

HB 242: The Revised Juvenile Code

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Presentation to: Practice Matters Meeting

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Georgia Department of Human Services

Vision, Mission and Core Values

Vision

Stronger Families for a Stronger Georgia.

Mission

Strengthen Georgia by providing Individuals and Families access to services that promote self-sufficiency, independence, and protect Georgia's vulnerable children and adults.

Core Values

- Provide access to resources that offer support and empower Georgians and their families.
- Deliver services professionally and treat all clients with dignity and respect. Manage business operations effectively and efficiently by aligning resources across the agency.
- Promote accountability, transparency and quality in all services we deliver and programs we administer.
- Develop our employees at all levels of the agency.

Article 1 – General Provisions

- Change in terminology: Dependency
- Defines Key Terms
 - Abandonment: grounds reduced from 12 months to 6 months to show intent to forgo parental duties
 - Abuse:
 - Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it by a child as a result of the acts or omissions of a **person responsible for the care of a child**.
 - Emotional abuse
 - Sexual abuse or sexual exploitation
 - Prenatal abuse
 - The commission of acts of family violence

Article 1 (cont'd)

- “Party” defined to include a child
- Permanent placement definition does not include permanent custody (custody modification); does include reunification, adoption and permanent guardianship
- Person responsible for the care of a child
 - Adult member of the child’s household
 - A person exercising supervision over the child
 - Any adult who has access to the child based on his or her relationship to the parent/guardian or a member of the child’s household
- Relative and Sibling – maintain relationship even if parent divorces step-parent

Article 1 (cont'd)

- Expands jurisdiction of juvenile courts to review services offered to children over age 18
- Promotes mediation
- Establishes “best interest” factors
- Allows the court to modify or vacate a delinquency order if the child was found to have committed a prostitution-related act and was a victim of human trafficking or sexual exploitation

Article 3 - Dependency

- Expedites permanency timelines for children under the age of 7, requiring a permanency planning hearing within 9 months of entry into foster care
- Clarifies the representation scheme for a child
- Limits continuances only for good cause
- Presumes unsupervised visitation unless court finds it would not be in the child's best interests
- Provides factors for court's consideration of "reasonable efforts"

Article 3 (cont' d)

- Modifies the “previous TPR of a sibling” exception to the requirement to make reasonable efforts to preserve/reunify a family to require the court to determine whether the parent has resolved the issues that led to the previous TPR
- Incorporates new federal requirement to include 2 new circumstances in which reasonable efforts to reunify are not required:
 - 1) when parent has been convicted of sexual abuse of the child or another child of the parent;
 - 2) when the parent is required to register as a sex offender and preservation of the parent-child relationship is not in the child’s best interests.

Article 3 (cont' d)

- Eliminates the expiration of temporary custody orders, which will endure until a contrary order is made or the purpose of the order is fulfilled
- Requires an initial review hearing within 75 days of removal and a subsequent review hearing within 4 months after the initial hearing
- Eliminates the option for courts to delegate permanency hearings to citizen review panels

Article 3 (cont'd) - Summary of Review and Permanency Plan Review Hearing Requirements

- Child under 7 years old:
 - initial review: within 75 days post-removal (can only be held by court)
 - ongoing review: every 4 months (can be held by court or panel)
 - permanency plan hearing: within 9 months post-removal (can only be held by court)
 - permanency plan review hearing: every 6 months after the initial permanency plan hearing (can only be held by court)
- Child 7 years old or older:
 - initial review: within 75 days post-removal (can only be held by court)
 - ongoing reviews: every 4 months (can be held by court or panel)
 - permanency plan hearing: within 12 months post-removal (can only be held by court)
 - permanency plan review hearing: every 6 months after the initial permanency plan hearing (can only be held by court)

Article 4 - Termination of Parental Rights

- Preserves the right of a child to inherit and receive benefits from parents post-TPR until adopted
- Preserves a child's legal relationship with siblings and other extended family after TPR until adopted
- Reduces the amount of time a parent has to develop and maintain a bond, to provide support, and to comply with reunification services from 12 months to 6 months
- Creates a mechanism for the reinstatement of parental rights

Article 5 - Children in Need of Services

- Creates a new approach for intervening with status offenders
- Purpose
 - 1) To acknowledge certain behaviors/conditions indicate that a child is experiencing serious difficulties and is in need of services;
 - 2) To make family members aware of their contributions to their family's problems;
 - 3) To provide child with a program of treatment to help child become a responsible and productive member of society; and
 - 4) To ensure cooperation and coordination of all agencies having responsibility to supply services

Parties/Agencies that May be Involved

- Parent, guardian, or legal custodian of the child
- Child's attorney
- The person who filed the petition
- Child's guardian ad litem, if any
- Mental health or developmental disabilities representatives
- Child's caseworker
- A representative from the child's school
- Any family member who has shown an interest and involvement in the child's well-being
- A representative from Department of Public Health
- A DFCS caseworker
- Representatives of the public and private resources to be utilized in the child's comprehensive services plan
- Other persons who have demonstrated an ongoing commitment to the child

Note: Court has the authority to order child-serving agencies to attend court hearings.

Who is a CHINS?

- A child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:
 - Truant without good and sufficient cause;
 - Habitually disobedient/ungovernable;
 - Runaway;
 - Committed an offense applicable only to a child;
 - Wanders/loiters between midnight and 5 AM;
 - Disobeys terms of supervision contained in a court order which has been directed to such child who has been adjudicated as a CHINS; or
 - Unaccompanied patron of a bar where alcoholic beverages are sold
- A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation

Case Initiation and Temporary Custody

- A case is initiated by a complaint, filed with the juvenile intake officer
- CHINS complaint may be filed by a parent, DFCS, school, law enforcement, GAL, or attorney
 - School must first exhaust administrative remedies
- Permits a CHINS to be taken into temporary custody under limited circumstances, but directs the least-restrictive environment
- If a child is detained and the parent does not pick the child up, the child will be placed in DFCS custody

Continued Custody Hearing

- Initial hearing
- Court determines whether there is probable cause to believe the child has committed a status offense or is otherwise a CHINS and that continued custody is necessary. If the court finds probable cause, the court:
 - May release the child to the custody of his parent OR place the child in the least restrictive placement available
 - Child may be detained for up to 72 hours for the purpose of arranging for an alternative placement pending adjudication
 - Must refer the child and his family to a community based risk reduction program OR order that a CHINS petition be filed and set the date for an Adjudication Hearing

Community-Based Risk Reduction Programs

- Court may order establishment “for the purpose of utilizing available community resources in assessment and intervention in cases of delinquency, dependency, or [CHINS]...” Any individual, public or private agency or entity may participate.
- Court may adopt an early intervention program designed to identify children who are at risk of becoming involved with the court, with the goal of diverting them.
- Court may enter into info-sharing/protocol agreements with school systems, DFCS, health department, DJJ, mental health, local health care providers, licensed counselors and social workers, and any other education or treatment service provider.
- When an at-risk child is identified, the case shall be referred to a multiagency staffing panel, which develops a multiagency intervention plan for the child. Failure to comply may result in a referral to DFCS.

CHINS Petition and Adjudication Hearing

- If the court orders the case to proceed, a petition may be filed by “any person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that such facts are true.”
- A petition filed by a school officer must account for attempts to resolve the problem through educational approaches.
- The petitioner has the burden of proving the allegations by clear and convincing evidence.

Disposition Hearing

The court shall order the least restrictive and most appropriate disposition, which may include:

- Permitting the child to remain with his caregiver with or without conditions prescribed by the court;
- Placing the child on probation or unsupervised probation;
- Requiring community service;
- Requiring restitution;
- Imposing a fine;
- Requiring the child to attend structured afterschool or evening programs or other court approved programs as well as requiring supervision during the day;
- Any order authorized for the disposition of a dependent child;
 - If the child is placed in foster care, a case plan must be developed that conforms with 15-11-404.
- Any order authorized for the disposition of a delinquent child except the child shall not be placed in a secure or non-secure residential facility;
- Any combination of the above.

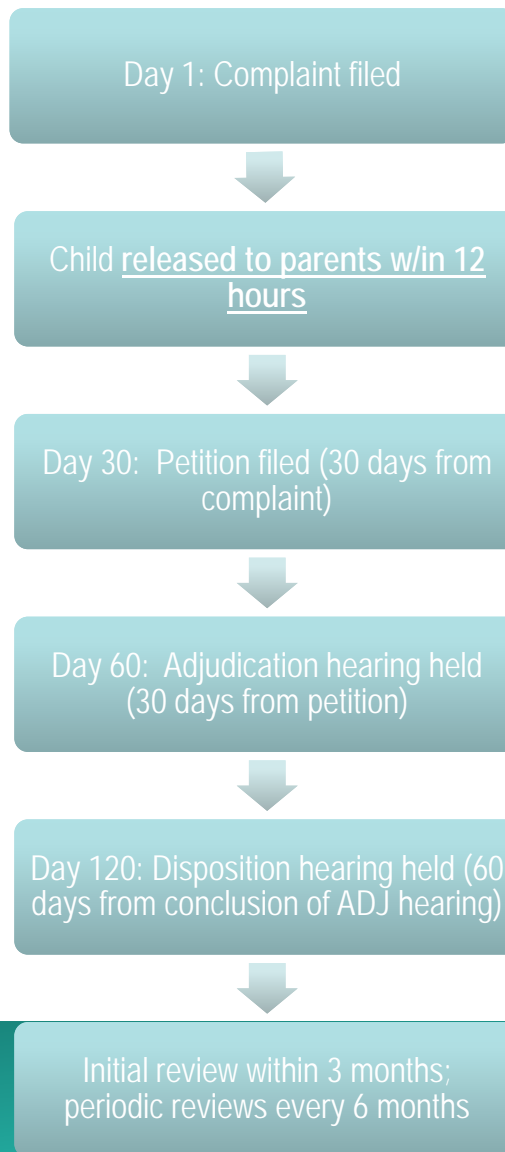
Disposition Order

- In effect for the shortest time necessary to accomplish the purposes of the order and for not more than 2 years
 - The order may be extended under certain circumstances
 - The court may terminate the order prior to expiration if the purposes of the order have been accomplished
- The court must conduct an initial review of the disposition at least once within the first 3 months and at least every 6 months thereafter

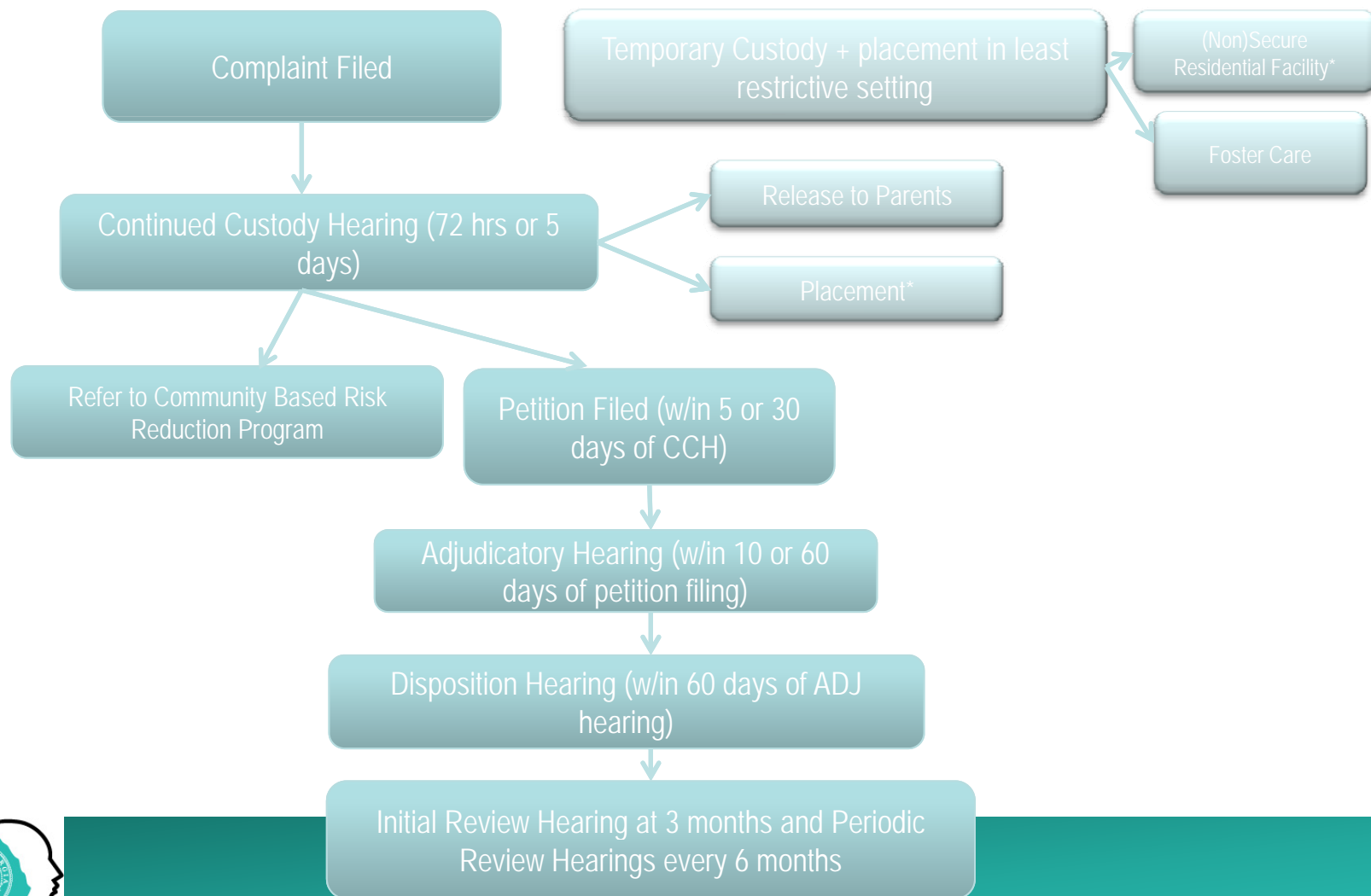
Plan Manager and Comprehensive Services Plan

- A plan manager shall be appointed by the court to direct the development of a comprehensive services plan for a child who is “unrestorably incompetent to proceed” (Article 7)
- Responsibilities include:
 - Collecting all histories of the child
 - Convene all relevant parties to develop a comprehensive services plan
 - Submit the plan to the court
 - Identify to the court any person who should provide testimony at the comprehensive services plan hearing
 - Monitor the plan, present amendments and evidence as needed to the court for reapproval of the plan at subsequent review hearings
- The plan must be submitted to the court within 30 days of the disposition order, and a hearing must be held within 30 days of submission. The court will thereafter conduct review hearings every 6 months to monitor the child’s condition, and the child is to be placed in an appropriate treatment setting.

CHINS At-a-Glance: No Temporary Custody



CHINS At-a-Glance: Custody



Article 9 – Access to Hearings and Records

- Prohibits exclusion of child's attorney even if child is excluded from proceedings
- Allows the court to seal child's delinquency records for prostitution-related offenses if the child was a victim of human trafficking or sexual exploitation

What's Out

- Raising the age of delinquency jurisdiction to 18
- Codification of Independent Living Services
- Mandatory conference for CHINS

What's Next

- Effectiveness date is January 1, 2014
- Expect a “clean-up” bill next year

Questions

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