

5101:2-42-08      **Acceptance of temporary custody by agreement and court-approved extensions.**

- (A) ~~Temporary custody by agreement or the extension of agreement for temporary custody of a child~~ Agreement for temporary custody or an extension of the agreement may be accepted by a public children services agency (PCSA) or private child placing agency (PCPA) only by proper execution of the JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) ~~JFS 01645~~ and compliance with the conditions stated therein.
- (B) For the purpose of this rule, the PCSA or PCPA shall execute the JFS 01645 in the county in which the parent, guardian or custodian has residence or legal settlement.
- (C) Temporary custody by agreement shall be accepted only from a child's parent, guardian, or custodian.
- (D) The JFS 01645 shall not be executed until the PCSA or PCPA has completed all of the following:
- (1) Evaluated the reason for the transfer of temporary custody.
  - (2) Explored all reasonable less drastic alternatives for the care of the child by his parent, guardian, custodian, relative or other interested nonrelative.
  - (3) Determined that appropriate placement resources are available for the child.
  - (4) Reviewed the JFS 01645 with the parent, guardian, or custodian.
- (E) When the child is less than six months of age on the date of the execution of the JFS 01645 and the purpose is adoption, The the agreement for temporary custody shall be for a specified period of not more than sixty days, ~~when the child is less than six months of age on the date of the execution of the JFS 01645, and when the sole purpose of execution of the JFS 01645 is for the purpose of obtaining the adoption of the child.~~ If the PCSA or PCPA determines ~~that~~ temporary custody ~~through an agreement for temporary custody~~ should continue beyond sixty days and the child's parent, guardian, or custodian concurs, the PCSA or PCPA shall file a request with the juvenile court of the county in which the parent, guardian or custodian has residence or legal settlement for a thirty-day extension of such agreement for temporary custody.
- (F) When the agreement for temporary custody is not for the purpose of adoption, The the agreement for temporary custody shall be for a specified period of not more than thirty days, ~~for a child more than six months of age, or for a child less than six~~

~~months of age on the date of execution of the JFS 01645, when the sole purpose of the agreement for temporary custody is not for the purpose of obtaining the adoption of the child.~~

- (1) If the PCSA or PCPA determines ~~that continued~~ temporary custody beyond thirty days ~~through an agreement for temporary custody~~ is appropriate, and the child's parent, guardian, or custodian concur, the PCSA or PCPA shall file a request with the juvenile court for an original thirty-day extension of the agreement for temporary custody.
  - (2) If the PCSA or PCPA determines ~~that continued~~ temporary custody beyond the ~~an~~ original thirty-day extension approved by the juvenile court is appropriate, and the child's parent, guardian, or custodian concur, the PCSA or PCPA shall seek approval from the juvenile court which granted approval of the original thirty-day extension for an additional thirty-day extension of the agreement.
- (G) When requesting juvenile court approval for a thirty-day original extension or an additional thirty-day extension of an agreement, the PCSA or PCPA shall:
- (1) File the request in sufficient advance of the expiration date of the agreement, as directed by the court, to allow the court to determine whether the extension is in the best interest of the child; and
  - (2) If the request is for an original extension, file a copy of the case plan prepared in accordance with ~~rule~~ new rules 5101:2-53-05 and 5101:2-39-08.1 of the Administrative Code for PCSAs, and rule 5101:2-39-10 of the Administrative Code for PCPAs; or
  - (3) If the request is for an additional extension, file a copy of the amended case plan prepared in accordance with ~~rule~~ new rules 5101:2-53-05 and 5101:2-39-08.1 of the Administrative Code for PCSAs, and rule 5101:2-39-10 of the Administrative Code for PCPAs.
  - (4) Document in the case record the reasons why an original or additional extension is necessary and efforts to be made during the extension period to fulfill the case plan.
- (H) If the PCSA or PCPA does not request an original thirty-day extension or an additional thirty-day extension, the PCSA or PCPA shall:
- (1) Return the child to his parent, guardian, or custodian; or

(2) File a complaint with the juvenile court pursuant to section 2151.27 of the Revised Code requesting temporary or permanent custody.

~~(I) If the PCSA or PCPA has been denied an extension, it shall return the child unless it has obtained a court order authorizing it not to do so. Upon being denied an extension, the PCSA or PCPA may file a complaint and seek an emergency order permitting the PCSA or PCPA to retain custody pursuant to section 2151.33 of the Revised Code.~~

~~(I)~~ (I) When filing a complaint with the juvenile court, the complaint must be accompanied by a case plan prepared in accordance with rule 5101:2-39-08.1 of the Administrative Code for PCSAs, and rule 5101:2-39-10 of the Administrative Code for PCPAs.

(J) If the PCSA or PCPA has denied an extension, it shall return the child unless it has obtained a court order authorizing it not to do so. Upon being denied an extension, the PCSA or PCPA may file a complaint and seek an emergency order permitting the PCSA or PCPA to retain custody pursuant to section 2151.33 of the Revised Code.

Effective:

R.C. 119.032 review dates: 12/31/2007

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5101.03, 5103.15, 5153.16  
Rule Amplifies: 5101.03, 5103.15, 5153.16  
Prior Effective Dates: 1/14/83, 6/1/85 (Emer.), 8/12/85, 9/29/87, 1/1/89,  
1/1/90, 2/1/03