

9/27/13

Committee
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Rule 47. Reviews and modification of orders.

(a) Reviews.

(a)(1) At the time of disposition in any case wherein a minor is placed on probation, under protective supervision or in the legal custody of an individual or agency, the court shall also order that the individual supervising the minor or the placement, submit a written report to the court at a future date and appear personally, if directed by the court, for the purpose of a court review of the case. If a date certain is not scheduled at the time of disposition, notice by mail of such review shall be given by the petitioner, if the review is a mandatory review, or by the party requesting the review to the supervising agency not less than 5 days prior to the review. Such notice shall also be given to the guardian ad litem, if one was appointed.

(a)(2) No modification of a prior dispositional order shall be made at a paper report review that would have the effect of further restricting the rights of the parent, guardian, custodian or minor, unless the affected parent, guardian custodian or minor waives the right to a hearing and stipulates ~~in open court or in writing~~ to the modification. If a guardian ad litem is representing the minor, the court shall give a copy of the report to the guardian prior to the report review.

(b) Review hearings.

submit documents *ad litem* *paper*

(b)(1) Any party in a case subject to review may request a review hearing. The request must be in writing and the request shall set forth the facts believed by the requesting party to warrant a review by the court. If the court determines that the alleged facts, if true, would justify a modification of the dispositional order, a review hearing shall be scheduled with notice, including a copy of the request, to all other parties. The court may schedule a review hearing on its own motion.

(b)(2) The court may modify a prior dispositional order in a review hearing upon the stipulation of all parties and upon a finding by the court that such modification would not be contrary to the best interest of the minor and the public.

(b)(3) The court shall not modify a prior order in a review hearing that would further restrict the rights of the parent, guardian, custodian or minor if ~~the modification is objected to by any party prior to or in the review hearing. The court shall schedule the case for an evidentiary hearing and require that a motion for modification be filed with notice to all parties in accordance with Section 78A-6-1403. Upon objection, the court shall schedule the matter for a motion hearing and require that a motion be filed with notice to all parties. A party requesting an evidentiary hearing shall state the request in his or her response to the motion for modification.~~

any party objects to the modification

to modify the prior order

in the motion to modify the prior order or in the response to the motion.

(b)(4) All cases which require periodic review hearings under Title 78A Chapter 6 shall be scheduled for court review not less than once every six months from the date of disposition.

(c) Disposition reviews. Upon the written request~~petition~~ of any agency, individual or institution vested with legal custody or guardianship by prior court order, the court shall conduct a review hearing to determine if the prior order should remain in effect. Notice of the hearing, along with a copy of the written request~~petition~~, must be provided to all parties not less than 5 days prior to the hearing, unless the hearing is expedited.

(d) Review of a case involving abuse, neglect, or dependency of a minor shall be conducted also in accordance with Section 78A-6-117, Section 78A-6-314 and Section 78A-6-315.

(e) Intervention plans

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Intervention plans are plans prepared by the probation department or agencies assuming custody of the minor designed to assist the minor and/or the parents ~~or~~ guardian address or correct issues that caused the court to be involved with the minor and his or her family.

(e)(1) In all cases where the disposition order places temporary legal custody or guardianship of the minor with an individual, agency, or institution, a proposed intervention plan shall be submitted by the probation department when probation has been ordered; by the agency having custody or guardianship; or by the agency providing protective supervision, within 30 days following the date of disposition. This intervention plan shall be updated whenever a substantial change in conditions or circumstances arises.

(e)(2) In cases where both parents have been permanently deprived of parental rights, the intervention plan shall identify efforts made by the child placing agency to secure the adoption of the minor and subsequent review hearings shall be held until the minor has been adopted or permanently placed.

(f) Progress reports.

(f)(1) A written progress report relating to the intervention plan shall be submitted to the court and all parties by the agency, which prepared the intervention plan at least two working days prior to the review hearing date.

(f)(2) The progress report shall contain the following:

(f)(2)(i) A review of the original conditions, which invoked the court's jurisdiction.

(f)(2)(ii) Any significant changes in these conditions.

(f)(2)(iii) The number and types of contacts made with each family member or other person related to the case.

(f)(2)(iv) A statement of progress toward resolving the problems identified in the intervention plan.

(f)(2)(v) A report on the family's cooperation in resolving the problems.

(f)(2)(vi) A recommendation for further order by the court.

(g) In substantiation proceedings, a party may file a motion to set aside a default judgment or dismissal of a substantiation petition for failure to appear, within thirty days after the entry of the default judgment or dismissal. On motion and upon such terms as are just, the court may in the furtherance of justice relieve a party from a default judgment or dismissal if the court finds good cause for the party's failure to appear. The filing of a motion under this Subdivision does not affect the finality of a judgment or suspend its operation.