

NUMBERING SYSTEMS FOR LOUISIANA FAMILY AND DOMESTIC RELATIONS COURTS AND JUVENILE COURTS

TITLE V

Tenth Judicial District Court

Chapter 40 PRELIMINARY PROVISIONS; JURISDICTION; DEFINITIONS

Rule 40.0 General Applicability of the Louisiana Children's Code

10th JDC

Appendix A (1st paragraph)

Added Aug. 29, 1983.

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

The initial instant order, the continued custody hearing, the filing of the petition, the answer to the petition, the adjudication, and disposition of Children in Need of Care cases will be done in accordance with the procedures of R.S. 14:403 using the time delays prescribed therein and the Code of Juvenile Procedure where not covered by Title 14, Section 403 of the Revised Statutes of 1950 as amended (R.S. 14:403).

A. Instant Order.

(1) The instant order should be given or executed in accordance with the sample instant affidavit and order attached hereto as Appendix 1. *

(2) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings along with appropriate visitation should be insured.

(3) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(4) Hearsay evidence is admissible and acceptable in the issuance of this order.

B. Hearing on Continued Custody.

(1) At the time of the seventy-two (72) hour continued custody hearing that the sacramental language of the original instant order be elicited regarding the Federal Statute (Public Law 96 272), that is,

(a) "that there are reasonable grounds to believe that the child(ren) is/are in need of care, abused or neglected;

(b) "that preventive services have been offered to no avail, or that there is a substantial immediate danger which precludes preventive services as an alternative to removal, and

(c) "that it is necessary to take the child(ren) into custody for his/her/their protection".

(2) At this stage of the proceedings an attorney should be appointed to represent the child and the parent if indigency is proven.

(3) It should be pointed out that if the petition alleging the child in need of care is filed prior to the continued custody hearing, considerable savings of time, money and effort could be accomplished by having the parents and attorney for the child answer the same at the continued custody hearing; the matter could then proceed directly to either adjudication or disposition depending upon the answers given.

(4) In all cases it is recommended that service of process and notification of parties of the next court date be given in open court with an appropriate notice form which serves in effect as a subpoena to all parties of the next hearing date.

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings along with appropriate visitation should be insured.

(6) Hearsay evidence is admissible and acceptable.

C. Adjudication.

(1) The judgment of adjudication should contain language identifying specific steps that must be provided for the child's well being prior to the dispositional hearing and specifically setting forth who shall be granted custody and who shall be responsible for the child's well being during the time prior to a formal dispositional hearing, if it is not held at the same time. The dispositional hearing may be held at this time if all parties agree.

(2) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(3) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

D. Disposition.

(1) At the dispositional hearing the courts should require the State to provide a plan for reunification of the child(ren) with the parent(s) or reasons why this is not feasible at this time and the possibilities of reunification in the near future.

(2) A written judgment should issue and be served upon all parties including custodians of the child setting forth specifically the findings and requirements of the Court.

(3) At this hearing a new date should be given for the first case review.

(4) A suggested form of judgment is attached hereto as Appendix 2. *

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(6) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(7) Hearsay evidence is admissible and acceptable in the issuance of this order.

E. First Review Hearing.

(1) Prior to the first review hearing the court shall order reports regarding the child(ren) be presented to various counsel at least fifteen (15) days prior to the date of the hearing, or be placed in the court record for review by counsel, to ensure maximum sharing of information.

(2) The first review of any child's case should be held not later than six (6) months from the original removal of the child(ren) from his/her/their legal custodian. At this hearing the primary considerations should be reunification. The court should require of the State specific plans for services and goals for reunification or ascertain if reunification is not possible at this time and the impediments to the reunification and whether or not and how these impediments can be overcome.

This review and each successive review will require, at a minimum, the following:

(a) a determination of the continuing necessity for and appropriateness of the child's placement;

(b) a discussion of the extent to which all parties have complied with the case plan and achieved the goals described in the plan;

(c) a summary of progress toward alleviating or mitigating the circumstances necessitating placement; and

(d) a target date by which the child may be returned home, or placed for adoption or legal guardianship or other permanent placement.

(3) At this review the court should examine the process of reunification if this is taking place and the appropriateness of the present placement and ascertain from the State, in as much detail as possible,

(a) the plans for more permanent care, and

(b) whether or not proceedings have been or will be initiated to terminate parental rights by abandonment, termination of parental rights or surrender.

(4) The court should determine that each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(6) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(7) Hearsay evidence is admissible and acceptable.

F. Second Review Hearing.

(1) The next hearing in a child's life should be the second review hearing, which should occur no later than twelve (12) months from the child's original entry in the state's custody, which means the time the child was originally taken from the care of his parent or legal custodian.

(2) The emphasis of this hearing should again be directed toward:

(a) ascertaining what has been accomplished toward reunification,

(b) what impediments there may be to reunification, and

(c) what can be done to overcome said impediments or alternatively to determine the best possible placement for the child at this point in his life.

The minimal requirement of E-(2) should also be applied to this review.

(3) The Court should require the State to provide detailed and specific plans regarding reunification or other permanency planning in lieu thereof and should suggest to the State that, if reunification seems to be remote or impossible, more detailed and specific plans regarding the child's permanent placement be submitted.

(4) The court should determine that each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(5) Where there are siblings involved all care should be taken to have them placed in the same setting

whenever possible with maximum contact between themselves and their parents.

(6) At this time the court should suggest that the state consider:

- (a) whether or not they wish to continue to pursue reunification, or
- (b) to pursue permanency through adoption (via termination of parental rights, abandonment or surrender), or
- (c) long term foster care, as appropriate to the child's needs.

(7) Hearsay evidence is admissible and acceptable.

(8) The next court hearing should be set no later than eighteen (18) months from the date the child was originally taken into custody.

(9) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

G. Third Review Hearing.

(1) This hearing is referred to in Public Law 96-272 as the "dispositional hearing".

(2) At the eighteen (18) months hearing the court should at this time formally ascertain:

- (a) whether reunification is possible and if not, what impediments there are to reunification, or
- (b) what plans have been implemented or are being implemented for the most permanent possible placement for the children, and
- (c) what procedures have been accomplished or initiated to terminate parental rights.

(3) In doing so, the Court shall determine the child's future status, including whether:

- (a) the child should be returned to the parents or other family member(s);
- (b) the child should be continued in foster care for a specified period;
- (c) the child should be placed for adoption or legal guardianship; or
- (d) the child because of exceptional circumstances, should remain in foster care on a long term basis as a permanent plan with a goal of independent living.

(4) If it is ascertained that reunification is impossible at this time, the Court should require the State to elect whether or not they wish to proceed with termination, abandonment, or surrender to legally settle parental rights and make the child available for the most permanent possible placement, considering the circumstances of the individual child and available placement.

(5) Should the State elect to proceed via termination, abandonment or surrender, then the procedures of R.S. 13:1606 should be followed by the Court for tracking the termination, surrender or abandonment proceedings and permanent placement through adoption.

(6) Should it be determined that these proceedings are not going to be used, then the court should enter into a long term foster care review process which would require reviewing the child's situation at least every twelve (12) months for the duration of the jurisdiction of the court over this child.

(7) The court should determine that each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(8) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(9) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(10) Hearsay evidence is admissible and acceptable.

H. Voluntary Placement and Informal Adjustments.

(1) The Juvenile Court Permanency Planning Procedure including the review process also pertains to children who are voluntarily placed in foster care as defined in H-(2) and who have remained in voluntary placement in excess of sixty (60) days.

(2) Voluntary foster care means the placement of children in foster care for a temporary period, not to exceed sixty (60) days, pursuant to a written agreement between the parent(s) and the Department of Health and Human Resources rather than a court proceeding.

(3) Children who are voluntarily placed in foster care must be reviewed under this procedure within 180 days of the time of placement to determine if foster care placement is in the best interest of the child.

(4) Children placed in foster care by informal adjustment decrees shall be reviewed in accordance with the procedures set forth herein.

I. In each of the steps set forth herein and above all parties should be notified of the next court date in open court, if present, and if not present by subpoena. Parties include the children, their parents, the legal custodian, the Department of Health and Human Resources, and all attorneys including the District Attorney.

Physical custodian may be notified to attend as witnesses.

J. Appendixes. (See Attached) *

In addition to Appendix 1-A, 1-B and 2, attached hereto is Appendix 3 which is a proposed Court Rule.

* Pub. Note: The Appendixes referred to in A, D, and J above were not supplied by the Court.

Chapter 43

DEPENDENCY PROCEEDINGS (CHILD IN NEED OF CARE AND JUDICIAL CERTIFICATION FOR ADOPTION/TERMINATION OF PARENTAL RIGHTS)

Rule 43.2

Concurrent Planning

10th JDC
Appendix A,
Section G(7)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

The initial instant order, the continued custody hearing, the filing of the petition, the answer to the petition, the adjudication, and disposition of Children in Need of Care cases will be done in accordance with the procedures of R.S. 14:403 using the time delays prescribed therein and the Code of Juvenile Procedure where not covered by Title 14, Section 403 of the Revised Statutes of 1950 as amended (R.S. 14:403).

G. Third Review Hearing.

(7) The court should determine that each child has a case plan designed to achieve placement in the least

restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

Rule 43.4

Instantner/Removal/Hold Orders

10th JDC
Appendix A,
Section A (1),
(2), (3), (4)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

The initial instantner order, the continued custody hearing, the filing of the petition, the answer to the petition, the adjudication, and disposition of Children in Need of Care cases will be done in accordance with the procedures of R.S. 14:403 using the time delays prescribed therein and the Code of Juvenile Procedure where not covered by Title 14, Section 403 of the Revised Statutes of 1950 as amended (R.S. 14:403).

A. Instantner Order.

(1) The instantner order should be given or executed in accordance with the sample instantner affidavit and order attached hereto as Appendix 1. *

(2) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings along with appropriate visitation should be insured.

(3) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(4) Hearsay evidence is admissible and acceptable in the issuance of this order.

* Pub. Note: The Appendix referred to in A above was not supplied by the Court.

10th JDC
Rule 32

Added Aug. 29,
1983.

RULE 32. PLACEMENT AND REVIEW OF CHILDREN IN FOSTER CARE

(1) It shall be the policy of this Court that when the State of Louisiana has been granted custody of a child(ren), and that child(ren) is/are placed in foster care; this Court shall immediately implement the procedures contained within Appendix A, attached hereto.

(2) Further, this Court shall review all children in foster care to ensure it is in the best interest of each child that he/she remain in foster care, or be returned to his/her home, or parental rights be terminated as the best interest of the child may dictate.

(3) Further, that this Court shall observe the federal guidelines in connection with the review of said child in foster care; and therefore a permanent plan for each child be developed.

10th JDC
Appendix A,
Section G(4),
(5), (6)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

G. Third Review Hearing.

(4) If it is ascertained that reunification is impossible at this time, the Court should require the State to elect whether or not they wish to proceed with termination, abandonment, or surrender to legally settle parental rights and make the child available for the most permanent possible placement, considering the circumstances of the individual child and available placement.

(5) Should the State elect to proceed via termination, abandonment or surrender, then the procedures of R.S. 13:1606 should be followed by the Court for tracking the termination, surrender or abandonment proceedings and permanent placement through adoption.

(6) Should it be determined that these proceedings are not going to be used, then the court should enter into a long term foster care review process which would require reviewing the child's situation at least every twelve (12) months for the duration of the jurisdiction of the court over this child.

10th JDC
Appendix A,
Section G(8)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

G. Third Review Hearing.

(8) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

Chapter 47

CHILD SUPPORT PROCEEDINGS

Rule 47.3

Payment; Collection Procedures

10th JDC
Appendix A,
Sections B, C,
D, E, F, & G(1),
(2), and (3)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

B. Hearing on Continued Custody.

(1) At the time of the seventy-two (72) hour continued custody hearing that the sacramental language of the original instant order be elicited regarding the Federal Statute (Public Law 96 272), that is,

(a) "that there are reasonable grounds to believe that the child(ren) is/are in need of care, abused or neglected;

(b) "that preventive services have been offered to no avail, or that there is a substantial immediate danger which precludes preventive services as an alternative to removal, and

(c) "that it is necessary to take the child(ren) into custody for his/her/their protection".

(2) At this stage of the proceedings an attorney should be appointed to represent the child and the parent if indigency is proven.

(3) It should be pointed out that if the petition alleging the child in need of care is filed prior to the continued custody hearing, considerable savings of time, money and effort could be accomplished by having the parents and attorney for the child answer the same at the continued custody hearing; the matter could then proceed directly to either adjudication or disposition depending upon the answers given.

(4) In all cases it is recommended that service of process and notification of parties of the next court date be given in open court with an appropriate notice form which serves in effect as a subpoena to all parties of the next hearing date.

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings along with appropriate visitation should be insured.

(6) Hearsay evidence is admissible and acceptable.

C. Adjudication.

(1) The judgment of adjudication should contain language identifying specific steps that must be provided for the child's well being prior to the dispositional hearing and specifically setting forth who shall be granted custody and who shall be responsible for the child's well being during the time prior to a formal dispositional hearing, if it is not held at the same time. The dispositional hearing may be held at this time if all parties agree.

(2) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(3) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

D. Disposition.

(1) At the dispositional hearing the courts should require the State to provide a plan for reunification of the child(ren) with the parent(s) or reasons why this is not feasible at this time and the possibilities of reunification in the near future.

(2) A written judgment should issue and be served upon all parties including custodians of the child setting forth specifically the findings and requirements of the Court.

(3) At this hearing a new date should be given for the first case review.

(4) A suggested form of judgment is attached hereto as Appendix 2. *

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(6) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(7) Hearsay evidence is admissible and acceptable in the issuance of this order.

E. First Review Hearing.

(1) Prior to the first review hearing the court shall order reports regarding the child(ren) be presented to various counsel at least fifteen (15) days prior to the date of the hearing, or be placed in the court record for review by counsel, to ensure maximum sharing of information.

(2) The first review of any child's case should be held not later than six (6) months from the original removal of the child(ren) from his/her/their legal custodian. At this hearing the primary considerations should be reunification. The court should require of the State specific plans for services and goals for reunification or ascertain if reunification is not possible at this time and the impediments to the reunification and whether or not and how these impediments can be overcome.

This review and each successive review will require, at a minimum, the following:

(a) a determination of the continuing necessity for and appropriateness of the child's placement;

(b) a discussion of the extent to which all parties have complied with the case plan and achieved the goals described in the plan;

(c) a summary of progress toward alleviating or mitigating the circumstances necessitating placement; and

(d) a target date by which the child may be returned home, or placed for adoption or legal guardianship or other permanent placement.

(3) At this review the court should examine the process of reunification if this is taking place and the appropriateness of the present placement and ascertain from the State, in as much detail as possible,

(a) the plans for more permanent care, and

(b) whether or not proceedings have been or will be initiated to terminate parental rights by abandonment, termination of parental rights or surrender.

(4) The court should determine that each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(5) When there are siblings involved care should be taken to have the siblings placed together whenever possible and/or maximum contact between siblings, along with appropriate visitation, should be insured.

(6) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(7) Hearsay evidence is admissible and acceptable.

F. Second Review Hearing.

(1) The next hearing in a child's life should be the second review hearing, which should occur no later than twelve (12) months from the child's original entry in the state's custody, which means the time the child was originally taken from the care of his parent or legal custodian.

(2) The emphasis of this hearing should again be directed toward:

(a) ascertaining what has been accomplished toward reunification,

(b) what impediments there may be to reunification, and

(c) what can be done to overcome said impediments or alternatively to determine the best possible placement for the child at this point in his life.

The minimal requirement of E-(2) should also be applied to this review.

(3) The Court should require the State to provide detailed and specific plans regarding reunification or other permanency planning in lieu thereof and should suggest to the State that, if reunification seems to be remote or impossible, more detailed and specific plans regarding the child's permanent placement be submitted.

(4) The court should determine that each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(5) Where there are siblings involved all care should be taken to have them placed in the same setting whenever possible with maximum contact between themselves and their parents.

(6) At this time the court should suggest that the state consider:

(a) whether or not they wish to continue to pursue reunification, or

(b) to pursue permanency through adoption (via termination of parental rights, abandonment or surrender), or

- (c) long term foster care, as appropriate to the child's needs.
- (7) Hearsay evidence is admissible and acceptable.
- (8) The next court hearing should be set no later than eighteen (18) months from the date the child was originally taken into custody.
- (9) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

G. Third Review Hearing.

- (1) This hearing is referred to in Public Law 96-272 as the "dispositional hearing".
- (2) At the eighteen (18) months hearing the court should at this time formally ascertain:
 - (a) whether reunification is possible and if not, what impediments there are to reunification, or
 - (b) what plans have been implemented or are being implemented for the most permanent possible placement for the children, and
 - (c) what procedures have been accomplished or initiated to terminate parental rights.
- (3) In doing so, the Court shall determine the child's future status, including whether:
 - (a) the child should be returned to the parents or other family member(s);
 - (b) the child should be continued in foster care for a specified period;
 - (c) the child should be placed for adoption or legal guardianship; or
 - (d) the child because of exceptional circumstances, should remain in foster care on a long term basis as a permanent plan with a goal of independent living.

* Pub. Note: The Appendix referred to in D above was not supplied by the Court.

Chapter 49

OTHER PROCEEDINGS

Rule 49.1

Voluntary Transfer of Custody

10th JDC
Appendix A,
Section H and I

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

H. Voluntary Placement and Informal Adjustments.

- (1) The Juvenile Court Permanency Planning Procedure including the review process also pertains to children who are voluntarily placed in foster care as defined in H-(2) and who have remained in voluntary placement in excess of sixty (60) days.
- (2) Voluntary foster care means the placement of children in foster care for a temporary period, not to exceed sixty (60) days, pursuant to a written agreement between the parent(s) and the Department of Health and Human Resources rather than a court proceeding.
- (3) Children who are voluntarily placed in foster care must be reviewed under this procedure within 180 days of the time of placement to determine if foster care placement is in the best interest of the child.

(4) Children placed in foster care by informal adjustment decrees shall be reviewed in accordance with the procedures set forth herein.

I. In each of the steps set forth herein and above all parties should be notified of the next court date in open court, if present, and if not present by subpoena. Parties include the children, their parents, the legal custodian, the Department of Health and Human Resources, and all attorneys including the District Attorney.

Physical custodian may be notified to attend as witnesses.

Chapter 51

OTHER RULES

Rule 51.0

Other Rules

10th JDC
Appendix A,
Section G(9)
and (10)

APPENDIX A. JUVENILE COURT PERMANENCY PLANNING PROCEDURE

G. Third Review Hearing.

(9) All parties should be notified of the next court date in open court, if present, and if not present by subpoena.

(10) Hearsay evidence is admissible and acceptable.
