

§ 7B-905.1. Visitation.

(a) An order that removes custody of a juvenile from a parent, guardian, or custodian or that continues the juvenile's placement outside the home shall provide for visitation that is in the best interests of the juvenile consistent with the juvenile's health and safety, including no visitation. The court may specify in the order conditions under which visitation may be suspended.

(b) If the juvenile is placed or continued in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved or ordered by the court. The plan shall indicate the minimum frequency and length of visits and whether the visits shall be supervised. Unless the court orders otherwise, the director shall have discretion to determine who will supervise visits when supervision is required, to determine the location of visits, and to change the day and time of visits in response to scheduling conflicts, illness of the child or party, or extraordinary circumstances. The director shall promptly communicate a limited and temporary change in the visitation schedule to the affected party. Any ongoing change in the visitation schedule shall be communicated to the party in writing and state the reason for the change.

If the director makes a good faith determination that the visitation plan is not consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subject to any motion to show cause for this suspension but shall expeditiously file a motion for review and request that a hearing be scheduled within 30 days. However, no motion or notice of hearing is required if a review or permanency planning hearing is already scheduled to be heard within 30 days of the suspension.

(b1) When visitation, whether supervised or unsupervised, is ordered between a juvenile who is placed in or continued in the custody or placement responsibility of a county department of social services and a parent, a parent's positive result from a drug screen alone is insufficient to deny the parent court-ordered visitation with the juvenile. For parents with unsupervised visitation that have a positive result from a drug screen, the department of social services shall expeditiously file a motion for review and request that a hearing be scheduled within 30 days for the court to review the visitation plan to ensure the safety of the child. While the motion is pending, the director may temporarily impose supervision requirements to all or part of the visitation plan. The director shall promptly communicate the limited and temporary change in the visitation plan to the affected party. Nothing in this subsection prevents a visit from being cancelled if, at the time that visitation between the parent and the juvenile occurs, a parent is under the influence of drugs or alcohol and exhibits behavior that may create an unsafe environment for a child, or the parent appears to be actively impaired.

(c) If the juvenile is placed or continued in the custody or guardianship of a relative or other suitable person, any order providing for visitation shall specify the minimum frequency and length of the visits and whether the visits shall be supervised. The court may authorize additional visitation as agreed upon by the respondent and custodian or guardian.

(d) If the court waives permanency planning hearings and retains jurisdiction, all parties shall be informed of the right to file a motion for review of any visitation plan entered pursuant to this section. Upon motion of any party and after proper notice and a hearing, the court may establish, modify, or enforce a visitation plan that is in the juvenile's best interest. Prior to or at the hearing, the court may order the department and guardian ad litem to investigate and make written recommendations as to appropriate visitation and give testimony concerning its recommendations. For resolution of issues related to visitation, the court may order the parents, guardian, or custodian to participate in custody mediation where there is a program established pursuant to G.S. 7A-494. In referring a case to custody mediation, the court shall specify the issue or issues for mediation, including, but not limited to, whether or not visitation shall be supervised and whether overnight visitation may occur. Custody mediation shall not permit the participants

to consent to a change in custody. A copy of any agreement reached in custody mediation shall be provided to all parties and counsel and shall be approved by the court. The provisions of G.S. 50-13.1(d) through (f) apply to this section. (2013-129, s. 24; 2019-33, s. 9; 2021-100, s. 9; 2021-132, s. 1(g).)