

HOW IS A PERMANENCY HEARING DIFFERENT THAN A REVIEW HEARING?

Hon. Linda Porter
Lancaster County Separate Juvenile Court

Relevant Statutes

- "Each child in foster care under the supervision of the state shall have a permanency hearing by a court, no later than twelve months after the date the child enters foster care and annually thereafter during the continuation of foster care." (43-1312 (3))

Timing Issues

- "For the purpose of determining the timing of review hearings, permanency hearings, and other requirements under the Foster Care Review Act, a child is deemed to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty days after the date on which the child is removed from the home" (43-1301.01).
- Review Hearings – required to be held every six months (43-1313)

Discussion

- Separate Permanency Hearing vs. Held Jointly with Review Hearing?

Preparation

- Judge Should Be Familiar With
 - Date and circumstances under which the child was first removed from the home, and the child's age at removal;
 - Whether the child holds tribal membership status;
 - Number and nature of placements, and reasons for each move;
 - The case plan, detailed progress reports, and other reports by professionals;
 - Recommendations from the CASA volunteer or guardian *ad litem*, reports of the foster parents, reports from citizen review boards about ongoing case activity and periodic reviews and reports from the child's tribe, if applicable.
- Other Parties
 - Pre-Permanency hearing conference or Team Meeting?
 - Separate court report address to permanency issues?

Questions Court Can and Should Ask At Permanency Hearing

- What are the child's special needs?
- If reunification is the recommended plan,
 - How have the conditions adjudicated been corrected? What, if anything, remains unaddressed?
 - What is the anticipated date and plan for the child's return home?
 - What follow-up services will be in place?
 - Why is reunification in the child's best interests?
- If termination of parental rights and adoption is recommended,
 - Why is this plan in the best interests of the child?
 - Who will provide permanency for the child?
 - Is the child's current placement an adoptive one? If not, what are the next steps to identify a permanent home?
 - What were the efforts made to reunify the family?

Questions Court Can and Should Ask (continued)

- If guardianship is the recommended plan,
 - Why is that plan in the child's best interests?
 - What were the reasonable efforts made to reunify the family?
 - Why was adoption not recommended?
 - What is the plan for ongoing services to the child?
 - Is contact with the biological parents a part of the plan?
- If another plan is being recommended,
 - Why were the other plans not in the child's best interests?
 - What is the plan to prepare the child for independent living?
 - What is the plan for ongoing services and contact with family?
 - What were the reasonable efforts to reunify?

Findings Required by the Court

- "The courts order shall include a finding regarding the appropriateness of the permanency plan determined for the child and shall include whether, and if applicable when, the child will be:
 - a) Returned to the parent;
 - b) Referred to the state for filing of a petition for termination of parental rights;
 - c) Placed for adoption;
 - d) Referred for guardianship; or
 - e) In cases where the state agency has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, (i) referred for termination of parental rights, (ii) placed for adoption with a fit and willing relative, or (iii) placed with a guardian."

(43-1312 (3))

Discussion

- Permanency Reports and Prehearing Conferences

Discussion

- Appeals from Permanency Plan Orders

Stagnant Cases and Cases Where Parties Are At A Stalemate

- Parental Participation But
 - No forward movement
- Evaluations that may be helpful
