

## **Initial Petition Hearing**

This morning, at County Hospital, Ms. Bird delivered a girl whose meconium tested positive for opioids. Because the baby's meconium tested positive, the hospital contacted Child Welfare Services (CWS or Agency) and local law enforcement. The infant is in the NICU and her release date is unknown. Ms. Bird has a three-year-old boy, Josh, who speaks very little. Ms. Bird also has a five-year-old girl, Sammy, who is not enrolled in school. During their investigation, CWS went into Ms. Bird's home and discovered the house was filthy and infested with cockroaches and bed bugs, and they located drugs and drug paraphernalia all over the house. Ms. Bird admitted, on at least two prior occasions, she'd left the children home alone when she ran errands. HPD took protective custody of all three children then transferred protective custody to CWS. The baby is still in the hospital, but Josh and Sammy were both placed in a resource care home.

CWS filed a Petition for Temporary Foster Custody of all three children with Family Court alleging Ms. Bird's drug use prevents her from providing adequate care for the children. A Temporary Foster Custody (TFC) hearing has been scheduled.

Ms. Bird learned, via Facebook, that Josh's father is coming to the TFC hearing from Colorado. He doesn't see Josh and has never offered support of any kind. She hopes he doesn't show up. Ms. Bird thinks she may know who Sammy's father is. However, she is unsure who the new baby's father is. There are no father's listed on any of the children's birth certificates. Ms. Bird said her grandmother might have some connection to the Seneca Nation or Comanche Tribe but couldn't provide any further details. CWS learned that Ms. Bird's mother may be willing to have all of her grandchildren placed with her, but she would need a lot of resources, assistance and support.

### **Questions:**

- What is the purpose of the TFC Hearing?
- Do you need additional information?
- How will you get it?
- Did the Agency make reasonable or active efforts to prevent removal?
- What findings and orders must be made to comply with federal, state or tribal law?
- What happens when not all the information is available to make the findings?
- Who must be present at the hearing? Did they receive proper notice?
- When must this hearing be held?
- Any other issues?

## **Return (Adjudication) Hearing**

For purposes of this scenario, at the TFC hearing, the Agency testified, as set forth in the previous scenario, to the condition of the home when they went to visit and the fact that Ms. Bird admitted she uses opioids. At the conclusion of the TFC hearing, the Court ordered that all three children remain in temporary foster care. The case moved forward to the return (adjudication) stage.

At the Return (adjudication) hearing, Ms. Bird, through her attorney, stipulated to the facts presented in the first hearing including: using opioids, an unsafe and filthy home, lack of parental care and supervision as well as not enrolling Sammy in school. CWS testified that they offered to assist Ms. Bird with cleaning services for the house and to help her get a substance abuse evaluation. Ms. Bird told them she would think about their requests and get back to them, but she never did.

Ms. Bird met her attorney was about 5 minutes before the Return (adjudication) hearing and he barely talked to her before the hearing began. CWS is requesting that the children remain in their current resource care homes and that Ms. Bird have supervised visitation with the children.

### **Questions:**

- What is the purpose of the Return (Adjudication) Hearing?
- Are there specific allegations that have been proven by the applicable burden of proof? What is the burden of proof in this case?
- What findings and orders must be made to comply with federal, state or tribal law?
- Who must be present at the hearing? Did they receive proper notice?
- When must this hearing be held?
- Any other issues?

## **Periodic Review Hearing**

For purposes of this scenario, assume the Court accepted Ms. Bird's stipulation at the Return (adjudication) hearing and Ms. Bird's three children were adjudicated dependent minors and the legal custody, care, and control of the children were placed with the Agency. Please also assume at the Return (adjudication) hearing the Court ordered that the children remain in their current placements pending the outcome of the Periodic Review hearing. The Agency attorney offers the social worker report into evidence, noting that the social worker is present for examination. There is no objection by Ms. Bird's attorney and the social worker's report was admitted into evidence. Without objections, CASA's/GAL's report was also admitted into evidence.

At the Periodic Review hearing, Ms. Bird's substance use disorder evaluation is entered into evidence without objection. The social worker recommends inpatient substance use disorder treatment and participation in MAT (medically assisted treatment), but that there are no inpatient beds available in the county, so additional intensive outpatient services will be provided including individual counseling, group counseling, self-help groups, a sponsor and weekly random drug screens. The social worker notes Ms. Bird has a long history of mental health issues including anxiety and depression. Supervised visitation is recommended for one hour, twice a week. The social worker also recommends that Ms. Bird obtain adequate housing for herself and her children, a legal source of income and transportation. The older children remain together in a nonrelative resource care home, but the baby is placed in a different resource care home due to the baby's special needs as a preemie. The older children were assessed and play therapy is recommended for both and speech therapy for Josh. The children's CASA/GAL state that the children's needs are not being met. Ms. Bird's attorney asks the judge to order better care for the children and to have the children placed all together and closer to home to facilitate increased visitation with the mother.

Ms. Bird is on a waiting list for an inpatient treatment program. It will accept her children once Ms. Bird completes her first 30 days of treatment and when an opening is available. She thinks she could complete treatment if her children were placed with her. The grandmother will take the two older children if Ms. Bird commits to inpatient treatment. The grandmother thinks she's too old to care for a baby. The grandmother has passed all required background checks. The resource caregivers are willing to adopt the two older children and keep them together. The GAL/CASA recommend placement of the children with the grandmother provided she accept all three. There has been no response to the Agency from any tribe.

During the Periodic Review hearing, the waiting area receptionist called the bailiff to report that Josh's father, Josh Senior, just showed up. The bailiff came to the bench and told the judge. The judge announced the same in court. Ms. Bird started shaking and crying uncontrollably yelling "Oh no! Not him! He always beats me up. I thought he'd never find me."

### **Questions:**

- What is the purpose of the Periodic Review Hearing?
- Is additional information needed? How do you get it?
- What findings and orders must be made to comply with federal, state or tribal law?
- Who must be present at the hearing? Did they receive proper notice?
- When must this hearing be held?
- Any other issues?

## **Permanency (Planning) Hearing**

A newly assigned Agency social worker comes to court. The social worker reviewed the file and stated there may be an ICWA issue. The social worker sent notice to both the Seneca Nation and Comanche tribes 10 days ago but has not received a response. The social worker stated that the social worker made numerous attempts to locate Ms. Bird to no avail. Ms. Bird left treatment five weeks ago.

All three children are doing well in the grandmother's care, but grandmother does not want to provide long term care because she is old and tired. The social worker contacted the resource caregivers who had the two older children previously who were interested in adopting the older children. The social worker understands that the resource caregivers may consider adopting all three children now that the baby is older. Sammy and Josh really liked living there. CASA/GAL does not agree with the new social worker. The social worker was only assigned this case last week and looked like a deer caught in headlights. The CASA/GAL is wondering if the CASA/GAL should speak up. Former resource caregivers, being represented by competent counsel, who still remain limited parties given their motion to intervene previously granted by the court, agree with the social worker as to placing the older children with them and adopting them, but not the younger child because they know their limits.

### **Questions:**

- What is the purpose of the Permanency (Planning) Hearing?
- What additional information is needed? How will you get it?
- What is the appropriate permanency plan for these children?
- What findings and orders must be made to comply with federal, state or tribal law?
- Who must be present? Did they receive proper notice?
- When must this hearing be held?
- Any other issues?

## **Petition to Terminate Parental Rights**

The Agency filed a petition to terminate Ms. Bird's parental rights alleging that the children had been in out of home care for more than a year, and that Ms. Bird failed to correct the reasons why the children were removed from her home in the first place —opioid misuse, mental health, lack of proper parental care and supervision. Additionally, the Agency also alleges Ms. Bird abandoned her children by leaving the inpatient facility without authorization and with no arrangements for her children. The Agency provided detailed facts to support its diligent search efforts to locate Ms. Bird, but they have been unsuccessful. Ms. Bird has not had any contact with the Agency nor was she offered support of any kind since she walked out of treatment two months ago.

### **Questions:**

- What is the purpose of the Termination of Parental Rights Hearing?
- What are the issues?
- What findings and orders must be made to comply with federal, state or tribal law?
- Who must be present? Did they receive proper notice?
- When must this hearing be held? Are there any reasons that would allow a court to postpone this hearing?
- Any other issues?

**Final Question:** If you could start this case over, what would you do differently to improve the lives of this family?