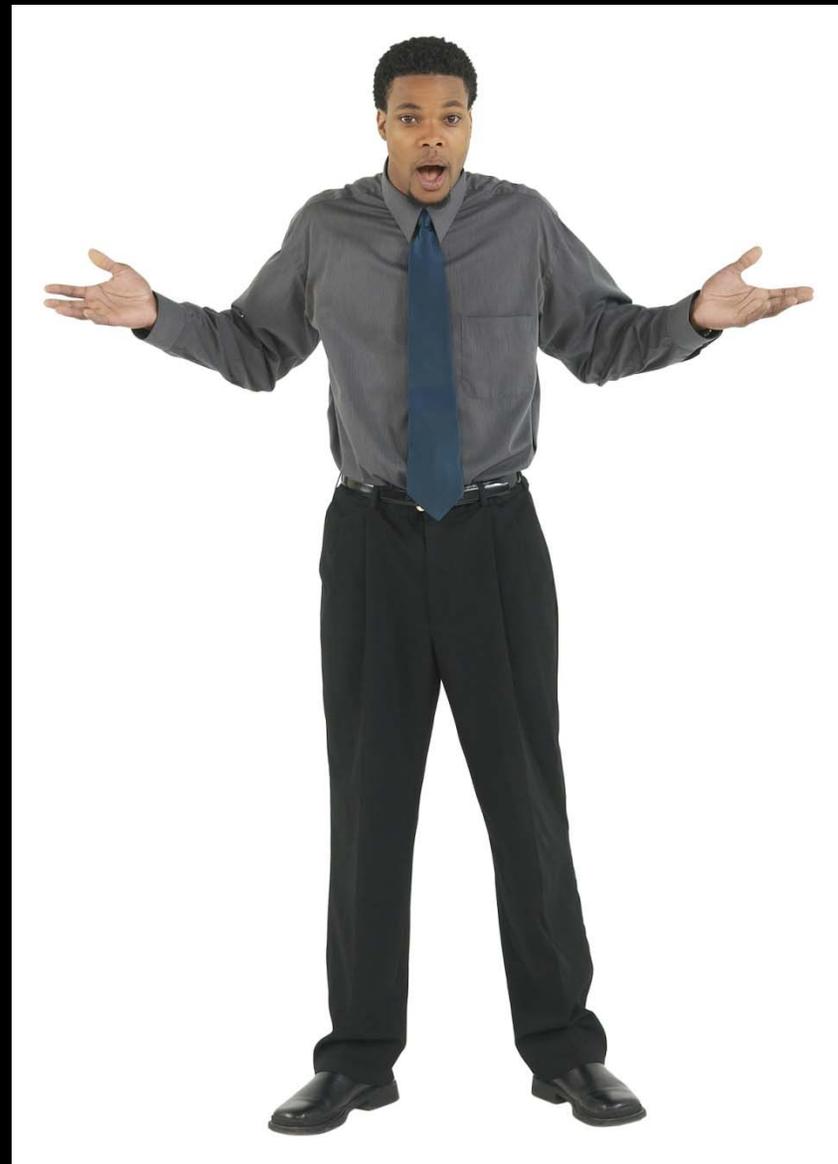


Best Practices in Permanency Hearings 2017

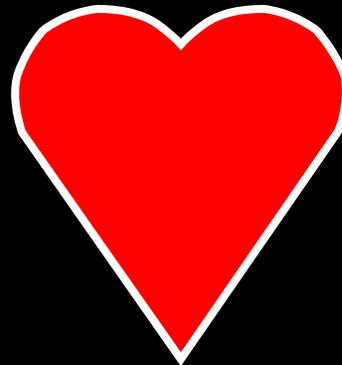
By Margaret A. Burt, Esq.

How are
these
Permanency
Hearings
supposed to
work!



QUALITY PERMANENCY HEARING PROCEDURES

THE



OF PERMANENCY FOR
CHILDREN

FCA Article 10-A

What is the law on permanency hearings?

- At the end of any FCA §1022 or §1027 hearing that orders the temporary placement of child in foster care, court must order “date certain” for 1st permanency hearing and advise all parties in court
- “Date certain” for 1st permanency hearing is to be no later than: Removal + 60 days + 6 months (8 months after removal)
- Must be held and completed within 30 days

- If child is 1st placed at FCA §1051 or §1055 dispo, then 1st permanency hearing is to be held at:

Removal (dispo) + 60 days + 6 months

(or 8 months after dispo)

- Hearing is to be completed within 30 days of commencement

If child placed by SSL §384-a, voluntary placement:

- Voluntary instrument approval process - SSL §358-a “L” review is held
- Child remains in care on voluntary instrument until court reviews in 1st permanency hearing
- 1st permanency hearing held after removal + 60 days + 6 months
- hearing is to be completed within 30 days of commencement
- At 1st perm hearing, now an Art10-A placement; no longer voluntary

- At every permanency hearing, date for subsequent permanency hearing is to be set
- Subsequent permanency hearings are to be scheduled minimally every 6 months after last hearing and completed within 30 days of that date.
- Child remains legally placed until each permanency hearing completed and either returned to parent, released from care, or placement extended with new order

Included in this pattern are all of the following children up to 18 years of age AND children between 18-21 if they wish to stay in care:

- Voluntary placements in foster care
- Art. 10 placements in foster care
- Art. 10 placements with relatives under FCA 1017 or 1055
- Destitute children

Not included in this pattern:

- Art. 6 custody placements – don't come back to court w/o petition
- PINS – need petition to extend which includes perm hearing
- JDs – need petition to extend which includes perm hearing

Freed children (includes all children who are now freed regardless of type of placement)

- Must have permanency hearing immediately or within 30 days of freeing by surrender or TPR
- 1st permanency hearing after being freed can be right on the spot if all have been given notice
- Must have a “freed child” permanency hearing at least every 6 months until child adopted
- “Half-freed” is not freed

The court maintains ongoing jurisdiction
and the case stays on the calendar.
Everyone knows the date of the next
permanency hearing.

Everyone is to be prepared for the next
permanency hearing which should only
require one appearance generally

- For Art. 10 placements, Art. 10 custodial placements, voluntary placements, and freed children, agency submits “sworn report” formally known as “permanency hearing report”
- Report to be mailed with notice at least 14 days before scheduled “date certain” permanency hearing
- Report will detail health and well-being of child, and “RE” since last hearing, and recommended permanency plan

Sworn Report

- Very specific list of items to be included, must carefully read statute - REASONABLE EFFORTS TOWARD GOAL
- Includes such items as:
 - permanency goal
 - health of child
 - placement details
 - education of child including pre-K and early intervention
 - visitation
 - IL efforts
 - services for & status of parents
 - AND
 - “RE” towards goal

At least 14 days before scheduled day certain for permanency hearing, agency sends notice and sworn permanency hearing report by regular mail to:

- Parent(s), including NRP at most recent known address → party
- Current foster parent → party
- Agency supervising care
- Attorney for child
- Attorney(s) for parent(s)

- Sworn report and notice also provided to pre-adoptive parent or relative providing care not a party
- ONLY Notice provided to any former foster parent with whom child resided for more than 12 consecutive months but not a party and court can waive this requirement
- ONLY Notice provided to all foster children 10 years and up

Foster Parents

- Right to notice and *right* to be heard
- Only people who see the child every day
- Often see the parent interact with the child
- Bond with the child
- Have educational information
- Take the child to medical appointments
- Can report how the child has changed since entering foster care
- Know the child's ability to take care of herself
- May be a permanent resource for the child

Child's Presence

- 10, 11, 12 and 13 – can come but Judge can say how it will be done
- 14 and up – totally up to the youth
- Less than 10 – up to the Judge
- AFC must talk to all children 10 and up about coming and must tell everyone 10 days before the PH
- Must value child's right to know and commit to listening to the child
- It is to focus on the perm issues – not “how ‘bout them Bills”

What is Permanency?

- **Stability without disruption**
- **Safe and nurturing home environment and set of relationships**
- **Growing up with siblings**
- **Connections of Community of Origin**
- **Religion and Culture Preserved**
- **Gives child a sense of belonging and a definitive legal and social status**
- **Educational needs met**
- **Healing of past trauma**
- **Physical/ Emotional Needs met**
- **Contact with family of origin if appropriate**
- **Opportunity to live in a permanent home, one which can be returned to for support even as an adult; home intended to last indefinitely**

Reasonable Efforts

- Must be proven - this is the heart of the perm hearing!!!
- Varies with the goal
- The goal is what has BEEN the goal – don't change the goal right before the hearings or there will not be RE for that goal

Reasonable Efforts: Reunification

ASFA: Reunification is appropriate when:

- (1) Parent is working diligently on the plan
- (2) Specific time frame
- (3) Consistent with child's developmental needs

Questions:

- Have all services to enable the parent to safely care for the child been offered?
- Nexus between services and underlying problems?
- Parents- participation AND benefit? Change in behavior?
- Assess the risk. Have we “raised the bar?”

Reasonable Efforts: Adoption

- TPR petition prepared? Service? Date for trial?
- How will the case proceed if parent is missing?
- Has conditional surrender been explored?
- Can pretrial issues be resolved?
- Did adoptive resource recruitment as soon as TPR is filed or earlier?
- What's the child's position, and how old is the child?
- Are current caretakers or relatives an adoptive resource? Provided information?

RE: Guardianship/ Custody

- **What is the quality and nature of relationship to the child—is this the best placement?**
- **Are the relatives committed to the child long term?**
- **Are the relatives able to meet child's needs?**
- **Are any services necessary?**
- **Does the relative acknowledge the abuse/neglect?**
- **Does the relative hold the parent accountable?**
- **How will contact with the parent be managed?**
- **Does the family need to apply for TANF or other benefits? If so, has the agency helped the family apply?**
- **Will this preserve the child's cultural identity/ community connections?**
- **Others in the household who need to be checked out?**

Reasonable Efforts: APPLA

- Permanency *goal* for the child.
- Overuse of APPLA
- The objective is to craft the most stable, secure arrangement possible.
- “Permanency” includes something more than merely meeting the child’s immediate physical, educational, social, and mental health needs.
- Key to the child’s future happiness and success is the development of relationships with members of the child’s family and communities.

Barriers to Permanence for Teens

- **Focus on placement instead of permanency**
- **Once “another planned permanent living arrangement” selected permanency options not revisited**
- **Youth and families not present at hearings**
- **Insufficient participation by youth in case planning**
- **The belief that generic life skills services are enough**
- **The belief that at 18, one should be able to live on one’s own**
- **When they say “NO” to a new family we don’t “unpack” the youth’s no.**
- **Worker, legal system and caretaker bias become self fulfilling prophesy**

Reasonable Efforts to finalize
an alternate permanency
plan

CONCURRENT PLANNING for Adolescents

APPLA and :
Reunification?
Adoption?
Relative Placement?



What is the hearing itself like?

- Team must commit to quality perm hearings
- It DOES work – lots of national evidence
- We tend to get it done when we know we are about to have to go to court
- It's not just some legal requirement – it is where all of the people committed to the child are to THINK about what is best and make it happen
- It's not supposed to be a “gotcha” for anyone – this is NOT a game – it's a child's life

How does a CW or FP prep?

- Use the perm report to help you prepare – this report contains everything the law says is in a perm hearing – does anything have to be updated since writing it? Also review order!!
- Focus on key issues court will want to know – perm goal, visit status, services offered and response, child's status
- CW - PREP with your attorney – ask atty to also make notes about what is to be presented

Prep ideas for CW

- Talk with atty and liaison – who is going to go, who will take the lead in the presentation – BE on the same page!
- If CW/liaison is one who will present – make a list of what you want to say and what you want to ask – share it if it will be liaison and share with atty
- USE perm hearing to get things on the record – dad issues, relative issues, visitation issues
- Make a RECORD of all that CW has done

What else could CW/Liaison do for good presentation?

- Are there other records court should see? MH records or Sub Abuse records? Records of the child's that may be of particular interest like report cards?
- Can you prepare a chart about visitation if that has been an issue?
- Your presentation says a lot about your competency and your professionalism

Prep Ideas for FPs

- Read that PH report over several times
- Make any needed notes – anything wrong or not what you think is what is happening?
Anything missing?
- Talk to CW and/or Sup
- Talk to AFC if you have a relationship
- Write out what you may want to say
- Take notes at the PH and/or ask afterwards

So what should be happening?

- Use the hearing to get full status of all issues toward reunification or other goal
- Visitation issues
- Why are these kids in care? What caused placement? Has that been resolved?
- Focus on RE toward the goal, response to RE and current goal plans
- Child's status is critical
- MAKE notes for next time – what were issues?

Permanency hearing order

- Order with very specific findings – why child should stay in care, what REs were, goal
- Can issue order of protection, order TPR to be filed
- Make sure any new dispo requirements are in
- Can order that agency has authority to return child to parent for final discharge before next hearing upon 10 days prior written notice to court and law guardian – agency can do trial discharges unless ordered not to