I.J.R. 55. Review of Voluntary Out-of-Home Placements

Idaho Juvenile Rule 55. Review of Voluntary Out-of-Home Placements

(a) The department of health and welfare may petition the court for review of voluntary out-of-home placement of children.

(b) The petition shall be signed by the prosecutor or deputy attorney general before being filed with the court. The petition shall be entitled ìIn the Matter of _____, a child under the age of eighteen (18) years, and shall be verified and set forth with specificity:

1. The name, birthdate, sex and residence address of the child;

2. The name and residence addresses of the child's parents, custodian, or guardian,

3. The date the child entered the voluntary out-of-home placement, and the nature and location of that placement,

4. A statement that review is sought to ensure the child's eligibility for federal funding for the placement, or statement of such other reasons for which the review is requested.

5. The name of the parent, guardian, or custodian consenting to the placement, and in the case of a guardian or custodian, the basis for the guardian or custodian's authority to consent to treatment on behalf of the child, and a statement that the consent has not been withdrawn.

6. A statement that continued voluntary out-of-home placement is in the best interest of the child.

(c) In the case of a voluntary out-of-home placement, the petition shall be accompanied by an affidavit of the department setting forth the basis for the department's determination that continued voluntary out-of-home placement is in the best interest of the child. In the case of a voluntary placement pursuant to the Children's Mental Health Services Act, the petition shall also be accompanied by an affidavit of the child's clinician setting forth the basis for the clinician's determination that the child is seriously emotionally disturbed, and is in need of continued out-of-home placement.

(d) At or following the hearing, the court shall enter an order approving the placement if the court finds that:

1. A petition has been filed.

2. In the case of a voluntary out-of-home placement pursuant to the Children's Mental Health Services Act, the clinician's determination that the child is seriously emotionally disturbed and is in need of continued out-of-home placement is supported by information in the affidavit and/or the clinician's testimony at the hearing.

3. The child's parent, guardian, or custodian has consented to continuation of the placement, and in the case of a guardian or custodian, that the guardian or custodian has authority to consent to treatment on behalf of the child.

4. The voluntary out-of-home placement of the child is in the best interest of the child.

(e) The court's best interest finding shall be in writing and shall be case-specific.

(f) This procedure shall not be used to convert a voluntary placement to an involuntary placement.

(Adopted November 13, 2008)

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