

THE SUPREME COURT *of* OHIO

# DEPENDENCY DOCKET

## BENCH CARDS

*for* Ohio Family and Juvenile Court Judges  
and Magistrates



# 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 **Judy Fornof**, Magistrate, Lucas County Juvenile Court, **Carla A. Guenthner**, 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. In addition, thanks go to the members of the Beyond the Numbers Judicial Planning Committee and various members of the legal community who reviewed and provided comment on these bench 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  
Judicial & Court Services Division  
65 South Front Street  
Columbus, Ohio 43215-3431  
614.387.9400

# The Supreme Court of Ohio

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE  
THOMAS J. MOYER

THOMAS J. MOYER  
CHIEF JUSTICE

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PAUL E. PFEIFER  
EVELYN LUNDBERG STRATTON  
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May 1, 2006

Dear Ohio Juvenile and Family Court Judges and Magistrates and Appellate Judges,

I am pleased to provide you with Ohio's **Dependency Docket Bench Cards**, a new resource for those of you who are charged with the responsibility of overseeing the cases of Ohio's most vulnerable citizens. It is fitting that we send these cards to you on Law Day, a day designed to celebrate the role of law in our society and the rights and duties which are the foundation of our work. On Law Day 2004, as we began the *Beyond the Numbers* initiative, I spoke with many of you about your role in addressing safety, permanency and well-being for children who are the subject of dependency cases. Improvements in the management of these cases since the inception of the *Beyond the Numbers* initiative is a testament to your leadership and your willingness to listen to the concerns and needs of others within your communities.

Ohio's **Dependency Docket Bench Cards** were developed to encourage consistent and sound practices that support both comprehensive and timely judicial action. This Ohio-specific resource is 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 legal source, but rather, a resource to inform courtroom practice.

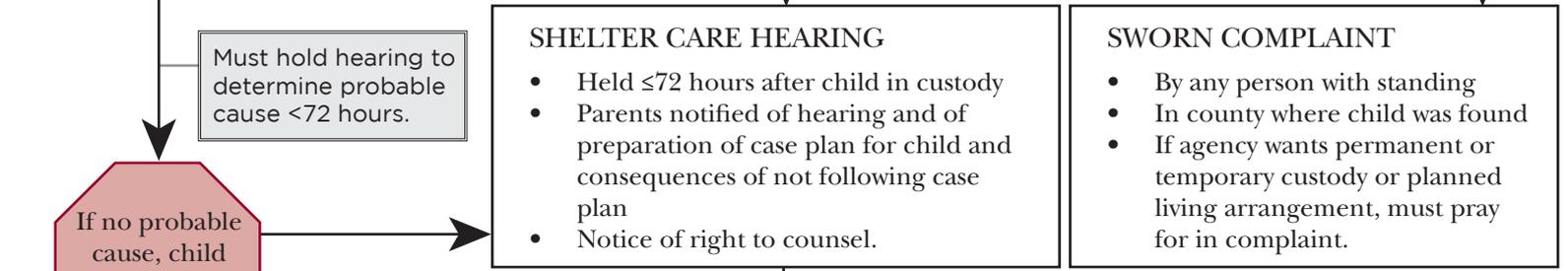
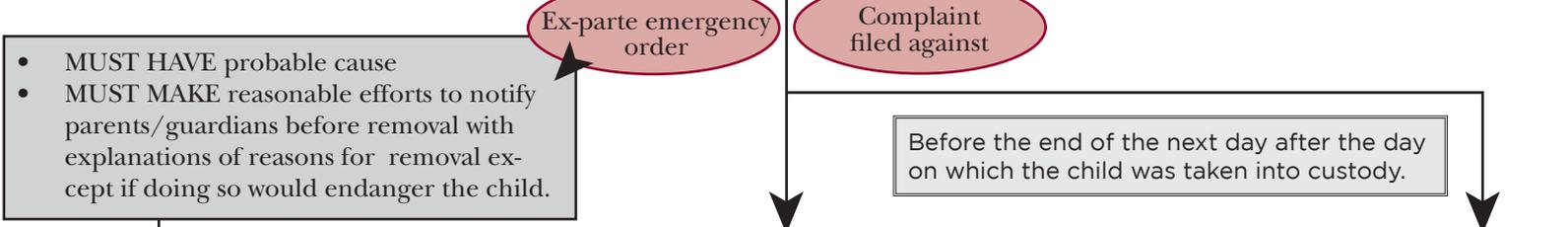
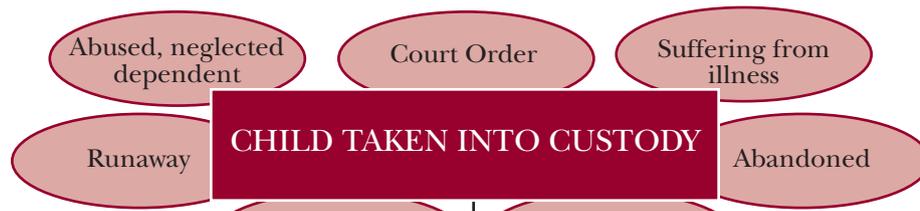
I extend special recognition and gratitude to Judy Fornof, Carla A. Guenther, and Victor H. Perez, who contributed countless hours and dedicated their collective effort, experience, and expertise to drafting these cards. The Supreme Court of Ohio also thanks and recognizes the contributions of many Ohio judges and magistrates and the Ohio Department of Job and Family Services. Comments or questions about the *Beyond the Numbers* initiative or these bench cards should be directed to Jessica Shimberg Lind, Family Law Program Manager in the Judicial and Court Services Division of the Supreme Court of Ohio, 65 South Front Street, 6<sup>th</sup> Floor, Columbus, Ohio, 43215, 614.387.9453. An electronic version of the Dependency Docket Bench Cards will soon be available on our website at [www.sconet.state.oh.us](http://www.sconet.state.oh.us).

Sincerely,

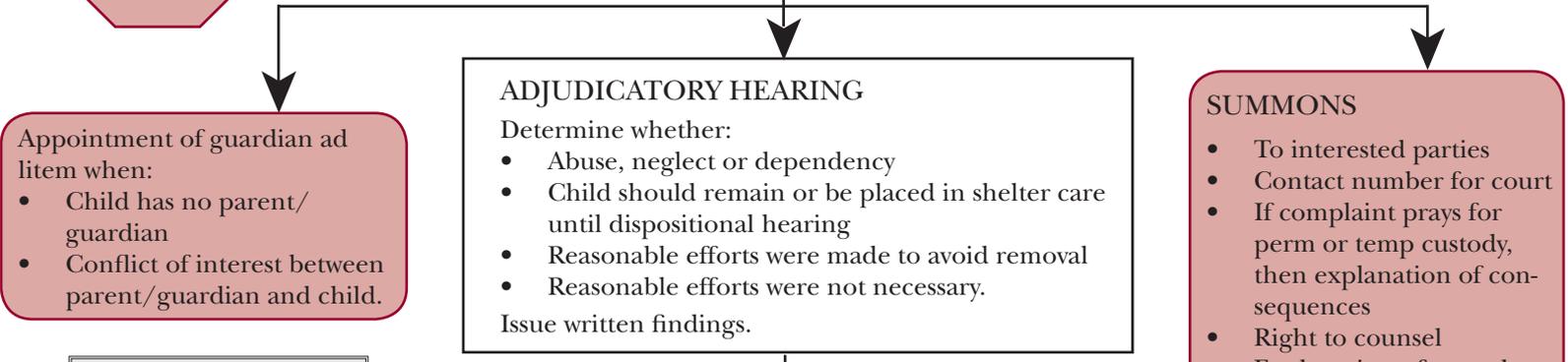


Thomas J. Moyer

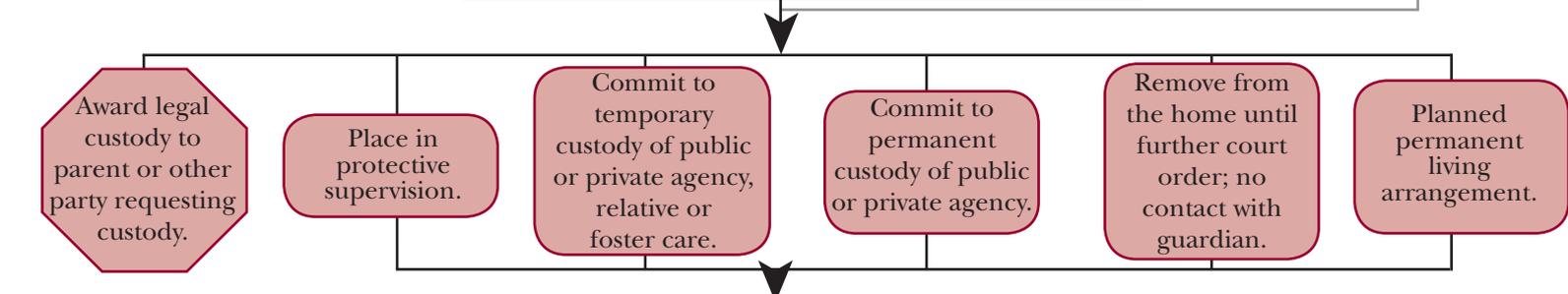
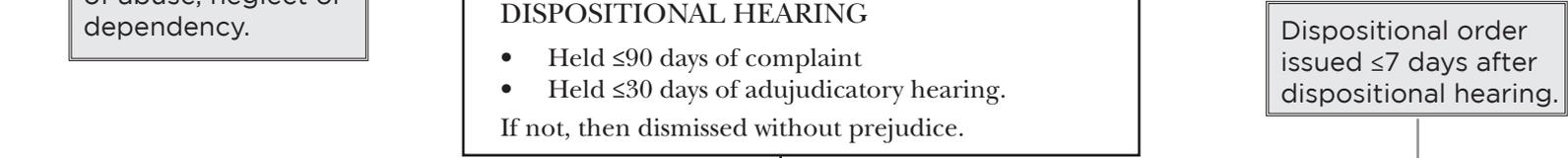
# DEPENDENCY DOCKET Activity from Filing Through Disposition



Child's welfare is of paramount concern; set ≤72 hours of complaint; hold ≤30 days of complaint.



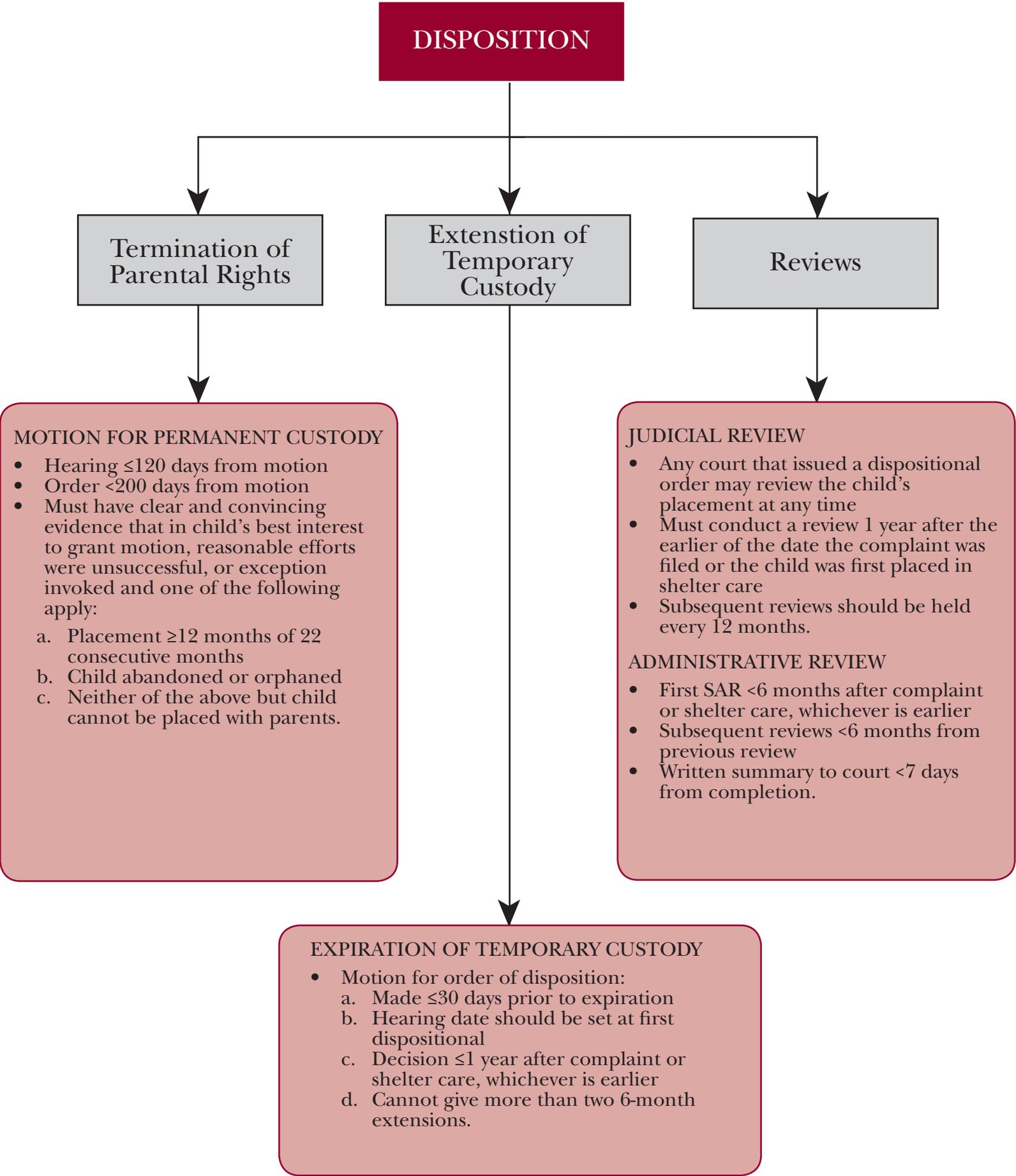
Finds clear and convincing evidence of abuse, neglect or dependency.



**CASE PLAN**

- Filed with the court before adjudicatory hearing but ≤30 days of complaint or shelter care, whichever is earlier
- Journalized by court as part of disposition
- Child's well-being is of paramount concern
- Can be changed by submitting written proposal to court
- Parties have seven days to object and request hearing
- Court sets hearing within 30 days of request
- If no request, court may approve on own motion and journalize ≤14 days of receiving proposed changes or schedule hearing
- If court does not act, changes can be implemented 15 days after submitted.

# DEPENDENCY DOCKET Post-Disposition Activity



# 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."

**NOTICE**

Determine whether:

- ☑ reasonable efforts were made to notify the child's mother and father, *R.C. 2151.31(D)*; *Juv. R. 6(A)(3)(g)* and *7(F)(1)*

**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.

**HEARING PROCEDURE**

- ☑ Standard of Proof: Probable Cause. *Juv. R. 6(B)*

**FINDINGS**

Determine whether there are **reasonable grounds** to believe that:

- ☑ the child is in immediate danger from the child's surroundings;

**AND**

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm.

**OR**

- ☑ the child has been abused or neglected (or another member of that household has been abused or neglected);

**AND**

- ☑ the child is in danger of immediate or threatened physical or emotional harm from that abusive or neglectful person.

**OR**

- ☑ the child is suffering from illness or injury;

**AND**

- ☑ there is no one available to care for the child;

**AND**

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm;

**OR**

- ☑ the child may abscond or be removed from the jurisdiction of the court or not be brought to court. *R.C. 2151.31(A)*; *Juv. R. 6(A)(3)(a)* through (f)

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)*

**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)*

**AND**

- ☑ 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 § 472*

## 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 timeframes. Refer to the Indian Child Welfare Act Checklists and Native American Directory published by the National Council of Juvenile and Family Court Judges.

## CASEFLOW TIME FRAMES



Magistrates can issue orders. Juv. R. 40

- ✓ 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. R.C. 2151.31(E); Juv. R. 6(B); Juv. R. 7(F)(1)
- ✓ If a motion for an ex parte Order is denied by the Court, the matter must be set for 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. R.C. 2151.33(D); Juv. R. 13(D) and (E)

### 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) and 2151.31(D); Juv. R. 10
- ✓ If a complaint has **not** been filed, see R.C. 2151.31(D) and (E).

## NOTICE

Determine whether:

- ✓ reasonable oral or written notice of the time, place, and purpose of this hearing has been given;

## AND

- ✓ notice was provided informing 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)



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

## SERVICE

- ✓ Serve the parties present with the complaint and summons. R.C. 2151.28

## 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)

- ✓ 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 seven days of that date. If the person does not pay the application fee within that seven-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 a guardian ad litem for the child. R.C. 2151.281(B); Juv. R. 4(B)



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

- ✓ 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.



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



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* (2004), 101 Ohio St. 3d. 398, 2004-Ohio-1500

- ✓ 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)

## HEARING PROCEDURE

Rules of Evidence: Relaxed. Juv. R. 7(F)(3); Juv. R. 27(A)

Standard of Proof: Probable Cause. Juv. R. 6

Record all proceedings if heard by a magistrate. Juv. R. 37(A) and 40(D)(2)



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

- ☑ Determine whether there is probable cause for the removal or ex parte Order.  
R.C. 2151.31(E); Juv. R. 7(F)(3) and 13(F)

Determine whether there are **reasonable grounds** to believe that:

- ☑ the child is in immediate danger from the child's surroundings;

### AND

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm.

### OR

- ☑ the child has been abused or neglected (or another member of that household has been abused or neglected);

### AND

- ☑ the child is in danger of immediate or threatened physical or emotional harm from that abusive or neglectful person.

### OR

- ☑ the child is suffering from illness or injury;

### AND

- ☑ there is no one available to care for the child;

### AND

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm.  
R.C. 2151.31(A)

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)

### 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)

### AND

- ☑ 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 § 472(1)
- ☑ Any of the above determinations **MUST** be stated in the order if temporary custody is granted to the agency. R.C. 2151.33(E)

Determine whether the child should remain or be placed in shelter care until the dispositional hearing. *R.C. 2151.28(B); Juv. R. 29(F)(4)*

- ✓ 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. *R.C. 2151.28(B)(1); Juv. R. 7(F)(3) and 27(B)*
- ✓ 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); Juv. R. 7(F)(3)*
- ✓ If a shelter care determination is made, issue written findings of fact that sustain the relative placement conclusion. *R.C. 2151.28(B)(1); Juv. R. 29(F)(4), and 7(F)(3) and 27(B)*

**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)*

- ✓ Determine what school district shall bear the costs of education for the child. *R.C. 2151.357 and 3313.64*



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 immediate services. *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.



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*

**NOTE**

The adjudication and dispositional hearings may be held on the same day, **ONLY** 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. Juvenile Rule also requires that 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 up to 60 days after the filing of the complaint for good cause shown. *R.C. 2151.28(A)(2); Juv. R. 29(A)*

**NOTE**

Failure of the court to hold the adjudicatory hearing within these timeframes 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. *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 of ASFA timeframes.

- ✓ Journalize Entry.

## PROCEDURAL ISSUES

## NOTE

The adjudication and dispositional hearings may be held on the same day, **ONLY** 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. Juvenile Rule also requires that 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 up to 60 days after the filing of the complaint for good cause shown.  
R.C. 2151.28(A)(2); Juv. R. 29(A)
- ☑ 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)

## NOTE

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

- ☑ A request for continuance may only be granted for good cause shown,

## AND

- ☑ for 10 days beyond the 30-day deadline for any party to obtain counsel,

## OR

- ☑ for a reasonable period of time (but not longer than 60 days after the complaint was filed) to:
  - ☑ complete service on all parties,

## OR

- ☑ complete any necessary evaluations.  
R.C. 2151.28; Juv. R. 29(A)



A strict continuance policy is recommended to ensure court control and compliance with timelines. Sup. R. 41

## 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)

## 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)

## SERVICE

- ☑ Ensure that service of the complaint and the summons was made upon parents/guardian/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 contain:
  - ☑ **(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); 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); 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) and 2151.353(B); Juv. R. 15(B)(8)

## AND

- ✓ a statement informing parents/guardian/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)
- ✓ 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)

## 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)

- ✓ 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 seven days of that date. If the person does not pay the application fee within that seven-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); Juv. R. 4(B)
- ✓ 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.



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



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* (2004), 101 Ohio St. 3d 398, 2004-Ohio-1500

- ✓ 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)

## 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 caseload timeframes. Refer to the Indian Child Welfare Act Checklists and Native American Directory published by the National Council of Juvenile and Family Court Judges.

## HEARING PROCEDURE

Rules of Evidence: Strict Compliance.

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)

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)

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)

## ADJUDICATORY FINDINGS



The court SHALL NOT consider the best interests of the child in making a determination at the adjudicatory hearing as to whether the child is dependent, abused or neglected.

- ☑ If there is an **admission**, address the parties personally and determine whether each party:
  - ☑ is making the admission voluntarily, with understanding of the nature of the allegations and the consequences of the admission;
- AND**
  - ☑ understands that by entering an admission, that s/he is **waiving the right to challenge** the witnesses and evidence against them, to remain silent, and to introduce evidence at the adjudicatory hearing. *Juv. R. 29(D)(1) and (2)*
- ☑ 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, 2151.031, 2151.04 and 2151.35(A)(1); Juv. R. 29(E)(4)*
- ☑ 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)*

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. 2151.28(B), 2151.33(B)(1) and 2151.419(A)(1); Juv. R. 27(B)(1)*
- 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)*
- AND**
- ☑ 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 § 472(1)*

- ☑ Determine whether the child should remain or be placed in shelter care until the dispositional hearing. *R.C. 2151.28(B); Juv. R. 29(F)(4)*
- ☑ 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, whether have they been appointed. *R.C. 2151.28(B)(1); Juv. R. 7(F)(3) and 27(B)(1)*
- ☑ If the court finds that the relative placement is NOT appropriate, set forth the reasons for that determination in writing. *R.C. 2151.314(B)(2); Juv. R. 29(F)(4)*
- ☑ If a shelter care determination is made, issue **written findings of fact** that sustain the relative placement conclusion. *R.C. 2151.28(B)(1); Juv. R. 7(F)(3), 27(B)(1) and 29(F)(4)*



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)*

## 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)*



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

- ☑ 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. 2151.28(B)(3) and 2151.35(B)(1); 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 Entry.

## PROCEDURAL ISSUES

- ✓ 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; *R.C. 2151.35(B)(1); Juv. R. 29(F)(2)(a)* and *Juv. R. 34*

## AND

- ✓ all parties consent to the dispositional hearing being held immediately after the adjudication hearing. *Juv. R. 34(A)*
- ✓ The adjudication and disposition must be separate hearings. *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. *Juv. R. 13(E)*

### NOTE

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

- ✓ Determine whether the foster parent or relative with custody of the child was notified of this hearing at which they have the opportunity to be heard. *R.C. 2151.424*

## 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)**

- ✓ 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)*

## 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\(D\)](#); [Juv. R. 10\(D\)](#) through [\(F\)](#)

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

OR

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

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\(B\)](#)
- ☑ If a Motion in writing has been filed seeking that legal custody of the child be awarded to a person other than the parent, determine whether the Motion was properly served on all parties. [R.C. 2151.353\(A\)\(3\)](#); [Juv. R. 20](#)

## HEARING PROCEDURE



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

Rules of Evidence: Relaxed. (Any evidence 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\(B\)\(2\)\(b\)](#)

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



Witness testimony must be sworn. [Evid. R. 603](#)

Standard of Proof: Preponderance of the Evidence. However, in Permanent Custody and Planned Permanent Living Arrangement dispositions, the standard is Clear and Convincing Evidence. For PPLA: [R.C. 2151.353\(A\)\(5\)](#); for PC: [R.C. 2151.414\(B\)\(1\)](#).

## DISPOSITIONAL FINDINGS

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. 2151.31(E)(2); R.C. 2151.419(A)(1); Juv. R. 27(B)(1)*

**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)*

**AND**

- ☑ 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 § 472(1)*

**NOTE**

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

- ☑ In making dispositional orders, consider the “best interest” of the child. *R.C. 2151.412(D)* and *2151.415*

**NOTE**

Additional requirements exist for permanent custody orders. Refer to Special Provisions cards in this pocket.

## 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 as to 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.

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

**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)*

## VISITATION, CHILD SUPPORT AND OTHER RESTRAINING ORDERS

- ✓ Address issues of visitation. R.C. 2151.33(B) and 2151.35(B)(4); Juv. R. 34(H)



Sibling visitation should be addressed.

- ✓ Address issues of child support and health insurance. R.C. 2151.33(B)(2)(a), 2151.36 and 2151.361
- ✓ Determine whether any additional orders or restraint on conduct are necessary. R.C. 2151.353(C) when protective supervision has been ordered, or R.C. 2151.33(B) and 2151.35(B)(4) where protective supervision has not been ordered, as part of disposition; Juv. R. 34(H)

## SCHOOL DISTRICT COST DETERMINATION

- ✓ 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 3313.64



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

## 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)

**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. 2151.011(B)(39)
  
- ☑ 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 issues a dispositional order 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(F)(1)*
- ☑ 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 or her 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(H)*

**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*
- ☑ In addition to awarding custody, protective supervision may be granted in combination with those orders. **R.C. 2151.353(A)(1)**
- ☑ 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)* and *Juv. R. 4*

**AND**

- ☑ the Complaint or Motion and notice were served on all parties, including the guardian ad litem. *R.C. 2151.29; Juv. R. 16* and *20*

**APPOINTMENTS**

- ☑ If counsel has not been appointed for the child, determine whether there is a conflict between the express preference of the child and the guardian ad litem's determination of the child's best interest. If such a conflict exists, appoint an attorney for the child. *R.C. 2151.352; Juv. R. 4(A)* and *7(F)(2)*
- ☑ If the guardian ad litem is also serving as the attorney for the child, determine whether there is a conflict between the responsibilities of the role of the attorney and that of the guardian ad litem. If such a conflict exists, appoint a new guardian ad litem for the child. *R.C. 2151.281(H); Juv. R. 4(C)(2)*



The court should ask the guardian ad litem prior to the hearing date whether there is a conflict between the best interests of the child and the child's wishes, so as to expedite the appointment of counsel or a new guardian ad litem in the event of a conflict.

- ☑ Advise any unrepresented parties of their right to counsel, including court-appointed counsel. *R.C. 2151.35(B)(1)*



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*

- ☑ Determine whether the guardian ad litem submitted a written report prior to the permanent custody hearing. *R.C. 2151.414(C)*
- ☑ Consider whether:
  - ☑ the child can be returned to parents in a reasonable amount of time; *R.C. 2151.414(E)*

**AND**

- ☑ the grant of permanent custody was in the child's best interest. *R.C. 2151.414 (D)*

**NOTE**

The court must find each factor exists by clear and convincing evidence.

- ☑ If the court is considering that the child cannot be returned in a reasonable amount of time and is proceeding on a complaint that alleges that the child has been in the custody of an agency for 12 or more months of a consecutive 22-month period:
  - ☑ start the time of temporary custody at either 60 days from the removal or adjudication, whichever was earlier, in making this calculation; **R.C. 2151.414(B)(1)(d)**

**AND**

- ☑ determine whether the child met the requirement at the time the Complaint was filed.



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



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

**CASEFLOW TIME FRAMES**

- ☑ Advise the parties of their right to appeal this decision. **Juv. R. 34(J)**
- ☑ Journalize the Entry within seven days. **R.C. 2151.35(B)(3)**
- ☑ Set a review hearing.



Parents no longer need to receive notice if permanent custody was granted, as they are no longer parties. **R.C. 2151.35(D)**

**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)*

**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, 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, and is in an agency program preparing for independent living. *R.C. 2151.353(A)(5)* and *2151.415(C)(1)(a)* through (c)

**AND**

- ☑ Set out these findings, and the facts upon which they are based, in the Entry. *R.C. 2151.415(C)(2)*

**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**

- ☑ it is necessary for the protection of the child;

**AND**

- ☑ the agency gives the court notice of the reasons why the removal is necessary;

**AND**

- ☑ the court approves the change.

## PROCEDURAL ISSUES

- ✓ A review hearing (permanency hearing) shall be held **one year** after the earlier of the date on which the complaint was filed or the child was first placed into shelter care. This review hearing shall be scheduled at the time of 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, or permanent custody. *R.C. 2151.353(E)(2) and 2151.417(B)*

## NOTICE

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*



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

## 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*



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

## FINDINGS



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

- ✓ Review the current custody status of the child.  
**R.C. 2151.417**

Determine whether:

- ✓ any changes in the custody status are appropriate and in the child's best interest;

### AND

- ✓ extension, termination or modification of the dispositional order is in the best interest of the child. **R.C. 2151.415(A)**



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

## 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 need for continued placement, including progress toward alleviating or mitigating the need for continued placement.
- ✓ Decide whether changes to the placement 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.



Sibling visitation should be addressed.

## 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(G)(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.
- ✓ 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)**



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)**

## **PERMANENCY PLAN** R.C. 2151.417; R.C. 2151.419

- ☑ Review the proposed or current permanency plan for the child.

### **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, the permanent plan shall NOT include any provision requiring the child to return home.

**R.C. 2151.417(G)(2) and (K)(2),  
and 2151.419(A)(2)**

- ☑ Approve the permanency plan for the child that includes whether 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.
- ☑ Determine if any changes to the permanency plan are appropriate.
- ☑ 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.

## **IV-E REQUIREMENTS** 42 U.S.C. 672 §472

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 that will be needed to assist the child in making the transition from foster care to independent living.

## 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.

When the review hearing takes the place of the administrative review, pursuant to [R.C. 2151.417\(I\)](#); [Juv. R. 36\(C\)](#):

- ☑ determine the continued necessity for, and the safety and appropriateness of, the child's placement;

### AND

- ☑ determine the extent of 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.

## 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 Entry.

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 temporary custody, legal custody, planned permanent living arrangement or permanent custody. [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 six 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 six 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 six 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 seven 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 six 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 of the date, time and location of the hearing.
- ✓ The court shall determine whether the extension for six 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 six 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 orders of protective supervision for six months, the court shall terminate the Orders 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 Hearing Bench Cards addressing special provisions for protective supervision, legal custody, planned permanent living arrangement or permanent custody. [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 six 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.
- ☑ **FIRST EXTENSION** — Determine, by clear and convincing evidence, whether the extension of the temporary custody is in the child's best interest, there has been significant progress on the case plan of the child, and 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\(D\)](#)
- ☑ **SECOND EXTENSION** — If an additional extension of temporary custody has been requested for up to six months, determine, by clear and convincing evidence, whether the additional extension is in the best interest of the child, 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 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\(D\)](#)

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

- ☑ Determine what actions are required of the agency in order to facilitate an adoption of the child.

- ☑ Issue any Orders with respect to the custody arrangement of the child including, but not limited to, the transfer of permanent custody to another public children services agency or private child placing agency.

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, or permanent custody. [R.C. 2151.417\(B\)](#) and [R.C. 2151.353\(E\)\(2\)](#)

**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;

**AND**

- the agency gives the court notice of the reasons why the removal is necessary;

**AND**

- the court approves the change.

**NOTICE**

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 immediately 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 unless the agency makes an appropriate change in the case plan. [R.C. 2151.412\(E\)\(3\)](#)

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\(E\)\(3\)](#)

**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\(E\)\(3\)](#)

**PROCEDURAL ISSUES**

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\(E\)\(3\)\(a\)](#)

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\(E\)\(3\)\(b\)](#)

## HEARING PROCEDURE



The child's health and safety shall be the paramount concern. **R.C. 2151.412(G)**

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;
- ☑ a child who cannot be placed with the parents should be placed in the legal custody of a suitable family member;
- ☑ a child who cannot be placed with the parents and has no suitable family members should be placed in the legal custody of a suitable non-relative;



The non-relative shall be made a party to the proceedings after being given legal custody. **R.C. 2151.412(G)(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 the 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 be 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(G)(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 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)**

**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(E)(2)*

**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 seven days from the date notice is sent to object to and request a hearing on the proposed change. *R.C. 2151.412(E)(2)* and *2151.416(E)*

**PROCEDURAL ISSUES**

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(E)(2)(a)* and *2151.416(E)(1)*

**NOTE**

The agency shall not implement the proposed change unless it is approved by the court. *R.C. 2151.412(E)(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 not 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(E)(2)(b)* and *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

### NOTE

The child's health and safety shall be the paramount concern. **R.C. 2151.412(G)**

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;
- ☑ a child who cannot be placed with the parents should be placed in the legal custody of a suitable family member;
- ☑ a child who cannot be placed with the parents and has no suitable family members should be placed in the legal custody of a suitable non-relative;

### NOTE

The non-relative shall be made a party to the proceedings after being given legal custody. **R.C. 2151.412(G)(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 the 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 be 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(G)(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 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)**

### 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)**

**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.



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*