

**NOTICE**

Determine whether:

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

**AND**

- the complaint containing a request for permanent custody or motion to modify a disposition to permanent custody were properly served on all parties, including the guardian ad litem. [R.C. 2151.414(A)(1)]; [R.C. 2151.28(C)]; [Juv.R. 15]

**APPOINTMENTS**

- Advise any unrepresented parties of their right to counsel, including court-appointed counsel. [Juv.R. 4]
- Appoint a guardian ad litem for the child; a guardian ad litem shall comply with Sup.R. 48. [R.C. 2151.281(B)]; [Juv.R. 4(B)]; [Sup.R. 48]
- Ensure that a guardian ad litem has been appointed for a minor parent or a parent who appears mentally incompetent. [R.C. 2151.281(C)]; [Juv.R. 4(B)(3)]; [Sup.R. 48]
- The guardian ad litem may also serve as counsel for the child, provided no conflict exists between those roles. [Juv.R. 4]



If a conflict exists between the roles and responsibilities of attorney and guardian ad litem, then the court shall appoint another person to serve as guardian ad litem for the ward and the attorney shall remain on the case as attorney. [Juv.R. 4(C)(1) and (2)]; [In re Williams, 101 Ohio St.3d 398, 2004-Ohio-1500]



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

**HEARING PROCEDURE**

- Rules of Evidence: Strict compliance. [Juv.R. 34(I)]
- Standard of Proof: Clear and convincing evidence. [R.C. 2151.414(B)(1)]
- Record the proceeding. [R.C. 2151.35(A)(2)]; [Juv.R. 37]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675 (5) (C)]; [R.C. 2151.417(F)] Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

- Determine whether the guardian ad litem submitted a written report prior to the permanent custody hearing. [R.C. 2151.414(C)]; [Sup.R. 48]



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

- The court shall grant permanent custody when it determines by clear and convincing evidence that:
- The child cannot be safely placed with either parent within a reasonable period of time; [R.C. 2151.414(E)]

**AND**

- Based upon a finding that one or more of the factors exist as to each of the child's parents; [R.C. 2151.414(B)] and [R.C. 2151.414(E)(1-16)]

**AND**

- It is in the child's best interests (by analyzing the best interest factors outlined in R.C. 2151.414(D)(1) and (D)(2)).



Only one factor has to be found. [In re Williams, 75 Ohio St.3d 95, 99, 661 N.E.2d 738 (1996)], but see R.C. 2151.414(e), effective October 5, 2000 (statute modified to include more than original eight factors in In re Williams).



When calculating the time, if the court is considering that the child cannot be returned in a reasonable amount of time and is proceeding on a complaint or motion that alleges that the child has been in the custody of an agency for 12 or more months of a consecutive 22-month period:

- When making this calculation, start the time of temporary custody on the earlier date the child was adjudicated or 60 days after the removal of the child from the home; [R.C. 2151.414(B)(1)(d)]  
**AND**
- Determine whether the child met the requirement at the time the complaint or motion was filed.



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

## CASEFLOW TIME FRAMES

- Advise the parties of their right to appeal this decision. [Juv.R. 34(J)]
- Journalize the entry within 7 days. [R.C. 2151.35(B)(3)]
- Set a review hearing.



Parents no longer need to receive notice of review if permanent custody was granted, as they are no longer parties. Although the parents still have the right to appeal this decision. [R.C. 2151.35(D) and (F)]