

5101:2-42-68

**Necessity for continued substitute care placement: court reviews and hearing requirements.**

- (A) ~~Each PCSA or PCPA shall determine the necessity for continued substitute care placement of each child, whether the child's custody is by agreement or court commitment or whether the child's custody status is temporary or permanent. The agency shall assess the need for continued substitute care placement no less frequently than every six months from date of placement or at each semiannual administrative review. Such assessment shall be documented in writing.~~

Each public children services agency (PCSA) or private child placing agency (PCPA) shall determine the necessity for continued substitute care placement of each child, whether the child's custody is by agreement or court commitment or whether the child's custody status is temporary or permanent. The agency shall conduct a case review and assess the need for continued substitute care placement no less frequently than every three months after whichever activities occur first as outlined in rule 5101:2-38-09 of the Administrative code. The JFS 01413 "Comprehensive Assessment and Planning Model - I.S. Case Review" (rev. 7/2006) shall be completed and the assessment shall be documented in the case record.

- (B) In the case of any child maintained in excess of thirty days in an emergency shelter care facility, the PCSA or PCPA shall determine and document in the child's case record the specific efforts undertaken to achieve a more appropriate placement for the child and the anticipated time frame for achieving such a placement. Documentation shall be completed promptly after each succeeding thirty day period ~~so~~ as long as the child remains in an emergency shelter care facility.

- (C) For children in temporary custody, the PCSA ~~or PCPA~~ shall determine whether they:

- (1) ~~Continued substitute care placement is not needed because the child is no longer at risk of abuse, neglect or dependency, if returned to his own home, and the child's parent, guardian or custodian is available, able and willing to protect the child.~~ Continued substitute care placement is not needed because:

(a) The child's vulnerability, if returned to his or her own home, to the conditions of abuse, neglect or dependency has diminished, and

(b) The child's parent, guardian or custodian is able to show a protective capacity to the child and the child's needs.

- (2) Continued substitute care placement is needed because:

(a) The child would be at risk of abuse, neglect, or dependency if returned to his own home and the child's parent, guardian or custodian is unavailable, unable or unwilling to protect the child; and The child

remains vulnerable to conditions of abuse, neglect, or dependency, if returned to his or her own home, and

(b) The child's parent, guardian or custodian does not show protective capacities to the child or the child's needs, and

~~(b)(c) Provision of supportive services could not reduce risk to the child, if returned home.~~  
Provision of supportive services could not reduce the child's vulnerability to the contributing factors requiring substitute care.

(D) Upon determining the need for continued temporary custody of a child, the PCSA or PCPA shall file a motion with the court that issued the order of disposition requesting a permanency review hearing for the court to grant any of the following:

(1) An order for the extension of temporary custody for six months. The PCSA or PCPA shall not petition the court for more than two six-month extensions of temporary custody.

(2) An order that the child be placed in the legal custody of a relative or nonrelative.

(3) An order that the child be placed in a planned permanent living arrangement.

(4) An order permanently terminating the parental rights of the child's parents.

(E) The PCSA or PCPA shall file the motion prescribed by paragraph (D) of this rule no later than thirty days prior to the earlier of the following:

(1) One year from the date on which the complaint in the case was filed;

(2) One year from the date on which the child was first placed into shelter care; ~~or,~~

(3) The date set at the last dispositional hearing for the review hearing of the child's custody.

(F) The PCSA or PCPA must request that a permanency hearing be held within thirty days of a judicial determination that reasonable efforts are not required pursuant to rule 5101:2-39-05 of the Administrative Code. This permanency hearing is not mandatory if the requirements of the permanency hearing are fulfilled at the hearing in which the court determines that reasonable efforts are not required.

- (G) For children in permanent custody, the PCSA or PCPA shall document efforts to locate an adoptive placement or other planned permanent living arrangement in the case plan.
  
- (H) The provisions of this rule do not apply to a PCPA which is providing services to a child who is the subject of a voluntary permanent custody surrender agreement. All reviews of these cases shall comply with the provisions found in section 5103.153 of the Revised Code and ~~rule~~ new rules 5101:2-42-09 and 5101:2-53-06 of the Administrative Code.

Effective: 04/20/2008

R.C. 119.032 review dates: 12/31/2007 and 02/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

03/10/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5103.03, 5153.16  
Rule Amplifies: 5103.03, 5153.16  
Prior Effective Dates: 9/28/87 (Emer.), 12/27/87, 1/1/89, 10/1/97, 3/18/99 (Emer.), 6/1/99, 6/17/99, 6/13/00 (Emer.), 9/7/00, 06/01/04