

## **Initial Permanency Planning Hearing**

S.C. Code Ann. § 63-7-1700

*Child has remained out of the home*

*Time Frame: To be held no later than one year after child enters foster care. The child may have entered foster care by emergency protective custody, a relinquishment for adoption or by a removal action.*

DSS must initiate this hearing by filing a motion, with a supplemental report, and serving it on all parties at least ten days prior to the hearing. If the child entered foster care by way of a relinquishment for adoption, with no other case pending in the court, the case may be initiated by the filing of a summons and petition for review. No responsive pleading is required.

The court shall review the permanent plan for the child offered by DSS. If the plan is one other than that listed below, the court must find **compelling reasons** for approval of the plan and that the plan is in the **best interests** of the child.

### **The court must order one of the following:**

1. *Return home.* If the court determines there would not be unreasonable risk of harm to the child's life, physical health or safety, or mental well being, the child must be returned home. In determining whether unreasonable risk exists, the court shall consider all evidence including whether the parent substantially complied with the placement plan. Following the child's return home, agency supervision and services may be ordered for a specified time up to one year.
2. *Extension for reunification.* If the child is likely to be returned home if additional services are provided to the parents, the court can extend the placement plan or order compliance with a modified plan. The plan can be extended for a reasonable time not to exceed **18 months** after the child came into foster care. The court must find, at the time of the hearing, that termination of parental rights is not in the best interests of the child and that the best interest of the child will be served by extending the plan.
3. *Termination of Parental Rights (TPR).* If the child cannot be returned to parents, the court must order DSS to file a TPR complaint within 60 days of receipt of the order. DSS shall exercise every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including thorough adoption assessment and child-specific recruitment for all children including those with "special needs." An adoption may not be delayed or denied just because a child has special needs.
4. *Relative or non-relative custody/guardianship.* After assessing the viability of adoption, if DSS demonstrates that TPR is not in the child's best interests and the court finds that the best interests of the child would be served, the court may award legal guardianship or custody or both to a suitable, fit and willing relative or non-relative; a home study must be conducted prior to the award of custody or legal guardianship or both. The court may order a period of visitation or trial placement prior to receiving the home study and may order supervision and services for up to one year.

**If the child is not returned home at the permanency planning hearing, the court must include the following specific findings in its order:**

- a) Facts supporting the selection of a plan other than return home;
- b) What services were provided/offered to parents to facilitate reunification;
- c) The compliance or lack of compliance with placement plan by all parties;
- d) Extent to which parents have visited or supported the child and any reasons why visitation or support has not occurred or been infrequent;
- e) Whether previously ordered services should continue and whether additional services are needed. If any, specify the expected date of completion which must be no longer than 18 months from the date the child was placed in foster care;
- f) Whether return of the child is expected and identify changes parent must make in circumstances, conditions, or behavior;
- g) Whether foster care will continue and specify time;
- h) If child is 16 or older, services needed for transition to independent living;
- i) Whether child's current placement is safe and appropriate;
- j) Whether DSS has made reasonable efforts to assist parents in remedying causes of child's placement or retention in foster care, and
- k) The steps the department is taking to promote and expedite adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.