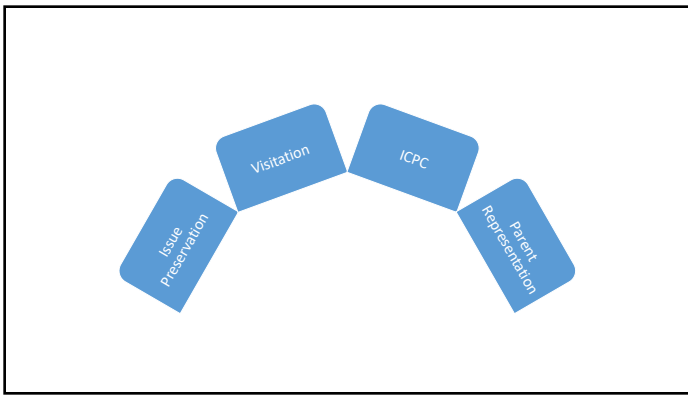
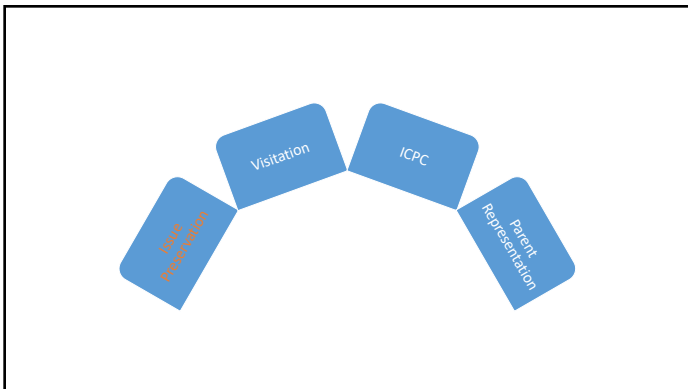


The screenshot shows the UNC School of Government website. On the left, a dark blue banner contains the text: "Case Update Part II Parent Attorneys (2024)" and the names "SARA DEPASQUALE" and "TIMOTHY HEINLE" from the "UNC SCHOOL OF GOVERNMENT". The main content area is titled "Child Welfare Case Compendium" and includes a search interface with "New Search" and "Print Results" buttons. Below these are instructions on how to use the search filters and a search box with a dropdown menu for "All Categories".

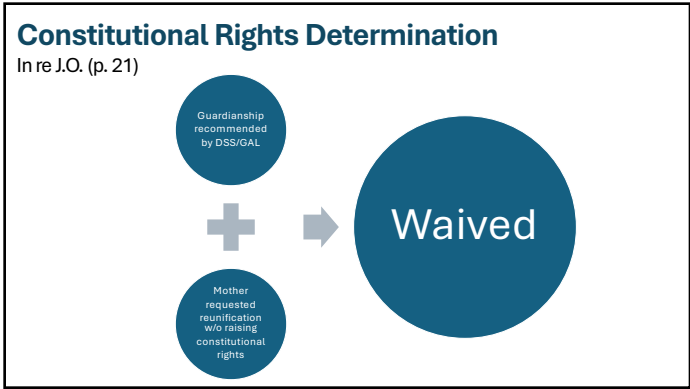
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4

'Waiving' Goodbye to Your Argument

Notice + Opportunity =
Specific constitutional argument at trial level

5

G.S. 7B-601
In re M.G.B. (p. 5)

6



7

<p>Performance</p> <ul style="list-style-type: none">• Before removal, communicate with GM• Monthly<ul style="list-style-type: none">• Visits with children• Calls with foster parents• Review DSS reports<ul style="list-style-type: none">• Doc of grandmother's + visits• Reports at each hearing<ul style="list-style-type: none">• Health and well-being• Education• Relationship with placement & each other• Wishes	<p><i>CHECKLIST</i></p> <ul style="list-style-type: none"><input checked="" type="checkbox"/><input checked="" type="checkbox"/><input checked="" type="checkbox"/><input checked="" type="checkbox"/><input checked="" type="checkbox"/><input type="checkbox"/>
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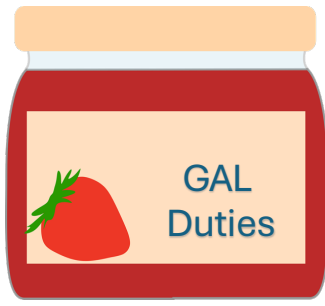
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<p>Preservation for appeal</p> <ul style="list-style-type: none">• Automatic: contrary to statutory mandate that requires<ul style="list-style-type: none">• Specific act• Specific courtroom proceedings judge directs• 7B-601: GAL appointment<ul style="list-style-type: none">• Trial court appoints• Duties are directed to GAL
--

9

'Preserving' Your Argument

Raise GAL performance deficiencies at trial.



10



GAL opinion ≠ Juvenile's express wishes?

The GAL advocates their own perspective but also must "convey [the child's] express wishes **accurately** and **objectively** to the court."

In re J.C.-B., 276 N.C. App. 180, 192 (2021)

G.S. 7B-601(a)

- Investigate to determine the:
 - Facts
 - Juvenile's needs
 - Available family resources to meet those needs
 - Available community resources to meet those needs
- Facilitate the settlement of disputed issues, where appropriate
- Offer evidence and examine witnesses (Adj.)
- Explore options for disposition
- Conduct follow-up investigations to ensure court orders are being properly executed*
- Report when the needs of the juvenile are not being met*
- Protect + promote the juvenile's best interests

11

Guardian ad Litem Job Description

A Guardian ad Litem (GAL) is a trained community member appointed by a district court judge to investigate and determine the needs of abused and neglected children and youth and advocate for the court system by the Department of Social Services. The GAL is paired with an Attorney Advocate to represent the child's best interest in court.

RESPONSIBILITIES

Reporting to Court

- Gather and assess independent information about the child's situation and needs for:
- Getting to know the child
- Identifying parents, relatives, social workers, teachers, service providers
- Making referrals to the child and family

Collaborating

- Work cooperative solutions with other professionals
- Communicate with the GAL attorney advocate
- Develop legal strategies and prepare for court
- Attend court hearings and other meetings

Representing the Best

- Write GAL focused reports for court hearings
- Make recommendations to the child's best interest
- Testify, when needed, to support recommendations or inform the court of changes in the child's situation

Empowering the Child's Voice

- Assist the child and family in expressing the child's wishes
- Interviewing
- Analyze the child's participation in court hearings as appropriate

Working Values

- Develop the best interests as an ongoing basis
- Work with trial program staff for support and guidance

Confidentiality is Key

- Keep all records and information confidential

New Ethics Opinion on Dual Role GAL—Attorney Advocates in Juvenile Proceedings

This entry was contributed by Trudity Harris on August 17, 2022 at 10:40 am and is filed under Child Welfare Law, Juvenile Law, Social Services.

The post was updated on September 6, 2022 in response to helpful reader feedback regarding the nuances that exist when determining whether there is a conflict of interest for a GAL program and, if so, the possible options available to cure that conflict. The amended portion can be found in the [Conflicts of Interest](#) section below.

The State Bar has issued an ethics opinion discussing the role of attorneys who are appointed as a guardian ad litem (GAL) volunteer, GAL, attorney advocate, or both, in juvenile abuse, neglect, dependency or termination of parental rights matters. See N.C. State Bar, [SPECIAL ETHICS OPINION 0202](#), hereinafter 2022 FEED 1. While the opinion does not specifically mention termination proceedings, G.S. 7B-601—the statute that creates the duties of a GAL in an abuse, neglect, dependency matter—also applies to GAL in termination proceedings. G.S. 7B-1106, 2022 FEED 1 should be considered as applying to GAL appointments in both juvenile and termination proceedings. This ethics opinion places new obligations on the appointed attorney and includes a role for the district court judge making the appointment. Typically, the attorney appointed to serve as both GAL, attorney advocate and volunteer is an attorney known to the juvenile court for representing parents. The guidance provided in 2022 FEED 1 is important for parent attorneys and all other court actors in juvenile proceedings.

Typical representation of a juvenile in juvenile proceedings

When the administrative Office of the Courts is an Office of GAL Services, when a department of social services (DSS) files a petition alleging abuse or neglect, the court appoints the GAL program to represent the juvenile. If a petition is filed independently, the appointment is to the court's discretion, G.S. 7B-601(a). The GAL program's purpose is to protect the legal rights of the juvenile, G.S. 7B-601(a). The GAL program typically includes an attorney advocate who represents the juvenile in court, a GAL volunteer who is a trained community member charged with investigating allegations and making recommendations as to the juvenile's best interests, and a social GAL program staff member who

QUALIFICATIONS

- A proven concern for the well-being of children
- A commitment to advocate for a child and a willingness to be held accountable
- Good communication skills, including written and verbal communication skills
- The ability to interact respectfully with people from diverse backgrounds
- Good verbal and written communication skills

REQUIREMENTS

A guardian ad litem serves as a GAL, volunteer or attorney advocate for the court and is appointed to represent the child and advocate for the child. Advocating for the child's best interests is the primary responsibility of the GAL. Commitments vary depending on the child's needs.

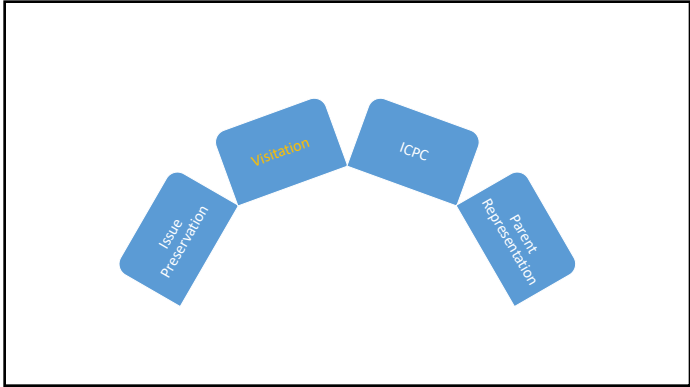
- In order to become a GAL, you will need to:
 - complete a written application
 - complete an interview with program staff
 - complete a criminal background check

GAL candidates successfully complete 30 hours of training before being accepted into the program. Training is by a judge and approved to advocate on behalf of a child in abuse or neglect proceedings for the child. GALs attend continuing education trainings on an ongoing basis.

SUPERVISION

Guardians ad Litem are supervised by program staff.

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13

In re J.O. (p. 18)

Guardianship ordered
Visitation at discretion of guardian

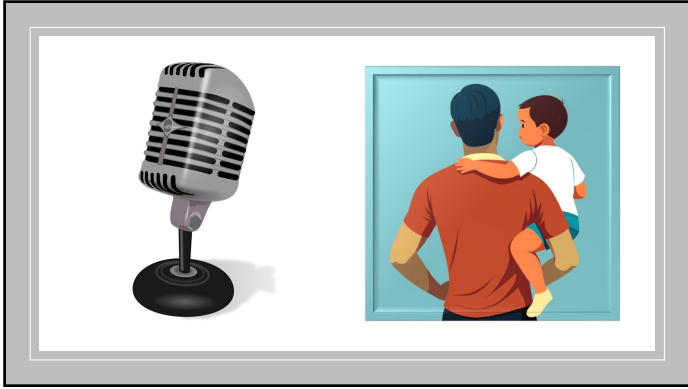
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Review of G.S. 7B-905.1

Minimum Outline

Cannot delegate

15




16

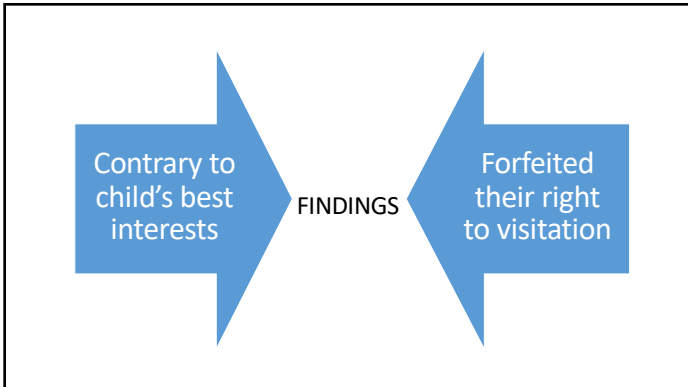
No Visitation
In re A.J.L.H. (p. 14)

COA
(on remand)
Back to NCSC

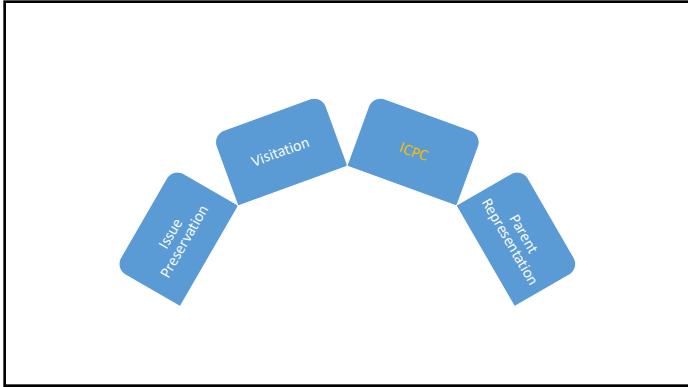
- Factors:
 - DSS history
 - Other children removed – is it related to this child's removal
 - Failed/minimally participate in case plan
 - Not consistently attend visits
 - Relinquishment
- Constitutional Rights – **NEW**
- Clear, cogent, convincing evidence
- Each Child and Parent



17



18



19

ICPC
In re K.B.

- Home Study not required before rule out relative
- ICPC compliance when actually place
- DISSENT: 3 years

20

ICPC
In re K.B. (p. 22)

2 permanency planning hearings; same order

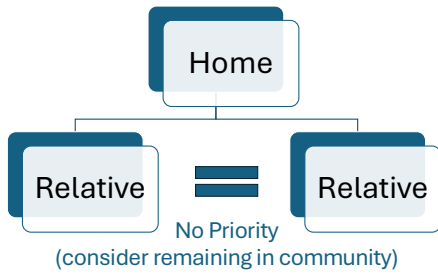
2019:
Placed with great aunt in NC
DSS ordered to assess GM in GA; starts

Nov. 2021:
Home study sent; never completed

Guardianship to Aunt

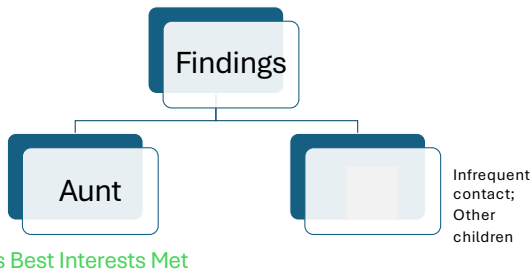
21

Abuse of discretion review

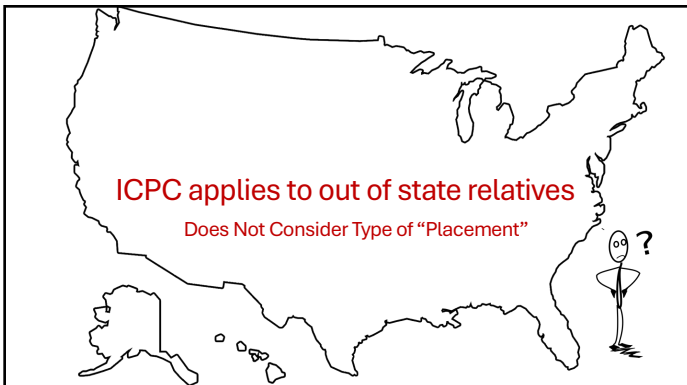


22

Did Not Have to Wait



23



24

DSS unjustifiably delayed; show cause option

3 years

2019:

DSS ordered to assess GM in GA; starts

Nov. 2021:

Home study sent

2022:

Guardianship to Aunt; ICPC not completed

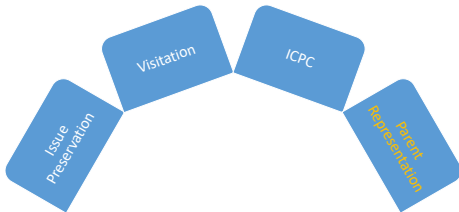
25



In re K.B.,
incentives, and
consequences

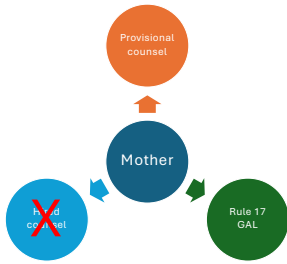
- Don't delay. Complain loudly and often.
- Show cause
- Reasonable efforts
- Beyond ICPC

26



27

In re A.K. (p.3)




28

Parent's Right to Hire Counsel

- Licensed + RPC (not local rules + experience)
- Court's inherent authority not unlimited.
- Don't just stand by – get out.

A Respondent Parent's Right to Retain Counsel: Lessons from a New Court of Appeals Decision, In re A.K.

This entry was contributed by Timothy Heible on August 21, 2024 at 9:18 am and is filed under Child Welfare Law.

 A recent decision by the North Carolina Court of Appeals considers the right of a respondent parent in a juvenile abuse, neglect, or dependency (AND) proceeding to hire counsel of their own choosing and what standards, if any, a retained attorney must meet to be allowed to represent a parent. *In re A.K.*, ___ N.C. App. ___ (August 6, 2024). The case also includes discussion of the procedures for appointing a Rule 17 guardian ad litem to a respondent parent – an issue I will explore in a later post. This post focuses on what the opinion in *A.K.* does – and does not – tell us about a parent's right to hire counsel.

A Parent's Right to Counsel, Generally


When an AND petition or a petition to terminate parental rights (TPR) is filed, the juvenile's parent has a statutory right to counsel, absent certain exceptions. See G.S. 7B-602(a); 7B-1101.1(a). Provisional counsel must be appointed for each parent named in the petition but must be dismissed at the first hearing if one of these statutory factors applies: the parent fails to appear at the hearing, the parent has retained private counsel, the parent is not indigent, or the parent knowingly and voluntarily waives their right to counsel. G.S. 7B-602(a)(1); 7B-1101.1(a)(1). If none of the statutory factors are satisfied, the court must confirm the appointed counsel. G.S. 7B-602(a); 7B-1101.1(a).

In re A.K., ___ N.C. App. ___ (August 6, 2024)


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Forfeiture of Counsel

In re D.T.P. (p. 36)

 Parents Forfeited Their Right to Court-Appointed Counsel in TPR: What is the Law for Attorney Representation of Parents in A/N/D and TPR Actions?

This entry was contributed by Sara DePasquale on December 6, 2023 at 5:55 pm and is filed under Child Welfare Law.

 North Carolina law requires that parents in abuse, neglect, dependency (A/N/D) and termination of parental rights (TPR) cases receive court-appointed counsel if they are indigent. G.S. 7B-602; 7B-1101.1. Parents also have a right to knowingly and voluntarily waive their statutory right to counsel. *Id.* The question of whether a parent may forfeit their right to counsel in a juvenile proceeding based on their behaviors has not been answered until recently. This appellate opinion addresses the issue and answers that question. Parents can and have forfeited their statutory right to court-appointed counsel. To get to forfeiture, you first need to understand the rules related to a parent's statutory right to court-appointed counsel.

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