

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1150  
Committee Substitute Favorable 5/4/05

Short Title: Expedite Juv. Proceedings/Guardians ad Litem.

(Public)

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Sponsors:

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Referred to:

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April 7, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE JUVENILE CODE TO EXPEDITE OUTCOMES FOR CHILDREN AND FAMILIES INVOLVED IN WELFARE CASES AND APPEALS AND TO LIMIT THE APPOINTMENT OF GUARDIANS AD LITEM FOR PARENTS IN ABUSE, NEGLECT, AND DEPENDENCY PROCEEDINGS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7B-507(c) reads as rewritten:

"(c) At any hearing at which the court finds that reasonable efforts to eliminate the need for the juvenile's placement are not required or shall cease, the court shall direct that a permanency planning hearing as required by G.S. 7B-907 be held within 30 calendar days after the date of the hearing and, if practicable, shall set the date and time for the permanency planning hearing. At any hearing at which the court finds and orders that reasonable efforts to reunify a family shall cease, the affected parent, guardian, or custodian or that parent, guardian, or custodian's counsel may give notice to preserve the parent, guardian, or custodian's right to appeal the finding and order in accordance with G.S. 7B-1001(a)(5). Notice may be given in open court or in writing within 10 days of the hearing at which the court orders the efforts to reunify the family to cease. The party giving notice shall be permitted to make a detailed offer of proof as to any evidence that person sought to offer in opposition to cessation of reunification that the court refused to admit as evidence or to consider."

**SECTION 2.** G.S. 7B-602 reads as rewritten:

**"§ 7B-602. Parent's right to counsel; guardian ad litem.**

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition and indicate the appointment on the juvenile summons or attached notice. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

- 1           (1) Does not appear at the hearing;
- 2           (2) Does not qualify for court-appointed counsel;
- 3           (3) Has retained counsel; or
- 4           (4) Waives the right to counsel.

5           The court shall confirm the appointment of counsel if subdivisions (1) through (4) of  
6 this subsection are not applicable to the respondent parent.

7           The court may reconsider a parent's eligibility and desire for appointed counsel at  
8 any stage of the proceeding.

9           (b) In addition to the right to appointed counsel set forth above, a guardian ad  
10 litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to  
11 represent a parent ~~in the following cases:~~

- 12           (1) ~~Where it is alleged that the juvenile is a dependent juvenile within the~~  
13 ~~meaning of G.S. 7B-101 in that the parent is incapable as the result of~~  
14 ~~substance abuse, mental retardation, mental illness, organic brain~~  
15 ~~syndrome, or any other similar cause or condition of providing for the~~  
16 ~~proper care and supervision of the juvenile; or~~
- 17           (2) ~~Where the parent~~ who is under the age of 18 years, years and who is  
18 not married or otherwise emancipated. The appointment of a guardian  
19 ad litem under this subsection shall not affect the minor parent's  
20 entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event  
21 that the minor parent is the subject of a separate juvenile petition.

22           (c) On motion of any party or on the court's own motion, the court may appoint a  
23 guardian ad litem for a parent in accordance with G.S. 1A-1, Rule 17, if the court  
24 determines that there is a reasonable basis to believe that the parent is incompetent or  
25 has diminished capacity and cannot adequately act in his or her own interest. The  
26 parent's counsel shall not be appointed to serve as the guardian ad litem.

27           (d) Communications between the guardian ad litem appointed under this section  
28 and the parent and between the guardian ad litem and the parent's counsel shall be  
29 privileged and confidential to the same extent that communications between the parent  
30 and the parent's counsel are privileged and confidential.

31           (e) Guardians ad litem appointed under this section may engage in all of the  
32 following practices:

- 33           (1) Enable the parent to enter consent orders, if appropriate.
- 34           (2) Facilitate service of process on the parent.
- 35           (3) Assure that necessary pleadings are filed.
- 36           (4) Assist the parent and the parent's counsel, if requested by the parent's  
37 counsel, to ensure that the parent's procedural due process  
38 requirements are met."

39           **SECTION 3.** G.S. 7B-807(b) reads as rewritten:

40           "(b) The adjudicatory order shall be in writing and shall contain appropriate  
41 findings of fact and conclusions of law. The order shall be reduced to writing, signed,  
42 and entered no later than 30 days following the completion of the hearing. If the order is  
43 not entered within 30 days following completion of the hearing, the clerk of court for  
44 juvenile matters shall schedule a subsequent hearing at the first session of court

1 scheduled for the hearing of juvenile matters following the 30-day period to determine  
2 and explain the reason for the delay and to obtain any needed clarification as to the  
3 contents of the order. The order shall be entered within 10 days of the subsequent  
4 hearing required by this subsection."

5 **SECTION 4.** G.S. 7B-901 reads as rewritten:

6 "**§ 7B-901. Dispositional hearing.**

7 The dispositional hearing shall take place immediately following the adjudicatory  
8 hearing and shall be concluded within 30 days of the conclusion of the adjudicatory  
9 hearing. The dispositional hearing may be informal and the court may consider written  
10 reports or other evidence concerning the needs of the juvenile. The juvenile and the  
11 juvenile's parent, guardian, or custodian shall have an opportunity to present evidence,  
12 and they may advise the court concerning the disposition they believe to be in the best  
13 interests of the juvenile. The court may consider any evidence, including hearsay  
14 evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable,  
15 and necessary to determine the needs of the juvenile and the most appropriate  
16 disposition. The court may exclude the public from the hearing unless the juvenile  
17 moves that the hearing be open, which motion shall be granted."

18 **SECTION 5.** G.S. 7B-905 is amended by adding a new subsection to read:

19 "(d) When a county department of social services having custody or placement  
20 responsibility of a juvenile intends to change the juvenile's placement, the department  
21 shall give the guardian ad litem for the juvenile notice of its intention unless precluded  
22 by emergency circumstances from doing so. Where emergency circumstances exist, the  
23 department of social services shall notify the guardian ad litem or the attorney advocate  
24 within 72 hours of the placement change, unless local rules require notification within a  
25 shorter time period."

26 **SECTION 6.** G.S. 7B-906(d) reads as rewritten:

27 "(d) The court, after making findings of fact, may appoint a guardian of the person  
28 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by  
29 G.S. 7B-903, including the authority to place the juvenile in the custody of either parent  
30 or any relative found by the court to be suitable and found by the court to be in the best  
31 interests of the juvenile. The court may enter an order continuing the placement under  
32 review or providing for a different placement as is deemed to be in the best interests of  
33 the juvenile. The order must be reduced to writing, signed, and entered within 30 days  
34 of the completion of the hearing. If the order is not entered within 30 days following  
35 completion of the hearing, the clerk of court for juvenile matters shall schedule a  
36 subsequent hearing at the first session of court scheduled for the hearing of juvenile  
37 matters following the 30-day period to determine and explain the reason for the delay  
38 and to obtain any needed clarification as to the contents of the order. The order shall be  
39 entered within 10 days of the subsequent hearing required by this subsection.

40 If at any time custody is restored to a parent, guardian, custodian, or caretaker the  
41 court shall be relieved of the duty to conduct periodic judicial reviews of the  
42 placement."

43 **SECTION 7.** G.S. 7B-907(c) reads as rewritten:

1       "(c) At the conclusion of the hearing, the judge shall make specific findings as to  
2 the best plan of care to achieve a safe, permanent home for the juvenile within a  
3 reasonable period of time. The judge may appoint a guardian of the person for the  
4 juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903  
5 including the authority to place the child in the custody of either parent or any relative  
6 found by the court to be suitable and found by the court to be in the best interest of the  
7 juvenile. If the juvenile is not returned home, the court shall enter an order consistent  
8 with its findings that directs the department of social services to make reasonable efforts  
9 to place the juvenile in a timely manner in accordance with the permanent plan, to  
10 complete whatever steps are necessary to finalize the permanent placement of the  
11 juvenile, and to document such steps in the juvenile's case plan. Any order shall be  
12 reduced to writing, signed, and entered no later than 30 days following the completion  
13 of the hearing. If the order is not entered within 30 days following completion of the  
14 hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the  
15 first session of court scheduled for the hearing of juvenile matters following the 30-day  
16 period to determine and explain the reason for the delay and to obtain any needed  
17 clarification as to the contents of the order. The order shall be entered within 10 days of  
18 the subsequent hearing required by this subsection.

19       If at any time custody is restored to a parent, or findings are made in accordance  
20 with G.S. 7B-906(b), the court shall be relieved of the duty to conduct periodic judicial  
21 reviews of the placement.

22       If the court continues the juvenile's placement in the custody or placement  
23 responsibility of a county department of social services, the provisions of G.S. 7B-507  
24 shall apply to any order entered under this section."

25       **SECTION 8.** G.S. 7B-908(b)(1) reads as rewritten:

26       "(1) No more than 30 days and no less than 15 days prior to each review,  
27 the clerk shall give notice of the review to the juvenile if the juvenile is  
28 at least 12 years of age, the legal custodian of the juvenile, any foster  
29 parent, relative, or preadoptive parent providing care for the juvenile,  
30 the guardian ad litem, if any, and any other person or agency the court  
31 may specify. Only the juvenile, if the juvenile is at least 12 years of  
32 age, the legal custodian of the juvenile, any foster parent, relative, or  
33 preadoptive parent providing care for the juvenile, and the guardian ad  
34 litem shall attend the review hearings, except as otherwise directed by  
35 the court. Nothing in this subdivision shall be construed to make any  
36 foster parent, relative, or preadoptive parent a party to the proceeding  
37 solely based on receiving notice and an opportunity to be heard. Any  
38 individual whose parental rights have been terminated shall not be  
39 considered a party to the proceeding unless an appeal of the order  
40 terminating parental rights is pending, and a court has stayed the order  
41 pending the appeal."

42       **SECTION 9.** G.S. 7B-909(c) reads as rewritten:

43       "(c) Notification of the court required under subsection (a) or (b) of this section  
44 shall be by a petition for review. The petition shall set forth the circumstances

1 necessitating the review under subsection (a) or (b) of this section. The review shall be  
2 conducted within 30 days following the filing of the petition for review unless the court  
3 shall otherwise direct. The court shall conduct reviews every six months until the  
4 juvenile is placed for adoption and the adoption petition is filed by the adoptive parents.  
5 The initial review and all subsequent reviews shall be conducted pursuant to  
6 G.S. 7B-908. Any individual whose parental rights have been terminated shall not be  
7 considered a party to the review unless an appeal of the order terminating parental rights  
8 is pending, and a court has stayed the order pending the appeal."

9 **SECTION 10.** G.S. 7B-1001 reads as rewritten:

10 **"§ 7B-1001. Right to appeal.**

11 ~~Upon motion of a proper party as defined in G.S. 7B-1002, review of any final order~~  
12 ~~of the court in a juvenile matter under this Article shall be before the Court of Appeals.~~  
13 ~~Notice of appeal shall be given in writing within 10 days after entry of the order.~~  
14 ~~However, if no disposition is made within 60 days after entry of the order, written~~  
15 ~~notice of appeal may be given within 70 days after such entry. A final order shall~~  
16 ~~include:~~

- 17 (1) ~~Any order finding absence of jurisdiction;~~
- 18 (2) ~~Any order which in effect determines the action and prevents a~~  
19 ~~judgment from which appeal might be taken;~~
- 20 (3) ~~Any order of disposition after an adjudication that a juvenile is abused,~~  
21 ~~neglected, or dependent; or~~
- 22 (4) ~~Any order modifying custodial rights.~~

23 (a) In a juvenile matter under this Subchapter, appeal of a final order of the court  
24 in a juvenile matter shall be made directly to the Court of Appeals. Only the following  
25 juvenile matters may be appealed:

- 26 (1) Any order finding absence of jurisdiction.
- 27 (2) Any order, including the involuntary dismissal of a petition, which in  
28 effect determines the action and prevents a judgment from which  
29 appeal might be taken.
- 30 (3) Any initial order of disposition and the adjudication order upon which  
31 it is based.
- 32 (4) Any order, other than a nonsecure custody order, that changes legal  
33 custody of a juvenile.
- 34 (5) An order entered under G.S. 7B-507(c) with rights to appeal properly  
35 preserved as provided in that subsection, as follows:
  - 36 a. The Court of Appeals shall review the order to cease  
37 reunification together with an appeal of the termination of  
38 parental rights order if all of the following apply:
    - 39 1. A motion or petition to terminate the parent's rights is  
40 heard and granted.
    - 41 2. The order terminating parental rights is appealed in a  
42 proper and timely manner.
    - 43 3. The order to cease reunification is assigned as an error in  
44 the record on appeal of the termination of parental rights.

1           b. A party who is a parent shall have the right to appeal the order  
2           if no termination of parental rights petition or motion is filed  
3           within 180 days of the order.

4           c. A party who is a custodian or guardian shall have the right to  
5           immediately appeal the order.

6           (6) Any order that terminates parental rights or denies a petition or motion  
7           to terminate parental rights.

8           (b) Except for orders covered in subdivision (a)(5) of this section, notice of  
9           appeal shall be given in writing by a proper party as defined in G.S. 7B-1002 and shall  
10           be made within 30 days after entry and service of the order in accordance with  
11           G.S. 1A-1, Rule 58. Notice of appeal for orders covered in subdivision (a)(5) of this  
12           section shall be given in writing by a proper party as defined in G.S. 7B-1002.

13           (c) Notice of appeal shall be signed by counsel for the appealing party, if any,  
14           and shall be taken only by following direct instruction of the appealing party after the  
15           conclusion of the proceeding. In the case of an appeal by a juvenile, notice of appeal  
16           shall be signed by the guardian ad litem attorney advocate."

17           **SECTION 11.** G.S. 7B-1002 reads as rewritten:

18           **"§ 7B-1002. Proper parties for appeal.**

19           ~~An appeal may be taken by the guardian ad litem or juvenile, the juvenile's parent,~~  
20           ~~guardian, or custodian, the State or county agency. Appeal from an order permitted~~  
21           ~~under G.S. 7B-1001 may be taken by:~~

22           (1) A juvenile acting through the juvenile's guardian ad litem previously  
23           appointed under G.S. 7B-601.

24           (2) A juvenile for whom no guardian ad litem has been appointed under  
25           G.S. 7B-601. If such an appeal is made, the court shall appoint a  
26           guardian ad litem pursuant to G.S. 1A-1, Rule 17 for the juvenile for  
27           the purposes of that appeal.

28           (3) A county department of social services.

29           (4) A parent, a guardian appointed under G.S. 7B-600 or Chapter 35A of  
30           the General Statutes, or a custodian as defined in G.S. 7B-101 who is a  
31           nonprevailing party.

32           (5) Any party that sought but failed to obtain termination of parental  
33           rights."

34           **SECTION 12.** G.S. 7B-1003 reads as rewritten:

35           **"§ 7B-1003. Disposition pending appeal.**

36           (a) During an appeal of an order entered under this Subchapter, the trial court  
37           may enforce the order unless the trial court or an appellate court orders a stay.

38           (b) Pending disposition of an appeal, ~~the return of the juvenile to the custody of~~  
39           ~~the parent or guardian of the juvenile, with or without conditions, may issue unless the~~  
40           ~~court orders otherwise. unless directed otherwise by an appellate court or subsection (c)~~  
41           ~~of this section applies, the trial court shall:~~

42           (1) Continue to exercise jurisdiction and conduct hearings under this  
43           Subchapter with the exception of Article 11 of the General Statutes;  
44           and

1           (2) Enter orders affecting the custody or placement of the juvenile as the  
2           court finds to be in the best interests of the juvenile.

3           (c) Pending disposition of an appeal of an order entered under Article 11 of this  
4 Chapter where the petition for termination of parental rights was not filed as a motion in  
5 a juvenile matter initiated under Article 4 of this Chapter, the court may enter a  
6 temporary order affecting the custody or placement of the juvenile as the court finds to  
7 be in the best interests of the juvenile. Upon the affirmation of the order of adjudication  
8 or disposition of the court in a juvenile case by the Court of Appeals, or by the Supreme  
9 Court in the event of an appeal, the court shall have authority to modify or alter its  
10 original order of adjudication or disposition as the court finds to be in the best interests  
11 of the juvenile to reflect any adjustment made by the juvenile or change in  
12 circumstances during the period of time the case on appeal was pending, provided that if  
13 the modifying order be entered ex parte, the court shall give notice to interested parties  
14 to show cause, if there be any, within 10 days thereafter, as to why the modifying order  
15 should be vacated or altered.

16           (d) When the court has found that a juvenile has suffered physical abuse and that  
17 the individual responsible for the abuse has a history of violent behavior, the court shall  
18 consider the opinion of the mental health professional who performed the evaluation  
19 under G.S. 7B-503(b) before returning the juvenile to the custody of that individual. ~~For~~  
20 ~~compelling reasons which must be stated in writing, the court may enter a temporary~~  
21 ~~order affecting the custody or placement of the juvenile as the court finds to be in the~~  
22 ~~best interests of the juvenile or the State. individual pending resolution of an appeal.~~

23           (e) The provisions of subsections ~~(b) and (b), (c), and (d)~~ of G.S. 7B-905 shall  
24 apply to any order entered ~~under this section which during an appeal that~~ provides for  
25 the placement or continued placement of a juvenile in foster care."

26           **SECTION 13.** G.S. 7B-1004 reads as rewritten:

27 **"§ 7B-1004. Disposition after appeal.**

28 ~~Upon the affirmation of the~~ When an order of adjudication or disposition of the court  
29 is affirmed by the Court of Appeals or by the Supreme ~~Court in the event of an appeal,~~  
30 ~~the court shall have authority to~~ Court, the trial court may modify or alter the original  
31 ~~order of adjudication or disposition~~ as the court finds to be in the best interests of the  
32 juvenile to reflect any ~~adjustment made by the juvenile or~~ change in circumstances  
33 during the period of time the appeal was pending. If the modifying order is entered ex  
34 parte, the court shall give notice to interested parties to show cause within 10 days  
35 thereafter as to why the modifying order should be vacated or altered."

36           **SECTION 14.** G.S. 7B-1101 reads as rewritten:

37 **"§ 7B-1101. Jurisdiction.**

38 The court shall have exclusive original jurisdiction to hear and determine any  
39 petition or motion relating to termination of parental rights to any juvenile who resides  
40 in, is found in, or is in the legal or actual custody of a county department of social  
41 services or licensed child-placing agency in the district at the time of filing of the  
42 petition or motion. The court shall have jurisdiction to terminate the parental rights of  
43 any parent irrespective of the age of the parent. ~~The parent has the right to counsel and~~  
44 ~~to appointed counsel in cases of indigency unless the parent waives the right. The fees~~

1 of appointed counsel shall be borne by the Office of Indigent Defense Services. In  
2 addition to the right to appointed counsel set forth above, a guardian ad litem shall be  
3 appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent  
4 in the following cases:

5 (1) ~~Where it is alleged that a parent's rights should be terminated pursuant~~  
6 ~~to G.S. 7B-1111(6), and the incapability to provide proper care and~~  
7 ~~supervision pursuant to that provision is the result of substance abuse,~~  
8 ~~mental retardation, mental illness, organic brain syndrome, or another~~  
9 ~~similar cause or condition.~~

10 (2) ~~Where the parent is under the age of 18 years.~~

11 The fees of the guardian ad litem shall be borne by the Office of Indigent Defense  
12 Services when the court finds that the respondent is indigent. In other cases the fees of  
13 the court appointed guardian ad litem shall be a proper charge against the respondent if  
14 the respondent does not secure private legal counsel. Provided, that before exercising  
15 jurisdiction under this Article, the court shall find that it ~~would have~~has jurisdiction to  
16 make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or  
17 50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for  
18 adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes  
19 ~~generally. Statutes."~~

20 **SECTION 15.** Article 11 of Chapter 7B of the General Statutes is amended  
21 by adding a new section to read:

22 "**§ 7B-1101.1. Parent's right to counsel; guardian ad litem.**

23 (a) The parent has the right to counsel, and to appointed counsel in cases of  
24 indigency, unless the parent waives the right. The fees of appointed counsel shall be  
25 borne by the Office of Indigent Defense Services.

26 (b) In addition to the right to appointed counsel under subsection (a) of this  
27 section, a guardian ad litem shall be appointed in accordance with G.S. 1A-1, Rule 17,  
28 to represent any parent who is under the age of 18 years and who is not married or  
29 otherwise emancipated.

30 (c) On motion of any party or on the court's own motion, the court may appoint a  
31 guardian ad litem for a parent if the court determines that there is a reasonable basis to  
32 believe that the parent is incompetent or has diminished capacity and cannot adequately  
33 act in his or her own interest. The parent's counsel shall not be appointed to serve as the  
34 guardian ad litem.

35 (d) Communications between the guardian ad litem appointed under this section  
36 and the parent and between the guardian ad litem and the parent's counsel shall be  
37 privileged and confidential to the same extent that communications between the parent  
38 and the parent's counsel are privileged and confidential.

39 (e) Guardians ad litem appointed under this section may engage in all of the  
40 following practices:

41 (1) Enable the parent to enter consent orders, if appropriate.

42 (2) Facilitate service of process on the parent.

43 (3) Assure that necessary pleadings are filed.



1           (4) Assist the parent and the parent's counsel, if requested by the parent's  
2           counsel, to ensure that the parent's procedural due process  
3           requirements are met.

4           (f) The fees of a guardian ad litem appointed pursuant to this section shall be  
5           borne by the Office of Indigent Defense Services when the court finds that the  
6           respondent is indigent. In other cases the fees of the court-appointed guardian ad litem  
7           shall be a proper charge against the respondent if the respondent does not secure private  
8           legal counsel."

9           **SECTION 16.** G.S. 7B-1109(e) reads as rewritten:

10          "(e) The court shall take evidence, find the facts, and shall adjudicate the  
11          existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which  
12          authorize the termination of parental rights of the respondent. The adjudicatory order  
13          shall be reduced to writing, signed, and entered no later than 30 days following the  
14          completion of the termination of parental rights hearing. If the order is not entered  
15          within 30 days following completion of the hearing, the clerk of court for juvenile  
16          matters shall schedule a subsequent hearing at the first session of court scheduled for the  
17          hearing of juvenile matters following the 30-day period to determine and explain the  
18          reason for the delay and to obtain any needed clarification as to the contents of the  
19          order. The order shall be entered within 10 days of the subsequent hearing required by  
20          this subsection."

21          **SECTION 17.** G.S. 7B-1110 reads as rewritten:

22          "**§ 7B-1110. Disposition. Determination of best interests of the juvenile.**

23          (a) ~~Should the court determine that any one or more of the conditions authorizing~~  
24          ~~a termination of the parental rights of a parent exist, the court shall issue an order~~  
25          ~~terminating the parental rights of such parent with respect to the juvenile unless the~~  
26          ~~court shall further determine that the best interests of the juvenile require that the~~  
27          ~~parental rights of the parent not be terminated. After an adjudication that one or more~~  
28          ~~grounds for terminating a parent's rights exist, the court shall determine whether~~  
29          ~~terminating the parent's rights is in the juvenile's best interest. In making this~~  
30          ~~determination, the court shall consider the following:~~

31               (1) The age of the juvenile.

32               (2) The likelihood of adoption of the juvenile.

33               (3) Whether the termination of parental rights will aid in the  
34               accomplishment of the permanent plan for the juvenile.

35               (4) The bond between the juvenile and the parent.

36               (5) The quality of the relationship between the juvenile and the proposed  
37               adoptive parent, guardian, custodian, or other permanent placement.

38               (6) Any relevant consideration.

39          Any order shall be reduced to writing, signed, and entered no later than 30 days  
40          following the completion of the termination of parental rights hearing. If the order is not  
41          entered within 30 days following completion of the hearing, the clerk of court for  
42          juvenile matters shall schedule a subsequent hearing at the first session of court  
43          scheduled for the hearing of juvenile matters following the 30-day period to determine  
44          and explain the reason for the delay and to obtain any needed clarification as to the

1 contents of the order. The order shall be entered within 10 days of the subsequent  
2 hearing required by this subsection.

3 (b) Should the court conclude that, irrespective of the existence of one or more  
4 circumstances authorizing termination of parental rights, the best interests of the  
5 juvenile require that rights should not be terminated, the court shall dismiss the petition  
6 or deny the motion, but only after setting forth the facts and conclusions upon which the  
7 dismissal or denial is based.

8 (c) Should the court determine that circumstances authorizing termination of  
9 parental rights do not exist, the court shall dismiss the petition or deny the motion,  
10 making appropriate findings of fact and conclusions.

11 (d) Counsel for the petitioner or movant shall serve a copy of the termination of  
12 parental rights order upon the guardian ad litem for the juvenile, if any, and upon the  
13 juvenile if the juvenile is 12 years of age or older.

14 (e) The court may tax the cost of the proceeding to any party."

15 **SECTION 18.** G.S. 7B-1113 is repealed.

16 **SECTION 19.** This act becomes effective October 1, 2005, and applies to  
17 petitions or actions filed on or after that date.