

Court Process & Parties Involved



Protective Custody Hearing

The judge has to sign an order for temporary protective custody within 48 hours of the child's removal from the home. After the order is signed by the judge, the date and time for the Protective Custody Hearing will be set, usually a few days after the order is signed. Prior to the hearing, the parties may attend a Pre-Hearing Conference where they may discuss services to be offered, how the child is doing, what visits between the child and parent will be and other issues. The Protective Custody Hearing provides due process for the parents and child to assure that the removal of the child was necessary and continues to be necessary. The judge will determine if there is a risk to the child's safety in sending him/her back home. If so, the judge will enter an order to remove the child from the home.

Adjudication Hearing

Generally occurs within 90 days of the child's removal from the home. This is the trial state at which the court determines whether the allegations in the petition concerning the child are proven by the evidence. Attorneys present evidence, the parties can have their attorney question witnesses, and then the judge makes a decision. If the judge finds that the petition has not been proven, the child will be returned to the parent. If the judge decides there was abuse or neglect, he or she then directs that a plan be developed to correct the conditions of abuse or neglect.

*Disposition Hearing

Generally occurs within 30 days after adjudication. At this hearing the judge decides what is best for the child and puts in a court order. This is called a case plan. The plan could be to send the child home if he/she will be safe, or the plan could order the child to be placed in a safe foster care home or other placement. The judge may also order the caseworker to provide certain services for the child and the child's family.

If the child is removed from the home, the judge will tell the child's parents that they must cooperate with the case manager, follow the requirements included in the case plan, and correct the conditions which required the child to be placed in foster care; otherwise, there is a risk of having their parental rights terminated.

*Review Hearing

Generally occurs every 3-6 months after the initial dispositional hearing. At this hearing, the court will review the status of the case. This will include examining progress made by the parent(s), determining whether court-ordered services were provided, allowing for changes to be made to the case plan, and making sure that this case moves forward and the child spends as little time as possible in temporary placement.

*Permanency Hearing

Generally held within 12 months after the child's removal from the home. This hearing is very similar to a review hearing in all aspects; however, it will emphasize the child's permanent living situation. The judge will decide whether the parent(s) and the child are receiving and participating in the services that will help the family solve its problems. A permanency goal could be returning the child home, adoption, or guardianship. Keep in mind the judge may also change previously set permanency goals at this hearing.

Exception Hearing

After a child has been in care 15 of the most recent 22 months, the Court shall hold a hearing to determine whether the state is required to file a termination of parental rights petition or an exception exists. Exceptions to a termination of parental rights include: 1. The child is being cared for by a relative; 2. DHHS has documented in the case plan or permanency plan a compelling reason for determining that such a filing is not in the child's best interests; or 3. The family has not had a reasonable opportunity to avail themselves of the services deemed necessary.

Termination of Parental Rights

May be required to be filed if the child has been out of the home for 15 of the last 22 months, unless the judge finds an exception under the statute. If the parents do not correct the conditions that led to the child's removal, the State may decide to file a motion to terminate their right to raise their child. The judge would then have to find that there were grounds to terminate parental rights to the child and that it would be in the child's best interest. Termination of Parental Rights means that a parent no longer has any legal rights to a child and is no longer responsible for the child. This permanent situation may discontinue any more contact between the parents and the child.

***CASA Reports are due for all hearings marked with an asterisk.**

Parties Involved

Judge

The judge is the person who conducts the court hearings. The judge will listen to each side and will make a decision that is in the best interest of the child.

Case Manager

If child abuse or neglect is suspected, a Child and Family Services Specialist (often referred to as a caseworker) from NDHHS is assigned. He or she has the job of providing and coordinating services on the case and keeping in contact with the family on a regular basis (at least once a month). The caseworker will attend all hearings and will make recommendations about what kinds of services should be provided to the family.

Guardian Ad Litem (GAL)

The GAL is the attorney who represents the child's best interests. The GAL is responsible for interviewing the professionals working with the child, and making recommendations to the court regarding what is in the child's best interest. The GAL is required to visit the child at least every 6 months.

Parent's Attorney

Parents involved in abuse and neglect cases are entitled to a court-appointed attorney if they cannot afford to hire an attorney themselves. The parent's attorney role is to advocate for their client's rights and to make sure parents receive the services they are entitled to.

Parent's Guardian Ad Litem (GAL)

In some cases, the parents may also be assigned a GAL, if the judge feels it is necessary. In this case, the GAL is an attorney appointed by a court to represent the best interests of a parent in court proceedings. The role of GAL is different from defense counsel's role to represent the expressed interest of the parent.

County Attorney

The county attorney files the first abuse/neglect petition and is responsible for initiating the abuse and neglect case. The county attorney works with the caseworker and NDHHS to make recommendations to the court regarding the child's best interest.

NDHHS Attorney

The Nebraska Department of Health and Human Services attorney represents the caseworker in court.