Juv.R. 4(C)(1) and (2)]; [In re Williams, 101 Ohio St.3d 398, 2004-Ohio-1500]



If any motions to withdraw have been filed by any counsel, it may lead to reversible error to allow counsel to withdraw at this point without allowing the party to get a new attorney.

HEARING PROCEDURE

- Rules of Evidence: Strict compliance. [Juv.R. 34(l)]
- Standard of Proof: Clear and convincing evidence. [R.C. 2151.414(B)(1)]
- Record the proceeding. [R.C. 2151.35(A)(2)]; [Juv.R. 37]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675 (5) (C)]; [R.C. 2151.417(F)] Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

- Determine whether the guardian ad litem submitted a written report prior to the permanent custody hearing. [R.C. 2151.414(C)]; [Sup.R. 48]



The court may continue the hearing on a motion for permanent custody and for good cause beyond the 120-day deadline, as long as the entry is journalized not later than 200 days after the motion was filed. [R.C. 2151.414(A)(2)]

- The court shall grant permanent custody when it determines by clear and convincing evidence that:
 - The child cannot be safely placed with either parent within a reasonable period of time; [R.C. 2151.414(E)]

AND

- Based upon a finding that one or more of the factors exist as to each of the child's parents; [R.C. 2151.414(B)] and [R.C. 2151.414(E)(1-16)]

AND

- It is in the child's best interests (by analyzing the best interest factors outlined in R.C. 2151.414(D)(1) and (D)(2).



Only one factor has to be found. [In re Williams, 75 Ohio St.3d 95, 99, 661 N.E.2d 738 (1996)], but see R.C. 2151.414(e), effective October 5, 2000 (statute modified to include more than original eight factors in In re Williams).



When calculating the time, if the court is considering that the child cannot be returned in a reasonable amount of time and is proceeding on a complaint or motion that alleges that the child has been in the custody of an agency for 12 or more months of a consecutive 22-month period:

- When making this calculation, start the time of temporary custody on the earlier date the child was adjudicated or 60 days after the removal of the child from the home; [R.C. 2151.414(B)(1)(d)]
AND
- Determine whether the child met the requirement at the time the complaint or motion was filed.



It is a reversible error to base the finding on a condition that did not exist at the time the motion was filed.

CASEFLOW TIME FRAMES

- Advise the parties of their right to appeal this decision. [Juv.R. 34(J)]
- Journalize the entry within 7 days. [R.C. 2151.35(B)(3)]
- Set a review hearing.



Parents no longer need to receive notice of review if permanent custody was granted, as they are no longer parties. Although the parents still have the right to appeal this decision. [R.C. 2151.35(D) and (F)]

NOTICE

- Determine whether the summons for the complaint seeking planned permanent living arrangement contains the required definition and a full explanation of the effects of an order and parents' right to counsel. [R.C. 2151.353(B)]
- Determine whether the service of the summons and Complaint was properly made. [R.C. 2151.353(B)]
- Determine whether notice to caregiver that order is permanent in nature and will provide stable environment until emancipation or court releases from custody. HB 213. [R.C. 2151.353(B)]
- Caregiver is to actively participate in individual living case plan, attend agency team meetings and court hearings, complete training in the child's transition into adulthood, and assist in child's transition into adulthood. HB 213. [R.C. 2151.353(B)]

HEARING PROCEDURE

Standard of Proof: Clear and convincing evidence. [R.C. 2151.353(A)(5)] and [R.C. 2151.415(C)(1)]

The agency must prove that:

- the child is 16 years old (HB 213) the child, because of physical, mental, or psychological needs, is **unable to function in a family-like setting and must remain in residential care**

OR

- the parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with R.C. 2151.414(D), and the child retains a positive relationship with a parent or relative

OR

- the child is 16 years old, has been counseled on the permanent options available, is unwilling to accept or unable to adapt to a permanent placement. [R.C. 2151.353(A)(5)] and [R.C. 2151.415(C)(1)(a) through (c)]
- Set out these findings, and the facts upon which they are based, in the entry. [R.C. 2151.415(C)(2)]
- Court must consider information from child, guardian ad litem, and agency. [R.C. 2151.353(B)]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675 (5) (C)]; [R.C. 2151.417 (F)] Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

RESULTING RESTRICTIONS [R.C. 2151.415(G)]

If planned permanent living arrangement is granted, the child's placement cannot be changed unless:

- the court and the guardian ad litem have received notice of the intended removal

AND

- the court has issued an order approving the order

OR

- it is necessary for the protection of the child from physical or emotional harm AND the agency immediately gives the court notice of the removal and the reasons why the removal is necessary.

INDEPENDENT LIVING SERVICES FOR 16 YEAR-OLD

- ❑ Ensure that the agency has completed a life skills assessment of the youth, if the youth is 16 years of age or older and is in agency custody. The assessment must include an evaluation of the strengths and weaknesses of the youth, and must be completed no later than 60 days after the youth's 16th birthday or 60 days after the youth enters agency custody. [R.C. 2151.82]; [Ohio Admin.Code 5101:2-42-19(C)]
- ❑ Inquire about the results of the assessment including the skills the youth needs to develop in order to successfully transition into adulthood.
- ❑ Ensure that the agency has consulted with the youth to develop a **written** independent living plan within 30 days of the completion of the life skills assessment. The plan must include input from the youth, the caregiver, and other significant others in the youth's life. [R.C. 2151.83]; [Ohio Admin.Code 5101:2-42-19(E)]

REQUIREMENTS WITH FEDERAL FISCAL IMPLICATIONS [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

- ❑ Ensure that the agency is providing independent living services for youth aged 16 and older. Such services shall be based on the results of the life skills assessment. [42 U.S.C. 675(C)]; [R.C. 2151.82]
- ❑ Independent Living Services may include the following:
 - ❑ Providing housing
 - ❑ Teaching decision-making skills
 - ❑ Teaching daily living skills such as securing and maintaining a residence, money management, utilization of community services and systems, personal health care, hygiene, safety and time management

- ❑ Assisting in obtaining education, training, and employment skills
- ❑ Academic support, including tutoring, GED preparation, preparation for college entrance exams, college counseling and assistance applying for financial aid and scholarships
- ❑ Assisting in developing positive adult relationships and community supports. [R.C. 2151.81(A)]; [Ohio Admin.Code 5101:2-42-19(D)]
- ❑ Ensure that independent living services are documented in the youth's case plan. [R.C. 2151.82]
- ❑ Ensure that each youth 16 or older receives a copy of any consumer report pertaining to that youth each year until the youth exits foster care. [42 U.S.C. 675(5)(I)]
- ❑ If the youth is under age 16, independent living services should be provided when the agency deems such services appropriate. In making this determination, the agency is required to consider the likelihood the youth will remain in agency custody until age 18.



If the youth is nearing his or her 16th birthday at the time of the hearing, address the upcoming need to complete a life skills assessment of the youth and provide the youth with independent living services.



The court may order the agency to complete a life skills assessment and/or provide independent living services for the youth if the court deems such services are necessary and are in the best interest of the youth.
[R.C. 2151.417(A)]

PROCEDURAL ISSUES

- A review hearing (permanency hearing) shall be **one year** after the earlier of the dates on which the complaint was filed or the child was first placed into shelter care. This review hearing shall be scheduled at the dispositional hearing. [R.C. 2151.417(C)]; [Juv.R. 36 and 38(B)]
- Subsequent review hearings shall be held **at least every 12 months** until the child is adopted, returned to the parents, or when the court terminates the child’s placement or custody arrangement. [R.C. 2151.417(C)]; [Juv.R. 36 and 38(B)]
- The court may, with proper notice, hold additional reviews at any time. [R.C. 2151.417(A)]
- Subsequent review hearings should be scheduled at the conclusion of each review hearing. [R.C. 2151.417(C)]; [Juv.R. 36(A)]
- If a written request or motion for extension, termination, or modification of the dispositional order is made, it shall be filed not later than 30 days prior to the earlier of either the date of termination or the date of the initial annual review hearing. [R.C. 2151.415]
- If the court is considering a modification of the disposition, proceed as if an original disposition hearing. (See the Dispositional Hearing Bench Cards addressing Special Provisions for Protective Supervision, Temporary Custody, Legal Custody, Planned Permanent Living Arrangement.) [R.C. 2151.417(B) and 2151.353(E)(2)]

NOTICE AND SERVICE

Determine whether:

- All interested parties, including, but not limited to, the agency worker, the parents, guardians or custodians, the guardian ad litem

and the **child** received notice of every review hearing; [R.C. 2151.417(F)]; [Juv.R. 4(E)]

AND

The foster parent received notice of the date, time and place of the review hearing. [R.C. 2151.424]



The court should make every effort to ensure that the youth is able to attend hearings. The court should schedule the review to avoid school absences. The court should designate a representative (guardian ad litem, CASA, or counsel) to advise the youth of their right to participate in hearings, and shall arrange transportation. The American Bar Association recommends that the child attend hearings in order to facilitate the child’s meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases.)



Service of process requirements are set forth in Special Provisions sections of Dispositional Hearing Bench Card.



Notice and the opportunity to present evidence do **NOT** make the foster parent a party to the action. [R.C. 2151.424(C)]

HEARING PROCEDURE

Rules of Evidence: Relaxed, unless a motion for permanent custody is pending before the court. [Juv.R. 27 and 34(I)]

Provide every interested party with an opportunity to testify and present evidence. [R.C. 2151.417(F)]

- Provide the foster parent with the opportunity to be heard and the right to present evidence. [R.C. 2151.424]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675(5)(C)]; [R.C. 2151.417(F)] Engage the youth in the hearing by asking the youth pertinent questions on topics, such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

FINDINGS

- Review the current custody status of the child. [R.C. 2151.417]

NOTE

The health and safety of the child are paramount. [R.C. 2151.412(A) and (G)]

- The court may modify or terminate any dispositional order considering the best interest of the child. [R.C. 2151.415(F)] and [R.C. 2151.414(D)(1)]



Determine whether the child's educational, health, and mental health needs have been appropriately assessed and whether services were provided to meet those needs.

Determine whether:

- Any changes in the custody status are appropriate and in the child's best interest

- If the child is in temporary custody, determine whether the child can be returned home with or without protective supervision. [R.C. 2151.417(G)]

AND

- Extension, termination or modification of the dispositional order is in the best interest of the child. [R.C. 2151.415(A)]
- When the court review hearing takes the place of the administrative review, pursuant to R.C. 2151.417(J) and Juv.R. 36(C):
 - Determine the continued necessity for, and the safety and appropriateness of, the child's placement

AND

- Determine the extent of compliance with the child's case plan

AND

- Determine the progress made toward alleviating or mitigating the causes necessitating the child's placement in foster care

AND

- Project the likely date by which the child may be safely returned home or placed for adoption or legal custody.

PLACEMENT [R.C. 2151.417]

- Review the current placement.
- Assess the safety of the placement.
- Determine the appropriateness of the placement and whether the placement serves the child's best interest.

- Evaluate the custody arrangement and the need for continued placement, including progress toward alleviating or mitigating the need for continued placement.
- Decide whether changes to the placement, custody or permanency plan are necessary.



Do NOT order a specific placement when placing or maintaining a child in agency care. [R.C. 2151.415(C)(1)(a)]

VISITATION [R.C. 2151.417(A) and (B)]

- Review the current status of visitation, including attendance and quality of the interaction.
- Determine whether any changes or modifications in the conditions, frequency or duration of the visits should be ordered.
- If siblings have been placed in separate homes, determine whether regular visitation and ongoing contact is occurring among those siblings, unless contrary to the health and welfare determination. [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

CASE PLANS

- Review the current, court-approved case plan and any proposed changes to the case plan. [R.C. 2151.417(A)]



The court shall be guided by the general priorities set forth in R.C. 2151.412(H)(1) through (6) when reviewing and approving the case plan.

- Assess the agency's implementation of the case plan and the appropriateness of the agency's actions. [R.C. 2151.417(A)]

- Determine the compliance of the parties with the case plan. [R.C. 2151.417]
- Decide whether any changes or modifications to the case plan are necessary. (See Case Plan Amendments Bench Card.)
- Journalize the terms of the updated case plan. [Juv.R. 34(F)]; [R.C. 2151.417(G)(5)]



All parties are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the case plan may be held in contempt of court. [R.C. 2151.412(F)(1)]

PERMANENCY PLAN [R.C. 2151.417]; [R.C. 2151.419]

- Review the proposed or current permanency plan for the child.
- The court shall consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child. [R.C. 2151.417(F)]
- Determine if any changes to the permanency plan are appropriate.
- Approve the permanency plan for the child that includes whether the child can be safely returned home, placed in the legal custody of an individual, placed for adoption, or placed in a planned permanent living arrangement.
- Establish time frames for implementing the permanency plan that include, if applicable, when the child can be safely returned home, placed for adoption or placed in the legal custody of an individual, or placed in a planned permanent living arrangement.
- Issue any additional orders necessary and appropriate to facilitate the timely implementation of the permanency plan. [R.C. 2151.417(G)(4)]

IV-E REQUIREMENTS [42 U.S.C. 672]

The findings should be written, specific, and individualized.

- Determine whether the agency made reasonable efforts, based on the health and safety of the child, to place the child in a timely manner in accordance with the permanency plan and to complete the necessary steps to finalize the permanent placement of the child.
- Determine whether the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]
- If the child is placed out of the state, address the need for out-of-state placement and services and why this placement serves the child’s best interest.
- If the child is over 16 years old, make findings as to the services needed to assist the child in making the transition from foster care to independent living.

NOTE → The agency must file the permanency plan with the court prior to the hearing. The permanency plan must specify when the child will be safely returned home, when the child will be placed for adoption or legal custody, or why a planned permanent living arrangement serves the child’s best interest.
[R.C. 2151.417(A) and (K)(1)]



If the court finds that the agency is not required to make reasonable efforts to prevent removal from the home, eliminate the need for continued removal from the home, or enable the child to return home, then the permanent plan shall NOT include any provision requiring the child to return home.
[R.C. 2151.417(G)(2) and (K)(2)]
and [R.C. 2151.419(A)(2)]

ADMINISTRATIVE REVIEWS

When the agency conducts the administrative review pursuant to R.C. 2151.416 and files the summary with the court:

- Determine whether the conclusions of the review are supported by a preponderance of the evidence;

AND

- Approve or modify the case plan upon that evidence. [R.C. 2151.417(G)(1)]

ENTRY

- Send a copy of the entry to the custodial agency, the guardian ad litem of the child, and the parent, if the child is not in permanent custody. [R.C. 2151.417(I)]



The order should be distributed to all parties prior to the adjournment of the review hearing.

- Journalize the entry. [Juv.R. 36]

If the court is considering a modification of the disposition, proceed as if an original dispositional hearing. (See the Dispositional Hearing Bench Cards addressing Special Provisions for Temporary Custody, Legal Custody, Permanent Custody, and Planned Permanent Living Arrangement.)

[R.C. 2151.417(B)] and [R.C. 2151.353(E)(2)]

FINDINGS

WRITTEN REQUEST FOR EXTENSION OR TERMINATION FILED [R.C. 2151.353(G)(1)]

- A party may file a written request to extend an order for protective supervision for 6 months or terminate the order no later than one year after the earlier of the filing of the complaint or the child's placement in agency care.
- The party filing the written request must give notice of the request before the end of the day after the filing.
- The court shall schedule a hearing no later than 30 days after the request is received by the court.
- The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem.
- The court shall determine whether the extension for 6 months or termination of the order is in the child's best interest.

NO WRITTEN REQUEST FOR EXTENSION OR TERMINATION FILED [R.C. 2151.353(G)(1)]

- The court shall notify the parties that the court will extend the order for 6 months or terminate the order and that the court may do so without a hearing unless a party requests a hearing.

- All parties, including the guardian ad litem, have 7 days from the date notice is sent to request a hearing on the proposed extension or termination.
- If the court does not receive a timely request for a hearing, the court may extend the order for 6 months or terminate the order without a hearing, and the entry must be journalized no later than 14 days after the date of the notice.
- If the court does not extend or terminate the order, the court shall schedule a hearing no later than 30 days after the expiration of the applicable 14-day time period and give notice to all parties, including the guardian ad litem.
- The court shall determine whether the extension for 6 months or termination of the order is in the child's best interest.

SECOND EXTENSION OF PROTECTIVE SUPERVISION

- If the court grants the first extension of the order for protective supervision, a party may, prior to the termination of the extension, file a request for an additional extension of 6 months or for termination of the order. [R.C. 2151.353(G)(2)] The court shall comply with the above requirements for extending or terminating.
- If the court grants a second extension of the order for protective supervision for 6 months, the court shall terminate the order for protective supervision at the end of the extension. [R.C. 2151.353(G)(3)]



If the court is considering a modification of the disposition, proceed as if an original disposition hearing. (See the Dispositional Bench Cards addressing Special Provisions for Protective Supervision, Legal Custody, Permanent Custody, and Planned Permanent Living Arrangement.) [R.C. 2151.417(B)] and [R.C. 2151.353(E)(2)]

FINDINGS

- Determine whether the child can and should be returned home with or without orders of protective supervision. [R.C. 2151.417(G)(3)]
- If the child cannot be returned home, determine if the child should remain in the custody of the agency or whether custody should be transferred to another public children services agency, private child-placing agency or another individual. [R.C. 2151.417(G)(3)]
- If the child has been in the temporary custody of one or more public children services agencies or private child-placing agencies for 12 or more months of a consecutive 22-month period, the agency shall file a motion in court requesting permanent custody, unless any of the following apply:
 - the agency documented in the case plan or permanency plan a compelling reason that permanent custody is not in the child's best interest

OR

- the agency has not provided the services required by the case plan to the parents or the child to ensure the safe return home if the court required the agency to make reasonable efforts to return the child to the home. [R.C. 2151.413(D)]

- Determine whether the agency filed a request for an extension of custody for a period not to exceed 6 months. [R.C. 2151.415(D)]

Determine whether the agency included in the motion an explanation of the progress on the case plan and the expectations of reunifying the child with the family or placing the child in an alternative permanent placement during the period of the extension. [R.C. 2151.415(D)]

FIRST EXTENSION OF TEMPORARY CUSTODY

- Determine, by clear and convincing evidence, whether the extension of the temporary custody is in the child's best interest, if there has been significant progress on the case plan of the child, and if there is reasonable cause to believe the child will be reunified with one of the parents or otherwise permanently placed during the period of the extension. [R.C. 2151.415(D)]
- Court must appoint a guardian as soon as possible after a request for extension of temporary custody is filed, except when the child is 6 months or younger in age. HB 213. [R.C. 2151.281(G)]

SECOND EXTENSION OF TEMPORARY CUSTODY

- If an additional extension of temporary custody has been requested for up to 6 months, determine, by clear and convincing evidence, whether the additional extension is in the best interest of the child, if there has been substantial additional progress since the original extension of temporary custody toward reunifying the child with one parent, or otherwise permanently placing the child, and if there is reasonable cause to believe the child will be reunified with one of the parents or otherwise placed in a permanent setting before the expiration of the additional extension period. [R.C. 2151.415(D)]
- Court must appoint a guardian as soon as possible after a request for extension of temporary custody is filed, except when the child is 6 months or younger in age. HB 213. [R.C. 2151.281(G)]



No court shall grant an agency more than two extensions of temporary custody and the court shall not order an existing temporary custody order to continue beyond 2 years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered [R.C. 2151.414(D) (2) (b) and 2151.415(D) (4)]

NOTICE

- Ensure that the prospective adoptive parent has received notice of the date, time, and place of the review or hearing. [R.C. 2151.24]
- Provide the prospective adoptive parent with the opportunity to present evidence. [R.C. 2151.424]

NOTE

Notice and right to present evidence do
NOT make the prospective adoptive parent a party to the action.
 [R.C. 2151.424(C)]

- Court must appoint a guardian as soon as possible after a request for extension of temporary custody is filed, except when the child is 6 months or younger in age. HB 213. [R.C. 2151.281(G)]

**REVIEW OF PERMANENT CUSTODY
DISPOSITION** [R.C. 2151.417(G)(4)]

- Determine what actions are required of the custodial agency and of any other organizations or persons in order to facilitate an adoption of the child.
- Issue any orders with respect to the custody arrangement or conditions of the child, including, but not limited to, the transfer of permanent custody to another public children services agency or private child-placing agency.
- Review whether a sibling has been placed in the same prospective adoptive home, if not, determine if joint placement would be contrary to the health and welfare of the child. [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]



If the court is considering a modification of the disposition, proceed as if an original dispositional hearing. (See the Dispositional Bench Cards addressing Special Provisions for Protective Supervisions, Temporary Custody, Legal Custody and Permanent Custody.) [R.C. 2151.353(E)(2)] and [R.C. 2151.417(B)]

PLACEMENT [R.C. 2151.415(G)]

- The child's placement cannot be changed unless:
 - the court and the guardian ad litem have received notice of the intended removal;

AND

- it is necessary for the protection of the **child** from physical or emotional harm;

AND

- the agency gives the court notice of the removal and the reasons why the removal is necessary immediately after the removal of the child.

AND

- The court shall approve the change.

INDEPENDENT LIVING SERVICES

- Ensure that the agency has completed a life skills assessment of the youth, if the youth is 16 years of age or older and is in agency custody. The assessment must include an evaluation of the strengths and weaknesses of the youth, and must be completed no later than 60 days after the youth's 16th birthday or 60 days after the youth enters agency custody. [R.C. 2151.82]; [Ohio Adm.Code 5101:2-42-19(C)]
- Inquire about the results of the assessment including the skills the youth needs to develop in order to successfully transition into adulthood.

- Ensure that the agency has consulted with the youth to develop a written independent living plan within 30 days of the completion of the life skills assessment. The plan must include input from the youth, the caregiver, and significant others in the youth's life. [R.C. 2151.83]; [Ohio Adm.Code 5101:2-42-19(E)]
- Ensure that independent living services are documented in the youth's case plan. [R.C. 2151.82]
- Ensure that each youth aged 16 or older receives a copy of any consumer report pertaining to that youth each year until the youth exits foster care. [42 U.S.C. 675(5)(l)]
- If the youth is under 16, independent living services should be provided when the agency deems such services appropriate. In making this determination, the agency is required to consider the likelihood the youth will remain in agency custody until age 18.

REQUIREMENTS WITH FEDERAL FISCAL IMPLICATIONS

[Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

Ensure that the agency is providing independent living services for youth aged 16 and older. Such services shall be based on the results of the life skills assessment. [42 U.S.C. 675(C)]; [R.C. 2151.82]

Independent Living Services may include the following:

- Providing housing;
- Teaching decision-making skills;
- Teaching daily living skills, such as securing and maintaining a residence, money management, utilization of community services and systems, personal health care, hygiene, safety, and time management;

- Assisting in obtaining education, training, and employment skills;
- Academic support, including tutoring, GED preparation, preparation for college entrance exams, college counseling, and assistance applying for financial aid and scholarships;
- Assisting in developing positive adult relationships and community supports.
[R.C. 2151.81(A)]; [Ohio Adm.Code 5101:2-42-19(D)]



If the youth is nearing his or her 16th birthday at the time of the hearing, address the upcoming need to complete a life skills assessment of the youth and provide the youth with independent living services.



The court may order the agency to complete a life skills assessment and/or provide independent living services for the youth if the court deems such services are necessary and are in the best interest of the youth.
[R.C. 2151.417(A)]

CASE TIMEFRAMES

- If the youth is under 16, independent living services should be provided when the agency deems such services appropriate. In making this determination, the agency is required to consider the likelihood the youth will remain in agency custody until age 18.
[Ohio Adm.Code 5101:2-42-19(C)]
- If the youth is 16 years of age or older and is in agency custody, ensure that the agency has completed a life skills assessment of the youth. The assessment must include an evaluation of the strengths and weaknesses of the youth, and must be completed no later than 60 days after the youth’s 16th birthday or 60 days after the youth enters agency custody. [R.C. 2151.82]; [Ohio Adm.Code 5101:2-42-19(C)]
- A review should be scheduled at least 90 days prior to the emancipation date to review the details of the final transition plan that should be completed before the emancipation date.
[42 U.S.C. 675(5)(H)]; [Ohio Adm.Code 5101:2-42-19(J)]
- Ensure that the agency has consulted with the youth to develop a written independent living plan within 30 days of the completion of the life skills assessment. The plan must include input from the youth, the caregiver, and other significant individuals in the youth’s life.
[R.C. 2151.83]; [Ohio Adm.Code 5101:2-42-19(E)]



If the youth is nearing his or her 16th birthday at the time of the hearing, address the upcoming need to complete a life skills assessment of the youth and provide the youth with independent living services.



The court may order the agency to complete a life skills assessment and/or provide independent living services for the youth if the court deems such services are necessary and are in the best interest of the youth.
[R.C. 2151.417(A)]

YOUTH INVOLVEMENT IN HEARINGS

- Ensure that the youth has been given notice of all hearings, including review hearings.
[R.C. 2151.35(C)]; [R.C. 2151.417(F)]; [Juv.R. 2(Y)]



If the youth is not present, inquire of the agency as to why the youth is not there. Inquire as to efforts that were made to locate the youth. Consider continuing the hearing until a time and date the youth can attend.



The court should make every effort to ensure that the youth is able to attend hearings. For example, schedule hearings after the school day end and if transportation is needed, discuss who will be responsible for transporting the youth to court.

- The court is to consult with the youth directly.
[42 U.S.C. 675(5)(C)]; [R.C. 2151.417(F)]
- Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth’s case plan, and the youth’s educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18)



The American Bar Association recommends that the youth attend hearings in order to facilitate the youth’s meaningful participation in the hearings, which has been shown to improve case outcomes. (See Standard D-5 and accompanying commentary, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases)



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675(5)(C)]; [R.C. 2151.417(F)]

HEARING PROCEDURE

Inquire about the results of the life skills assessment. Inquire the skills necessary for the youth to develop in order to successfully transition into adulthood.

REQUIREMENTS WITH FEDERAL FISCAL IMPLICATIONS [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

- ❑ Ensure that the agency is providing independent living services for youth aged 16 and older. Such services shall be based on the results of the life skills assessment. [42 U.S.C. 675(1)(D)]; [R.C. 2151.82]
- ❑ Independent living services may include the following:
 - ❑ Providing housing;
 - ❑ Teaching decision-making skills;
 - ❑ Teaching daily living skills such as securing and maintaining a residence, money management, utilization of community services and systems, personal health care, hygiene and safety, and time management;
 - ❑ Assisting in obtaining education, training, and employment skills;
 - ❑ Academic support, including tutoring, GED preparation, preparation for college entrance exams, college counseling, and assistance applying for financial aid and scholarships; and
 - ❑ Assisting in developing positive adult relationships and community supports. [R.C. 2151.81]; [Ohio Adm.Code 5101:2-42-19(D)]
- ❑ Ensure that independent living services are documented in the youth's case plan. [R.C. 2151.82]
- ❑ Ensure that each youth 16 or older receives a copy of any consumer report pertaining to that youth each year until the youth exits foster care. [42 U.S.C. 675(5)(1)]

DISCHARGE OF YOUTH UPON 18th BIRTHDAY

[R.C. 2151.83(A)]; [Ohio Adm.Code 5101:2-42-19.2]

HEARING PROCEDURE

- ❑ A hearing should be set upon the agency timely filing a motion or sua sponte at the conclusion of a prior review hearing. The motion should either:
 - ❑ request the court to extend the agency's custody of a child who is expected to remain in foster care beyond the age of 18;

OR

 - ❑ terminate the agency's custody of a child upon turning 18.
- ❑ Inform the youth that he or she has the right to request to continue independent living services until age 21. [R.C. 2151.81 and 2151.83(A)]
 - ❑ If the youth has requested independent living services to continue until age 21, ensure that the agency has worked with the youth to prepare a written agreement that obligates the agency to provide specified services and sets forth the responsibilities of the youth regarding such services. [R.C. 2151.81 and 2151.83(A)]; [Ohio Adm.Code 5101:2-42-19.2(A)-(B)]

REQUIREMENTS WITH FEDERAL FISCAL IMPLICATIONS

[Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

- ❑ Ensure that the agency has worked with the youth to complete a personalized and detailed transition plan at least ninety days prior to the youth's emancipation. [42 U.S.C. 675(5)(H)]; [Ohio Adm.Code 5101:2-42-19(J)]

The plan MUST include:

- ❑ Information regarding the youth's right to receive independent living services until age 21.
- ❑ Specific options on the following topics:
 - ❑ Obtainment and payment for housing;
 - ❑ Budget for necessary living expenses;
 - ❑ Health care and insurance;
 - ❑ Legal matters;
 - ❑ Secondary and post-secondary education and training;
 - ❑ Local opportunities for mentors and continuing support services;
 - ❑ Workforce supports and employment services;
 - ❑ Obtain a credit report; and
 - ❑ Information on existing benefits the youth receives, such as social security, and instruction on how the youth can apply for continuation of those benefits.
- ❑ Information regarding the importance of the youth designating a person to make health care treatment decisions for the youth if the youth is unable to make such decisions
- ❑ The option for the youth to execute a health care power of attorney (or other similar document recognized by Ohio law). [42 U.S.C. 675(5)(H)]

- ❑ Inquire about whether the youth intends to re-engage with family, parents, and/or siblings, and if so, how to do so in a healthy way.
- ❑ Inquire if the youth has prepared or has been provided a written list of scheduled appointments with medical, educational, mental health or other service providers.

NOTE

If there are gaps or changes to the transition plan, another review should be scheduled.

- ❑ Ensure that the agency has coordinated with the appropriate agencies to provide the youth with the following documents:
 - ❑ Original birth certificate;
 - ❑ Original social security card;
 - ❑ A current state identification card;
 - ❑ A copy of the youth's health and education records; and
 - ❑ A letter verifying that the youth emancipated from agency custody. [Ohio Adm.Code 5101:2-42-19(K)-(L)]





The health and safety of the child are paramount.
[R.C. 2151.417(A)] and [R.C. 2151.412(H)]

RULE

The agency may implement a change to the case plan without prior agreement of the parties or a court hearing if the agency has reasonable cause to believe one of the following circumstances exist:

- The child is suffering from illness or injury and is not receiving proper care and an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm

OR

- The child is in immediate danger from the child's surroundings and an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm

OR

- A parent, guardian, custodian, or other member of the child's household has abused or neglected the child and the child is in danger of immediate or threatened physical or emotional harm from that person (unless the agency makes an appropriate change in the case plan). [R.C. 2151.412(F)(3)]

NOTICE

Determine whether the agency:

- Provided notice of the change to the court and all parties, including the guardian ad litem, before the end of the next business day after implementing the change in the case plan

AND

- Filed a statement with the court before the end of the third day after implementing the change in the case plan and provided notice of the filing to all parties and the guardian ad litem. [R.C. 2151.412(F)(3)]

AND

- Determine whether the foster parent, adoptive parent, or other person with custody of the child was notified of this hearing at which they have the opportunity to be heard. [R.C. 2151.424]

OBJECTIONS TO EMERGENCY CASE PLAN AMENDMENTS

All parties, including the guardian ad litem, shall have 10 days from the date the notice is sent to object to and request a hearing on the change.

[R.C. 2151.412(F)(3)]

PROCEDURAL ISSUES

The court should strive to schedule visitation and case plan services after the school day and ensure school stability in placement. [Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675]

If the court receives a timely request for a hearing:

- Schedule a hearing to be held no later than 30 days after the request is received by the court

AND

- Provide notice of the date, time, and location of the hearing to all parties and the guardian ad litem. [R.C. 2151.412(F)(3)(a)]

If the court does not receive a timely request for a hearing, the court may:

- Approve the change without a hearing

AND

- Journalize the case plan with the change within 14 days after receipt of the change

OR

- Schedule a hearing to be held no later than 30 days after the expiration of the 14-day time period if the court does not approve the proposed change

AND

- Give notice of the date, time, and location of the hearing to all parties, including the guardian ad litem. [R.C. 2151.412(F)(3)(b)]

HEARING PROCEDURE

The court, based on the evidence presented at the dispositional hearing and in the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child. (See Dispositional Hearing Bench Card.) [Juv.R. 34(F)]

CASE PLAN REVIEW

In the court's review of the case plan, the court shall be guided by the following general priorities:

- A child who is residing with or can be placed with the parents within a reasonable period of time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time
- A child who cannot be placed with the parents should be placed in the legal custody of a suitable extended family member
- A child who cannot be placed with the parents and has no suitable extended family members should be placed in the legal custody of a suitable non-relative
- The relative or non-relative shall be made a party to the proceedings after being given legal custody [R.C. 2151.412(H)(3)]
- A child who has no suitable family members or non-relatives who can accept legal custody and temporarily cannot or should not be placed with the parents, guardians or custodians should be placed in the temporary custody of a public children services agency or a private child-placing agency

- A child who cannot be placed with either of the parents within a reasonable period of time or should not be placed with either and has no suitable family members or non-relatives available to accept legal custody, and if the agency has a reasonable expectation of placing the child for adoption, should be committed to the permanent custody of the agency.
- A child to be placed for adoption or in foster care should not have placement delayed or denied on the basis of the race, color or national origin of the child or the adoptive or foster family. [R.C. 2151.412(H)(1) through (6)]

FINDINGS

- Approve or modify the case plan based on the evidence presented

OR

- Return the child home with or without protective supervision and terminate temporary custody or determine which agency shall have custody

OR

- Determine what actions would facilitate an adoption if the child is in permanent custody

AND

- Journalize the terms of the updated case plan. [Juv.R. 36(C)]



All parties are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the case plan may be held in contempt of court. [R.C. 2151.412(E)]



Special conditions apply when changing placement of a child in a planned permanent living arrangement. (Review, Special Provisions for Child in Planned Permanent Living Arrangement Bench Card)

RULE

Any party may propose a change to a substantive part of the case plan. [R.C. 2151.412(F)(2)]

NOTICE

Determine whether the party filing the proposed change to a substantive part of the case plan provided notice of the proposed change to all parties, including the guardian ad litem, in writing and before the end of the day after the filing of the case plan amendment. [R.C. 2151.412(F)(2)]

Determine whether the foster parent, adoptive parent, or other person with custody of the child was notified of this hearing at which they have the opportunity to be heard. [R.C. 2151.424]

NOTE

A substantive part of the case plan includes, but is not limited to, the child's placement and the visitation rights of any party. [R.C. 2151.412(E)(2)]

OBJECTIONS TO CASE PLAN AMENDMENTS

All parties, including the guardian ad litem, shall have 7 days from the date notice is sent to object to and request a hearing on the proposed change.

[R.C. 2151.412(F)(2)] and [R.C. 2151.416(E)]

PROCEDURAL ISSUES

The court should strive to schedule visitation and case plan services after the school day and ensure school stability in placement. [See Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 675.]

If the court receives a timely request for a hearing:

- Schedule a hearing to be held no later than 30 days after the request is received by the court

AND

- Provide notice of the date, time, and location of the hearing to all parties, including the guardian ad litem. [R.C. 2151.412(F)(2)(a)] and [R.C. 2151.416(E)(1)]

NOTE

The agency shall not implement the proposed change unless it is approved by the court. [R.C. 2151.412(F)(2)(a)]

If the court does not receive a timely request for a hearing, the court may:

- Approve the proposed change without a hearing

AND

- Journalize the case plan with the change no later than 14 days after the change is filed

OR

- Schedule a hearing to be held no later than 30 days after the expiration of the 14-day time period if the court does not approve the proposed change

AND

- Give notice of the date, time, and location of the hearing to all parties, including the guardian ad litem. [R.C. 2151.412(F)(2)(b)] and [R.C. 2151.416(E)(2)]

NOTE

If the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than 15 days after the submission of the proposed change to the court.

[R.C. 2151.412(E)(2)(b)]

HEARING PROCEDURE

The court, based upon the evidence presented at the dispositional hearing, shall determine the contents of the case plan it journalizes as part of the dispositional order. The court shall make this determination based upon the best interest of the child. (See Dispositional Hearing Bench Card.)

[Juv.R. 34(F)]

CASE PLAN REVIEW**NOTE**

The child's health and safety shall be the paramount concern. [R.C. 2151.412(H)]

In the court's review of the case plan, the court shall be guided by the following general priorities:

- A child who is residing with or can be placed with the parents within a reasonable period of time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time
- A child who cannot be placed with the parents should be placed in the legal custody of a suitable extended family member
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- A child who cannot be placed with either of the parents within a reasonable period of time or should not be placed with either and has no suitable family members or non-relatives available to accept legal custody, and if the agency has a reasonable expectation of placing the child for adoption, should be committed to the permanent custody of the agency
- A child to be placed for adoption or in foster care should not have placement delayed or denied on the basis of the race, color or national origin of the child or the adoptive or foster family. [R.C. 2151.412(H)(1) through (6)]

FINDINGS

- Approve or modify the case plan based on the evidence presented

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- Return the child home with or without protective supervision and terminate temporary custody or determine which agency shall have custody

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- Journalize the terms of the updated case plan. [Juv.R. 36(C)]

NOTE

All parties are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the case plan may be held in contempt of court.
[R.C. 2151.412(E)]



Special conditions apply when changing placement of a child in a planned permanent living arrangement. (Review, Special Provisions for Child in Planned Permanent Living Arrangement Bench Card.)

ADVISEMENT OF RIGHTS

- ❑ Advise the parties of their right to appeal at the conclusion of the hearing. [Juv.R. 34(J)]
- ❑ Advise the parents of their right to a transcript of the proceedings and indigent parents of the right to a transcript at public expense.

NOTE

Due process and equal protection guarantees under the U.S. and Ohio Constitutions require the Juvenile Court to provide indigent (custodial) parents with a transcript at the public's expense.

JUDGMENT

- ❑ Prepare and sign a judgment within 7 days of the conclusion of the hearing. [Civ.R. 58(A); Juv.R. 34(C)]
- ❑ Provide a copy of the judgment to any party requesting a copy. [Juv.R. 34(C)]
- ❑ Direct the clerk to serve the parties with notice of the judgment within 3 days of entering the judgment on the record. [Civ.R. 5(B) and 58(B)]

STAY

- ❑ Make suitable provision for the maintenance, care, and custody of the child if, upon motion, an order is stayed upon appeal. [App.R. 7(C)]

RECORD

Preparation of the record must be made by the Juvenile Court. [App.R. 9]



Tardiness in the preparation of the record delays permanency for the child.

CASEFLOW TIME FRAMES

Appeals concerning the custody of children are set on an expedited calendar of the appellate court. [R.C. 3109.04(H)]; [R.C. 3109.06]



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- Advise the parties of their right to appeal at the conclusion of the hearing. [Juv.R. 34(J)]
- Advise the parents of their right to a transcript of the proceedings. [Juv.R. 29(B)(5)]

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Due process and equal protection guarantees under the U.S. and Ohio Constitutions require the Juvenile Court to provide indigent (custodial) parents with a transcript at the public's expense.

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INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN [R.C. 5103.23]

The Interstate Compact on the Placement of Children (ICPC) gives the appropriate authorities in the receiving state the full opportunity “to ascertain the circumstances of the proposed placement....”

The ICPC provides for the retention of jurisdiction. However, it does not defeat a claim of jurisdiction by a receiving state in dealing with acts of delinquency or crimes committed by the child placed in the receiving state.

The current compact is governed by regulations promulgated by the Association of Administrators of the Interstate Compact on the Placement of Children (ICPC), an affiliate of the American Public Human Services Association. These regulations are on the association’s website at www.icpc.aphsa.org under the “Resource Page” tab. Forms and instructions are also available from this website. They also are in the Ohio Adm.Code 5101:2-52.

APPLIES TO ABUSE, NEGLECT, OR DEPENDENCY CASES

Regulation No. 2 of the ICPC specifically states that it applies to cases involving children “under the jurisdiction of a court for abuse, neglect or dependency, as a result of action taken by a child welfare agency....”

EXCLUSIONS

1. Placements made “with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent....” [ICPC Reg. 2(3)]
2. “Placements handled in divorce, paternity or probate courts....” [ICPC Reg. 3, part or to placements made by private individuals with a legal right to do so (3)(c-d)]; see also [Ohio Adm.Code 5101:2-52-08(B)].

RELOCATION

If a parent or relative having custody of the child relocates to the receiving state, the court may use the ICPC to maintain jurisdiction. [ICPC Reg. 3(2)(c)(3)] This includes the provision of protective supervision. Compare [ICPC Reg. 3(2)] with [ICPC Reg. 3(3)]; see also [Ohio Adm.Code 5101:2-52-04(L)]

HOME STUDY TIMEFRAMES

Safe and timely interstate home studies are to be completed as soon as possible and within 60 calendar days of receipt of the home study request. However, the decision may be delayed in states that require the potential placements to complete licensing requirements. [ICPC Reg. 2(7)]

The receiving state is limited to an approval or denial of the proposed placement. [ICPC Reg. 2(8)(c)]; see also [Ohio Adm.Code 5101:2-52-04(C)] Upon approval, the home study is only valid for six months from the date that form ICPC -100A was signed by the receiving state. [ICPC Reg. 2(8)(d)]; see also [Ohio Adm.Code 5101:2-52-04(E)(2)]

The rules also provide for a request for reconsideration. [ICPC Reg. 2(9)]

EXPEDITED PLACEMENT DECISIONS

[ICPC Regulation No. 7]

Provides that a court may issue an order for an expedited, or priority, placement decision when the proposed placement is the child’s:

1. Parent (However see exceptions noted above)
2. Stepparent
3. Grandparent
4. Adult uncle or aunt
5. Adult brother or sister, or
6. Guardian. [ICPC Reg. 7(3)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)(i)]; but see [Ohio Adm.Code 5101:2-52-04(D)(i)(ii)] (providing further conditions for priority placement).

ORDERS FOR EXPEDITED PLACEMENT

[ICPC Regulation 7 Order]

To utilize this process, the court must:

1. Provide the sending agency with a signed copy of its order within 2 business days of its issuance. [ICPC Reg. 7(9)(b)]
2. That order must contain the following information for the clerk of court or designated court administrator of the sending court:
 - a. Name
 - b. Mailing address
 - c. E-mail address
 - d. Telephone and facsimile numbers. [ICPC Reg. 7(9)(b)]

The Order shall be consistent with the Form Order for Expedited Placement Decisions adopted under ICPC Reg. 7 by the Compact Administrators and contain the following:

1. A factual basis that Reg.7 applies. [ICPC Reg. 7(8)]
For this, the court must make one of the following findings:
 - a. Unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian. Incapacitation means a parent or guardian is unable to care for a child due to a medical, mental or physical condition of a parent or guardian, or
 - b. The child sought to be placed is four years of age or younger. But see [Ohio Adm.Code 5101:2-52-04(D)(i)(ii)(a)] (limiting priority placement to children under two years of age), including older siblings sought to be placed with the same proposed placement resource; or
 - c. The court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed placement resource. Substantial relationship means the proposed placement has a familial or mentoring role with the child, has spent more than cursory time with the child, and has established more than a minimal bond with the child; or

d. The child is currently in an emergency placement. [ICPC Reg. 7(5)(a-d)]

2. Must require that an ICPC Form 101 be completed; [ICPC Reg. 7(8)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)]

AND

3. Indicate whether the court is seeking provisional approval and the factual basis for such a request. [ICPC Reg. 7(8)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)]



The court also should provide certified copies of its court orders, including current approved case plans, to the sending agency to expedite the process. [ICPC Reg. 7(9) (a-b)]; see also [Ohio Adm.Code 5101:2-52-06(C) (2) (c),(e)]

MONITORING PRACTICE

The rule also provides that where the receiving state fails to comply with the expedited timeframe, the sending court may seek the assistance of the appropriate court in the receiving state. [ICPC Reg. 7(11)]



Under the current rules, a visit may be considered a placement if it does not comply with Reg. 9. [ICPC Reg. 9(5); compare Ohio Adm.Code 5101:2-52-04(B) with Ohio Adm.Code 5101:2-52-08(B)(4)]

RETENTION OF JURISDICTION

The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until:

1. The child is adopted,
2. Reaches majority,
3. Becomes self-supporting, or
4. Is discharged with the concurrence of the appropriate authority in the receiving state. [ICPC Art. V(a)]; accord [Ohio Adm.Code 5101:2-52-04(E)(3)]

INTERSTATE COMPACT FOR JUVENILES

[R.C. 2151.56, Article 1]

Applies to the “supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away...and in so doing have endangered their own safety and the safety of others.”

The rules for this compact are promulgated by the Interstate Commission for Juveniles. www.juvenilecompact.org. A bench book is available through this website.

RESIDENTIAL PLACEMENTS/PLACEMENT OF DELINQUENT CHILDREN IN ANOTHER STATE

[Article VI of the Interstate Compact on the Placement of Children]

Findings:

1. Child must be adjudicated delinquent;
2. Child must have been given a court hearing with notice to the parent or guardian and the opportunity to be heard prior to the child being placed institutionally in the receiving state;
3. Equivalent facilities for the child are not available in the sending agency’s jurisdiction;

AND

4. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. A residential facility that falls under this provision is defined in [ICPC Reg. 4\(2\)](#).

OTHER ISSUES

1. U.C.C.J.E.A. – See Domestic Relations Resources Guide website.
2. Beware of ICWA. [\[R.C. 3127.03\]](#)
3. Provides for out-of-state testimony. [\[R.C. 3127.10\(B\)\]](#)
4. Allows for emergency temporary jurisdiction where the child is abandoned; or “[i]t is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.” [\[R.C. 3127.18\(A\)\(1-2\)\]](#)

EXTENSION OF CUSTODY



If the receiving state’s requirements (i.e., home study, classes, paperwork) are incomplete, but significant progress has been made, and the agency has a reasonable cause to believe the child will otherwise be permanently placed, then the court may extend temporary custody.

[\[R.C. 2151.415\(D\)\(1\)\]](#)





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