

Dependency, Neglect and Abuse Cases – Time Requirements

IN COURT PROCEEDINGS:

Temporary Removal Hearing – 15minutes average (can be 30mins-1 hour)

*Must be held within 72 hours of an Emergency Custody Order OR 10 days if Emergency Custody is not requested

Pre-trial Conference – 15 minutes

Adjudication – 30 mins to a full day – (average of 1-2 hours)

*Witness lists must be exchanged at least 10 days prior to a hearing

Disposition – 15-30 minutes

* to be held within 45 days of filing of Petition

*Dispositional report must be filed 14 days prior to the Disposition

General Reviews – 15-30 minutes

- Generally held every 3 months

Pre-Permanency Review – 15-30 minutes

*Must be held at 6 months if a child is removed from the home

Annual Permanency Review – 15-30 minutes

*Must be held within one year of removal

Other hearings often held:

Continued Pre-trial Conference – 15 minutes

Motion for Change in Placement – 30 mins – 3 hours

Qualified Residential Treatment Program Review – 15-30 minutes

Motions concerning Visitation – 30mins-3hours

Motion for Permanent Custody – 30 minutes – 3 hours

Termination of Parental Rights Petition

Status Review within 30 days – 15-30 minutes

*Warning Order Attorney – often required with an absent parent or parent that lives a nomadic lifestyle; they have 30 days to file a report to effectuate service

(often have an additional Pre-trial conference – 15 minutes)

Termination of Parental Rights Trial – 2hours – full day

Wait time - 30 day time period for appeal

Appeals – We will often wait up to one year if a decision is appealed; further delays are caused if there is an appeal to the Supreme Court or a reversal from the Court of Appeals

ADOPTION PROCEEDING

Report from Cabinet to approve the adoptive home

Report from Guardian Ad Litem

Set Final Hearing for Adoption

(This process can normally be completed within 90 days of the filing of an adoption Petition)

CAUSES FOR DELAY/ EXTENDED HEARING

(These are simply MY observations from MY experience without collaboration)

DELAYS IN ADJUDICATING

- It takes TIME for an Attorney to prepare for an Adjudication, which is essentially, a Bench Trial
 - o Attorneys need to collect reports, evidence, interview potential witnesses, etc. Due diligence takes time and/or resources.
 - o Attorneys CAN'T AFFORD to prioritize these cases. \$500 per case (before taxes) is a very low fee. Attorneys have to pay for staff, office space, equipment, malpractice insurance, etc. They must make money in other areas to balance the low fees in these cases, so scheduling a quick Adjudication can be difficult
 - o Quality Attorneys representing all parties can expedite the process and hold everyone accountable for moving the case forward. An attorney that can't afford to pay for a secretary can't prepare for an Adjudication as fast as an attorney that has staff to assist.

- CRIMINAL CASES – it is often that there are criminal charges associated with physical abuse cases, sexual abuse cases and cases involving domestic violence; it is a difficult situation because Counsel for the Parents do NOT want their client to testify; protection of 5th Amendment right; often delays due to law enforcement's continued investigation; delays in lab evidence. Criminal cases can take up to a year to even indict, 2-4 years to actually resolve.

DELAYS IN PROGRESS

- ASSESSMENTS and EVALUATIONS – There are various necessary assessments or evaluations and there are extensive waiting lists of 6 months or more
- Therapy in general – often a delay in accessing services
- Emotional Injury Assessments are required in certain cases. Simply scheduling the assessment can take 30-60 days; and an additional 30-60 days to receive the report.

PROCESSES CAUSING DELAYS

- ICPC – Interstate Compact on the Placement of Children – Working across state lines is a huge barrier and causes significant delays.

- We expect to wait AT LEAST 6 months for a relative to be evaluated in another state for possible placement of a child. Some states require a relative to become a licensed foster parent to be approved for placement of a child.
 - Even larger barriers exist if a parent is located out of state. Other states rarely accept cases to provide services to a family when the abuse/neglect occurred in Kentucky. They often deny any home evaluation requests for a parent. This means that we LACK sufficient information to safely return a child. If we DO NOT wait for an ICPC to be processed, the family will NOT receive services or resources from the other state.
 - You can't simply transfer a case across state lines. Although we have a unified court system in Kentucky and can transfer across county lines, we cannot do the same in another state. If there is not an existing case open in another state, there isn't anything we can do to give another state jurisdiction.
- Need for an **interpreter**; having to translate simply takes more time. In areas with a strong refugee population, scheduling interpreters and the ability of the attorneys to meet with their clients to prepare for Court, can be very difficult and time consuming.

***This is NOT an exhaustive list! I prepared this quickly in anticipation of testimony and this should not be relied upon as anything other than a summary of the opinions and observations of Judge Mica Pence.