



OFFICE OF CHILDREN, YOUTH AND FAMILIES BULLETIN

COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE

NUMBER:
3130-12-01

ISSUE DATE:
February 3, 2012

EFFECTIVE DATE:
January 22, 2011

SUBJECT:

Act 115 of 2010 Regarding Placement and Visitation with Siblings

BY:

Beverly D. Mackereth
Beverly D. Mackereth
Deputy Secretary for Children, Youth and Families

SCOPE:

County Children and Youth Social Service Agencies Administrators
Private Children and Youth Social Service Agencies
Chief Juvenile Probation Officers
Juvenile Court Judges' Commission
Child Residential and Day Treatment Programs
County Children and Youth Solicitors
Administrative Office of Pennsylvania Courts
Guardians Ad Litem
Parent Advocates
Private Attorneys

PURPOSE:

The purpose of this bulletin is to transmit requirements and guidance related to the implementation of Act 115 of 2010 to programs that serve dependent children and youth. Act 115 expands the determinations that must be made at the time of disposition and at each permanency hearing. This includes a determination as to whether reasonable efforts were made to place the child and their sibling together, or whether placing the child and sibling together is contrary to the safety or well-being of the child or the sibling. During a disposition hearing, an order must be entered to ensure visitation between the child and the sibling, when they are not placed together, no less than twice a month, unless there is a finding that visitation is contrary to the safety or well-being of the child or sibling. When sibling visitation is contraindicated, agencies must actively continue to assess these cases at least every six months, to determine whether visitation should occur. At each permanency hearing, a determination must be made to ascertain whether visitation has occurred consistent with the court order or if the child and sibling were not visiting, whether previous safety or well-being concerns have been addressed and visitation should now begin.

BACKGROUND:

House Bill 2258, Printer's Number 3849 of the 2010 Session of the Pennsylvania General Assembly was signed into law by former Governor Edward G. Rendell on November 23, 2010 as Act 115. This new law is effective as of January 22, 2011, 60 days from the date of signature. Act 115

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Office
Origin: Ellen M. Whitesell; 717.214.9780, ewhitesell@pa.gov

amends 42 Pa.C.S., Chapter 63 (relating to the Juvenile Act) at Section 6351 (relating to disposition of dependent child). This amendment to the Juvenile Act expands the requirements for preplacement findings and determinations at permanency hearings in regards to a dependent child who may be removed from their home and whose sibling may be or has been removed from their home.

Additionally, passage of Act 115 of 2010 codifies requirements contained in the Federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) (Fostering Connections), which was enacted on October 7, 2008. Similarly, Fostering Connections requires that reasonable efforts be made to place siblings together or, if not possible, to facilitate ongoing contacts between siblings, unless contraindicated for safety or well-being reasons. These requirements did not reflect a new philosophy for agencies, but rather codified the need for agencies to be structured and accountable for their practice to maintain sibling connections.

Under the Federal Adoption and Safe Families Act of 1997 (Public Law 105-98) (ASFA), children's well-being refers to factors other than safety and permanency that relate to a child's current and future welfare. Well-being is achieved when families have the capacity to provide for the educational, emotional, physical and mental health needs of their children or when families are receiving the supports and services needed to adequately meet the needs of their children.

In its Final Report regarding the 2008 Child and Family Services Review (CFSR) in Pennsylvania, the Children's Bureau of the Administration for Children and Families (ACF) assigned an overall rating of "Strength" or "Area Needing Improvement" to each of the 23 items reviewed. The CFSR includes placement with siblings and sibling visits as two indicators to be evaluated under Permanency Outcome 2, pertaining to the maintenance of family connections. ACF's overall rating for Pennsylvania's "placement with siblings" (Item 12) was found to be an "Area Needing Improvement", as reviewers determined that the agency placed siblings together whenever possible and appropriate in only 73 percent of the applicable cases. ACF's overall rating for Pennsylvania's "visiting with parents and siblings in foster care" (Item 13) was also determined to be an "Area Needing Improvement", as reviewers determined that the agency made concerted efforts to ensure that visitation was of sufficient frequency to meet the needs of the family in only 53 percent of the applicable cases, and that visits were more likely to occur with siblings and mothers than with fathers.

DISCUSSION:

According to the Pew Commission on Children in Foster Care, "Children in foster care cannot count on things that all children should be able to take for granted – that they have constant, loving parents; that their home will always be their home; that their brothers and sisters will always be near; and that their neighborhoods and schools are familiar places."

Approximately 70 percent of children in out of home care in the United States also have a sibling in care (Shlonsky, Elkins, Bellamy & Ashare, 2005). In many families involved with the child welfare system, sibling relationships are a vital source of emotional support, and may buffer the impact of adverse circumstances in the home. The loss that children experience as a result of removal from their home and separation from their parents is only compounded by the disruption or loss of their sibling relationship(s). Siblings separated in out of home care experience anger, trauma, and loss. Research suggests that sibling separation may make it difficult for children to start the healing process, form attachments and develop a healthy self image (Hegar, 1988).

Placing siblings together has been linked to positive outcomes, such as greater placement stability and greater likelihood of reunification, adoption and guardianship. Research shows that for many

children, their sibling relationship(s) promote resilience (Werner, 1990; Sanders, 2004). Research has also validated that warmth in sibling relationships is associated with fewer behavior problems, less loneliness and higher self-worth (Stocker, 1994). For families working toward reunification, maintaining sibling relationships can be seen as preserving the family's cohesiveness.

The best way to ensure sibling contact is to place siblings together. Placing sibling groups together adds to a child's feelings of safety in an unfamiliar environment (Jewett, 1978). It is incumbent upon agencies to place siblings who come into care in the same home, unless joint placement is contrary to the safety or well-being of the children. This includes situations in which siblings do not enter out of home care simultaneously. For example, one child may enter out of home care, and then six months later, the court may decide that a sibling must also be placed in out of home care. The agency should first consider whether the siblings can be placed together, in the same home. Studies show that larger sibling groups are less likely to be placed together than smaller sibling groups, as fewer foster homes are willing to accept larger groups, and larger sibling groups are less likely to enter foster care all together (Washington, 2007). When placing siblings together is contraindicated, agencies should place siblings in homes as close to one another as possible, such as in the same neighborhood or school district to maintain the sibling relationship. Family group decision making can also provide a team approach to exploring decisions regarding sibling placement and supports for the placement.

Sibling connections are significant to the emotional and social development of a child who is in out of home care. For the purposes of this bulletin, siblings may be full siblings, half-siblings, stepsiblings, or other kinship bonds that model the brother-sister relationship. Siblings share life experiences that create and solidify the "sibling bond". Siblings maintain a family connection, and help provide a sense of family identity and comfort. Assuring that children in out of home care maintain connections with their siblings may ease their adjustment to the losses they have experienced and their transition to living in out of home care. The emotional ties that children in out of home care have with their siblings are a source of support that must be preserved unless contraindicated for safety or well-being reasons.

According to the Administration for Children and Families, well-being is the result of meeting a child's educational, emotional, and physical and mental health needs. Well-being outcomes include:

1. Families have enhanced capacity to provide for the children's needs.
2. Children receive appropriate services to meet their educational needs.
3. Children receive adequate services to meet their physical and mental health needs.

Members of the Pennsylvania Youth Advisory Board provided numerous explanations that they have been given for not being placed with their siblings. These included when a sibling has fulfilled the role of a parent, when one of the siblings has been extremely emotional after sibling visits or when one of the siblings was placed by juvenile probation.

A child who has been inappropriately placed in an excessively parental role by adult caretakers does not necessarily need to be placed apart from his/her siblings, as this alone is not typically a safety or well-being concern. The child should be placed with his/her siblings unless contraindicated for safety or well-being reasons. Both the child and resource parents should receive support services to assist the child to work toward releasing responsibility for his/her siblings, in being a child, and to assist the resource parents to develop strategies to communicate with the child, and to support the children's needs.

Additionally, sibling visits may trigger intense emotions as a result of trauma, such as the feelings of grief, loss, alienation, and guilt. These emotions should be recognized as part of a child's coping mechanism and should not necessarily be seen as a reason to cease or limit visits but rather as an

expression of the aforementioned feelings. Indeed these reactions may be an indicator for increased visitation/contact between siblings. Restricting visits can increase a child's trauma and services should be provided to assist in enhancing a child's coping skills. Youth have voiced that sibling separation compounds their sense of loss and abandonment. Youth also experience feelings of guilt when they are removed from an abusive home, and their siblings remain at home, or when a new sibling is born after their removal.

When a child or one of their siblings has been placed as a result of an adjudication of delinquency, the juvenile probation office and the child welfare agency should discuss any concerns related to safety or well-being of either child, and make a joint decision about visitation and joint placement. If the siblings must be separated, both agencies should continue to actively assess sibling safety and well-being needs as well as plan to reunite the siblings via joint placement or sibling visitation and contact when appropriate. If safety or well-being concerns continue to exist, the county children and youth agency and juvenile probation office (JPO) must work together to arrange services to work toward resolving the safety or well-being concerns, which would allow for future visitation/contact between the siblings. Keeping in line with the Joint Position on Aftercare for Delinquent Youth, youth with a dual adjudication or a Shared Care Responsibility (SCR) order will be afforded the same level of service coordination, regardless of placement type. In addition, The Adoption and Safe Families Act (ASFA) covers all children under the care and responsibility of the county children and youth agency, including those cases shared with JPO.

These decisions should be based upon the safety of the child and sibling as well as their location and type of placement. Obviously, dependent children can not be detained nor can they be placed in a program that is designed to primarily serve delinquent youth. However, consideration should be given to maintaining visitation and placement of siblings together as a delinquent youth's placement needs change.

Placing Siblings Together

Act 115 requires that siblings be placed together and that barring joint placement must be based on safety and/or well-being concerns, such as situations in which one sibling is abusing the other sibling and separation is needed to ensure the safety of the sibling, or when a sibling has special needs that can only be met in a separate placement setting. If one sibling is exhibiting behavior toward the other sibling, the sibling conflict should be further explored, to differentiate between "normal" sibling conflict and behaviors that create a concern for one of the sibling's safety. The severity of the behavior must be assessed, and a determination made as to whether these behaviors can be managed, through closer supervision, therapeutic interventions and clinical treatment. Agencies must exercise due diligence in pursuing counseling and other supportive services to address sibling issues before separating the siblings.

To support the early identification of mothers, fathers (including noncustodial caregivers), siblings and kin as well as efforts to locate kin throughout the life of a case, Family Finding, and skills such as family engagement and strength-based, solution focused practice should be used. When removing siblings from home, provided there is no contraindication for doing so, agencies must make every attempt to find an approved or approvable resource home that is able to accommodate all of the siblings, even if a waiver request is needed. 'Every attempt' in this context means considering all kin, relative and provider agency homes that will allow the children to remain in or as close to their home community as possible. If kinship care is unavailable for a sibling group, a resource family home that can accommodate the entire sibling group is the second preferred placement setting.

Efforts to keep children together must be documented in the child's record, in the court report, or other appropriate location. If the agency is unable to place siblings together, efforts to keep them as proximal to each other as possible should be made. As part of their due diligence in identifying and notifying kin that children have been removed from their parents'/guardians' custody, agencies must ask kin whether they can care for a group of siblings. Agencies must locate all kin and provider agency homes which are able to care for a sibling group, recognizing the unique challenges associated with caring for multiple children, particularly when those children have been traumatized and may need special attention.

In preparing to provide information to the court, agency staff must consider the following factors regarding joint placement including, but not limited to:

- ✓ The history of the child-sibling relationship, including any safety and/or well being concerns;
- ✓ The child and sibling's reaction to being separated, including any preferences or concerns the child and sibling may have; and
- ✓ When siblings are placed together, the reasonable efforts being made to promote and maintain the joint placement.

Efforts to Support Sibling Placements

It is incumbent upon agencies to make active and continual efforts to promote sibling placements and to set clear expectations, both in policy and practice, that siblings must be placed together whenever possible. Per §3130.67(b)(7)(i), relating to placement planning, a child must always be placed in the least restrictive, most family-like placement setting, consistent with the best interest and special needs of the child. Therefore, placing siblings together in the same more restrictive placement setting, such as a group home, is only appropriate, when the individualized needs of each sibling in the sibling group can be met in the same group home.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) allows states to waive non-safety-related foster care licensing standards on a case-by-case basis for relatives who are seeking to become foster parents for related children, in order to eliminate barriers to placing children with relatives in approved homes. Agencies are encouraged to use the waiver request process for kinship resource homes being studied for approval to provide care for children, to facilitate the approval of kinship homes in a timely fashion. For example, waiver requests could relate to regulatory requirements such as the maximum number of children allowed in the home, and the age of the resource parent. Efforts to eliminate barriers to kinship home approval, such as providing alternate means to meet training requirements, should also be considered.

Agencies are also encouraged to review their resource home recruitment and retention strategies to determine if there are ways to increase the number of resource homes available for sibling groups, as well as the resources, services and supports needed to maintain these homes. Families who have adopted or fostered sibling groups, for example, could act as mentors, support networks and recruiters for current and prospective resource homes. Agencies are also encouraged to update their training for resource parents and agency staff, to include education on the importance of the sibling bond, their role in maintaining and nurturing healthy sibling connections, the effects of sibling separation including grief and loss, and the waiver request process. In addition to being used as an effective resource for identifying potential kinship caregivers and extended family supports, family group decision making can also provide a team approach to exploring decisions regarding sibling placement and supports for the placement.

It is incumbent upon agencies to ask resource families what services and supports are needed to prepare and assist them to care for the siblings together in the same home, such as child care, transportation, training, respite care, and scheduling appointments, and then assure that the needed services and supports are provided.

Sibling placements should be closely monitored, paying attention to both the needs of the children, the sibling group, as well as the resource parents. Agencies must provide additional supports and services to the individual children, the sibling group, and resource parents, that are needed to ensure their success and to assure that issues can be resolved proactively, so as to prevent a crisis situation.

If a resource parent asks to have one or more of the siblings removed from their care, but not all members of the sibling group, the decision on which children are removed must be driven by the needs of the children. When siblings must be separated due to safety and/or well-being concerns, both public and private agencies must continue to actively assess sibling safety and well-being needs as well as plan to reunite the siblings via joint placement or sibling visitation and contact when appropriate. An emergency family group decision making meeting can provide a team approach to exploring decisions regarding sibling placement and supports for the placement.

When Siblings Are Separated

Agencies must also actively assess current and future sibling placement decisions where siblings are separated due to safety or well-being concerns, to determine at least every six months whether a change is warranted and the children can be reunited in placement.

If placing the siblings together is possible, the agency must bring this recommendation to the attention of the court. If placing the siblings together is still not possible due to safety or well-being concerns, agencies must advise the court of the precise reasons why, and continue to make active and continual efforts toward reuniting the children in placement.

When siblings are not placed together, in preparing to provide information to the court, agency staff must consider the following factors regarding joint placement including, but not limited to:

- ✓ The history of the child-sibling relationship, including any safety and/or well being concerns;
- ✓ The child and sibling's reaction to being separated, including any preferences or concerns the child and sibling may have;
- ✓ The reasonable efforts that have been made and will continue to be made to place the siblings together;
- ✓ The specific safety and well-being concerns that prevent joint placement;
- ✓ The reasonable efforts being made to ensure frequent visitation and contact between siblings, to maintain the sibling relationship.

Sibling Visitation and Contact

The Act 115 requirement for visitation "no less than twice a month" is a minimum standard. Agencies are encouraged to facilitate more frequent visitation and contact between siblings as appropriate. Sibling visits and contact should be as frequent as possible, no less than twice a month, unless there is a finding that visitation is contrary to the safety or well-being of the child or sibling. When siblings cannot be placed together, plans for sibling visitation must be initiated immediately unless there is a finding that visitation is contrary to the safety or well-being of the child or sibling.

Sibling visits and contact should correlate with the children's ages, development and nature of their relationship. The length and time of visits between siblings should be individualized, and planned around the children's schedules and routines, depending upon the specific needs of the children. A child's well-being needs include their educational, emotional, and physical and mental health needs. Sibling visits should not be denied due to a child's or agency's schedule or routine. The children should be permitted to provide input into their visitation plan. In-person, face to face visits should also be supplemented with frequent and ongoing contacts – regular phone contact, sharing birthday and holiday cards and photos, and when appropriate and possible, other communication methods such as e-mail contact and web camera communication. E-mail contact and web camera communication should not take the place of in-person, face to face visits. Less structured visitation activities should also be provided, when appropriate and possible, to maintain and nurture the sibling bond, such as shared vacations, sleepovers, summer camp, and participating in activities of common interest, such as sports teams and youth groups.

Agencies must continually assess the visitation plan to ensure the frequency of sibling visits, and provide additional needed supports and services, such as transportation and flexible visitation locations and schedules, to promote successful visitation. Sibling visits should not be denied due to a child's or agency's schedule or routine. Sibling visits may be coincident with parent/guardian visitation, if appropriate and convenient. However, the occurrence of sibling visitation shall not depend upon whether or not visits occur between the parent(s) and children. Distinct visits between siblings may be necessary.

When a sibling remains in care, and his or her siblings are no longer in care (returned home, adopted, etc.), the agency continues to be obligated to continue to facilitate visits until all of the siblings are no longer in care. This includes a sibling who was adjudicated dependent before reaching age 18 who requests the court to retain jurisdiction until the completion of their course of instruction or treatment (up until age 21).

Agencies must assess current and future sibling visitation decisions when siblings are not visiting due to safety or well-being concerns, to determine whether safety or well-being concerns have been alleviated and visitation can begin. If safety or well-being concerns continue to exist, the agency must arrange services to work toward resolving the safety or well-being concerns, which would allow for future visitation/contact. Agencies must actively continue to assess cases in which siblings are not visiting due to safety or well-being concerns at least every six months, to determine whether visitation should occur. If a change in sibling visitation is warranted, the agency must bring this recommendation to the attention of the court.

In preparing to provide information to the court, agency staff must consider the following factors regarding sibling visitation and contact including, but not limited to:

- ✓ The history of the child-sibling relationship, including any safety and/or well being concerns;
- ✓ The child and sibling's reaction to having frequent and ongoing visitation and contact, including any preferences or concerns the child and sibling may have;
- ✓ The specific safety and well-being concerns that prevent visitation;
- ✓ When siblings are not placed together, the reasonable efforts being made to ensure frequent visitation and contact between siblings, to maintain the sibling relationship.

Efforts to Support Sibling Visitation and Contact

It is incumbent upon agencies to make active and continual efforts to promote sibling visitation and contact when siblings are placed separately in out of home care, to maintain their emotional attachments and family connections.

Agencies must set clear expectations, both in policy and practice, to support sibling visitation and contact. Agencies can further promote frequent and meaningful sibling visits by educating resource parents and agency staff on the importance of the sibling bond, their role in maintaining and nurturing healthy sibling connections, and the effects of sibling separation, including grief and loss. Staff supervision should include discussion of sibling visitation/contact plans and the frequency and quality of sibling visits/contacts.

Required Documentation if Child and Sibling Are Not Placed Together or Not Visiting

If the agency is unable to place the child and sibling together, due to safety or well-being concerns, the following information must be documented in the child's record, in the court report, or other appropriate location:

- ✓ The agency's reasonable efforts to ensure frequent visitation and contact between the siblings.
- ✓ The agency's active and continual efforts to place the siblings together, including the agency's plan for reuniting the child and his/her siblings.

If after 6 months (concurrent with the Child Permanency Plan and permanency hearing), the agency is unable, due to safety or well-being concerns, to place the child and sibling together or to allow visitation between the child and sibling, the agency must obtain a court order to this effect. In addition, the following information must be documented in the child's record, in the court report, or other appropriate location:

- ✓ The specific safety and well-being concerns that prevent joint placement and/or visitation.
- ✓ The agency's assessment, at least every six months, of whether safety or well-being concerns continue to exist and sibling placement or visitation should occur.
- ✓ If the agency's assessment indicates that sibling placement or visitation should occur, because safety or well-being concerns no longer exist, the agency must document its efforts to bring this recommendation to the attention of the court.

The child's permanency plan must also include the child's sibling visitation/contact plan, including visitation/contact frequency, locations and participants.

Required Documentation if Child and Sibling Are Placed Together

If the agency is able to place the child and sibling together, the agency's reasonable efforts to promote and maintain the joint placement must be documented in the child's record, in the court report, or other appropriate location. Reasonable efforts to promote and maintain the joint placement include, but are not limited to, assuring that each of the children in the sibling group receives the services and supports they need to meet their individual needs, and that resource families receive the services and supports they need to prepare and assist them to care for the siblings together in the same home, such as child care, transportation, training, respite care, and scheduling appointments.

OCYF Monitoring

OCYF regional offices will monitor each agency's implementation and practice application of the requirements Act 115 of 2010 via annual licensing inspections consistent with Title 55 Pa. Code, Chapter 3130.21(b) (relating to responsibilities of county executive officers) which requires agencies to comply with all applicable federal, state, and local statutes, ordinances and regulations.

ACT 115 of 2010

42 Pa.C.S.A. § 6351

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 42 Pa.C.S.A. Judiciary and Judicial Procedure

Part VI. Actions, Proceedings and Other Matters Generally

Chapter 63. Juvenile Matters

Subchapter D. Disposition of Children Generally

§ 6351. Disposition of dependent child

(a) General rule.--If the child is found to be a dependent child the court may make any of the following orders of disposition best suited to the safety, protection and physical, mental, and moral welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following:

(i) Any individual resident within or without this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child.

(ii) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.

(iii) A public agency authorized by law to receive and provide care for the child.

(2.1) Subject to conditions and limitations as the court prescribes, transfer permanent legal custody to an individual resident in or outside this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child. A court order under this paragraph may set forth the temporary visitation rights of the parents. The court shall refer issues related to support and continuing visitation by the parent to the section of the court of common pleas that regularly determines support and visitation.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 6363 (relating to ordering foreign supervision).

(b) Required preplacement findings.--Prior to entering any order of disposition under subsection (a) that would remove a dependent child from his home, the court shall enter findings on the record or in the order of court as follows:

(1) that continuation of the child in his home would be contrary to the welfare, safety or health of the child; and

(2) whether reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from his home, if the child has remained in his home pending such disposition; or

(3) if preventive services were not offered due to the necessity for an emergency placement, whether such lack of services was reasonable under the circumstances; or

(4) if the court has previously determined pursuant to section 6332 (relating to informal hearing) that reasonable efforts were not made to prevent the initial removal of the child from his home, whether reasonable efforts are under way to make it possible for the child to return home; and

ACT 115 of 2010

(5) if the child has a sibling who is subject to removal from his home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

The court shall not enter findings under paragraph (2), (3) or (4) if the court previously determined that aggravated circumstances exist and no new or additional reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family are required.

(b.1) Visitation for child and sibling.--If a sibling of a child has been removed from his home and is in a different placement setting than the child, the court shall enter an order that ensures visitation between the child and the child's sibling no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

(c) Limitation on confinement.--Unless a child found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

(d) County programs.--Every county of this Commonwealth shall develop programs for children under paragraph (5) or (6) of the definition of "dependent child" in section 6302 (relating to definitions).

(e) Permanency hearings.—(1) The court shall conduct a permanency hearing for the purpose of determining or reviewing the permanency plan of the child, the date by which the goal of permanency for the child might be achieved and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child. In any permanency hearing held with respect to the child, the court shall consult with the child regarding the child's permanency plan in a manner appropriate to the child's age and maturity. If the court does not consult personally with the child, the court shall ensure that the views of the child regarding the permanency plan have been ascertained to the fullest extent possible and communicated to the court by the guardian ad litem under section 6311 (relating to guardian ad litem for child in court proceedings) or, as appropriate to the circumstances of the case by the child's counsel, the court-appointed special advocate or other person as designated by the court.

(2) If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child has been adjudicated dependent, the court shall then determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the child's parent, guardian or custodian or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as provided in paragraph (3).

(3) The court shall conduct permanency hearings as follows:

(i) Within six months of:

(A) the date of the child's removal from the child's parent, guardian or custodian for placement under section 6324 (relating to taking into custody) or 6332 or pursuant to a transfer of temporary legal custody or other disposition under subsection

(a)(2), whichever is the earliest; or

(B) each previous permanency hearing until the child is returned to the child's parent, guardian or custodian or removed from the jurisdiction of the court.

ACT 115 of 2010

(ii) Within 30 days of:

(A) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made;

(B) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;

(C) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent, filed under section 6334(b) (relating to petition); or

(D) a petition alleging that the hearing is necessary to protect the safety or physical, mental or moral welfare of a dependent child.

(f) Matters to be determined at permanency hearing.-- At each permanency hearing, a court shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The appropriateness, feasibility and extent of compliance with the permanency plan developed for the child.

(3) The extent of progress made toward alleviating the circumstances which necessitated the original placement.

(4) The appropriateness and feasibility of the current placement goal for the child.

(5) The likely date by which the placement goal for the child might be achieved.

(5.1) Whether reasonable efforts were made to finalize the permanency plan in effect.

(6) Whether the child is safe.

(7) If the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child.

(8) The services needed to assist a child who is 16 years of age or older to make the transition to independent living.

(9) If the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made, whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

(i) the child is being cared for by a relative best suited to the physical, mental and moral welfare of the child;

(ii) the county agency has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the needs and welfare of the child; or

(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's parent, guardian or custodian within the time frames set forth in the permanency plan.

(10) If a sibling of a child has been removed from his home and is in a different placement setting than the child, whether reasonable efforts have been made to

ACT 115 of 2010

place the child and the sibling of the child together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

(11) If the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

For children placed in foster care on or before November 19, 1997, the county agency shall file or join a petition for termination of parental rights under this subsection in accordance with section 103(c)(2) of the Adoption and Safe Families Act of 1997 (Public Law 105-89, 111 Stat. 2119).

(f.1) Additional determination.--Based upon the determinations made under subsection (f) and all relevant evidence presented at the hearing, the court shall determine one of the following:

(1) If and when the child will be returned to the child's parent, guardian or custodian in cases where the return of the child is best suited to the safety, protection and physical, mental and moral welfare of the child.

(2) If and when the child will be placed for adoption, and the county agency will file for termination of parental rights in cases where return to the child's parent, guardian or custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(3) If and when the child will be placed with a legal custodian in cases where the return to the child's parent, guardian or custodian or being placed for adoption is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(4) If and when the child will be placed with a fit and willing relative in cases where return to the child's parent, guardian or custodian, being placed for adoption or being placed with a legal custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(5) If and when the child will be placed in another living arrangement intended to be permanent in nature which is approved by the court in cases where the county agency has documented a compelling reason that it would not be best suited to the safety, protection and physical, mental and moral welfare of the child to be returned to the child's parent, guardian or custodian, to be placed for adoption, to be placed with a legal custodian or to be placed with a fit and willing relative.

(f.2) Evidence.--Evidence of conduct by the parent that places the health, safety or welfare of the child at risk, including evidence of the use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk, shall be presented to the court by the county agency or any other party at any disposition or permanency hearing whether or not the conduct was the basis for the determination of dependency.

(g) Court order.--On the basis of the determination made under subsection (f.1), the court shall order the continuation, modification or termination of placement or other disposition which is best suited to the safety, protection and physical, mental and moral welfare of the child.

(h) Deleted by 2002, Dec. 9, P.L. 1705, No. 215, § 3, effective in 60 days.

(i) Assignment to orphans' court.--A judge who adjudicated the child dependent or who has conducted permanency hearings or other dependency proceedings involving the child may be assigned to the orphans' court division for the purpose of hearing proceedings relating to any of the following:

ACT 115 of 2010

(1) Involuntary termination of parental rights of a parent of the dependent child under 23 Pa.C.S. Ch. 25 Subch. B (relating to involuntary termination).

(2) A petition to adopt the dependent child.

CREDIT(S) 1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1986, Dec. 15, P.L. 1598, No. 177, § 1, effective in 60 days; 1996, July 11, P.L. 607, No. 104, § 5, effective in 60 days; 1998, Dec. 15, P.L. 949, No. 126, § 8, effective Jan. 1, 1999; 2002, Dec. 9, P.L. 1705, No. 215, § 3, effective in 60 days; 2007, Dec. 18, P.L. 484, No. 76, § 1, effective Jan. 1, 2008; 2010, Nov. 23, P.L. 1140, No. 115, § 1, effective in 60 days [Jan. 24, 2011].