

NOTICE

Determine whether:

- ✓ the Notice of the hearing properly contains a full explanation of the effects of permanent custody and the right to counsel, including court-appointed counsel. *R.C. 2151.414(A)(1)* and *Juv. R. 4*

AND

- ✓ the Complaint or Motion and notice were served on all parties, including the guardian ad litem. *R.C. 2151.29*; *Juv. R. 16* and *20*

APPOINTMENTS

- ✓ If counsel has not been appointed for the child, determine whether there is a conflict between the express preference of the child and the guardian ad litem's determination of the child's best interest. If such a conflict exists, appoint an attorney for the child. *R.C. 2151.352*; *Juv. R. 4(A)* and *7(F)(2)*
- ✓ If the guardian ad litem is also serving as the attorney for the child, determine whether there is a conflict between the responsibilities of the role of the attorney and that of the guardian ad litem. If such a conflict exists, appoint a new guardian ad litem for the child. *R.C. 2151.281(H)*; *Juv. R. 4(C)(2)*



The court should ask the guardian ad litem prior to the hearing date whether there is a conflict between the best interests of the child and the child's wishes, so as to expedite the appointment of counsel or a new guardian ad litem in the event of a conflict.

- ✓ Advise any unrepresented parties of their right to counsel, including court-appointed counsel. *R.C. 2151.35(B)(1)*



If any motions to withdraw have been filed by any counsel it may lead to reversible error to allow counsel to withdraw at this point without allowing the party to get a new attorney.

HEARING PROCEDURE

Rules of Evidence: Strict Compliance. *Juv. R. 34(l)*

Standard of Proof: Clear and Convincing Evidence. *R.C. 2151.414(B)(1)*

Record the proceeding. *R.C. 2151.35(A)(2)*; *Juv. R. 37*

- ✓ Determine whether the guardian ad litem submitted a written report prior to the permanent custody hearing. *R.C. 2151.414(C)*
- ✓ Consider whether:
 - ✓ the child can be returned to parents in a reasonable amount of time; *R.C. 2151.414(E)*

AND

- ✓ the grant of permanent custody was in the child's best interest. *R.C. 2151.414 (D)*

NOTE

The court must find each factor exists by clear and convincing evidence.

- ☑ If the court is considering that the child cannot be returned in a reasonable amount of time and is proceeding on a complaint that alleges that the child has been in the custody of an agency for 12 or more months of a consecutive 22-month period:
 - ☑ start the time of temporary custody at either 60 days from the removal or adjudication, whichever was earlier, in making this calculation; **R.C. 2151.414(B)(1)(d)**

AND

- ☑ determine whether the child met the requirement at the time the Complaint was filed.



It is reversible error to base the finding on a condition that did not exist at the time the motion was filed.



The court may continue the hearing on a Motion for permanent custody and for good cause beyond the 120-day deadline, so long as the Entry is journalized not later than 200 days after the Motion was filed. **R.C. 2151.414(A)(2)**

CASEFLOW TIME FRAMES

- ☑ Advise the parties of their right to appeal this decision. **Juv. R. 34(J)**
- ☑ Journalize the Entry within seven days. **R.C. 2151.35(B)(3)**
- ☑ Set a review hearing.



Parents no longer need to receive notice if permanent custody was granted, as they are no longer parties. **R.C. 2151.35(D)**