

5101:2-42-68 **Necessity for continued substitute care placement: court reviews and hearing requirements.**

- (A) 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 later than every three months after whichever activities occur first as outlined in rule 5101:2-38-09 of the Administrative ~~code~~Code. The JFS 01413 "Comprehensive Assessment and Planning Model - I.S. Case Review" (rev. 8/2010) 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 as long as the child remains in an emergency shelter care facility.
- (C) For children in temporary custody, the PCSA shall determine whether the:
- (1) 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 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
 - (c) 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, sixteen or older, be placed in a planned permanent living arrangement and the following is completed at both the initial planned permanent living arrangement (PPLA) hearing and any subsequent hearings regarding permanency outcomes:-
 - (a) The PCSA shall document at each permanency hearing the efforts to place a child permanently with a parent, relative or in a guardianship or adoptive placement.
 - (b) The PCSA should ensure the child's presence at the permanency hearing and the child is asked about his or her desired permanency outcome.
 - (i) If there is any significant safety concerns deterring the youth from participating in the hearing, the PCSA must document the reason for the youth's absence in the child's case record.
 - (ii) In the youth's absence, the PCSA must ensure a representative is present in court to address the youth's desire regarding the permanency outcome.
 - (c) The PCSA must document a judicial determination was made at each hearing that PPLA is the best permanency plan for the child and the compelling reasons why it is not in the best interest of the child to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.
 - (d) The PCSA shall document the steps the agency is taking to ensure the foster family follows the reasonable and prudent parent standard engaging the child with regular opportunities to participate in age or developmentally appropriate activities. The documentation of the activities shall be placed in the case record as outlined in rule 5101:2-33-23 of the Administrative Code.
- (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.
 - (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 5101:2-39-01 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) 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 rules 5101:2-42-09 and 5101:2-53-06 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 09/01/2019

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.16
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 9/28/1987 (Emer.), 12/27/1987, 1/1/1989, 10/1/1997,
3/18/1999 (Emer.), 6/17/1999, 6/13/2000 (Emer.),
9/7/2000, 4/20/2008, 9/1/2014