

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1491

Amending Child in Need of Aid Rule 17.2 concerning findings in a permanency plan and requiring good cause for continuing a permanency hearing.

IT IS ORDERED:

Child in Need of Aid Rule 17.2 is amended to read as follows:

Rule 17.2. Permanency Hearing.

(a) **Purpose and Timing of the Hearing.** The purpose of the permanency hearing is to establish a permanent permanency plan for ~~a~~each child committed to state custody under AS 47.10.080(c)(1) ~~and to determine the future direction of the case~~ and to ensure that findings with respect to the plan are made as required by state and federal laws. The permanency hearing must be held: (1) within 12 months after the date the child entered foster care as calculated under AS 47.10.088(f); (2) within 30 days after the court determines pursuant to CINA Rule 17.1 that reasonable efforts are not required; or (3) upon application by a party, when good cause is shown.

(b) **Notice.** The court or the party requesting the permanency hearing shall notify the parties of the time set for the hearing, the right to counsel, and the right to submit statements, affidavits or other evidence to the court. The Department shall notify the foster parent or other out-of-home care provider of the time set for the hearing and the

right to participate in the hearing. In cases involving an Indian child, the Department shall also provide notice to the child's tribe if the child's tribe has not intervened. A party seeking a continuance of a scheduled hearing must provide reasons for the request. The court may not grant a continuance of a scheduled hearing absent a finding of good cause.

(c) **Report.** The Department shall file and serve a permanency report no later than ten days prior to the permanency hearing. In the report, the Department shall ~~specify its proposed permanent~~ describe its permanency plan for the child, and shall provide with a detailed statement of the facts and circumstances supporting the ~~proposed permanent~~ plan.

(d) **Evidence.** Hearsay which is not otherwise admissible under a recognized exception to the hearsay rule may be admissible at the permanency hearing if the hearsay is probative of a material fact, has circumstantial guarantees of trustworthiness, and the appearing parties are given a fair opportunity to meet it.

(e) **Findings.** The court shall make written findings, including findings related to

(1) whether the child continues to be a child in need of aid;

(2) whether the child should be returned to the parent or guardian, and when;

(3) whether the child should be placed for adoption or legal guardianship and whether the Department is in

compliance with AS 47.10.088(d) relating to the filing of a petition for termination of parental rights;

(4) whether the child should be placed in another planned, permanent living arrangement and what steps are necessary to achieve the new arrangement; and

(5) in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living or adult protective services.

If the court is unable to make a finding required under this ~~subsection~~paragraph, the court shall schedule and hold another permanency hearing within a reasonable period of time as defined in AS 47.10.990(23).

(f) **Additional Findings.** In addition to the findings required under ~~subsection~~paragraph (e), the court shall also make written findings related to

(1) whether the Department has made reasonable efforts required under AS 47.10.086 or, in the case of an Indian child, whether the Department has made active efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C. Sec. 1912(d);

(2) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid; and

(3) if the ~~permanent~~permanency plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the

best interests of the child; and-

(4) whether the Department has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement).

(g) **Implementation.** The court may make appropriate orders to ensure timely implementation of the ~~permanent~~ permanency plan.

(h) **Change in ~~Permanent~~ Permanency Plan.** If the ~~permanent-permanency~~ plan established by the court changes after the permanency hearing, the Department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the Department.

(i) **Subsequent Review.** The court shall hold a hearing to review the ~~permanent-permanency~~ plan at least annually until successful implementation of the plan.

Cross References

CROSS REFERENCES: AS 47.10.080(c), (f), (l); AS 47.10.088(f); AS 47.10.086(d); 45 CFR § 1356.21(b).

DATED: April 24, 2006

EFFECTIVE DATE: October 15, 2006

/s/
Chief Justice Bryner

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Carpeneti