

**RULE 8.217. ATTORNEY AD LITEM/ATTORNEY FOR THE CHILD**

**(a) Request.** At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged, or found, to be dependent, if one has not already been appointed.

**(b) Appointment.** The court may appoint an attorney ad litem to represent the child in any proceeding as allowed by law. The court must appoint an attorney for the child who is the subject of a motion to modify custody as required by law.

**(c) Duties and Responsibilities.** The attorney ad litem must be an attorney who has completed any additional requirements as provided by law. The attorney ad litem has the responsibilities provided by law.

**(d) Service.** Any attorney ad litem appointed under this rule is entitled to receive and must provide service of pleadings and documents as provided by rule 8.225.

**Committee Note**

**202 Amendment.** Subdivision (b) was amended in response to ch. 2021-169, Laws of Florida.

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## **RULE 8.305. SHELTER PETITION, HEARING, AND ORDER**

**(a) Shelter Petition.** If a child has been or is to be removed from the home and maintained in an out-of-home placement for more than 24 hours, the person requesting placement shall file a written petition that shall:

(1) specify the name, address, date of birth, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty and shall indicate whether the child has a special need requiring appointment of counsel as defined in section 39.01305, Florida Statutes;

(2) specify the name and address, if known, of the child's parents or legal custodian and how each was notified of the shelter hearing;

(3) if the child has been removed from the home, state the date and time of the removal;

(4) specify that the child is of an age subject to the jurisdiction of the court;

(5) state the reasons the child needs to be placed in a shelter;

(6) list the reasonable efforts, if any, that were made by the department to prevent or eliminate the need for the removal or continued removal of the child from the home or, if no such efforts were made, a description of the emergency that prevented these efforts;

(7) recommend where the child is to be placed or the agency to be responsible for placement;

(8) if the children are currently not placed together, specify the reasonable efforts of the department to keep the siblings together after the removal from the home, why a foster home is not available to place the siblings, or why it is not in the best interest of

the child that all the siblings be placed together in out-of-home care;

(9) specify ongoing visitation or interaction between the siblings or if sibling visitation or interaction is not recommended, specify why visitation or interaction would be contrary to the safety or well-being of the child; and

(10) be signed by the petitioner and, if represented by counsel, by the petitioner's attorney.

**(b) Shelter Hearing.**

(1) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the shelter hearing. If the parents are outside the jurisdiction of the court, are not known, cannot be located, or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the shelter hearing. If the parents or legal custodians are not present at the hearing, the person providing, or attempting to provide, notice to the parents or legal custodians shall advise the court in person or by sworn affidavit of the attempts made to provide notice and the results of those attempts.

(2) The court shall conduct an informal hearing on the petition within the time limits provided by law. The court shall determine at the hearing the existence of probable cause to believe the child is dependent and whether the other criteria provided by law for placement in a shelter have been met. The shelter hearing may be continued for up to 72 hours with the child remaining in shelter care if either:

(A) the parents or legal custodians appear for the shelter hearing without legal counsel and request a continuance to consult with legal counsel; or

(B) the court determines that additional time is necessary to obtain and review documents pertaining to the family to appropriately determine the risk to the child.

(3) The issue of probable cause shall be determined in a nonadversarial manner, applying the standard of proof necessary for an arrest warrant.

(4) At the hearing, all interested persons present shall have an opportunity to be heard and present evidence on the criteria for placement provided by law.

(5) The court may base its determination on a sworn complaint, testimony, or an affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or legal custodian of:

(A) the right to be represented by counsel as provided by law;

(B) the reason the child is in custody and why continued placement is requested;

(C) the right to present placement alternatives;  
and

(D) the time, date, and location of the next hearing and of the importance of the parents' or legal custodians' active participation in subsequent proceedings and hearings.

(7) The court shall appoint:

(A) a guardian ad litem to represent the child unless the court finds representation unnecessary;

(B) an attorney to represent the child if the court finds the appointment necessary or required by law; and

(C) an attorney for indigent parents unless waived by the parent.

(8) The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(9) If the identity of a parent is unknown, the court must conduct the inquiry required by law.

(10) The court shall inquire of the parents whether the parents have relatives, fictive kin, or nonrelatives who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives, fictive kin, or nonrelatives. The court shall advise the parents that the parents have a continuing duty to inform the department of any relative, fictive kin, or nonrelatives who should be considered for placement of the child.

(11) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that:

(A) parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child;

(B) parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes;

(C) parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; and

(D) if the parents fail to substantially comply with the case plan their parental rights may be terminated and the child's out-of-home placement may become permanent.

(12) The court must request that the parents consent to provide access to the child's medical records and to the child's child care records, early education program records, or other educational records and provide information to the court, the department, or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable, is unable to consent, or withholds consent and the court determines access to the records and information is necessary to provide services for the child, the court shall issue an order granting access.

(13) The court may order the parents to provide all known medical information to the department and to any others granted access.

(14) If the child has or is suspected of having a disability and the parent is unavailable pursuant to law, the court must appoint a surrogate parent or refer the child to the district school superintendent for appointment of a surrogate parent.

(15) If the shelter hearing is conducted by a judge other than a judge assigned to hear dependency cases, a judge assigned to hear dependency cases shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

**(c) Shelter Order.** An order granting shelter care must identify the parties present at the hearing and contain written findings that:

(1) placement in shelter care is necessary based on the criteria provided by law;

(2) placement in shelter care is in the best interest of the child;

(3) the department made reasonable efforts to place the child in the order of priority provided in Chapter 39, Florida Statutes, or why such priority placement is not a placement option or in the best interest of the child based on the criteria established by law;

(34) the department made reasonable efforts to keep the siblings together after the removal from the home and specifies if the children are currently not placed together, why a foster home is not available or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;

(45) specifies on-going visitation or interaction between the siblings or if sibling visitation or interaction is not ~~recommended~~ordered, specifies why visitation or interaction would be contrary to the safety or well-being of the child and, if services are available that would reasonably be expected to ameliorate the risk to the child's safety or well-being and may result in the communication and visitation being restored, directs the department to immediately provide such services;

(56) continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety that cannot be mitigated by the provision of preventive services;

(67) there is probable cause to believe the child is dependent;

(78) the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home, including a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home, the date by which the services are expected to become available, and, if services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, an explanation of why the services are not available for the child;

(89) the court notified the parents, relatives who are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing, and of the importance of their active participation in all subsequent proceedings and hearing;

(910) the court notified the parents or legal custodians of their right to counsel as provided by law;

(101) the court notified relatives who are providing out-of-home care for a child, as a result of the shelter petition being granted, that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire; and

(112) the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

**(d) Release from Shelter Care.** No child shall be released from shelter care after a shelter order has been entered except on order of the court unless the shelter order authorized release by the department.

#### **Committee Note**

**202 Amendment.** Multiple sections of this rule were amended in response to ch. 2021-169, Laws of Florida.



## **RULE 8.345. POST-DISPOSITION RELIEF**

**(a) Motion for Modification of Placement.** At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in his or her own home, in the home of a relative, or in some other place, under the supervision or legal custody of the department, may be brought before the court by the department or any interested person on a motion for modification of placement. ~~If neither the department, the child, the parents, the legal custodian, nor any appointed guardian ad litem or attorney ad litem object to the change, then the court may enter an order making the change in placement without a hearing.~~ The court may enter an order making the change in placement without a hearing unless a party or the current caregiver objects to the change. ~~If the department, the child, the parents, the legal custodian, or any appointed guardian ad litem or attorney ad litem~~ any party or the current caregiver objects to the change of placement, the court ~~shall~~must conduct a hearing and thereafter enter an order changing the placement, modifying the conditions of placement, continuing placement as previously ordered, or placing the child with the department or a licensed child-caring agency.

(1) In cases in which the issue before the court is whether a child should be reunited with a parent, and the child is currently placed with someone other than a parent, the court must review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(2) In cases in which the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home

safety plan prepared or approved by the department will not be detrimental to the child, the court must determine that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

**(b) Standard for Changing Custody.**

**(1) Generally.** The standard for changing custody of the child ~~shall~~must be the best interests of the child as provided by law. When determining whether a change of legal custody or placement is in the best interests of the child, the court ~~shall consider;~~must consider the best interests factors provided by law, the report filed by the multidisciplinary team, if applicable, and the priority of placements as provided by law, or as otherwise provided by law.-

~~(A) — The child's age.~~

~~(B) — The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.~~

~~(C) — The stability and longevity of the child's current placement.~~

~~(D) — The established bonded relationship between the child and the current or proposed caregiver.~~

~~(E) — The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.~~

~~(F) — The recommendation of the child's current caregiver,.-~~

~~(G) — The recommendation of the child's guardian ad litem, if one has been appointed.-~~

~~(H) The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.~~

~~(I) The likelihood of the child attaining permanency in the current or proposed placement.~~

~~(J) Any other relevant factors.~~

**(2) Rebuttable presumption.**

(A) In a hearing on a change of physical custody when the child has been in the same safe and stable placement for 9 consecutive months or more, a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current placement applies as required by law.

(B) A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department of his or her objection and the intent to request an evidentiary hearing in writing within 5 days after receiving notice of the department's official position.

(C) Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must:

(i) grant limited purpose party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this rule;

(ii) appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;

(iii) advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

(iv) appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

(D) The court must conduct the evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child no later than 90 days after the date the caregiver provided written notice to the court. The court must provide its written order to the department, the caregiver, and the prospective caregiver.

### **(23) Reunification.**

(A) In cases in which the issue before the court is whether a child should be reunited with a parent, and the child is currently placed with someone other than a parent, the court must review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(B) In cases in which the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the court must determine that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

**(34) Removal from Home.** In cases in which the issue before the court is whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver

with an in-home safety plan, the court must consider, at a minimum, the following factors in making its determination whether to place the child in out-of-home care:

(A) The circumstances that caused the child's dependency and other subsequently identified issues.

(B) The length of time the child has been placed in the home with an in-home safety plan.

(C) The parent's or caregiver's current level of protective capacities.

(D) The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

**(c) Change of Permanency Goal.** The court shall additionally evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to law.

**(d) Motion for Termination of Supervision or Jurisdiction.** Any party requesting termination of agency supervision or the jurisdiction of the court or both shall do so by written motion or in a written report to the court. The court must hear all parties present and enter an order terminating supervision or terminating jurisdiction and supervision or continuing them as previously ordered. The court shall not terminate jurisdiction unless the child is returned to the parent and has been in the placement for at least 6 months, the child is adopted, or the child attains the age of 18, unless the court has extended jurisdiction.

### **Committee Note**

**202 Amendment.** Multiple sections of this rule were amended in response to ch. 2021-169, Laws of Florida.

## **RULE 8.415. JUDICIAL REVIEW OF DEPENDENCY CASES**

**(a) Required Review.** All dependent children must have their status reviewed as provided by law. Any party may petition the court for a judicial review as provided by law.

### **(b) Scheduling Hearings.**

**(1) Initial Review Hearing.** The court must determine when the first review hearing must be held and the clerk of the court must immediately schedule the review hearing. In no case may the hearing be scheduled for later than 6 months from the date of removal from the home or 90 days from the disposition or case plan approval hearing, whichever comes first. In every case, the court must conduct a judicial review at least every 6 months.

**(2) Subsequent Review Hearings.** At each judicial review hearing, the court must schedule the next judicial review hearing which must be conducted within 6 months. The clerk of the court, at the judicial review hearing, must provide the parties, the social service agency charged with the supervision of care, custody, or guardianship of the child, the foster parent or caregiver in whose home the child resides, any preadoptive parent, and such other persons as the court may direct with written notice of the date, time, and location of the next judicial review hearing.

**(3) Review Hearings for Children 16 Years of Age.**  
The court must provide the child the opportunity to address the court and must review the child's independent living transition services. The foster parent, legal custodian, or guardian ad litem may also provide any information relevant to the child's best interest to the court. At the first hearing after the child's 16th birthday, the court must inquire about the life skills the child has acquired and whether they are age-appropriate, and the department must provide a report that includes specific information as to the life skills the child has acquired since the child's 13th birthday, or since the child came into foster care, whichever came later.

**(34) Review Hearings for Children 17 Years of Age.**  
The court must hold a judicial review hearing within 90 days after a

child's 17th birthday. The court must also issue an order, separate from the order on judicial review, that the specific disabilities of nonage of the child have been removed pursuant to sections 743.044, 743.045, 743.046, and 743.047, Florida Statutes, as well as any other disabilities of nonage that the court finds to be in the child's best interest to remove. The court must continue to hold timely judicial review hearings. The department must update the child's transition plan before each judicial review hearing as required by law. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, the court must also address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan complies with the law. The court must approve the child's transition plan before the child's 18th birthday.

**(45) Review Hearings for Young Adults in Foster Care.** The court must review the status of a young adult at least every six months and must hold a permanency review hearing at least annually while the young adult remains in foster care. The young adult or any other party to the dependency case may request an additional hearing or judicial review.

**(c) Report.** In all cases, the department or its agent must prepare a report to the court. The report must contain facts showing the court to have jurisdiction of the cause as a dependency case. It must contain information as to the identity and residence of the parent, if known, and the caregiver, the dates of the original dependency adjudication and any subsequent judicial review proceedings, the results of any safe-harbor placement assessment including the status of the child's placement, and a request for one or more of the following forms of relief:

- (1) that the child's placement be changed;
- (2) that the case plan be continued to permit the parents or social service agency to complete the tasks assigned to them in the agreement;

(3) that proceedings be instituted to terminate parental rights and legally free the child for adoption; or

(4) that the child has a special need as defined in section 39.01305, Florida Statutes, who is not represented by an attorney, and who requires appointment of an attorney.

**(d) Service.** A copy of the report containing recommendations and, if not previously provided by the court, a notice of review hearing must be served on all persons who are required by law to be served at least 72 hours before the judicial review hearing.

**(e) Information Available to Court.** At the judicial review hearing the court may receive any relevant and material evidence pertinent to the cause. This must include written reports required by law and may include, but must not be limited to, any psychiatric or psychological evaluations of the child or parent or caregiver that may be obtained and that are material and relevant. This evidence may be received by the court and relied on to the extent of its probative value, even though it may not be competent in an adjudicatory hearing.

**(f) Court Action.**

(1) The court must hold a hearing to review the compliance of the parties with the case plan and to determine what assigned tasks were and were not accomplished and the reasons for any noncompliance. The court must also determine the frequency, kind, and duration of contracts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings, if doing so is in the best interest of each child.

(2) If the court determines that the circumstances that caused the out-of-home placement, and any issues subsequently identified, have been remedied to the extent that returning the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-



being, and physical, mental, and emotional health, the court must return the child to the custody of the parents.

(3) If the court finds that the social service agency has not complied with its obligations, the court may find the social service agency to be in contempt, must order the social service agency to submit its plan for compliance with the case plan, and must require the social service agency to show why the child could not be safely returned to the home of the parents. If the court finds that the child could not be safely returned to the parents, it must extend the case plan for a period of not more than 6 months to allow the social service agency to comply with its obligations under the case plan.

(4) At any judicial review held under section 39.701(3), Florida Statutes, if, in the opinion of the court, the department has not met its obligations to the child as stated in the written case plan or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply and, on failure to comply, the court may hold the department in contempt.

(5) The court shall appoint an attorney to represent a child with special needs as required by rule 8.231, and who is not already represented by an attorney.

(6) If, at any judicial review, the court determines that the child shall remain in out-of-home care in a placement other than with a parent, the court shall order that the department has placement and care responsibility for the child.

(7) The court must enter a written order on the conclusion of the review hearing including a statement of the facts, those findings it was directed to determine by law, a determination of the future course of the proceedings, and the date, time, and place of the next hearing.

(8) When a young adult is in extended foster care, each judicial review order shall provide that the department has placement and care responsibility for the young adult. When a young adult is in extended foster care, the court shall enter an order at least every 12 months that includes a finding of whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

**(g) Jurisdiction.**

(1) When a child is returned to the parents, the court must not terminate its jurisdiction over the child until 6 months after the return. Based on a report of the department and any other relevant factors, the court must then determine whether jurisdiction should be continued or terminated. If its jurisdiction is to be terminated, it must enter an order to that effect. The court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(2) When a child has not been returned to the parent, but has been permanently committed to the department for subsequent adoption, the court must continue to hold judicial review hearings on the status of the child at least every 6 months until the adoption is finalized. These hearings must be held in accordance with these rules.

(3) If a young adult petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the court may retain or reinstate jurisdiction for a period of time not to continue beyond the date of the young adult's 19th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been provided.

(4) If a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate

jurisdiction until the court finds, following a hearing, that the appropriate statutory criteria have been met.

(5) If the young adult elects to voluntarily leave extended foster care for the sole purpose of ending a removal episode and immediately thereafter executes a voluntary placement agreement with the department to reenroll in extended foster care, the court shall enter an order finding that the prior removal episode has ended. Under these circumstances, the court maintains jurisdiction and a petition to reinstate jurisdiction as provided by law is not required. When a young adult enters extended foster care by executing a voluntary placement agreement, the court shall enter an order within 180 days after execution of the agreement that determines whether the placement is in the best interest of the young adult.

(6) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings must be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction must terminate on the final decision of the federal authorities, or on the immigrant child's 22nd birthday, whichever occurs first.

**(h) Administrative Review.** The department, under a formal agreement with the court in particular cases, may conduct administrative reviews instead of judicial reviews for children in out-of-home placement. Notice must be provided to all parties. An administrative review may not be substituted for the first judicial review or any subsequent 6-month review. Any party may petition the court for a judicial review as provided by law.

**(i) Concurrent Planning.**

(1) At the initial judicial review hearing, the court must make findings regarding the likelihood of the child's reunification

with the parent or legal custodian within 12 months after the removal of the child from the home. In making such findings, the court shall consider the level of the parent or legal custodian's compliance with the case plan and demonstrated change in protective capacities compared to that necessary to achieve timely reunification within 12 months after the removal of the child from the home. The court shall also consider the frequency, duration, manner, and level of engagement of the parent or legal custodian's visitation with the child in compliance with the case plan.

(2) If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file a motion to amend the case plan and declare that it will use concurrent planning for the case plan.

(3) The department must file the motion to amend the case plan no later than 10 business days after receiving the written finding of the court and attach the proposed amended case plan to the motion.

(4) If concurrent planning is already being used, the case plan must document the efforts the department is making to complete the concurrent goal.

### **Committee Notes**

**1991 Adoption.** The rule allows for certain forms of relief pertinent to foster care review. It allows the court to order commencement of a termination of parental rights proceeding if the parents are not in compliance. The court is also permitted to extend or modify the plan.

**202 Amendment.** Section (b) of this rule was amended in response to ch. 2021-169, Laws of Florida.

## **RULE 8.540. MOTION TO REINSTATE PARENTAL RIGHTS**

**(a) Initiation of Proceedings.** Following a termination of parental rights, the department, the parent whose rights were terminated, or the child, may file a motion to reinstate the parent's parental rights as provided by Chapter 39, Florida Statutes.

### **(b) Initial Evidentiary Hearing on Motion.**

**(1) Notice of Hearing.** The court must issue a notice of the hearing on the motion to the parties and participants. The notice must state the issue to be determined and that the movant is required to present evidence at the hearing on the motion.

**(2) Burden to Present Evidence and Proof.** At the initial evidentiary hearing, the movant has the burden of presenting relevant evidence. All other parties may present evidence regarding the claims raised.

**(3) Generally.** When evaluating a motion to reinstate parental rights, the court must consider all relevant evidence including the criteria provided in Chapter 39, Florida Statutes. The court determines if the movant met the criteria provided by law by clear and convincing evidence.

### **(c) Transition Period.**

**(1) Visitation and Trial Home Visits.** If the court determines that the movant met the criteria at the initial evidentiary hearing, the court must order the department to conduct supervised visitation and trial home visits between the child and the former parent for at least 3 consecutive months following the completion of an approved home study. The court must consider the multidisciplinary team's transition plan.

**(2) Reports and Notifications.** During the period of visitation and trial home visits, the court must consider reports provided by the department every 30 days regarding the supervised visitation, home visits, and the department's recommendation for

reinstatement of parental rights. The court must also consider any notifications by the department of termination of visitations due to allegations of abuse, neglect, or abandonment, if the child's safety or well-being is threatened, or if continuing visitation is not in the child's best interest.

**(d) Final Evidentiary Hearing for Consideration of the Reinstatement of Parental Rights.** Within 30 days of either completion of the period of visitation and trial home visits or the department's termination of trial home visits, the court must conduct a final evidentiary hearing on the motion. The court may reinstate parental rights upon a finding of clear and convincing evidence that it is in the best interest of the child. If visits are terminated and the court finds it is not in the child's best interest to reinstate parental rights, the court must deny the motion to reinstate.

**(e) Retention of Jurisdiction Following Reinstatement of Parental Rights.** Upon ordering reinstatement of parental rights, the court must place the child in the custody of the former parent with an in-home safety plan. The court must retain jurisdiction for at least 6 months during which the court must consider the department's reports on the stability of the placement. At the end of the 6 months, the court must determine whether its jurisdiction should continue or be terminated based on the received reports or any other relevant factors. If the court retains jurisdiction, the court must review the continued retention of jurisdiction every 3 months thereafter until the court terminates its jurisdiction or the child reaches the age of majority.

### **Committee Note**

**202 Amendment.** This rule was created in response to ch. 2021-169, Laws of Florida.

**FORM 8.973A. ORDER ON JUDICIAL REVIEW FOR CHILD AGE 16**

ORDER ON JUDICIAL REVIEW FOR CHILD  
OVER AGE 16 AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on ....(date).... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

..... (Name)....., Child

..... (Name)....., Attorney for the Child

..... (Name)....., Petitioner

..... (Name)....., Attorney for the petitioner

..... (Name)....., Attorney for the department

..... (Name)....., Department caseworker

..... (Name)....., Mother

..... (Name)....., Attorney for mother

..... (Name)....., Father of ....(child).....

..... (Name)....., Attorney for father

..... (Name)....., Guardian ad litem

..... (Name)....., Attorney for guardian ad litem

..... (Name)....., Legal custodian

..... (Name)....., Attorney for legal custodian

..... (Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

and the court having considered:

..... Judicial Review Social Study Report filed by the department that includes specific information related to the life skills that the child has

acquired since the child's 13th birthday or since the date the child came into foster care, whichever came later;

..... Statement/homestudy filed by the department;

..... Report of the guardian ad litem;

..... A case plan, dated ....., filed by the department;

..... Statement by the child's caretaker on the progress the child has made in acquiring independent living skills;

..... Whether or not the child is a citizen and, if the child is not a citizen, the steps that have been taken to address the citizenship or residency status of the child;

..... Other: .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings was/were adjudicated dependent, continue to be dependent, is/are of an age subject to the jurisdiction of the court, and is/are resident(s) of the state of Florida.

2. The following parties were notified of this hearing and provided a copy of the documents filed for this hearing:

..... (Name)....., Child

..... (Name)....., Attorney for the Child

..... (Name)....., Petitioner

..... (Name)....., Attorney for the petitioner

..... (Name)....., Attorney for the department

..... (Name)....., Department caseworker

..... (Name)....., Mother

..... (Name)....., Attorney for mother

..... (Name)....., Father of .....(child).....

..... (Name)....., Attorney for father



..... (Name)....., Guardian ad litem

..... (Name)....., Attorney for guardian ad litem

..... (Name)....., Legal custodian

..... (Name)....., Attorney for legal custodian

..... (Name)....., Other: .....

3. The child has been given the opportunity to address the court with any information relevant to the child's best interests.

4. The mother, .....(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

5. The father, .....(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive his right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

COMMENT: Repeat above for each father.

6. The department filed a judicial review report with the court on .....(date)..... This judicial review report ..... is ..... is not in compliance with the statutory requirements.

7. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of those notified).....

8. The mother has complied with the following tasks in the case plan: .....(list tasks complied with).....

9. The mother has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

10. The father, .....(father's name)....., has complied with the following tasks in the case plan: .....(list tasks complied with).....

11. The father, .....(father's name)....., has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

12. The mother ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

13. The father, .....(father's name)....., ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

14. The department ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

15. The mother ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

16. The father, .....(father's name)....., ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

17. The mother ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

18. The father, .....(father's name)....., ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

19. The department ..... has ..... has not complied with court ordered meetings with the parents as follows: .....(explanation of meetings compliance).....

COMMENT: Use 20, 21, 22, 23, & 24 if child(ren) is/are not placed in the home of a parent.

..... 20. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered)..... The department has placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

..... 21. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

..... 22. The children ..... are ..... are not separated in their placements. The following efforts have been made to reunite the siblings: .....

..... It is not in the siblings' best interest to be reunited in their placement because: .....

..... The separate siblings have the following frequency, kind, and duration of contacts: .....

..... 23. Return of the minor child(ren) to the custody of .....(person(s) from whom child(ren) was/were originally removed)..... would be contrary to the best interest and welfare of the minor child(ren). The child(ren) cannot safely ..... remain ..... return home with services and removal of the child(ren) is necessary to protect the child(ren).

..... 24. Prevention or reunification services ..... were not ..... were indicated and are as follows: .....(services indicated)..... Further efforts could not have shortened separation of this family because .....

COMMENT: Use 25 if child(ren) remain(s) or is/are returned to the parent(s).

..... 25. The child(ren) can safely ..... remain with ..... be returned to .....(parent('s)(s') name(s))..... as long as he/she/they comply(ies) with the following: ..... The safety, well-being, and physical, mental, and emotional health of the child(ren) are not endangered by allowing the child(ren) to ..... remain ..... return home.

..... 26. The child's petition and application for special immigrant juvenile status or other immigration decision remains pending.

..... 27. The department ..... has ..... has not complied with its obligation as specified in the written case plan or in the provision of independent living services as required by Florida Statutes.

..... 28. The child has acquired the following life skills: .....

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The minor child(ren), .....(name(s))....., be placed in the custody of .....(name)....., under supervision of the department.

2. The judicial review report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

3. Other: .....

4. All prior orders not inconsistent with the present order shall remain in full force and effect.

5. This court shall retain jurisdiction over this cause to enter any such further orders as may be deemed necessary for the best interest and welfare of the minor child(ren).

6. This court shall retain jurisdiction until the final decision is rendered by the federal immigration authorities, or upon the immigrant child's 22nd birthday, whichever shall occur first.

7. This court shall retain jurisdiction until the child's 19th birthday for the purpose of determining whether appropriate services to be provided to the young adult before reaching 18 years of age have been provided to the youth.

8. This court shall retain jurisdiction until the child's 21st birthday, or 22<sup>nd</sup> birthday if the child has a disability, unless the young adult chooses to leave foster care upon reaching 18 years of age, or if the young adult does not meet the eligibility requirements to remain in foster care or chooses to leave care at any time prior to the 21st birthday, or 22<sup>nd</sup> birthday if the child has a disability.

9. This matter is scheduled for Judicial Review on .....(date)..... at .....(time).....

DONE AND ORDERED in ....., Florida, on .....(date).....

\_\_\_\_\_

Circuit Judge

**NOTICE OF HEARING**

**The Juvenile Court hereby gives notice of hearing in the above-styled cause on ....(date).... at ..... a.m./p.m., before ....(judge)....., at ....(location)....., or as soon thereafter as counsel can be heard.**

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact ....(name, address, and telephone number).... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.**

**PLEASE BE GOVERNED ACCORDINGLY.**

Copies furnished to .....

**FORM 8.973AB. ORDER ON JUDICIAL REVIEW FOR CHILD AGE 17 OR OLDER**

ORDER ON JUDICIAL REVIEW FOR CHILD  
OVER AGE 17 AND NOTICE OF NEXT HEARING

THIS CAUSE came on to be heard on .....(date)..... for Judicial Review on the report filed by the Department of Children and Families in this cause under chapter 39, Florida Statutes.

The following persons appeared before the court:

..... (Name)....., Child  
..... (Name)....., Attorney for the Child  
..... (Name)....., Petitioner  
..... (Name)....., Attorney for the petitioner  
..... (Name)....., Attorney for the department  
..... (Name)....., Department caseworker  
..... (Name)....., Mother  
..... (Name)....., Attorney for mother  
..... (Name)....., Father of .....(child).....  
..... (Name)....., Attorney for father  
..... (Name)....., Guardian ad litem  
..... (Name)....., Attorney for guardian ad litem  
..... (Name)....., Legal custodian  
..... (Name)....., Attorney for legal custodian  
..... (Name)....., Other: .....

COMMENT: The name of the guardian ad litem and the attorney ad litem, if appointed, must be listed on the order, even if he or she was not present.

and the court having considered:

..... Judicial Review Social Study Report filed by the department;

..... Because the child reached the age of 17 within the past 90 days, written verification that the child:

..... Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program;

..... Has been provided with a certified copy of his or her birth certificate; and has a valid Florida driver's license or has been provided with a Florida identification card;

..... Has a social security card and has been provided information relating to Social Security Insurance benefits, if the child is believed to be eligible;

..... Has received a full accounting if there is a Master Trust for the child and has been informed as to how to access those funds;

..... Has been provided with information related to the Road-to-Independence Program, including eligibility requirements, information on participation, and assistance in gaining admission to the program; If the child is eligible for the Road-to-Independence Program, has been informed that he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department;

..... Has an open bank account or the identification necessary to open a bank account and the information necessary to acquire essential banking and budgeting skills;

..... Has been provided with information on public assistance and how to apply;

..... Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program the child will be enrolled in;

..... Has been provided with information as to the child's ability to remain in care until he [or she] reaches 21 years of age or 22 years of age if he/she has a disability;

..... Has been provided with a letter stating the dates that the child is under the jurisdiction of the court;

..... Has been provided with a letter stating that the child is in compliance with financial aid documentation requirements;

- ..... Has been provided his or her educational records;
- ..... Has been provided his or her entire health and mental health records;
- ..... Has been provided with information concerning the process for accessing his or her case file;
- ..... Has been provided with a statement encouraging the child to attend all judicial review hearings occurring after his or her 17th birthday; and
- ..... Has been provided with information on how to obtain a driver license or learner's driver license.
- ..... Statement/homestudy filed by the department;
- ..... Report of the guardian ad litem;
- ..... A case plan, dated ....., filed by the department ~~that includes information related to independent living services that have been provided since the child's 13th birthday or since the date the child came into foster care, whichever came later;~~
- ..... Statement by the child's caretaker on the progress the child has made in acquiring independent living skills;
- ..... Whether or not the child is a citizen and, if the child is not a citizen, the steps that have been taken to address the citizenship or residency status of the child;
- ..... Other: .....

AND THE COURT having heard testimony and argument, and having been otherwise duly advised in the premises finds:

1. That the minor child(ren) who is/are the subject matter of these proceedings was/were adjudicated dependent, continue to be dependent, is/are of an age subject to the jurisdiction of the court, and is/are resident(s) of the state of Florida.

2. The following parties were notified of this hearing and provided a copy of the documents filed for this hearing:

- ..... (Name)....., Child
- ..... (Name)....., Attorney for the Child
- ..... (Name)....., Petitioner



.....(Name)....., Attorney for the petitioner  
 .....(Name)....., Attorney for the department  
 .....(Name)....., Department caseworker  
 .....(Name)....., Mother  
 .....(Name)....., Attorney for mother  
 .....(Name)....., Father of .....(child).....  
 .....(Name)....., Attorney for father  
 .....(Name)....., Guardian ad litem  
 .....(Name)....., Attorney for guardian ad litem  
 .....(Name)....., Legal custodian  
 .....(Name)....., Attorney for legal custodian  
 .....(Name)....., Other: .....

3. The child has been given the opportunity to address the court with any information relevant to the child's best interests.

4. The mother, .....(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of her right to legal counsel;

..... knowingly, intelligently, and voluntarily ..... waived ..... did not waive her right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

5. The father, .....(name).....:

..... did not appear and ..... was ..... was not represented by legal counsel;

..... appeared ..... with ..... without legal counsel and ..... was ..... was not advised of his right to legal counsel;

knowingly, intelligently, and voluntarily ..... waived ..... did not waive his right to legal counsel; and

..... was ..... was not determined to qualify as indigent and

..... was ..... was not appointed an attorney.

COMMENT: Repeat above for each father.

6. The department filed a judicial review report with the court on .....(date)..... This judicial review report ..... is ..... is not in compliance with the statutory requirements.

7. The following parents/legal custodians were notified of their right to participate in the preparation of the case plan and to receive assistance from any other person in the preparation of the case plan: .....(names of those notified).....

8. The mother has complied with the following tasks in the case plan: .....(list tasks complied with).....

9. The mother has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

10. The father, .....(father's name)....., has complied with the following tasks in the case plan: .....(list tasks complied with).....

11. The father, .....(father's name)....., has not complied with the following tasks in the case plan: .....(list tasks not complied with).....

12. The mother ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

13. The father, .....(father's name)....., ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

14. The department ..... has ..... has not complied with court ordered visitation as follows: .....(explanation of visitation compliance).....

15. The mother ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

16. The father, .....(father's name)....., ..... has ..... has not complied with court ordered financial support for the child as follows: .....(explanation of financial compliance).....

17. The mother ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

18. The father, .....(father's name)....., ..... has ..... has not complied with court ordered meetings with the department as follows: .....(explanation of meetings compliance).....

19. The department ..... has ..... has not complied with court ordered meetings with the parents as follows: .....(explanation of meetings compliance).....

COMMENT: Use 20, 21, 22, 23, & 24 if child(ren) is/are not placed in the home of a parent.

..... 20. It is in the best interest of the minor child(ren) to be placed in the care and custody of .....(placement ordered)..... The department has placement and care responsibility while the child(ren) is/are under protective supervision in an out-of-home placement.

..... 21. Placement of the minor child(ren) in the care and custody of .....(placement ordered)..... is in a setting which is as family like and as close to the home as possible, consistent with the child(ren)'s best interests and special needs.

..... 22. The children ..... are ..... are not separated in their placements. The following efforts have been made to reunite the siblings: .....

..... It is not in the siblings' best interest to be reunited in their placement because: .....

..... The separate siblings have the following frequency, kind, and duration of contacts: .....

..... 23. Return of the minor child(ren) to the custody of .....(person(s) from whom child(ren) was/were originally removed)..... would be contrary to the best interest and welfare of the minor child(ren). The child(ren) cannot safely ..... remain ..... return home with services and removal of the child(ren) is necessary to protect the child(ren).

..... 24. Prevention or reunification services ..... were not ..... were indicated and are as follows: .....(services indicated)..... Further efforts could not have shortened separation of this family because .....

COMMENT: Use 25 if child(ren) remain(s) or is/are returned to the parent(s).

..... 25. The child(ren) can safely ..... remain with ..... be returned to .....(parent('s)(s') name(s))..... as long as he/she/they comply(ies) with the following: ..... The safety, well-being, and physical, mental, and emotional health of the child(ren) are not endangered by allowing the child(ren) to ..... remain ..... return home.

..... 26. The child's petition and application for special immigrant juvenile status or other immigration decision remains pending.

..... 27. The department ..... has ..... has not complied with its obligation as specified in the written case plan or in the provision of independent living services as required by Florida Statutes.

THEREFORE, based upon the foregoing findings, it is hereby ORDERED AND ADJUDGED that:

1. The minor child(ren), .....(name(s))....., be placed in the custody of .....(name)....., under supervision of the department.

2. The judicial review report filed by the department is:

..... not accepted and a continuance was requested.

..... accepted by the court.

3. Other: .....

4. All prior orders not inconsistent with the present order shall remain in full force and effect.

5. This court shall retain jurisdiction over this cause to enter any such further orders as may be deemed necessary for the best interest and welfare of the minor child(ren).

6. This court shall retain jurisdiction until the final decision is rendered by the federal immigration authorities, or upon the immigrant child's 22nd birthday, whichever shall occur first.

7. This court shall retain jurisdiction until the child's 19th birthday for the purpose of determining whether appropriate services to be provided to the young adult before reaching 18 years of age have been provided to the youth.

8. This court shall retain jurisdiction until the child's 21st birthday, or 22<sup>nd</sup> birthday if the child has a disability, unless the young adult chooses to leave foster care upon reaching 18 years of age, or if the young adult does not meet the eligibility requirements to remain in foster care or chooses to leave

care at any time prior to the 21st birthday, or 22<sup>nd</sup> birthday if the child has a disability.

9. This matter is scheduled for Judicial Review on .....(date)..... at .....(time).....

DONE AND ORDERED in ....., Florida, on .....(date).....

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Circuit Judge

### **NOTICE OF HEARING**

**The Juvenile Court hereby gives notice of hearing in the above-styled cause on .....(date)..... at ..... a.m./p.m., before .....(judge)....., at .....(location)....., or as soon thereafter as counsel can be heard.**

COMMENT: The following paragraph must be in bold, 14 pt. Times New Roman or Courier font.

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact .....(name, address, and telephone number)..... at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711.**

**PLEASE BE GOVERNED ACCORDINGLY.**

Copies furnished to .....