

Comparison of Relative Placements

Margaret A. Burt, Esq. 2009

Relatives to be given OCFS booklet which describes the options. Likely the relative will still need options explained/discussed and local DSS may suggest to relative and/or support at court promote one option as a better alternative than others

Art. 6 Custody –

- Relative must file petition themselves – clarification that Art. 6 can be filed at any time
- This can be the only resolution after an Art. 10 finding without any other Art. 10 dispo
- Relative not entitled to free lawyer unless they have physical/legal custody
- Court NOT be allowed to order DSS to “supervise” or “provide services”
- No perm hearings
- No court reviews
- May or may not be eligible for preventive services – court can’t “order” DSS to provide them but could order parties to see if they are eligible
- Relative must support child or seek support on their own – may be eligible for various types of assistance such as food stamps, PA
- Parent and relative can “modify” without going to court – no one checks
- Could order that child cannot be returned to parent without court review and DSS involvement- also can “load” Art. 6 up with other orders such as an o/p
- Cannot move to an adoption without consent or abandonment or mental illness or retardation – no “private” perm neglect grounds
- Cannot “return” child – unless parent willing to take child back, there is no statutory authority to “revoke” a custody order
- Can sign a voluntary but no custody transfer and so no IVE money
- Art. 6 is meant to be a “permanent” arrangement
- Custodian determines school, medical insurance

Art. 10 custody aka N docket Custody aka 1017 Custody aka direct placement aka “parole to”

- Must be an abuse or neglect petition filed
- Temporary in the sense that it moves from perm hearing to perm hearing
- Art. 10 custodian is “under the jurisdiction” of the court – can specify what custodian must do
- Ongoing court reviews in perm hearings
- Services and Supervision by DSS
- Permanency planning by DSS and court
- Relative must support child but DSS may help locate (but not pay) funding – could be eligible for food stamps, PA, etc

- Can do a Dale P. TPR but not obligated to do so
- Reluctance to Art. 6 “step out”
- Can move to foster care provider more easily, no IVE money if after 6 months

Guardianship

- Relative must file papers, no free lawyer unless had custody
- Relative must have own support or locate support on their own
- No statutory provision for DSS to offer supervision or services
- May be eligible for preventive services but court cannot order DSS to provide
- No ongoing court review
- Parties could “modify” without anyone knowing – could fashion order to require return to court or notice to DSS - “loaded” order
- No statutory authority to “revoke” guardianship but can do a voluntary and get IVE money
- Guardian decides school district , medical insurance from employer
- Guardianship can continue from 18 to 21 if young person consents

Foster parents

- Must be abuse, neglect or a voluntary placement
- Will be supervision, services and money from DSS
- DSS has legal custody and decision making power
- Can get emergency certification
- Process requires training and investigation
- Must do ongoing perm hearings
- DSS and court must do perm planning
- TPR possible but if relative then not mandated

“Permanent Guardians”

- Where child freed for adoption or orphaned
- As alternative to adoption
- With young person’s consent can continue between 18 and 21
- Can handle school, medical and insurance, even adoption
- No foster care funding

Designation of a Person in Parental Relation – GOL § 5-1551 to 5-1555

- Parent can sign a ‘designation’ for a person to act like a parent for a child
- No court action needed
- Can’t be for more than 6 months at a time
- For school and health issues – but does not change school district
- No foster care funding
- Parent can revoke