

EXPANDING JUVENILE COURT PROCEEDINGS

APPENDIX

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Timelines of Juvenile Abuse, Neglect, Dependency, and TPR Proceedings

Interference with DSS Assessment	7B-303(c)	Hearing to be held not less than 5 days after service of the petition and summons on the respondent
	7B-303(d)	If ex parte order granted at filing of petition, hearing shall be held within 10 days after entry of ex parte order to determine whether good cause for continuation of the order or entry of different order
Responsible Individual List Judicial Review	7B-323(b)	Calendar for hearing within 45 days from date petition for judicial review is filed at a session of district court hearing juvenile matters or if there is no such session at the next session of juvenile court
	7B-323(d)	Within 30 days after completion of hearing, the court shall enter an order
Initial Nonsecure Custody Order Authorized by Person with Delegated Authority in an Administrative Order	7B-502; 506(a)	Hearing to determine need for nonsecure custody shall be conducted on the day of the next regularly scheduled session of the court in the city or county where the order was entered if the session is scheduled before 7 calendar days of the entry of the initial nonsecure custody order
Continued Nonsecure Custody Order	7B-506(a)	If a nonsecure custody order was entered, a hearing on the need for continued nonsecure custody must be held within 7 calendar days of the entry of the initial nonsecure custody order; this may be continued up to 10 business days with the consent of the parent, guardian, custodian, or caretaker and the juvenile’s GAL if one has been appointed. This hearing is often referred to as “the 7-day hearing.”
	7B-506(d)	Order must be entered within 30 days of completion of the hearing
	7B-506(e)	If continued nonsecure custody is ordered at “7-day hearing,” a subsequent hearing must be held within 7 business days of the “7-day hearing” and at intervals of no more than 30 days thereafter. These subsequent hearings may be waived.
Adjudication	7B-801(c)	Hearing must be held no later than 60 days from the filing of the petition unless a continuance is granted based on the limited reasons in G.S. 7B-803.
	7B-807(b)	Order shall be entered no later than 30 days after completion of the

		hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Initial Disposition	7B-901(a)	Hearing shall take place immediately following the adjudicatory hearing and concluded within 30 days of the completion of the adjudicatory hearing.
	7B-905(a)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Review Hearing	7B-905(b); -906.1(a)	A review hearing must be held within 90 days from the date of the initial dispositional hearing (unless a permanency planning hearing was required after the initial dispositional order ceased reunification efforts, G.S. 7B-901(d)). A second review hearing must be scheduled within 6 months after the 90-day review hearing.
	7B-906.1(h)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Permanency Planning Hearing	7B-906.1(a), -901(d)	Within 12 months of the date of the initial order removing custody (this includes the initial nonsecure custody order) or If court ordered (1) reasonable efforts to reunify are not required at the initial disposition hearing or (2) reunification efforts would be clearly inconsistent or contrary to the child’s health and safety at a review hearing, within 30 days of that order. Permanency Planning hearings must be held at least every 6 months

		thereafter unless waived under G.S. 7B-906.1(k) or (n).
	7B-906.1(h)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Visitation Change by DSS	7B-905.1(b)	If child is in DSS custody and DSS temporarily suspends all or part of a the court-ordered visitation plan, DSS must expeditiously file a motion for review and request that a hearing be scheduled within 30 days.
Last Permanency Planning Hearing Because Child Aging Out	7B-912(b)	At least 90 days before teen turns 18, the court shall inquire as to whether the juvenile has a copy of his/her birth certificate, social security card, health insurance information, driver's license or other identification card, and any educational or medical records the teen requests. And, the court shall determine the person/entity who will assist the teen in obtaining those documents before the teen's 18 th birthday.
Voluntary Foster Care for Young Adults (Foster Care 18-21)	7B-910.1	Within 90 days of when the voluntary foster care 18-21 agreement was executed
TPR: Preliminary Hearing on Unknown Parent	7B-1105	Within 10 days of filing the petition (or if there is no court in that county in the 10-day period, at the next term)
TPR Adjudicatory Hearing	7B-1109(a), (d)	No later than 90 days from date of filing petition; continuances may only be granted beyond 90 days in extraordinary circumstances
	7B-1109(e); -1110(a)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Selection of adoptive parents	7B-1112.1	After the child's GAL or foster parent files a motion for judicial review of the adoption selection, hearing to be scheduled for hearing on the next juvenile calendar.
Post-TPR Placement Review	7B-908(b)	Conducted no later than 6 months from the date of the TPR hearing

		where parental rights have been terminated after a petition or motion has been filed by a guardian, DSS or child-placing agency with custody through a court order or by virtue of a relinquishment, the child’s GAL, or a person the child has continuously resided with for two years immediately preceding the filing of the petition <u>and</u> a county department or child-placing agency has custody of the juvenile, and every 6 months thereafter until the child is adopted
	7B-908(e)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Post-Relinquishment Reviews	7B-909(c)	Within 30 days of petition or motion for a post-relinquishment review has been filed unless the court orders otherwise and every six months until the child is adopted.
Reinstatement of Parental Rights	7B-1114(e), (h), (j)	A preliminary hearing shall be scheduled within 60 days of the filing of the motion at a session of the court scheduled for hearing juvenile matters. If the court does not dismiss the motion but orders reinstatement as part of the juvenile’s permanent plan, the court shall conduct interim hearings every 6 months until the motion is granted or dismissed (these hearings may be combined with hearings under 7B-908. The motion must be granted or dismissed within 12 months of its filing unless the court specifies a different time frame.
	7B-1114(l)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.

Delinquency Timelines

- First appearance (required for any juvenile alleged to have committed a felony) within 10 days of filing of the petition
- Probable cause hearing
 - For all felonies alleged to have been committed by a juvenile at ages 13 – 15 and for any matter in which the most serious charge is an H or an I felony alleged to have been committed at age 16 or 17, a probable cause hearing is required within 15 days of the first appearance. This timeline can be continued for good cause.
 - For all matters in which the most serious charge is a Class A – Class G felony alleged to have been committed at age 16 or 17, a probable cause hearing is required within 90 days of the first appearance. This timeline can be continued for good cause.
- Hearings on secure or nonsecure custody
 - Initial hearing on secure custody must be held within 5 calendar days of entry into secure custody
 - Initial hearing on nonsecure custody must be held within 7 calendar days of entry into nonsecure custody
 - If the first custody order was issued by a court counselor under delegated authority pursuant to an administrative order, the initial hearing on secure or nonsecure custody must be held on the day of the next regularly scheduled session of district court if the session precedes the applicable 5- or 7-day requirement.
 - Ongoing hearings on the need for continued secure custody must be held every 10 calendar days for most juveniles
 - Ongoing hearings on the need for continued secure custody must be held every 30 calendar days for juveniles who are alleged to have committed Class A – Class G felonies at age 16 or 17. The juvenile can request and the court can grant, for good cause, a 10-day interval.
 - Ongoing hearings on the need for continued nonsecure custody must be held every 30 calendar days

EXCERPT From Chapter 2 of Abuse, Neglect, Dependency and Termination of Parental Rights Proceedings in North Carolina (2019 ed.) (UNC Sch. of Government)

B. Notice and Opportunity to Be Heard

1. **Entitled to due process.** As a party to the juvenile proceeding, a parent is entitled to procedural due process, including proper service of process, notice of proceedings, and fair procedures. *See Santosky v. Kramer*, 455 U.S. 745 (1982) (holding that a state must provide respondents with fundamentally fair procedures when it moves to destroy weakened familial bonds); *see also In re H.D.F.* 197 N.C. App. 480 (2009) (reversing a neglect adjudication when the required notice of key events in the proceeding was not given to the *pro se* respondent parent). “Due process of law formulates a flexible concept, to insure fundamental fairness in judicial or administrative proceedings which may adversely affect the protected rights of an individual.” *In re S.G.V.S.*, 811 S.E.2d 718, 721 (N.C. Ct. App. 2018) (quoting case not cited here).

When one parent is served in an abuse, neglect, or dependency case, the other parent’s due process rights are not necessarily violated if he or she is not served before the adjudication and disposition hearings. *In re Poole*, 151 N.C. App. 472 (2002) (in case where mother was served with summons, discussing due process rights of father who was not served and to whom no summons was issued and deciding his rights were adequately protected in light of state’s interest in the welfare of children, the child’s right to be protected, the father’s ability to seek review of the court’s order, and the potential for the child’s return to his care), *rev’d per curiam for reasons stated in the dissent*, 357 N.C. 151 (2003).

2. **Participation in hearings.** Parents have a right to participate in proceedings in a meaningful way. The summons in an abuse, neglect, or dependency case requires the parent to appear for a hearing at a specified time and place. G.S. 7B-406(a). In a termination of parental rights (TPR) case, the summons or notice includes notice that the parents may attend the hearing. G.S. 7B-1106(b)(6); 7B-1106.1(b)(6). The court of appeals has held that a parent does not have an absolute right to be present at a hearing but “the magnitude of ‘the private interests affected by the [termination] proceeding, clearly weighs in favor of a parent’s presence at the hearing.’ ” *In re S.G.V.S.*, 811 S.E.2d at 721 (N.C. Ct. App. 2018) (reversing and remanding for new hearing; holding the magnitude of the interests at stake in a TPR hearing and the trial court’s denial of mother’s continuance request because mother was previously scheduled to appear in a criminal action in another county at the same time as later scheduled TPR hearing involved a misapprehension of law and substantial miscarriage of justice).

(a) **Incarcerated parent.** When a parent is incarcerated, the parent’s attendance may be impossible or require special steps. On application of a party or the attorney for a party who wants the parent to attend or testify, the court may issue a writ to have the parent brought before the court. The closest statutory authority for such a writ, G.S. 17-41, provides for a writ of habeas corpus ad testificandum. Although an application for the writ must state that the person’s testimony is believed to be “material and necessary,” the same procedure is used when a parent wants to attend but does not plan to testify or has already testified. The court may issue the writ only for someone who is in a facility in North

Delinquency Timelines

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 - For all matters in which the most serious charge is a Class A – Class G felony alleged to have been committed at age 16 or 17, a probable cause hearing is required within 90 days of the first appearance. This timeline can be continued for good cause.
- Hearings on secure or nonsecure custody
 - Initial hearing on secure custody must be held within 5 calendar days of entry into secure custody
 - Initial hearing on nonsecure custody must be held within 7 calendar days of entry into nonsecure custody
 - If the first custody order was issued by a court counselor under delegated authority pursuant to an administrative order, the initial hearing on secure or nonsecure custody must be held on the day of the next regularly scheduled session of district court if the session precedes the applicable 5- or 7-day requirement.
 - Ongoing hearings on the need for continued secure custody must be held every 10 calendar days for most juveniles
 - Ongoing hearings on the need for continued secure custody must be held every 30 calendar days for juveniles who are alleged to have committed Class A – Class G felonies at age 16 or 17. The juvenile can request and the court can grant, for good cause, a 10-day interval.
 - Ongoing hearings on the need for continued nonsecure custody must be held every 30 calendar days

Carolina. If the parent is in a federal facility in this state, the person seeking the parent's attendance should contact that facility directly to determine whether the parent can be brought to court if a writ is issued. A North Carolina court has no authority to effect the attendance of someone who is incarcerated in another state, but parties may explore with an out-of-state facility the possibility of having the incarcerated party participate remotely.

The court's consideration of whether to issue a writ of habeas corpus ad testificandum or take other steps to facilitate a parent's participation in a hearing requires application of the balancing test articulated by the U.S. Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976). In determining whether due process requires a particular procedure, the court must weigh three factors: (1) the private interests at stake, (2) the risk of deprivation posed by the use (or absence) of the procedure, and (3) the state's interest in providing (or not providing) the procedure. *Mathews*, 424 U.S. at 335. North Carolina courts have applied the test in several juvenile cases. See, e.g., *In re K.D.L.*, 176 N.C. App. 261 (2006) (upholding trial court's denial of incarcerated father's motion to have his deposition taken); *In re Quevedo*, 106 N.C. App. 574 (1992) (holding that father's due process rights were not violated when court denied his motion for transportation to hearing and allowed hearing to proceed in his absence); *In re Murphy*, 105 N.C. App. 651 (holding that the court did not violate the parent's statutory or due process rights by denying a motion for transportation from a correctional facility to the termination hearing), *aff'd per curiam*, 332 N.C. 663 (1992).

Even when the parent does not attend the hearing, other steps to ensure protection of the parent's rights may be appropriate. In *In re Quevedo*, the court said:

We note that the use of depositions is allowed in civil cases where a witness is unable to attend because of age, illness, infirmity or imprisonment. N.C. Gen. Stat. § 1A-1, Rule 32(a)(4). Therefore, when an incarcerated parent is denied transportation to the hearing in contested termination cases, the better practice is for the court, when so moved, to provide the funds necessary for the deposing of the incarcerated parent. The parent's deposition, combined with representation by counsel at the hearing, will ordinarily provide sufficient participation by the incarcerated parent so as to reduce the risk of error attributable to his absence to a level consistent with due process.

106 N.C. App. at 582.

AOC Form:

AOC-G-112, [Application and Writ of Habeas Corpus ad Testificandum](#) (June 2012).

Resources:

See the Office of Indigent Defense Services (IDS), Office of Parent Defender, chart, ["Participation in Abuse, Neglect, Dependency, and Termination of Parental Rights Proceeding by Incarcerated Parents."](#)

For the North Carolina Department of Public Safety Policy and Procedures related to inmate access to the courts and to their attorneys, see [Chapter G, Section .0200 “Court Related Procedures”](#) (Jan. 16, 2018).

- (b) **Exclusion from courtroom.** Use of the *Mathews v. Eldridge* due process test is not limited to applications for writs to be brought to a hearing. It is also used when parents have been excluded from the proceeding. *See, e.g., In re J.B.*, 172 N.C. App. 1 (2005) (holding that mother could be excluded from the courtroom during the child’s testimony); *In re Faircloth*, 153 N.C. App. 565 (2002) (upholding removal of disruptive parent from termination hearing, without providing means for him to testify, based on strong governmental interest and low risk of error).
- (c) **Testimony of parties or witnesses in other states.** All abuse, neglect, dependency, and TPR proceedings are subject to the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), G.S. Chapter 50A. G.S. 50A-511 addresses taking the testimony of parties or witnesses in another state and provides:
- (a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.
- (b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.
- (c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Low or No Cost Technology Options for Virtual Participation and Contact

- Facetime - Video Calling
 - Get it on: Apple Products from the Apple App Store
 - Cost: Free
 - This is a video calling app that can only be downloaded from the Apple App store for video calling other Apple products
- Snapchat - Video Calling, Text Messaging, Video Messaging
 - Get it on: Android and Apple mobile devices.
 - Cost: Free
 - This is a video messaging app that allows all messages and conversations to not be saved.
- Whatsapp - Video Calling, Text Messaging
 - Get it on: Computers, and Android and Apple mobile devices.
 - Cost: Free
 - Whatsapp is an internationally used messaging app that is widely popular globally.
- Skype - Video Calling, Text Messaging
 - Get it on: Computers, web browsers, and Android and Apple mobile devices.
 - Cost: Free
 - Skype is a widely known video calling platform that uses Microsoft's AI technology for features such as live translations.
- Hangouts - Text Messaging, Video Calling
 - Get it on: Web browsers, and Android and Apple mobile devices.
 - Cost: Free
 - Google Hangouts is a robust communication platform on the web.
- Duo - Video Calling
 - Get it on: Android and Apple mobile devices
 - Cost: Free
 - This is the Google analog to Apple Facetime. But can be used on Android phones and iPhones.
- Signal / Telegram - Encrypted Text Messaging
 - Get it on: Android and Apple mobile devices
 - Cost: Free
 - Both Signal and Telegram are messaging applications that use end to end encryption.
- Facebook Messenger - Video Calling, Text Messaging
 - Get it on: Computers, web browsers, and Android and Apple mobile devices
 - Cost: Free
 - This is a communication service tied to Facebook's social network.
- Microsoft Teams - Video Calling, Text Messaging, Community Management, Productivity
 - Get it on: Computers, web browsers, and Android and Apple mobile devices.
 - Cost: Free
 - Teams is Microsoft's chat productivity application. It allows for collaborating and staying in contact with multiple people within the team.
- Discord - Video Calling, Text Messaging, Community Management

- Get it on: Computers, and Android and Apple mobile devices
 - Cost: Free
 - Discord is a robust community management tool. Create servers or rooms for different interests or teams to communicate and keep in touch.
- FreeConference / FreeConferenceCall / FreeConferenceCalling - Conference Calling Service that is Free
 - Get it on: Create the account online using an email address and use the service with a phone.
 - Cost: Free
 - Each of the listed above are not typos. Each is an individual company that provides conference calling for free.
- Google Voice - Cloud Based Phone Number
 - Get it on: Computers, and Android and Apple mobile devices
 - Cost: Free if used to make calls within the United States. Calls to other countries have a cost per minute.
 - Google Voice is a cost effective way to have a phone number and make phone calls so long as you have access to the internet.
- GotoMeeting
 - Get it on: Computers, and Android and Apple mobile devices
 - Cost: Free for two weeks.
 - Video conference calling for many people
- Marco Polo
 - Get it on: iphone and ipad
 - Cost: free
 - "video walkie talkie," a video chat app that lets you send quick messages back and forth.

In response to COVID-19 developments, some internet providers are offering free services to low-income families and households with students.

Free Comcast Xfinity internet

Comcast Xfinity is currently offering its [Internet Essentials](#) program free for two months to new customers. The internet provider is also automatically increasing speeds for all Internet Essentials customers.

Comcast Xfinity Wi-Fi hotspots are also open and free to use by anyone.

Free internet for students from Charter Spectrum

Households with students K–12 or university students can sign up for a new Charter Spectrum internet account to get the first two months of internet with speeds up to 100 Mbps for free.

Installation fees will be waived for those who qualify for the offer. Call 1-844-488-8395 to enroll.

Spectrum Wi-Fi hotspots are also currently open and free to use.

Free internet for students from Altice

Altice internet providers Suddenlink and Optimum are offering 60 days of free internet service for households with K–12 or college students. Internet speeds are up to 30 Mbps if you do not already have access to a home internet plan. To sign up, call 1-866-200-9522 if you live in an

area with Optimum internet service, or call 1-888-633-0030 if you live in an area with Suddenlink internet service.

Free low-income internet from Cox

Until May 12, 2020, Cox is offering the first month of its low-income internet program, [Connect2Compete](#), for free. The internet service is also providing free phone and remote desktop support for technical support during that time.

For more information from the college, go to:

www.highspeedinternet.com/resources/are-there-government-programs-to-help-me-get-internet-service



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20201

April 17, 2020

Dear Child Welfare Leaders,

In light of the extraordinary circumstances related to the COVID-19 pandemic and nationwide public health emergency, we received several questions on many topics related to programs funded under title IV-B and IV-E of the Social Security Act (the Act). We appreciate your continued commitment to the safety, health, and well-being of the children and families that States and Tribes serve and appreciate the questions that agencies are sending to the [Children's Bureau Regional Offices](#).

In this letter, we will address the following topics:

- The availability of federal funding and other resources to assist with the purchase of cell phones and plans to facilitate and maintain contact, and
- The purchase of personal protective equipment (PPE) as an allowable cost.

Cell Phones and Maintaining Contact

The Children's Bureau received questions related to the availability of federal funding and other resources to assist with the purchase of cell phones and other tools (e.g. videoconferencing services or hardware) to facilitate or maintain contact between, for example, agencies and children and youth in foster care or children and youth in foster care and their parents. As such, we provide the following information.

Federal Funds: The purchase and operation of cell phones for children and youth in foster care, their parents, or foster parents is an allowable cost under title IV-B and/or the John H. Chafee Foster Care Program for Successful Transition to Adulthood (Chafee) as long as the costs are necessary to fulfill one or more program purposes in §422 (relating to the state plan for child welfare services under title IV-B, subpart 1), §432 (relating to the state plan for child welfare service under title IV-B, subpart 2) and/or §477 (relating to Chafee program purposes) of the Act. For example, access to a cell phone for a youth receiving Chafee services may be determined as necessary if it will either facilitate participation in program services or enhance the effectiveness of the services in transitioning him/her to adulthood. The purchase of a cell phone for a parent or foster parent can meet a title IV-B program purpose if it is determined that it will facilitate needed communications for case management purposes between such an individual and the agency caseworker, or allow a parent to participate in a remotely-located court hearing or visitation with the child. Additionally, the recently enacted *Coronavirus Aid, Relief, and Economic Security Act* (Public Law (P.L.) 116-136) authorized additional funding under title IV-B, subpart 1 "to prevent, prepare for, and respond to coronavirus, domestically or internationally." In order to claim Federal financial participation (FFP) for these costs, the agency must meet specific conditions as outlined in [45 CFR Part 75](#) described below:

- Identify whether the purchase constitutes supplies or equipment as per applicable definitions at [45 CFR § 75.2](#).
- If classified as supplies, regulatory provisions regarding use and disposal must be considered (equipment discussed below) ([45 CFR § 75.321](#)).
- Assure that any procurement meets applicable state/tribal policies and procedures used for procurements made with non-Federal funds ([45 CFR § 75.326](#)).
- Address whether use of the cell phones will continue to serve a program purpose over time and either recover or repurpose the use of these devices when a program purpose is no longer served.
- Assure that purchase and operation costs are appropriately cost allocated to all benefiting programs as per applicable regulations at [45 CFR § 75.405](#) and [§ 75.453](#).

Used Equipment: When equipment funded by the Department of Health and Human Services (HHS) has reached the end of its useful life, the title IV-E agency may use the items in other activities funded by the original program or other HHS programs (see disposition rules for equipment at [45 CFR § 95.707](#) and [§ 75.320](#)). Title IV-E agencies may dispose of this equipment by giving it to other children or youth in foster care, their parents or foster parents being served under title IV-B or Chafee, as deemed appropriate and beneficial.

Federal Lifeline Assistance, Assurance Wireless: In addition to the above information, we are sharing the following resource that may help youth and families as it relates to cell phones and cellular service. Assurance Wireless is a Federal Lifeline Assistance program operated by Virgin Mobile. Lifeline is a government assistance program. The Assurance Wireless offer provides eligible low-income individuals free monthly data, unlimited texting, and free monthly minutes and a free phone. Enrollment is available to individuals who qualify based on federal or state-specific eligibility criteria—for example, based on receipt of certain public assistance programs like Medicaid or Supplemental Nutrition Assistance Program (SNAP). Link to the program: <https://www.assurancewireless.com/>

Personal Protective Equipment as an Allowable Cost

Personal protective equipment, commonly referred to as “PPE”, is equipment worn to minimize exposure to certain hazards, including the novel coronavirus (COVID-19), and may include items such as gloves, safety glasses, isolation gowns, facemasks, and respirators (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/index.html>). We encourage child welfare agencies to consult with state and local public health officials on the use of PPE for caseworkers. PPE used by child welfare caseworkers to minimize exposure to COVID-19 is an allowable case management administrative cost under title IV-E of the Act ([45 CFR § 1356.60\(c\)\(2\)](#)). Title IV-E agencies must allocate such costs to all benefiting programs.

In addition, PPE is an allowable expenditure of title IV-B funds for program purposes such as caseworker visits (§422(b)(17) of the Act and for states, §424(f) of the Act) by both state and Tribal title IV-B agencies. Under title IV-B, the purchase of PPE for providers such as foster parents, kinship providers and staff of child care institutions may be allowable if it fits within one of the purposes outlined in the statute (§421 of the Act) and may be allowable under title IV-B, subpart 2 if it is consistent with one of the four service categories. Additionally, P.L. 116-136 authorized additional funding under title IV-B, subpart 1 “to prevent, prepare for, and respond to

coronavirus, domestically or internationally.” States and Tribal title IV-B agencies must also consider whether the activity is consistent with [45 CFR §1357](#), grant regulations and OMB Circular A-87 (a cost must be both “necessary and reasonable”). To the extent that providing PPE such as masks and gloves to providers fits within the title IV-B subpart 1 and 2 purposes, it may be allowable.

Thank you for your continued efforts.

Sincerely,

/s/

Jerry Milner
Associate Commissioner
Children’s Bureau

_____ County

In The General Court Of Justice
District Court Division

NOTE: Use this form for a juvenile delinquency proceeding being conducted by audio and video transmission pursuant to Emergency Directive 3 in the Order of May 1, 2020, by the Chief Justice. This form need not be used for a proceeding for which the General Statutes expressly authorize audio and video transmission: continued secure and nonsecure custody hearings, G.S. 7B-1906(h).

IN THE MATTER OF**WAIVER OF PERSONAL APPEARANCE AND
CONSENT TO AUDIO-VIDEO PROCEEDING
(JUVENILE DELINQUENCY)**Order of the Chief Justice of the Supreme Court of North Carolina
1 May 2020

Name Of Juvenile			
Juvenile's Date of Birth	Age	Date Of Proceeding	
Location Of Juvenile		Offense(s)	G.S. No.
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Nature Of Proceeding (e.g., motion for review, adjudicatory hearing, disposition hearing)	
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Attorney For Juvenile	Location Of Attorney
Attorney For State	Location Of State's Attorney	Juvenile Court Counselor	Location Of Juvenile Court Counselor

NOTE TO CUSTODIAN/COUNSEL: Complete all fields above for the case(s) for which this remote audio-video proceeding is conducted **before** the juvenile's execution of the waiver below. Sign the waiver as witness below after juvenile has executed the waiver. Upon completion of the proceeding, deliver this waiver along with any other documents resulting from the audio-video proceeding to the clerk's office for execution by the presiding official.

ACKNOWLEDGMENT OF RIGHTS AND WAIVER

As the undersigned juvenile in this action, I freely and voluntarily declare that:

- I have been advised of my right to appear in a courtroom and be personally present for the proceeding described above;
- I have been advised that I am not required to waive my right to be present, and if I do not waive that right, my case will not be unreasonably delayed;
- I have been advised that I have the right to appear in juvenile court for the purpose of confronting and questioning any witnesses who may testify in this proceeding;
- I have been given the ability to speak privately with my attorney and understand that I will be able to speak with my attorney privately during this proceeding;
- I have had the opportunity to speak to my attorney about this right to personally appear in juvenile court; and
- I fully understand and appreciate the consequences of my decision to waive the right to appear personally in juvenile court for the proceeding described above.

I therefore freely, voluntarily, and knowingly waive my right to be present in the courtroom for this proceeding, including for the purpose of confronting and questioning any witnesses who may testify, and I consent to participate in this proceeding by audio and video transmission.

Date	Signature Of Juvenile		
Name Of Witness	Signature Of Witness	<input type="checkbox"/> Counsel for Juvenile <input type="checkbox"/> Other (specify) _____	

CERTIFICATE OF DISTRICT COURT JUDGE

I certify that the above named juvenile was advised on the *Date Of Proceeding* above of the right to appear in a courtroom and be personally present for the proceeding described above; that he/she was advised that his/her case would not be unreasonably delayed if that right was not waived; that he/she was advised of the right to appear in juvenile court for the purpose of confronting and questioning any witnesses who may testify; that he/she understands and appreciates the consequences of his/her decision to waive the right to personal appearance; and that the juvenile voluntarily, knowingly and intelligently waived the right to personal appearance and consented to conduct the proceeding described above by audio and video transmission.

Location Of District Court Judge During Proceeding Described Above

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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NOTE TO PRESIDING OFFICIAL: Upon verification of the information above that identifies the case(s) and proceeding conducted by audio and video transmission, complete this signature section and file with the clerk of superior court for the county in which the case(s) is pending.

Colloquy for Juvenile Proceedings Conducted by Audio and Video Transmission

NOTE TO PRESIDING OFFICIAL: *This colloquy is to be used in proceedings conducted by audio and video transmission pursuant to the Chief Justice's May 1, 2020, order authorizing remote proceedings. Note that Part 2, the juvenile's waiver of the right to personal appearance, and Part 3, the parent/guardian/custodian's waiver of the right to personal appearance, are not necessary in order to conduct statutorily authorized audio and video transmission proceedings under G.S. 7B-1906(h) (continued secure or nonsecure custody).*

Part 1 - Establish that Audio and Video Transmission is Functioning for All Parties and Juvenile Court Counselor

[Juvenile], please state your name for the record.

[Juvenile], please tell me where you are located at this time.

[Juvenile], are you able to see and hear me?

[Juvenile], is your parent/guardian/custodian with you?

If the answer to the previous question is no, ask the following question:

[Juvenile], are you able to see and hear your parent/guardian/custodian through the audio and video transmission?

[Parent/Guardian/Custodian], please state your name for the record.

[Parent/Guardian/Custodian], please tell me where you are located at this time.

[Parent/Guardian/Custodian], are you able to see and hear me?

[Parent/Guardian/Custodian], are you able to see and hear your child?

**Repeat the above questions for each parent/guardian/custodian present during the proceeding*

[Juvenile Court Counselor], please state your name for the record.

[Juvenile Court Counselor], please tell me where you are located at this time.

[Juvenile Court Counselor], are you able to see and hear me?

[Juvenile Court Counselor], are you able to see and hear the juvenile?

[Juvenile Court Counselor], are you able to see and hear the juvenile's parent/guardian/custodian?

[Juvenile], are you able to see and hear the juvenile court counselor?

[Parent/Guardian/Custodian], are you able to see and hear the juvenile court counselor?

NOTE TO PRESIDING OFFICIAL: *The next several questions are designed to ensure that the juvenile's counsel is present, that counsel has an opportunity to consult with the juvenile privately, that counsel can hear and see all parties before proceeding, and that the juvenile is satisfied with the attorney's help in the case and can see and hear his or her attorney. They also ensure that the Attorney for the State is present and that the Attorney for the State can be seen and heard by all parties to the proceeding.*

[Juvenile], is your attorney present with you?

If the answer to the previous question is no, ask the following question:

[Juvenile], are you able to see and hear your attorney through the audio and video transmission?

[Juvenile], have you had an opportunity to talk to your attorney in private?

[Juvenile] Are you satisfied with your attorney's help in this case?

[Juvenile] Do you understand that you can ask to speak privately with your attorney any time during this proceeding?

[Defense counsel], please state your name for the record.

[Defense counsel], where are you located at this time?

[Defense counsel], are you able to see and hear me?

[Defense counsel], are you able to see and hear *[the juvenile]*?

[Defense counsel], are you able to see and hear the juvenile's parent/guardian/custodian?

[Defense counsel], are you able to see and hear the juvenile court counselor?

[Defense counsel], have you had an opportunity to talk to your client, *[the juvenile]*, in private?

[Defense counsel], are you able to speak privately with your client while participating in this audio and video proceeding?

[Parent/Guardian/Custodian], are you able to see and hear defense counsel?

[Juvenile Court Counselor], are you able to see and hear defense counsel?

[Attorney for the State], where are you located at this time?

[Attorney for the State], are you able to see and hear me?

[Attorney for the State], are you able to see and hear the juvenile?

[Attorney for the State], are you able to see and hear the juvenile's parent/guardian/custodian?

[Attorney for the State], are you able to see and hear defense counsel?

[Attorney for the State], are you able to see and hear the juvenile court counselor?

[Defense counsel], are you able to see and hear [*the attorney for the State*]?

[Juvenile], are you able to see and hear [*the attorney for the State*]?

[Parent/Guardian/Custodian], are you able to see and hear [*the attorney for the State*]?

[Juvenile Court Counselor], are you able to see and hear [*the attorney for the State*]?

[To all parties], if you have any problem hearing or seeing at any time during this proceeding, let me know immediately.

[To all parties], if at any time a technological problem occurs, please let me know immediately and the hearing will be stopped and the difficulty corrected.

NOTE TO PRESIDING OFFICIAL: *This portion of the colloquy should follow the advisement of a juvenile's right to counsel and the right to privately confer with counsel during the proceeding.*

If you determine that the juvenile is able to see and hear you, see and hear counsel, confidentially communicate with counsel, see and hear the attorney for the State, see and hear the juvenile's parent, guardian, or custodian, and see and hear the juvenile court counselor, you should make appropriate findings on the record regarding the method by which the proceeding is conducted, the location of the juvenile, counsel, parent, guardian, or custodian, juvenile court counselor, and the judge, and the ability of each party to see, hear and speak with one another. Sample language follows:

Let the record show that this [*specify type of proceeding*] is being conducted by remote audio-video technology. [*Juvenile*] is participating from [*his/her*] location at [*insert name of detention facility or other remote location*]. [*Parent/Guardian/Custodian*] is participating from [*his/her*] location at [*insert location of Parent/Guardian/Custodian.*] [*Defense counsel*] is participating from [*his/her*] location at [*insert location of attorney*]. [*Attorney for the State*] is participating from [*his/her*] location at [*insert location of Attorney for the State.*] [*Juvenile Court Counselor*] is participating from [*his/her*] location at [*insert location of Juvenile Court Counselor.*] The court is participating from [*insert location of judge*]. This court is satisfied that [*juvenile*], [*juvenile's parent/guardian/custodian*], [*defense counsel*], [*attorney for the State*], [*juvenile court counselor*], and this court can see, hear, and speak with each other and that the juvenile is able to communicate privately with counsel. This court therefore finds that the audio-video technology is working properly and that the juvenile has received and is receiving the assistance of counsel.

Part 2 - Establish Valid Waiver of Juvenile's Right to In-Person Appearance in Court

Before proceeding, I want to advise you about the rights you will be giving up if you agree to have this proceeding conducted through audio and video transmission.

You have the right to appear in a courtroom and be personally present for this proceeding. That includes the right to appear in juvenile court where you can confront witnesses who may testify in this proceeding and ask them questions.

You are not required to waive the right to be present. If you do not agree to having this proceeding by audio and video transmission you will be afforded the right to appear in person in juvenile court for this proceeding without unreasonable delay.

[Juvenile], do you understand those rights?

[Juvenile], are you satisfied with having this proceeding today by means of this audio and video transmission instead of being personally present?

[Juvenile], do you waive your right to be personally present for this proceeding and consent to conduct it by means of this audio and video transmission?

[Juvenile], do you waive your right to appear in court to confront and question witnesses who testify at this proceeding?

[Juvenile], do you consent to conducting any such confrontation and questioning by means of this audio and video transmission?

[Juvenile], is there anything about this proceeding or the rights you are waiving that you do not understand or that you would like to discuss with your attorney?

[Juvenile and defense counsel], if you need to confer privately at any time during this proceeding, please let me know, and you will be given the opportunity to do so.

¹[Attorney for the State], do you consent to holding this proceeding by audio and video transmission?

Part 3 - Establish Valid Waiver of Parent/Guardian/Custodian's Right to In-Person Appearance in Court

[Parent/Guardian/Custodian] As a party to this proceeding, you have the right to appear in a courtroom and be personally present for this proceeding. That includes the right to appear in juvenile court with your child.

¹ Note that Emergency Directive 3 of the Chief Justice's May 1, 2020 order provides that consent of the parties is not required to conduct a proceeding by remote audio and video transmission; however, a party may, for good cause, object to the proceeding being held by audio and video transmission. Therefore, the court may want to ask this question to allow the record to reflect whether any parties objected to the proceeding.

You are not required to waive the right to be present. If you do not agree to having this proceeding by audio and video transmission you will be afforded the right to appear in person in juvenile court for this proceeding without unreasonable delay.

[Parent/Guardian/Custodian], do you understand those rights?

[Parent/Guardian/Custodian], are you satisfied with having this proceeding today by means of this audio and video transmission instead of being personally present?

[Parent/Guardian/Custodian], do you waive your right to be personally present for this proceeding and consent to conduct it by means of this audio and video transmission?

NOTE TO PRESIDING OFFICIAL: *If you are satisfied that the juvenile and the juvenile's parent, guardian, or custodian have made a knowing, voluntary, and intelligent waiver of the right to personal presence and that the juvenile has made a knowing, voluntary, and intelligent waiver of the right to confront witnesses, enter appropriate findings on the record. A sample statement follows:*

Let the record show that [Juvenile] has consented to [his or her] participation in this proceeding by way of audio and video technology. [Juvenile] has waived any right to be physically present and to personally confront witnesses in this proceeding. [Juvenile's Parent/Guardian/Custodian] has waived any right to be physically present. [Attorney for the State] also has consented, on behalf of the State, to conduct this proceeding by audio and video transmission.

Instruct the juvenile to execute the copy of the form, Waiver of Personal Appearance and Consent to Audio-Video Proceeding, presented by the custodian or counsel co-located with the juvenile. Once executed, direct the custodian or counsel to sign the waiver form as a witness to the juvenile's execution and then deliver the form to the clerk's office for your subsequent execution of the court's certification on that same form.

_____ County

In The General Court Of Justice
District Court Division

NOTE: Use this form to record a parent's waiver of personal appearance in a juvenile delinquency proceeding being conducted by audio and video transmission pursuant to Emergency Directive 3 in the Order of May 1, 2020, by the Chief Justice. This form need not be used for a proceeding for which the General Statutes expressly authorize audio and video transmission: continued secure and nonsecure custody hearings, G.S. 7B-1906(h).

IN THE MATTER OF

**PARENT'S WAIVER OF PERSONAL
APPEARANCE AND CONSENT TO
AUDIO-VIDEO PROCEEDING
(JUVENILE DELINQUENCY)**

 Order of the Chief Justice of the Supreme Court of North Carolina
1 May 2020

Name Of Juvenile			
Juvenile's Date Of Birth	Age	Date Of Proceeding	
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Attorney For Juvenile	Location Of Attorney
Attorney For State	Location Of State's Attorney	Juvenile Court Counselor	Location Of Juvenile Court Counselor

NOTE TO PARENT: A separate waiver form must be completed and signed by each parent, guardian, or custodian of the juvenile named in this action. Complete all fields above for the case(s) for which this remote audio-video proceeding is conducted **before** completing the execution of the waiver below. Upon completion of the proceeding, deliver this waiver to the clerk's office for execution by the presiding judge.

ACKNOWLEDGMENT OF RIGHTS AND WAIVER

As the undersigned parent, guardian, or custodian of the juvenile named in this action, I freely and voluntarily declare that:

- I have been advised of my right to appear in a courtroom with my child, the juvenile named in this action, and be personally present for the proceeding described above;
- I have been advised that I am not required to waive my right to be present, and if I do not waive that right, the juvenile's case will not be unreasonably delayed; and
- I fully understand and appreciate the consequences of my decision to waive the right to appear personally in juvenile court for the proceeding described above.

I therefore freely, voluntarily, and knowingly waive my right to be present in the courtroom for this proceeding, and I consent to participate in this proceeding by audio and video transmission.

Date	Signature Of Parent/Guardian/Custodian		
Name Of Witness	Signature Of Witness	<input type="checkbox"/> Counsel for Juvenile <input type="checkbox"/> Juvenile Court Counselor <input type="checkbox"/> Other (specify) _____	

CERTIFICATE OF DISTRICT COURT JUDGE

I certify that the above named parent, guardian, or custodian of the juvenile named in this action was advised on the *Date Of Proceeding* above of the right to appear in a courtroom and be personally present for the proceeding described above; that he/she was advised that the juvenile's case would not be unreasonably delayed if that right was not waived; that he/she understands and appreciates the consequences of his/her decision to waive the right to personal appearance; and that the parent(s), guardian(s), or custodian(s) of the juvenile named in this action voluntarily, knowingly and intelligently waived the right to personal appearance and consented to conduct the proceeding described above by audio and video transmission.

Location Of District Court Judge During Proceeding Described Above

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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NOTE TO PRESIDING JUDGE: Upon verification of the information above that identifies the case(s) and proceeding conducted by audio and video transmission, complete this signature section and file with the clerk of superior court for the county in which the case(s) is pending.



NC CHILD WELFARE COURT SUGGESTED PRACTICES DURING COVID-19 PANDEMIC

Updated May 5, 2020

Chief Justice Beasley has issued seven orders in response to the emerging public health threat posed by the COVID-19 outbreak: orders dated [13 March 2020](#) (effective March 16, 2020), [19 March 2020](#), [27 March 2020](#), [2 April 2020](#), [13 April 2020](#), [16 April 2020](#), and [1 May 2020](#). Additionally, the U.S. Department of Health and Human Services, Administration for Children and Families' Children's Bureau issued guidance regarding several child welfare issues in a letter dated [27 March 2020](#). This federal guidance requires specific types of abuse/neglect/dependency (A/N/D) hearings to be heard to comply with title IV-E of the Social Security Act for federal funding purposes.

In the wake of these announcements, the NC Administrative Office of the Courts (NCAOC) Juvenile Court Improvement Program (CIP) staff collaborated with partners from Indigent Defense Services, the Guardian ad Litem Program, the NC Department of Health and Human Services, and the School of Government to prepare the following guidance and suggested practices in NC A/N/D proceedings. We encourage judicial officials and child welfare stakeholders in each county and/or judicial district to collaborate and develop their own written protocols and appropriate use of administrative orders and to meet regularly to address new developments.

A/N/D Petitions

At this time, the filing of A/N/D petitions cannot be done electronically. Each county and/or judicial district will need to review its procedures to meet social distancing requirements. [Emergency Directive 5](#) of the 1 May 2020 Order of the Chief Justice permits the petition to be filed with an affirmation by the petitioner, eliminating the need for the signature to be notarized or sworn to before a person authorized to administer oaths.

Each named respondent in an A/N/D petition must be served by Rule 4 service. Where Rule 5 service is required, parties should be encouraged to consent to service by email pursuant to [Emergency Directive 6](#) of the 1 May 2020 Order of the Chief Justice.

Nonsecure Custody Orders and Hearings

Each county and/or judicial district will need to ensure that its procedures for the issuance of initial nonsecure custody orders minimizes in-person contact. If the agency filing the petition is also requesting a nonsecure custody order, the petitioner should request the nonsecure custody order be issued telephonically even if the clerk's office is open, pursuant to G.S. 7B-508. If nonsecure custody is granted, the order should note the judge that gave telephonic approval and the name and title of the person receiving telephonic approval and the hour and the date of the approval.





In those districts where there is an administrative order that permits an individual other than a judge to issue the initial nonsecure custody order when the clerk's office is closed, G.S. 7B-506(a) requires that a hearing on the need for continued nonsecure custody be held on the next regularly scheduled day of district court. To obviate the need for an immediate hearing, we recommend that each chief district court judge consider suspending any such administrative order. Instead, during this period of pandemic conditions, we recommend that a designated judge or judges be on-call to authorize nonsecure custody, when needed.

First and subsequent hearings on the need for continued nonsecure custody must be held in accordance with G.S. 7B-506 and are permitted by [Emergency Directives 1 and 3](#) of the 1 May 2020 Order of the Chief Justice. The hearings may be held in person or remotely. If held remotely, all mandates of [Emergency Directive 3](#) in the 1 May 2020 Order of the Chief Justice must be met. Nonsecure custody orders are not required by statute to be recorded but instead may be ordered to be recorded by the court. See G.S. 7B-806.

Although not required, when technology allows, we recommend nonsecure custody hearings be recorded. At a minimum, participant responses to the court's inquiry at the commencement of the proceeding about whether a participant knows or has reason to know whether the child is an Indian child should be part of the record. See 25 C.F.R. 23.107(a).

At the first hearing for continued nonsecure custody, the court should attempt to minimize the need for future hearings on nonsecure custody by addressing all relevant issues, including but not limited to: title IV-E requirements, placement, parent-child time (e.g., visitation), sibling time, medical consent if the child needs treatment that is more than routine or emergency treatment, and paternity. Courts should address the way that both parent and sibling visitation should take place, whether in-person or virtual, transportation of the juvenile, parameters around social distancing, acceptable locations, supervision, etc.

Other Hearings

[Emergency Directive 1](#) of the 1 May 2020 Order of the Chief Justice allows courts to conduct hearings that: “will be conducted remotely”; are “necessary to preserve the right to due process of law”; are “necessary for the purpose of obtaining emergency relief”; or that can be “conducted under conditions that protect the health and safety of all participants.”

Each county and/or judicial district should create rules to prioritize cases to be heard while catastrophic conditions exist due to the pandemic and after the emergency has ended. See Rule 3.1 “Guidelines for Resolving Scheduling Conflicts” of the General Rules of Practice for the Superior and District Courts. The following should be considered:





- Whenever possible, all parties are encouraged to enter consent orders regarding changes in visitation. If the parties reach a consent, the agreement should be reduced to writing and presented to the judge for entry on a consent order that complies with the procedures set forth in G.S. 7B-801(b1). If DSS and the parents or other affected respondents and the juvenile can reach an agreement regarding visitation, but entry of a consent order is not possible, the parties should reduce their agreement to writing and said agreement should be signed by the parties, or at a minimum, be agreed upon via email. To comply with G.S. 7B-905.1(b), when DSS temporarily suspends all or part of a visitation plan, it must file a motion. Changes to the schedule, including converting visits to electronic form, constitute a suspension of part of the visitation plan. In cases where there is disagreement about changes to visitation, respondent counsel or the juvenile’s GAL should file a responsive pleading delineating the reasons for the objection to the suspension or change of visitation. All parties are encouraged to file responsive pleadings.
- One of the purposes of the Juvenile Code is to prevent the unnecessary or inappropriate separation of juveniles from their parents. G.S. 7B-100(4). Additionally, the Juvenile Code repeatedly refers to the need to achieve a safe, permanent home within a reasonable period of time. In cases where a juvenile is close to or about to return home – either through a trial placement or the achievement of a permanent plan of reunification – entering orders that provide for reunification satisfies this purpose.
- G.S. 7B-912(b) requires a court to make findings at least 90 days before a juvenile attains 18 years of age that the juvenile will not age out of foster care without copies of necessary documents such as the juvenile's birth certificate and Social Security card. This is the last hearing over which the court will have jurisdiction, as jurisdiction in the A/N/D action automatically terminates upon the juvenile’s 18th birthday under G.S. 7B-201(a).
- While adjudications are to be held within 60 days of the filing of the A/N/D petition and G.S. 7B-803 permits the hearing to be continued in “extraordinary circumstances when necessary for the proper administration of justice,” maintaining a juvenile out of the home of the parent without an adjudication of abuse, neglect or dependency is an infringement on the parent’s right to due process and may result in delaying permanence for the children involved.
- The judicial determination of whether the agency has made reasonable efforts to finalize the permanent plan must be made within 12 months of the child entering foster care. If not made in a timely manner, the agency may not claim title IV-E funds for the juvenile.
- The use of consent orders to the extent possible should be encouraged during this time. Parties should refer to [Chapter 6.5 of the UNC School of Government publication “Abuse, Neglect, Dependency and Termination of Parental Rights”](#) by Sara DePasquale for ensuring consent orders are done correctly. The entire publication is available on the Juvenile Court Improvement





Program (CIP) section of nccourts.gov and the School of Government website for free. Please remember that all parties must consent to the order and/or be represented by counsel who has authority to enter into a consent order. The parties cannot enter into consent orders for dependency only cases where the GAL program or a GAL attorney advocate is not appointed.

Each county and/or judicial district should develop rules to address the following:

1. **How the matter will be brought before the court.** Currently, e-filing is not available for A/N/D actions.
2. **Service of filed pleadings.** The attorneys practicing in A/N/D cases (agency attorneys, Guardian ad litem attorney advocates, the parent bar, and attorneys representing non-parent respondents) should be encouraged to consent to service of all filed pleadings by email pursuant to [Emergency Directive 6](#) of the 1 May 2020 Order of the Chief Justice. Accommodations for pro se litigants must be addressed. If the parties agree to accept service via email, it is best practice to have the receiving attorney acknowledge by email that he/she has received the service of the document.
3. **How notice of the hearing will be given.** For review and permanency planning hearings under G.S. 7B-906.1 “the clerk shall give 15 days’ notice of the hearing and its purpose.” An administrative order delegating responsibility for these notices to the agencies may be appropriate since they are the ones with the contact information. Likewise, any party filing a motion pursuant to G.S. 7B-1000 should be responsible for ensuring all parties are notified of the hearing.
4. **How the hearing will occur (i.e. remotely or in person).** Remote hearings must comply with the mandates of [Emergency Directive 3](#) in the 1 May 2020 Order of the Chief Justice.
5. **What methods are permissible for how the attorneys, juveniles, the guardian ad litem volunteer, the parents, and other parties or witnesses may participate.** Cisco WebEx is the only remote technology platform that is supported by NCAOC. A WebEx meeting must be scheduled and hosted by the juvenile courtroom clerk as the keeper of juvenile records (See Rule 19.3 of the Rules of Recordkeeping) since these hearings are recorded, and the recording will be saved to the account of the meeting scheduler. Clerks may designate the host responsibility, as provided by statute (G.S. 7A-95(c) and 198(c)). Information about internet providers who are offering free services to low-income families and households with students and a list of free Wi-Fi hotspots in the community should be made available to all respondents. If a party, attorney, or witness cannot access the video element, telephonic participation should be considered. The court, via the clerk, will initiate the remote hearing at the appropriate time.
6. **How exhibits will be shared and admitted.** Courts may want to consider local rules or directives to address the sharing of court reports, records, and other exhibits between the





parties prior to the scheduled remote hearings, considering confidentiality and security. Local rules or directives may also be helpful to facilitate an organized remote hearing, provide a point of contact, and require a central repository for documents or exhibits anticipated for the remote hearing. The court may consider designating a point person such as the juvenile clerk or family court coordinator to receive the documents or exhibits prior to the remote hearing and designate timeframes for submission of documents or exhibits to the point person. Per a 27 March 2020 email correspondence from NCAOC's Chief Business Officer to clerks of superior court, clerks can request special public facing email addresses on a county level or on a division level to restrict access to the email inbox as directed by the clerk of superior court in that county. For example, the email *Wake_Juvenile@nccourts.org* could be created so that the juvenile clerk in Wake County had a designated email inbox for juvenile documents to be submitted to the court. This may be helpful to courts to allow parties to provide exhibits for remote court proceedings electronically, considering any confidentiality and security concerns, and to restrict access to the appropriate clerks. Provisions must also be made for the proffering of documents during the hearing that were not distributed within the usual timeframes. Judicial officials should refer to the Acceptable Use Policy and the NCAOC's Chief Information Security Officer for any security risk and privacy concerns associated with transmission or storage of confidential documents as judicial districts develop their rules and protocols.

7. **How the hearing will be recorded if required by G.S. 7B-806.** WebEx has the capability to record the proceeding.

The need for A/N/D attorneys, judges, court managers, and clerks of superior court to meet, organize, and work collaboratively is vital. Judicial leadership and participation in these meetings are critical. Jurisdictions will need to meet periodically during this time to address all the issues that will continue to arise.

Important Considerations

A detailed technical guide regarding WebEx meetings has been created by NCAOC staff. It outlines how to create or access your WebEx meeting account and utilize the application for remote hearings. The instructions are universal in nature to reach the largest court audience possible. However, local court staff conducting remote child welfare hearings should pay close attention to the sections on how to create a separate recording for each hearing (stopping a recording vs. pausing a recording). Ensuring that each remote hearing that is required to be recorded and is recorded and saved as a separate, properly named file, will allow for easier retrieval and identification of the file for a specific hearing should the need for a transcript arise.





This document will be updated if significant changes are made to any orders or memos from Governor Roy Cooper, Chief Justice Cheri Beasley, or NCAOC Director McKinley Wooten, Jr. If you have any questions about this guidance document, child welfare court proceedings during the pandemic, or what assistance the CIP can offer, please feel free to contact Kiesha D. Crawford at (919) 890-1281 or Kiesha.D.Crawford@nccourts.org.

Note: Any order of the Chief Justice related to the COVID-19 Pandemic supersedes the suggested best practices in this document if there is conflicting language. CIP staff will attempt to keep this document up-to-date as new orders are entered.



Conducting Effective Remote Hearings in Child Welfare Cases



The COVID-19 pandemic and social distancing requirements have required courts to be flexible and creative in continuing to carry out essential functions. The Children’s Bureau has encouraged, and many courts have adopted, the use of technology to conduct child welfare hearings remotely when they cannot take place in-person. Although there are some challenges to holding a hearing via technology, these hearings are essential to address important issues affecting children and families, to litigate and allow the court to make key decisions impacting safety, permanency and wellbeing, and to ensure due process and access to justice for families. The following guide distills some best practices and other recommendations for remote or “virtual” hearings. Please note that courts across the country are using several programs and platforms for video conferencing. This guide provides general guidance without regard to the specific platform being used.

Tips for Court Administrative Staff, Clerks, or Others Coordinating the Hearings

- If resources allow, choose a video conferencing platform that includes audio, video, and text (i.e. “chat”), “break-out” rooms, screen-sharing, and file transfers. Ensure that hearings can be recorded. Each of these functions can be helpful in hearing a case. If possible, choose a platform that can be accessed via computer, tablet, or phone (both video and audio-only).
- Make sure that your subscription level allows an adequate number of participants. Child welfare cases sometimes have more participants than criminal or civil matters, as case participants may include attorneys, social workers, parents, foster parents, service providers or other witnesses as well as the judge and any court support staff.
- Consider holding “virtual office hours” or other training sessions so that all users (i.e. judges, attorneys) can log in, try out, and ask questions about remote platforms. Some platforms have free versions that participants can download to familiarize themselves in advance.
- Remote hearings do not need to be conducted from the courthouse. All participants, even judges, can access hearings from home. Work with judges and court personnel to ensure that they have the technology needed to access hearings remotely.
- Consider whether to modify how hearings are scheduled. If your court traditionally docket multiple hearings at the same time, you may need to switch to individual, time-certain scheduling.
- Provide extra notice of hearings. Have a court staff person email all attorneys several days in advance of the hearing to ensure that all parties have log-in information. Offer to answer questions or troubleshoot issues in advance. Provide judges a list of participants in each case in advance if possible, so the judge knows who to expect.
- Abide by all state and local statutes and rules regarding access to hearings. If child welfare hearings are open to the public in your jurisdiction, consider ways to make the hearings accessible to non-party participants. If child welfare hearings are confidential in

your jurisdiction, take steps to control access (such as ensuring that only participants receive the link or by using a password).

- Determine how will the hearing be recorded or transcribed. Will an audio file be saved in the court's electronic docket? Can the recording be accessed later for the purposes of transcription?
- Consider how to use settings on the video conferencing platform to make the process go more smoothly. Is there a "host" function? Decide who will perform this function (perhaps the judge or a courtroom clerk/bailiff), which can be helpful in allowing participants into the hearing, muting participants if needed, screen-sharing documents such as exhibits or court reports, etc.
- Document that the hearing took place remotely in the docket or case management system. Child welfare cases sometimes take years to resolve, and this information may be useful in the future if parties or the court need to remember why certain case events occurred the way they did (i.e. for the purposes of creating an appellate record).

Tips for All Hearing Participants

- Determine in advance what device you will use to access the hearing (i.e. computer, smart phone, tablet). Make sure your device's camera and speakers are working properly. If possible, log in to the platform before a scheduled remote hearing to practice using it.
- Wear solid colors that are easily viewed on camera, avoid patterns.
- Be aware others can see what's behind you. Consider using a solid background instead of full camera view if that is an option on your platform. Pay attention to lighting—sitting in front of a window can make you look "washed out" or difficult to see.
- Minimize noises and distractions to the extent possible. When you are not speaking, mute your microphone. Turn your phone on silent and minimize or close other windows on your computer screen to avoid sounds and notifications (this may also help the program run more smoothly).
- Consider confidentiality limitations. If your communications are confidential, ensure that others in your home can't hear you.
- Look at the camera when you are speaking. Position the camera at about eye level if possible.
- Speak slowly and clearly. There may be an audio lag, so pause before and after speaking to account for this.
- Be flexible but remember professional decorum. Things may go wrong, and all participants may need to be extra patient and forgiving. Accept that these hearings may be less productive than in-person hearings. Despite the inevitable hiccups, the rights and experiences of children and parents are still at stake in remote child welfare hearings. Treat an online hearing with the seriousness with which you would treat an in-person hearing.

Special Considerations for Judges

- Start each hearing by laying the ground rules. Describe how you will conduct the hearing, how you will "call on" participants to speak and in what order, and how you will use the platform. Admonish attorneys to speak one at a time. Even if you would not provide an agenda or overview of the hearing in person, this can be helpful for a remote hearing.

- If there is a document that parties would review during an in-person hearing, such as a court report or proposed order, make sure these are shared in advance, via email, if possible. Hold the agency and other parties accountable to submit reports well in advance. Consider sharing your screen (or having an assistant do so) or uploading the document in the videoconferencing platform for discussion during the hearing.
- If a witness is testifying, ensure you can see the witness clearly. For objections, consider asking attorneys to either type “objection” in the chat box or raise their hand, as these may be more reliable than listening for cross-talk on an online platform.
- Admonish witnesses to be alone and to avoid using notes. Consider whether you will allow witnesses to testify by telephone only (i.e. no video). This may make it more difficult to administer a witness oath, receive assurances that the witness is alone and speaking from memory, and judge credibility.
- If the platform allows “break-out” rooms, these can be very useful to allow for sidebar conversations that others cannot or should not hear (i.e. bench conferences, attorney-client discussions, or judicial interviews of children if traditionally done one-on-one). The private chat function can also work well.
- As always, abide by the applicable Code of Judicial Conduct. Avoid ex parte communications. If communicating by email, ensure all attorneys are included.

Special Considerations for Attorneys

- Continue to zealously advocate for your client and protect your client’s interests. If your client is tangibly disadvantaged by having a remote hearing, file for a continuance. If your client’s case is continued and she is disadvantaged by not having a hearing, file a motion requesting a remote hearing (or an in-person hearing under appropriate circumstances). Make these strategic determinations based on the individual needs of clients.
- Client counseling is crucial during this time. Walk your client through how the hearing might go and what to expect. Make a plan for the hearing with your client in advance. This is particularly true for child clients.
- The closure of courts means that attorneys are not engaging in “hallway conversations” and other informal in-person conversations that can move cases forward. Attorneys should coordinate conference calls and emails prior to the hearing can help attorneys resolve issues and enter the virtual courtroom well-prepared.
- Where possible, negotiate stipulations and other areas of agreement to efficiently resolve matters (i.e. the return of a child to her parent) where all parties agree.
- File written reports and motions liberally. Written pleadings not only can resolve issues for your client, they also create a clear record.
- Take special care with witness testimony. As always, make a record via objections. The file-transfer or screen share functions can be used to submit exhibits, impeach witnesses, or refresh a witness’s recollection.
- Hold the child welfare agency accountable to make reasonable efforts to prevent removal and finalize permanency. Even during difficult times, the agency must make efforts that are reasonable under the circumstances.
- There are numerous ways to communicate directly and confidentially with your clients during a virtual hearing. These include, but are not limited to:
 - Some platforms have a “private chat” function which can only be viewed by two participants.

- Text your client during the hearing. Explain to the court that you are texting your client and ask for breaks if needed.
- Ask for a break to call your client. Step away from the camera and mute your microphone when you do so.
- Some platforms have “breakout rooms.” Ask to be placed in a breakout room with your client, and then rejoin the main hearing.
- Help your client navigate the “digital divide.” Does your client have access to the technology needed to participate in remote hearings? Some tips:
 - Many video conferencing platforms have smartphone apps. These can be helpful where clients don’t have access to computers.
 - Smartphone apps also work via WiFi, which can be helpful when clients don’t have cellular data plans but can access a wireless internet network.
 - Research community resources that may be helpful. Is there a broadband internet provider that is offering free or low-cost internet access (Comcast, Cox and Spectrum all have these programs)? Are their local charities or other resources for free or low-cost phones or computers?
 - Brainstorm with clients about their potential personal resources for technology access, such as supportive family members or mentors or friends who could lend them a phone or computer.
 - Consider asking (informally or via motion) the child welfare agency to provide technology or otherwise help your client access technology. This may be a reasonable efforts issue.
- As always, comply with all applicable ethical standards and Rules of Professional Conduct. Zealously advocate for your clients, engage with other parties with civility, make representations with candor, maintain client confidences, and avoid engaging judges in ex parte contact.

Resources

Children’s Bureau COVID-19 page: <https://www.acf.hhs.gov/cb/resource/covid-19-resources>

Children’s Bureau legal/judicial guidance:

https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf

Texas Zoom page: <http://txcourts.gov/programs-services/electronic-hearings-with-zoom/>

State Bar of Texas, Family Law Section, Remote Hearings Training:

<https://www.youtube.com/watch?v=ayaENNMKSqs>

National Center for State Courts (NCSC) pandemic resources, including recent webinar recordings: <https://www.ncsc.org/pandemic>

NCSC videoconferencing resources: <https://www.ncsc.org/Topics/Technology/Video-Technologies/Resource-Guide.aspx>

Remote Advocacy: Representing Your Client During the COVID-19 Pandemic (free NITA webinar) <https://www.nita.org/webcasts/s71LEC116>



Pandemic 2020 Court Practice Tool Kit

April 2020

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Introduction

The legal team in the NC Guardian ad Litem State Office created this “Pandemic 2020 Court Practice Tool Kit” to assist local GAL programs as they navigate representation of child clients during the 2020 coronavirus pandemic. The pandemic has brought about novel issues in a crisis situation, unlike those we have dealt with in the past. The Tool Kit was prepared after conducting a survey of district administrators and attorney advocates throughout the state. While no two districts are alike, common themes and concerns became evident. The intent of the Tool Kit is to provide guidance regarding legal and practical issues that have arisen due to the pandemic. The materials and resources herein should not be construed as a formal legal opinion or a mandatory directive. If you need further information or guidance on a specific situation, please contact GAL Associate Counsel Reggie O’Rourke regarding trial related issues and GAL Appellate Counsel Matt Wunsche regarding appellate related issues. If appellate counsel has been appointed in an appeal, please contact the appointed counsel and include counsel on correspondence about that appeal. The information included in this Tool Kit was published in April 2020.

I. Short-Term and Long-Term Impacts of the Pandemic

Attorney Advocates, GAL staff, and GAL Volunteers should thoughtfully consider how the pandemic and the various State and local orders regarding the pandemic, have impacted and could foreseeably impact child clients, parents, families, placement providers, and GAL Volunteers. While regular, in-person court proceedings may resume as early as 1 June 2020, it may take a considerable amount of time for some GAL Volunteers to be willing and able to resume appearing in court in person. Local programs should plan for this and make sure that accommodations are put in place to enable GAL Volunteers to participate in in-person proceedings telephonically or via WebEx. These same accommodations may be necessary for child clients, parents, placement providers, and others.

A. Safety From Infection

Consult [CDC guidelines](#) and learn how to avoid infection and/or spread of the virus. Use that information to protect yourself and others both during the suspension of court and once regular court activities resume.

B. Effects on Child-Parent Bond, Deadlines, and Services

Attorney Advocates, GAL staff, and GAL Volunteers should thoughtfully consider the manner in which a temporary suspension of in-person parent-child visits due to safety concerns regarding COVID-19 may impact things like the parent-child bond. Attorney Advocates should also consider how a temporary (or long term) unavailability of services or a parent’s inability to access services due to issues related to COVID-19 could impact statutory timelines; the parent’s ability to comply with court orders; how the lack of these services could impact a court’s decision to award custody or guardianship; reasonable efforts findings; and the extent to which these could impact a court’s ability to find that TPR grounds exist or do not exist.

We should be mindful of the fact that the pandemic may have negatively impacted parents' ability to participate in remote and in-person court proceedings and how a parent's loss of employment or housing due to COVID-19 could impact a case. It may be advisable to allow parents more time to bond, comply with court orders, and reunify. It may also be necessary to recommend different/alternative services or methods of correcting the conditions that led to the adjudication and/or the juvenile's removal.

II. Preparation Steps for Local GAL Programs

In this section we will address practices, steps, and actions local GAL programs can take to prepare for the resumption of regular, in-person court proceedings and full court dockets. During this stage, local GAL programs should consider how to collaborate with court stakeholders to prioritize and schedule hearings. This topic is discussed in section VII, [Prioritization of Hearings](#).

A. Minimize the Need for Staff to be Involved in Hearings

Under our model of representation, it is generally best for the in-court advocacy to be performed through the testimony and advocacy of the GAL Volunteer and the legal representation and legal advocacy of the Attorney Advocate. GAL Supervisors may have increased workloads and/or heightened GAL Volunteer supervision responsibilities as the result of measures that have been put in place in response to the pandemic. Trusting and holding GAL Volunteers capable of testifying and advocating in court proceedings will be even more important now as local GAL programs and jurisdictions work through the backlog of hearings. This will allow GAL Supervisors to focus on responsibilities and tasks that only they can complete.

It is foreseeable that in-person court proceedings will resume in some instances before GAL Volunteers are ready, willing, or able to physically return to court. As a result, it will be important for Attorney Advocates and GAL programs to find ways for GAL Volunteers to actively participate in hearings remotely. Whether GAL Volunteers are physically present in court or participate in proceedings remotely, GAL Volunteers' testimony is essential to authenticate GAL court reports and to provide courts with essential information regarding the GAL volunteers' thorough, independent investigation. Relying on GAL Volunteers' advocacy in court has been and will continue to be critical.

As a general rule, we encourage incorporating the testimony and/or participation of GAL Volunteers in all hearings to the extent possible and practicable. North Carolina appellate courts have consistently and repeatedly held that testimony is needed and attorneys' arguments are not considered testimony. ((See *In re J.T.*, 252 N.C. App. 19 (2017) (vacating and remanding permanency planning order as not supported by competent evidence when the court heard no oral testimony from any witnesses and only heard statements made by attorneys and accepted into evidence reports from DSS and the GAL) and *In re S.P.*, 833 S.E.2d 638 (N.C. Ct. App. 2019)

(vacating and remanding permanency planning order that was based solely on DSS and GAL reports without any testimony; attorney arguments are not testimony)).

We are mindful of the fact that GAL Volunteers may not be assigned or may not have information to provide to the court around the time that hearings on the continued need for nonsecure custody are being conducted. However, there are benefits in enabling and facilitating the GAL Volunteer's participation in those and other hearings, even if the GAL Volunteer will not testify. Ultimately, the decision as to whether the GAL Volunteer will testify rests with the GAL Attorney Advocate. If a GAL Volunteer is unable to testify, please have Staff testify to permit the introduction of court reports and any other documents essential to represent the best interests of the child.

B. Preparing and Training GAL Volunteers to Testify

The GAL Volunteers' thorough, independent investigation is undoubtedly the best preparation for enabling GAL Volunteers to testify effectively in court. However, Attorney Advocates and local GAL programs can improve GAL Volunteers' testimony and their confidence in testifying by providing additional training and guidance.

Attorney Advocates and GAL Staff should provide GAL Volunteers with specific guidance on testifying in remote proceedings. WebEx is the only video conferencing platform supported by NCAOC. For security and other reasons, NCAOC is strongly encouraging jurisdictions to exclusively use it when conducting remote hearings. Attorney Advocates and GAL Staff should familiarize themselves with using WebEx and review the guidance materials that NCAOC created about how to use WebEx.

Please consider the following suggestions for facilitating the GAL Volunteer's testimony and participation in remote hearings:

- Prior to the hearing, GAL Staff are encouraged to work with GAL Volunteers to ensure that GAL Volunteers are familiar with WebEx; that the GAL Volunteer has a computer or another device that will allow the GAL Volunteer to participate in the hearing; and that the GAL Volunteer has internet access. GAL Staff may need to conduct a practice WebEx meeting with the GAL Volunteer.
- Prior to the hearing, Attorney Advocates and GAL Staff should work together to determine whether, how, and the extent to which the GAL Volunteer will participate in the hearing. For example, will the GAL Volunteer participate in the entire hearing or only up until she/he testifies?
- It may be necessary for the Attorney Advocate to work with the court, the juvenile clerk, and the other parties to ensure that the GAL Volunteer will be able to participate. Since some clerks may send a single WebEx invitation to the parties in multiple cases, it may be necessary for the GAL Volunteer to be on standby or to log on at a specific time. If the Attorney Advocate encounters resistance to the GAL Volunteer's participation in hearings he/she may find *In re J.H.K.*, 365 N.C. 171 (2011) helpful. In *In re J.H.K.*, the N.C. Supreme Court held that the GAL Volunteer's presence at a TPR hearing is not

obligatory, “unless the attorney advocate or the trial court deems the GAL's presence necessary to protect the minor's best interests.”

- Prior to the hearing, the Attorney Advocate should consider whether or how he/she will communicate with the GAL Volunteer and, if necessary, the GAL Staff during the hearing.

GAL Volunteers should be reminded that hearings conducted via WebEx are just like in-person hearings in their importance and significance and that the hearing will likely be recorded. GAL Volunteers should wear business casual or more formal attire. During WebEx hearings, GAL Volunteers should speak only when instructed to do so by the Attorney Advocate or the court. They should stop speaking when instructed to do so or when an objection is made. GAL Volunteers should have a copy of their report, and other documents suggested and agreed upon by the GAL team.

C. NCAOC Resources

NCAOC created a seven and a half minute video that guides viewers on how to host a WebEx meeting; create a WebEx account; and manage WebEx recordings. Even though GAL Attorney Advocates and GAL Staff should not host or send invitations to participate in remote court proceedings, Attorney Advocates and GAL Staff can use those WebEx features for video conferencing meetings. In addition, the video contains helpful information about other WebEx features. The video is found at: <https://youtu.be/TRx4vTz3rbg>.

NCAOC also created interactive slides to provide step-by-step guidance on using WebEx to conduct remote proceedings; creating the optimal remote environment; conducting and managing remote hearings; and storing and sharing recordings as an official record. Many WebEx features covered by the video and the slides are tasks that should be performed by the clerk. However, the slides and the video contain information that will help judges and attorneys. The slides are found at: <https://indd.adobe.com/view/db34fd42-d3e0-4c7c-b934-a19aededa380>.

D. Tips for Effective Remote Hearings

The Capacity Center Building for Courts produced a document titled “Conducting Effective Remote Hearings in Child Welfare Cases.” It contains advice specific to judges, attorneys, and other remote hearing participants. The section titled “Tips for All Hearing Participants” contains helpful information for GAL Volunteers and it appears below:

Tips for All Hearing Participants

- Determine in advance what device you will use to access the hearing (i.e. computer, smart phone, tablet). Make sure your device’s camera and speakers are working properly. If possible, log in to the platform before a scheduled remote hearing to practice using it.
- Wear solid colors that are easily viewed on camera, avoid patterns.

- Be aware others can see what's behind you. Consider using a solid background instead of full camera view if that is an option on your platform. Pay attention to lighting—sitting in front of a window can make you look “washed out” or difficult to see.
- Minimize noises and distractions to the extent possible. When you are not speaking, mute your microphone. Turn your phone on silent and minimize or close other windows on your computer screen to avoid sounds and notifications (this may also help the program run more smoothly).
- Consider confidentiality limitations. If your communications are confidential, ensure that others in your home can't hear you.
- Look at the camera when you are speaking. Position the camera at about eye level if possible.
- Speak slowly and clearly. There may be an audio lag, so pause before and after speaking to account for this.
- Be flexible but remember professional decorum. Things may go wrong, and all participants may need to be extra patient and forgiving. Accept that these hearings may be less productive than in-person hearings. Despite the inevitable hiccups, the rights and experiences of children and parents are still at stake in remote child welfare hearings. Treat an online hearing with the seriousness with which you would treat an in-person hearing.

The entire document is found at:

https://www.americanbar.org/content/dam/aba/administrative/child_law/conducting-remote-hearings.pdf.

III. Preparation Steps for Judicial Districts

In this section we will discuss practices and procedures that judicial districts may want to implement to help hearings to proceed smoothly, once in-person court resumes and court dockets become full. Per the orders of Supreme Court Chief Justice Cheri Beasley, most regular court hearings are postponed until at least 1 June 2020. All parties to a child welfare case should have a vested interest in ensuring that the case is heard and resolved expeditiously. With that shared goal in mind, all parties must work together to plan the steps they are going to take to mitigate delays resulting from the COVID-19 pandemic. To the extent possible, the parties should be acting now, by resolving cases by consent or holding uncontested hearings remotely, and by working to eliminate administrative backlogs that existed prior to the onset of the pandemic. To accomplish our shared goals, the most important thing is to communicate and produce a plan together that considers the needs of all parties in the district.

Districts should also consider the NC Child Welfare Court Suggested Practices During COVID-19 Pandemic that was issued by NCAOC on 20 April 2020. The [document](#) was created through collaboration between, NCAOC Juvenile Court Improvement Program, the N.C. GAL Program, IDS, and NCDHHS.

A. Chief Justice's Emergency Directives

Judicial Districts should comply with and take full advantage of the Emergency Directives as long as they are in place to reduce the risk of spreading COVID-19 and conduct necessary hearings in an appropriate manner.

1. Chief Justice's 4/2/2020 [Order](#)

Hearings should be rescheduled no sooner than June 1, unless they can be conducted remotely, are necessary to preserve due process, are for emergency relief, or the chief judge determines the hearing can be conducted safely (Directive 1). Remote hearings must safeguard the constitutional rights of all participants, can only be held with the consent of all parties, must maintain confidentiality, must be recorded, and must permit confidential communication between attorneys and clients. (Directive 3) Pleadings that normally must be verified, including petitions, only need to be affirmed with the statement provided in the order. (Directive 5) Serve documents electronically, by 5 pm, when the other parties consent. (Directive 6) The Order is set to expire May 1, but is expected to be extended until June 1.

2. Chief Justice's 4/13/2020 [Order](#)

Extends the deadline for all pleadings, motions, notices, and other documents that would have been due between March 13 and June 1 to June 1.

B. Reduce the Backlog

Below are steps we can take while social distancing to reduce the backlog that will be waiting when we return to court.

1. Regular Meetings

Jurisdictions should consider conducting regularly scheduled meetings that include the A/N/D judge(s), the GAL District Administrator, GAL Attorney Advocates, DSS attorneys, parent attorneys, and other court personnel like the A/N/D court clerk and the Family Court Case Coordinator. Topics for discussion and resolution should include, but not be limited to, how and what cases will be scheduled; issues around using WebEx to conduct remote hearings; and past due orders. Before you discuss how and what cases should be scheduled, it may be best to have previously considered the GAL program's preferences for how cases will be prioritized and scheduled. While WebEx should be used to conduct remote hearings, there are a number of issues jurisdictions should consider about its use. For example, jurisdictions should plan for how exhibits will be shared before and during remote hearings; how placement providers and other non-parties will be invited and included in hearings; and how parents and their attorneys will communicate with one another during remote hearings. Prior to engaging in discussions about past due orders, the District Administrator and the Attorney Advocate should consider what role the Attorney Advocate should play in working through any backlog of past due orders. While it is important to clear the backlog of past due orders, we do not want jurisdictions to place the responsibility for drafting orders on the Attorney Advocate.

2. Consent Orders

Identify cases where consent orders can be entered, per Directive 1 of the Chief Justice's 4/2/2020 Order. Also identify other cases that may be good candidates for remote hearings where there is not likely to be opposition, such as post termination of parental rights hearings. Entering these orders during the time that regular court is postponed will help free up court time when regular court resumes.

3. Priority of Juvenile Court

As juvenile courts prepare to handle the backlog of cases, they will be competing for court time and attorneys' time with other courts. Discuss where A/N/D hearings rank in the priority of hearings when there is a scheduling conflict as per Rule 3.1(a) of the General Rules of Practice for the Superior and District Courts, which were adopted pursuant to G.S. 7A-34. Remember, that Rule 3.1 includes domestic cases. However, when a respondent parent has a scheduling conflict between an A/N/D case and another case listed in Rule 3.1(a)(2), it may be advisable to continue the A/N/D case, especially when the A/N/D case will generate an appealable order. See *In re S.G.V.S.*, 811 S.E.2d 718 (N.C. Ct. App. 2018), which references Rule 3.1.

4. Catching Up on Old Orders

Get caught up on past orders due. Where possible, offer to help draft orders we support. Getting orders entered in older cases will free up court time and resources to deal with newer cases that are delayed by the pandemic.

5. Local Rules and Administrative Orders

Use local rules and administrative orders to help manage the backlog and consider changing them where they will hurt.

- a. It may be necessary to suspend local rules by administrative order when a jurisdiction is adopting backlog procedures that conflict with current local rules
- b. Revise local rules where a more permanent change will aid in resolving the backlog.
- c. Implementing local rules for jurisdictions that have not previously used them. This will obviously require the agreement of the chief district court judge.
- d. Administrative orders should be used to change court processes, procedures, and schedules, not to make substantive changes. For example, it is not advisable to suspend all visitation via an administrative order.

6. Prioritize Cases

Identify cases/hearings that will need to be addressed first when court resumes. See [Prioritization of Hearings](#), Section VII of this document.

7. Assess Services

Assess the services that were available and/or suspended for parents and other caretakers and children from when the pandemic began affecting North Carolina in mid-March. Access to those services during the pandemic will impact the well-being of children as well as parents' ability to comply with case plans and achieve reunification. Thus, whether services remained available or became inaccessible will have a profound impact on the direction a case may take when regular hearings resume. Consider, among other services: education, health care, visitation, mental health, substance abuse, counseling, and job training. Consider how these services will affect best interests upon resumption of court.

C. Practices that Judicial Districts Should Consider Implementing

1. Advance Submission of Court Reports

If the judicial district has not already done so, it may want to consider implementing a practice of submitting court reports sufficiently in advance of court so that the court and all parties will have read the reports.

2. Estimate Hearing Time

Schedule (and to the extent appropriate) conduct hearings based on projected estimated lengths based on hearing types. For example,

- a. Nonsecure Custody Hearings—20 minutes
- b. Review Hearings—20 minutes
- c. Permanency Planning Hearings—30 minutes
- d. Post-TPR Hearings—10 minutes
- e. If parties believe a hearing will take longer than the estimated timeframe, the party should provide notice to the court and the parties and request more time.
- f. The lengths of hearings are a guide and should not be rigidly adhered to, especially if an appealable order will be generated.

3. Scheduling by Hearing Type

Schedule all first setting Adjudication/Disposition and Pre-trial Adjudication hearings for possible consent on the same day and time and require parents to appear, so that parties can negotiate possible consents. Consent orders on Adjudication and Disposition should be circulated amongst the attorneys prior to or during that session of court. Non-contested and shorter hearings could be scheduled during that time also.

4. AM/PM Dockets

Consider separate dockets for morning and afternoon sessions of court, rather than scheduling all hearings at 9 AM. This will help to minimize time waiting in court for GAL Volunteers, parents, and attorneys.

5. Scheduling Conferences

Weekly or biweekly (depending on the frequency of A/N/D court) scheduling conferences with the attorneys and the judges at the beginning of or prior to the week of court to address scheduling issues, possible consent orders, GAL Volunteer availability etc.

6. Review Hearings not Required by Statute

Jurisdictions might elect to not reschedule Review Hearings that are not statutorily required. For example, some jurisdictions routinely schedule reviews every 90 days. If court time is limited in those jurisdictions, it may be best to not schedule or to reschedule those hearings or to make them a lower priority than other hearings.

7. Use of Local Rules and Administrative Orders

- a. It may be necessary to suspend various local rules or administrative orders by an administrative order, if a jurisdiction is adopting procedures that conflict with its current local rules or administrative orders.
- b. It may be best for the jurisdiction to revisits local rules or implement local rules, if the jurisdiction previously had none.

IV. Prioritization of Hearings

Scheduling and prioritization of child welfare hearings may vary from district to district, and county to county. GAL Staff should communicate priorities for scheduling cases with the court, clerk, and other parties. The following list is an example prioritization schedule based on input from all districts. This list is flexible and fluid depending on the situation. For example, while visitation issues are further down the list, they should take top priority if there is an emergent issue affecting the child's wellbeing or if the main issue concerning visitation is the child's safety. As always, emergency situations or those in which child's safety (physical and/or mental) is at risk are always top priority:

- Situations where a child's safety is at issue
- Child's placement is in jeopardy and/or dire need for a service
- Youth aging out of foster care
- Adjudication/disposition hearings
- Situations where reunification (with a parent or other caretaker) can occur
- Hearings on visitation issues
- PPH/PPHR hearings (for IV-E findings)
- Hearings that were continued prior to the current public health crisis
- Hearings related to mandates from an appellate court
- Hearings where guardianship or custody can be awarded and further reviews can be waived.
 - When appropriate, recommend that guardianship or custody is awarded to implement and fulfill the permanent plan. Courts might prefer to delay awarding guardianship and custody until it can do so in the same hearing that it waives reviews.

- Remember—when guardianship is awarded, the court must retain jurisdiction even if it waives reviews.
 - Past statutory deadline for hearing/order*
 - Hearings in progress
 - TPR hearings

*Statutory requirements and deadlines following Petition:

- Initial Nonsecure Custody Hearing- must take place within 7 days, but can be continued for 10 days with consent. N.C. Gen. Stat. § 7B-506(a).
- Initial Nonsecure Custody Order - should be entered within 30 days of initial hearing. N.C. Gen. Stat. § 7B-506 (d).
- 2nd and Subsequent Nonsecure Custody Hearings – must be held 7 days after the first hearing, then every 30 days thereafter. N.C. Gen. Stat. § 7B-506(c).
- Adjudication Pretrial Hearing - must held prior to adjudication. See N.C. Gen. Stat. § 7B-800.1 for requirements of this hearing.
- Adjudicatory Hearing – must be held no later than 60 days from the filing of the petition unless the judge pursuant to G.S. 7B-803 (“Continuances”) orders that it be held at a later time. N.C. Gen. Stat. § 7B-801
- Predisposition Report – must be submitted prior to disposition, and cannot be submitted or considered prior to or during adjudication hearing. N.C. Gen. Stat. § 7B-808
- Initial Dispositional Hearing - shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. N.C. Gen. Stat. § 7B-901
- Initial Dispositional Order – shall be entered no later than 30 days from the hearing, and shall direct that the review hearing required by G.S. 7B-906.1 be held within 90 days from of the date of the dispositional hearing and, if practicable, shall set the date and time for the review hearing. N.C. Gen. Stat. Section 7B-905
- 90-Day Review Hearings. The court shall conduct a review hearing within 90 days from the date of the initial dispositional hearing held pursuant to G.S. 7B-901. Review hearings shall be held at least every six months thereafter.
- Permanency Planning Hearing - within 12 months of the date of the initial order removing custody, there shall be a review hearing designated as a permanency planning hearing. N.C. Gen. Stat. Section 7B-906.1
- TPR Pretrial Hearing - the court shall conduct a pretrial hearing but the court may combine the pretrial hearing with the adjudicatory hearing on termination in which case no separate pretrial hearing order is required. N.C. Gen. Stat. § 7B-1108.1
- TPR Hearing – must be held no later than 90 days from the filing of the petition or motion but can be continued for 90 days for good cause. N.C. Gen. Stat. § 7B-1109
- TPR Order - shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing. N.C. Gen. Stat. § 7B-1110
- Post TPR Hearing - placement review hearing must be held not later than six months from the date of the termination hearing. The court shall conduct reviews every six months

thereafter until the juvenile is the subject of a decree of adoption. N.C. Gen. Stat. Section 7B-908.

V. Staffing Cases

The terms “staffing cases” and “court staffings” refer to thoughtful, pre-planned discussions between the Attorney Advocate and GAL Staff about a specific child client or sibling group and the related court reports, upcoming hearing(s), and relevant documents and information. Some jurisdictions conduct a staffing meeting wherein each case on the docket is discussed by the Attorney Advocate and the assigned GAL supervisor. These meetings allow the Attorney Advocate to ask questions about areas of particular interest or significance in the GAL Volunteer’s court report. Among other things, they also allow for discussions about the child client’s participation in the hearing and ironing out logistical considerations like the GAL Volunteer’s availability to testify. In some jurisdictions the term has been extended to include conversations between GAL Volunteer and the Attorney Advocate and/or the GAL Supervisor.

If your GAL Program has not implemented regular, systematic practices and procedures for staffing cases with the Attorney Advocate and GAL Staff, it may be helpful to begin. Good communication between Attorney Advocates, GAL Staff, and GAL Volunteers will be more important than ever to plan for the resumption of in-person court proceedings and full court dockets.

A. Regular Staffing Plan

Local GAL programs should consider implementing a regularly scheduled and organized plan for staffing cases that makes the best use of the Attorney Advocate’s and the staff’s time. It may be best to staff cases the week before court, but after the GAL Volunteer and social worker reports have been read by the Attorney Advocate and submitted to the court and the other parties.

B. Issues to Address at Staffing Meetings

During court staffing meetings, consideration should be given to safety concerns; the wishes and needs of each child client; issues and recommendations that will be highly contested; areas of focus for the GAL Volunteer’s testimony; whether and how the child client will participate in the hearing; and when the case might be heard to minimize waiting times for GAL Volunteers and child clients. This is not an exhaustive list.

C. Staff/Attorney Advocate Consultation

There may be instances before a GAL volunteer’s report is finalized and submitted, when it will be important for GAL staff to consult with the Attorney Advocate about a topic of substantial legal significance that might appear in the GAL volunteer’s report. For example, it may be necessary to obtain the Attorney Advocate’s legal opinion about recommending the primary and secondary permanent plans; whether it is advisable to request a cessation of reunification efforts; or whether custody or guardianship should be awarded to a placement provider. Consulting with the Attorney Advocate about topics like these may help to minimize appealable issues.

D. WebEx

Consider using WebEx to conduct court staffing meetings.

VI. GAL Attorney Advocate Work Practice

As local GAL programs prepare for and work through heavy court dockets, they will have a heightened dependence on the Attorney Advocate's legal expertise, guidance and leadership on legal issues. In fact, there will be a heightened dependence and importance of each member of the GAL team fulfilling their unique role and responsibilities.

A. GAL Attorney Advocate Practices

1. Read reports in advance of hearings.
2. Staff cases with GAL Staff and Volunteers
3. Consult with child clients to the extent possible and prepare child clients to testify and participate in hearings.
4. Identify, prepare, and if necessary, subpoenaed witnesses.
5. Organize exhibits in advance of court and appropriately distribute them to the other attorneys prior to hearings.
6. Communicate with other parties to ensure that all evidence necessary to protect and promote the best interests of the child is in the record and properly introduced. Including, but not limited to medical records at adjudication, certified copies of court orders, and certified copies of criminal records.
7. Appropriately use objections and other trial strategies to help ensure that hearings address the required findings of fact based on the hearing type and to ensure that other attorneys don't linger on "irrelevant" matters. These practices also help preserve arguments for appeal, because if we don't object to inadmissible evidence or we fail to attempt to introduce admissible evidence, we will not be able to argue those issues on appeal.

B. Impact of COVID-19 on Attorney Advocate Practices

Attorney Advocates should pay close attention to the manner in which the temporary suspension of in-person parent-child visits due to safety concerns regarding COVID-19 may impact things like the parent-child bond. Attorney Advocates should also consider how a temporary (or long term) unavailability of services or a parent's inability to access services due to issues related to COVID-19 could impact statutory timelines; the parent's ability to comply with court orders; how the lack of these could impact a court's decision to award custody or guardianship; reasonable efforts findings; and the extent to which these could impact a court's ability to find that TPR grounds exist or do not exist. Attorney advocates should be mindful of the fact that the pandemic may have negatively impacted parents' ability to participate in remote and in-person court proceedings. Finally, attorney advocates should consider how a parent's loss of employment or housing due to COVID-19 could impact a case.

C. Workloads and Schedule Limitations

1. Check the court schedule regularly.

2. Have a backup system in place in the event the person responsible for a deadline is sick.
3. Serve documents electronically, if possible. Documents can be served by email pursuant to Justice Beasley's 4/2/2020 order, assuming the parties consent.
4. Determine if videoconferencing or teleconferencing is possible in lieu of a physical meeting or appearance.
5. For contract attorneys, please work with the GAL District Administrator to put a plan in place in the event that the Attorney Advocate becomes ill or is otherwise unable to appear in court.

D. State Bar Guidance

Attorney Advocates are encouraged to review the 6 April 2020 guidance from the N.C. State Bar on ethics and professional responsibility issues that may arise as a result of the current catastrophic conditions. The article is found here: https://www.ncbar.gov/news-publications/news-notices/2020/04/professional-responsibility-in-a-pandemic/?utm_source=State+Bar+News+Alert+Apr+2020&utm_campaign=STBarNewsApr2020&utm_medium=email.

VII. **Mitigating COVID-19's Impact in Cases That Are Appealed**

We all have a vested interest and a role to play in minimizing and eliminating potential issues for appeals. As we create and implement new court processes to deal with the emergent issues presented by COVID-19, please do so with the knowledge that orders are still going to be appealed. When the appellate courts reverse orders in our cases, it causes additional delay in achieving permanence for our child clients, on top of those that may accrue as a result of the pandemic. The following section is intended to be a tool to help avoid potential unnecessary delays as a result of appellate review.

A. Continue to Identify and Respond to ICWA, UCCJEA, and SCRA issues

1. Indian Child Welfare Act (ICWA)

Is there any reason to suspect the Act may apply, even an off-hand remark by a parent or relative or unsubstantiated statement in a court report? Make sure that the record shows that the court and/or DSS made a significant effort to determine whether the Act applied before proceeding. Ask, how many attempts did they make to contact the Tribe? What kind of attempts? Did they receive any notice that mail or other communications did not reach the Tribe? Get it all on the record! If the information is not available, strongly consider postponing any appealable hearing until the information is available.

2. Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)

Is there any reason to think there is an ongoing case in another jurisdiction? Was the child born in another state, or have the parents or have the adults lived in another state? If so, did the trial court contact the other state? Did it receive a response? Did the

response indicate that there was no ongoing case or that the other state's court was surrendering jurisdiction? Get it all on the record!

3. Servicemembers Civil Relief Act (SCRA)

If a respondent has not made an appearance, conduct a free search to see if they are a member of the military on the Department of Defense website (you must create an account to search): <https://scra.dmdc.osd.mil/scra/#/home>

B. Avoid Creating Appealable Issues

1. Ceasing Reunification Efforts

Don't cease reunification efforts, except where further efforts would create an immediate safety risk for the child. Ceasing is not necessary under concurrent planning, even where the child will not return home. Instead of ceasing, leave reunification as a secondary plan, continue to make reasonable efforts, and pursue the primary plan. This can create an awkward situation where termination or guardianship is the primary plan and reunification remains the secondary plan, but dealing with that awkwardness is better than an unforced error in a ceasing order that undermines a subsequent termination of parental rights order and pending adoption.

2. Combined Hearings

Avoid combining the ADJ/DISP and initial review/permanency planning hearings. The appellate courts have held the Juvenile Code does not forbid holding the hearings together, but the cases where it happens often get reversed on appeal because holding multiple hearings together makes it more difficult to make all the appropriate findings and apply the right evidentiary standard to each stage of the proceeding. It is not necessary to implement a permanent plan at the time of the initial disposition, and it is advisable to wait until a first review hearing to set one, when it will be a properly noticed permanency planning hearing. In the short term, this may not be appealing on judicial economy grounds, but in the long term it will save you a lot over having a case reversed on appeal.

a. Burdens of Proof

i. Adjudication: The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. N.C. Gen. Stat. § 7B-805

ii. Disposition following Adjudication: The best interests of the juvenile. N.C. Gen. Stat. § 7B-901

iii. Permanency Planning: Best interests of the juvenile. Neither the parent nor DSS bears the burden of proof in permanency planning hearings, and the trial court's findings of fact need only be supported by sufficient competent evidence. In re L.M.T., 367 N.C. 165, 180, 752 S.E.2d 453, 462 (2013). "At the conclusion of each permanency planning hearing, the court shall make specific findings as to the best permanent

plans to achieve a safe, permanent home for the juvenile within a reasonable period of time.” N.C. Gen. Stat. § 7B-906.1

3. Absent Parents

If the parent is not present for a hearing, whether in person or remote, postpone the hearing and investigate the absence. Inquire as to whether the parent was served with notice of the hearing and ask the parent’s attorney, on the record, what efforts he/she made to contact the parent and notify him/her of the hearing. Without such a showing on the record, the case will be remanded if it is appealed. It may even be worth asking parent’s counsel whether he/she considered a motion to continue or making one ourselves.

4. Remote Hearings

Be cautious about remote hearings. Ensure that all parties have consented to having the hearing remotely, have access to the necessary technology, and that parents are able to communicate with their attorneys confidentially. If the parents are unable to communicate with their attorneys confidentially in real time during the hearing, ensure that there are breaks in the hearing for that to happen. If in doubt about any of those circumstances, postpone the hearing.

5. Contested Hearings

Be especially cautious about holding contested hearings remotely. It may be better to postpone a contested hearing if it is likely to result in an appeal. All of the remote access issues become that much more dangerous in a contested hearing that is more likely to be appealed.

C. Avoid Issues Commonly Raised by Parents on Appeal

1. TPR Filing Deadline

The deadline for filing a TPR motion or petition is now 65 days after the order eliminating reunification from the permanent plan, per 7B-1001. Unless the TPR petition/motion is filed by that deadline, the CRE order becomes appealable. With the widespread postponement of court proceedings, we may see even more cases where this becomes an issue. Either do not cease reunification efforts, which triggers the deadline, or encourage DSS to file petitions promptly. In some cases, it may also be appropriate for GAL to file the petition to comply with the statutory timeline.

2. Changes in Parents’ Lives

Account for changes in parents’ lives as a result of public health concerns. Expecting parents to act the same during a nationwide lockdown as we do under normal circumstances is not reasonable, and the appellate courts are unlikely to view the circumstances as normal. Modification of case plans may be necessary.

- a. Lack of services for parents to complete as required by their case plans.

- b. Account for changes to visitation and blanket orders suspending visitation.
 - c. Lost employment or housing
 - d. Alternative service options: Are there remote options for services like counseling?
3. Motions to Review Visitation

Were visits suspended w/o filing a motion per 7B-905.1? If so, DSS will have to file a motion for review and request that a hearing be scheduled within 30 days.
4. Reasonable Efforts

Did the county make reasonable efforts? What constitutes reasonable efforts will also be a moving target under the circumstances presented by COVID-19, but we should anticipate appellate courts being demanding when cases are challenged. DSS needs to make every effort it can under the circumstances to help parents find and engage with appropriate services.
5. Parent Lacks Representation/Attorney's Motion to Withdraw From Representation.

Unless the parent is present and consents to their attorney withdrawing, oppose the motion until the parent can appear unless there is verification that the parent has received notice of the motion to withdraw. Appellate courts are very protective of parent rights and if the parent did not have notice or consent to the attorney's withdrawal, oppose the motion as the parent can contest it on appeal and will most likely win if they did not consent and did not have notice of the motion. This will further delay permanence.
6. Remote Hearings and Entry of Consents Through Remote Means

Make sure that we are following NCAOC's recommendations for remote proceedings. You can find an FAQ memo about remote hearings from the NCAOC Office of General Counsel [here](#).

 - a. Petition electronically
 - i. Lack of service – documents can be served by email pursuant to Justice Beasley's 4/2/2020 order, assuming the parties consent.
 - ii. Petitions can also be affirmed, rather than verified.
 - b. Consent orders are governed by N.C. Gen. Stat 7B-801(b1) and there are three requirements:
 - i. All parties present or represented by counsel authorized to consent
 - i. What will "present" mean in a remote hearing? We don't have statutes or case law on this point yet, but look at the Chief Justice's directives for remote proceedings. At minimum, remote presence will have to be sufficient to protect due process rights.
 - ii. The juvenile is represented by counsel

attorney advocacy establish a record that the GAL program performed its duties. Make sure the court takes judicial notice of the entire court file, so that any documentary evidence in the file will be a part of the record. *See In re J.H.K.*, 365 N.C. 171, 711 S.E.2d 118 (2011) (recognizing the GAL Program's team model of representation).

8. Impact on TPR Grounds and Best Interests
 - a. Abuse/neglect grounds – Are parents able to access the treatment programs to address the issues that led to the original abuse or neglect? If so, have they been given a reasonable opportunity to access them in light of the conditions?
 - b. Reasonable progress within 12 months – How much of the relevant 12-month period was affected by the pandemic? If you remove the pandemic time, is there a 12-month block of time that was unaffected?
 - c. Child support – Did the parent lose employment/income because of the pandemic? If so, did the trial court take into account their ability to pay? If the parent was under a child support order, was that modified as a result of the pandemic?
 - d. Willful abandonment – Was the parent unable to visit with the child during the pandemic? For how long? Did the parent make other efforts to maintain contact? Did the parent provide any support?
 - e. Dependency – Is the parent's incapability to care for the child been positively or negatively impacted by the pandemic? That is, has the parent lost access to mental health services, been released from confinement, or otherwise had a status change that could impact his/her capability? Additionally, has the pandemic affected the availability of a proposed alternative placement for the child? Remember, both incapability and lack of an appropriate alternative placement are part of dependency.
 - f. Best interests determinations are reviewed for an abuse of discretion, so there should still be room for trial judges to exercise their own discretion based on the particular circumstances of each case. That said, parent attorneys have pushed to change that standard recently, and the appellate courts are likely to look a little closer at termination decisions that occur during the pandemic. Make sure all the relevant statutory criteria under N.C. Gen. Stat. 7B-1000 are addressed.
9. Impact on Prospective Guardian/Custodians under 7B-600 and 7B-906.1(j)
 - a. When possible encourage DSS to obtain affidavits to support income and ability to care for the child to show that the guardians still have adequate resources.
 - b. If a proposed custodian/guardian has lost employment because of the pandemic, guardianship may no longer be an appropriate placement until the situation has stabilized.

D. Errors Due to Rushed Hearings

1. Orders Lacking Appropriate Findings

This is the number one issue we see consistently on appeal, in all kinds of orders. Please work with DSS to draft strong orders that will withstand the most critical appellate review. Consider using the UNC School of Government's hearing [checklists](#) as one tool to check on the sufficiency of the findings in an order. Keep in mind that the checklists might not contain every needed finding of fact or conclusion of law, since the required findings and conclusions may evolve with caselaw.

2. Prematurely Awarding Guardianship/Custody or Seeking TPR
Particularly during the pandemic, parents are going to experience circumstances – losing employment, housing, access to services – that will require some delay in evaluating whether it's appropriate to change plans and placements or to terminate parental rights. While it is difficult to wait, the time lost due to appellate review and reversal is far greater than waiting for the parent to have an opportunity to demonstrate progress.