

SUMMARY OF PERMANENCY HEARING TIMEFRAMES

Margaret A Burt - 2017

- 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 or 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 the 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 or 8 months
- hearing is to be completed within 30 days of commencement
- At 1st perm hearing, now an Art10-A placement; **no longer voluntary**

Ongoing perm hearings:

- 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:

- Temporary Art. 6 custody placements – Permanent Art. 6’s 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

Also special situations where the time frame changes:

- Must have a permanency hearing immediately or within 30 days if the court has issued a “no reasonable efforts toward reunification” order under FCA §1036-b

For 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

For all perm hearings -

- 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, destitute children and freed children, agency submits “sworn report” formally known as “permanency hearing report” – the required forms are on Connections
- 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

- Very specific list of items to be included, must follow the forms as they tract the statute – focus is to be on REASONABLE EFFORTS TOWARD Child’s Permanency 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 (they are a party)
- Current foster parent (they are a party)
- Agency supervising care
- Child’s attorney
- Attorney(s) for parent(s)
- Sworn report and notice also provided to pre-adoptive parent or relative providing care who is not a party
- **ONLY Notice**, not the report, provided to any former foster parent with whom child resided for more than 12 consecutive months - this person is not a party and court can waive this requirement and to all children over 10 years old

Foster Parents at Perm Hearings -

- 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

Children at their own Perm hearings

Must be noticed if 10 and up – Judge decides how child will participate if 10,11,12,13 – child decides how they will participate if 14 and up

Child's position must be made known to the court, by federal and state law

Must value child's right to know and commit to listening to the child

- It is to focus on the perm issues – not just “how ‘bout them Yankees”