

# Chapter 16 – Resumption of Jurisdiction

## 16.1 Overview

Resumption of jurisdiction, an option for young adults previously involved in the child dependency system, was established through Act 91 of 2012. The Act was implemented as an option for certain young adults previously under the supervision of the court to provide additional supports as they transition to adult living. Prior to Act 91, dependent youth who left the jurisdiction of the court had no recourse for help through the dependency court system once their case was terminated. As such, many young adults who left care did so without the assurance of ongoing support...something routinely afforded to most young adults through family, kin and community connections.

“So many of the children who age-out of America’s foster care system are isolated and struggle to make it as adults...I can attest to the fact that the streets are not where we want our foster youth to end up...We deserve the right to have a voice in the matters that affect our lives...And we deserve the right to be prepared to be successful as adults.”

- Raif Walter, 21, whose experiences were chronicled in the documentary *From Place to Place*. (Foster Focus, Vol. 1, Issue 4, p. 30).

The intent of Act 91 was to provide a “safety net” for youth previously under the court’s supervision. For most young adults there is nothing magic about age eighteen. Young people turning eighteen years of age, in general, are often not ready for the numerous responsibilities of independent living and often need a fall back option to total independence. In addition, the legislation was fueled by research which demonstrated the dismal outcomes experienced by many former foster youth, including high school dropout, joblessness, homelessness, health problems including mental illness, substance abuse, early parenthood and involvement with the criminal justice system.

Despite these poor outcomes, many dependent youth are determined to leave agency custody and court supervision upon their eighteenth birthday. In the past these youth, upon choosing this course of action, had minimal opportunity for assistance from the agency and none from the court. However, with the passage of Act 91, eligible young adults can now request the resumption of court jurisdiction.

Act 91 provides an avenue for the court and the county agency to help these young adults become productive and successful members of society. It opens the door to additional court oversight and agency support in a manner that is appropriate to a young adult’s maturing needs and capacity.

Finally, while Act 91 provides additional opportunities and supports for young adults, it simultaneously requires their agreement. As such, only the young adult can request a resumption of jurisdiction. Others can bring forth the concept of resumption, but the young adult must agree.

## **16.2 Method of Request and Review**

Resumption of jurisdiction must be initiated by request of a young adult. While the county agency, an attorney or other entity may file the motion, the young adult must be in agreement. Because the young adult is over the age of eighteen and resumption of jurisdiction is a “voluntary” process, no one can force the process. In addition, no entity or person should attempt to “pre-qualify” a young adult for this option. Only the court can determine the young adult’s eligibility and need.

Requests are initiated through the filing of a motion for resumption of jurisdiction. Pa.R.J.C.P 1635 provides the averments which must be contained within the motion. A model Motion for Resumption of Jurisdiction can be found on the Administrative Office of Pennsylvania Courts’ website under Dependency Forms.

### **\*Best Practice — Access to the Court\***

Because the intent of Act 91 was to provide a “safety net” for youth aging out of the foster care system, courts are encouraged to make access as easy as possible. To this end, many courts have appointed counsel to represent the young adult beyond the termination of dependency, for the sole purpose of resumption requests. Unless a conflict of interest exists, the young adult’s GAL during dependency proceedings may be appointed as counsel for him/her to maintain their pre-established attorney-client relationship. This limited representation status should be included in any order that terminates court supervision. This practice provides the young adult a legal professional who can answer questions, provide advocacy and file a motion for resumption of jurisdiction upon the young adult’s request.

Regardless of the form by which the request for resumption comes to the court, whether through a written motion, a letter from the young adult or an oral motion, courts should schedule a hearing promptly.

## **16.3 Timing of Hearing**

Pa.R.J.C.P. 1635 (A) requires that a hearing be held within thirty days of a motion for resumption of jurisdiction being filed. Courts are encouraged to schedule hearings for resumption of jurisdiction based upon the urgency of the request. For young adults in immediate need of court supervision, the hearing should be scheduled within hours or days. For others, this type of immediacy may not be needed.

## **16.4 Jurisdiction**

A Pennsylvania court may resume jurisdiction of an eligible Pennsylvania young adult until age twenty-one. Jurisdiction cannot be obtained for a previously dependent young adult of another state nor can resumption of jurisdiction last beyond age twenty-one.

Pa.R.J.C.P. 1634 (A) requires that a Motion for Resumption of Jurisdiction be filed in the county that last had dependency jurisdiction of the young adult. While the case may ultimately be transferred to a different jurisdiction, especially in situations where the young adult has changed residency and requests the transfer, the initial hearing on the motion for resumption should be held in the original court of jurisdiction. This original court of jurisdiction and county agency are likely to be most familiar with the young adult. Additionally, the young adult may have ongoing assignment of an attorney for purposes of resumption only.

It should be noted that resumption of jurisdiction is exactly what it says...it is not a “new” dependency case nor is it predicated upon the young adult’s living arrangement when previously under court jurisdiction. Instead it is the resumption of a previous adjudication and may include young adults that were residing at home upon termination of court supervision.

When a young adult meets the eligibility criteria under the law, the court can resume (or re-open) the dependency case. In other words, the case picks up where it left off, as if the young adult decided to continue under the court’s supervision beyond age eighteen. This means that the court is not required to find new grounds for dependency nor is it required to determine if the young adult is currently being abused or neglected. If the young adult meets the eligibility criteria, jurisdiction can be resumed.

## **16.5 Counsel and Guardian *Ad Litem* (GAL) Appointments**

The court must assign counsel to the young adult upon the filing of a motion for resumption. Unlike dependency proceedings, the court is only required to appoint counsel to represent the young adult’s wishes rather than the typical “best interest” representation of the GAL. (Pa.R.J.C.P. 1151).

## **16.6 Service**

Upon the filing of a motion to resume jurisdiction, service must be provided to the county agency, the attorney for the county agency, the young adult, the young adult’s attorney. Service must also be provided to the guardian or other interested adult if the young adult requesting resumption of jurisdiction would like the guardian or other interested adult involved in the case as well as any other person as ordered by the court (Pa.R.J.C.P. 1634 (C)).

## **16.7 Standing**

Clearly the young adult and the county agency have standing in resumption of jurisdiction matters. Because the young person is an adult, parents and/or former guardians do not have standing in these matters.

## **16.8 Conduct of the Hearing**

The first issue to be decided upon the filing of a motion for resumption of jurisdiction is whether the young adult meets the definition of “child” for resumption purposes. This definition is as follows:

- 1) The youth’s dependency jurisdiction was previously terminated within ninety days prior to the youth’s eighteenth birthday; or on or after their eighteenth birthday but before the youth turns twenty-one years of age; and
- 2) The youth meets one of five articulated categories below:
  - a) completing secondary education or an equivalent credential;
  - b) enrolled in an institution which provides postsecondary or vocational education;
  - c) participating in a program actively designed to promote or prevent barriers to employment;
  - d) employed for at least eighty hours per month; or
  - e) incapable of doing any of the activities above due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan.

Once the judge or hearing officer determines that the young adult meets the definition of “child,” the court may resume jurisdiction. If the court resumes jurisdiction of the young adult, the next issue to be determined is whether the agency has developed an appropriate transition plan for him/her.

### **\*Best Practice — Transition Plan\***

Transition Plans for young adults should focus on the specific needs and help the young adult be successful. The development of these plans should be led by the young adult and include supportive persons identified by the young adult. The plans should include not only the specific services to be provided but also specific actions which will be taken to identify and/or strengthen life-long, supportive connections for the young adult.

Time is of the essence in resumption of jurisdiction cases. This is likely to be the court’s and agency’s last opportunity to assist the young adult...Transition Plans should be focused, meaningful, age-appropriate and individualized.

The judge or hearing officer should determine what the agency must provide the young adult as well as any actions for which the young adult will be responsible. Resumption of jurisdiction is not a “blank check” wherein the young adult has all of their needs met with no expectations placed upon them. Indeed, while the expectations of the court should be appropriate to the age of the young adult, the court order should clearly identify these expectations. Specific orders should be written with enough detail as to leave no doubt regarding the responsibilities of the county agency, the young adult and any other involved entity.

The court should pay particular attention to the agency’s responsibility to conduct family finding with the young adult. The family finding requirement (Pa.R.J.C.P. 1149) applies to all resumption cases. Efforts of the agency may focus more on friends and other contacts as opposed to biological family however, family finding is ongoing unless it is determined by the court that it is no longer necessary. In cases of young adults with terminated parental rights, the court should consider ordering the agency to reach out to the biological family. It is incumbent upon the court to ascertain the young adults’ wishes in this matter prior to doing so. It is not unusual for young adults, especially those who have been in care for some time, to desire a relationship with their biological family. If considerable time has passed, it’s possible the circumstances necessitating placement have been remedied. In addition to parents, there are often siblings or extended family and kin that may have lost contact with the young adult and could become a supportive connection in their life.

Finally, because resumption of jurisdiction can only occur or remain in place at the request of the young adult, it is critical that the court hear directly from him or her. In most instances this should be an in-person appearance by the young adult. In those rare circumstances where the young adult is unable to be physically present in court, the young adult should participate via technology (phone, video conferencing, etc...). If the young adult is unable to attend or participate in the hearing to resume jurisdiction, the court should not proceed with the hearing.

## **16.9 Burden of Proof/Evidentiary Standard**

Resumption of jurisdiction is not considered a new adjudication of dependency. Instead it is a “re-opening” of a previously closed dependency case. As such, unlike the original adjudication which has a “clear and convincing” standard, resumption of jurisdiction requires a “preponderance of evidence”, a much lower standard. The burden of proof is carried by the young adult and his/her legal counsel.

## **16.10 Placement and Service Options**

Young adults requesting resumption of jurisdiction often have very unique and individualized needs. These needs may or may not include placement. If placement is needed, the options may include: kinship care, family foster home, group home, institution, transitional living and supervised independent living placements. In addition to these, options such as a dormitory, apartment, other more independent setting or a combination of these may be appropriate. Similar to other cases, the law requires that

the young adult be placed in the least restrictive and most family-like placement that meets their needs.

Additionally, the scope and type of services needed by young adults may be very different than those needed by teenagers. While typical independent living skills/services may be helpful, other services may be needed by this population. These services may generate from the county child welfare agency or other human service/community service entities.

**\*Best Practice — Young Adult Service Array\***

Many counties offer independent living services long after court supervision is terminated. As such, young adults are able to access a wide range of services without needing to officially request the court resume jurisdiction. This may include adult housing, employment, training and supportive services. While these services may exist in a county, long waiting lists may create access barriers. As such, courts are encouraged to participate in the identification and development of service options which meet the needs of former foster youth.

In addition to general services available to all adults, some Local Children's Roundtables have established a sub-committee to identify the specific needs of former foster youth, potential resources and effective strategies that promote a balanced approach to safety, accountability and successful adult living. Additionally, these groups have discussed the flexibility and creativity needed in serving this population.

## **16.11 Review Hearings**

The court is required to conduct a permanency hearing for all resumption of jurisdiction cases (Pa.R.J.C.P. 1635 and 1608). All findings and orders required in permanency review hearings apply to resumption of jurisdiction cases. These reviews must occur at least every six months however, in some instances the court may want to review the matter more frequently.

During these periodic reviews, the court should inquire about any element of the transition plan that the young adult may not be following. Sometimes simple remedies or changes may be made that will result in the young adult's compliance. However, even after being offered an appropriate transition plan, the young adult may be unwilling to follow it. Pa.R.J.C.P. 1635 (E) allows a party to move for termination of court supervision, once the goals of the transition plan have been accomplished or the young adult refuses to cooperate with the plan.

## **16.12 Findings and Orders**

The Order for Resumption of Jurisdiction is contained within the CPCMS Dependency Module. The order includes required findings and provides an opportunity to fully articulate specific orders the court deems appropriate. Of special note is the requirement to make a reasonable efforts finding. Unlike the reasonable efforts finding required in other dependency hearings, this finding focuses on whether the county agency provided reasonable efforts to prevent the return of the young adult to juvenile court jurisdiction unless, due to the young adult's immediate need for assistance, such lack of efforts was reasonable.

After the hearing, the court must enter an order granting or denying the motion to resume juvenile court jurisdiction. In addition, the court must schedule a permanency hearing at least every six months until such time that court supervision is terminated. The CPCMS Permanency Review Order and CPCMS Termination of Court Supervision Order should be used for ongoing resumption of jurisdiction cases.