

40th Annual InterCourt Conference



Session 3C: Legislative and Caselaw Updates

Presenters: *Hon. David A.
Hejmanowski*

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THE SUPREME COURT *of* OHIO
JUDICIAL COLLEGE

Legislative Update

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Outline:

- I. Amendments to Delinquency & Unruly Law**
 - 1. House Bill 8 (134th) - Custodial Interrogations**
 - 2. Senate Bill 126 (134th) - Hazing**
 - 3. Senate Bill 288 (134th) - Criminal Omnibus**

- II. Amendments to Traffic Law**
 - 1. House Bill 158 (133rd) - Limited Driving Privileges**

- III. Amendments to A/N/D Cases**
 - 1. Senate Bill 256 (133rd) - 90 Day Timeline**
 - 2. House Bill 4 (134th) - Child Abuse Reporting**
 - 3. Senate Bill 202 (134th) - Disability**

- IV. Probate Amendments**
 - 1. House Bill 8 (134th) - Probate Omnibus**
 - 2. Senate Bill 202 (134th) - Disability (see above)**

- V. Amendments to Court Rules**
 - 1. (None)**

- VI. Other Legislation of Note**
 - 1. House Bill 567 (134th) - Online Dockets**

I. Amendments to Delinquency & Unruly Law

<u>Bill Document:</u>	House Bill 8 (Custodial Interrogations)
<u>Sponsor:</u>	Reps. West, Plummer
<u>Effective Date:</u>	May 17, 2021
<u>O.R.C. §§ Amended:</u>	Various
<u>O.R.C. §§ Created:</u>	None

Requires custodial interrogations in places of confinement to be recorded in nearly all cases involving murder, manslaughter, rape and sexual battery. Exceptions include electronic malfunctions, public safety mandates, and requests by the suspect that the interview not be recorded. Failure to record does not provide a private cause of action, but can result in a cautionary instruction to the jury that they may weigh the failure to record in determining the reliability of the evidence.

This bill also modifies the provisions of Sub. H.B. 1 in the following ways:

- Restraint provisions do not apply with respect to an offender or child unless the person is in custody of a law enforcement, court, or corrections official “following arrest, transportation, and routine processing and booking” (current law does not include the arrest, transportation, or processing and booking criterion);

- Restraint provisions do apply with respect to the use of shackles, handcuffs, or “other similar appliances or devices”(instead of “other physical restraints” under current law);

- Restraint provisions apply “beginning on the date on which pregnancy is confirmed to law enforcement by a health care professional” and the law enforcement, court, or corrections official has knowledge that the person is pregnant or was pregnant (instead of applying, under current law, based on knowledge of the pregnancy whether or not the pregnancy was confirmed by a professional).

<u>Bill Document:</u>	Senate Bill 126 (Hazing)
<u>Sponsor:</u>	Reps. Kunze & Gavarone
<u>Effective Date:</u>	October 7, 2021
<u>O.R.C. §§ Amended:</u>	2903.31
<u>O.R.C. §§ Created:</u>	2903.311

Amends the existing offense of hazing to include an act done to remain in an organization, and adds a definition of 'organization' that states only that the word includes

national fraternities and sororities. Adds a lesser reckless version of the offense and an offense or permitting hazing by a coach, teacher, volunteer or administrator.

Creates an offense of failing to report hazing that is an M-4 unless the hazing caused serious physical harm, in which case it is an M-1. Requires institutions of higher learning to have an anti-hazing plan and an annual hazing report.

Bill Document: Senate Bill 288 (Criminal Omnibus)

Sponsor: Sen. Manning

Effective Date: April 4, 2023

O.R.C. §§ Amended: Various

O.R.C. §§ Created: Various

This criminal omnibus bill makes several changes to juvenile law or to criminal and traffic law that affect juveniles, including:

1. New 2152.022 that provides that if a court transfers a delinquency complaint to the General Division is should transfer all counts in that complaint, and that any counts not so transferred remain within the jurisdiction of the juvenile division.

2. Creates a strangulation and suffocation offense that is a felony (degree varies based on several aggravating factors). 2903.18

3. Provides that if a juvenile commits a Prohibition offense (4301.69) while driving a motor vehicle, then the juvenile court must suspend the person's license or permit for a minimum of six months, or if the person does not have a license or permit, must suspend their ability to get one for a minimum of six months.

4. Amends 4511.204 to create the primary offense of using a wireless device while driving. The offense is a minor misdemeanor, two point offense on the first violation. The offense does not apply to using the device at a stoplight, holding the device to an ear for phone use, or using a speakerphone so long as the person is not holding the device to do so, using the device hands-free for navigation, using a bluetooth-enabled accessory, or using voice commands. Some penalties may be waived if the person attends a distracted-driver safety course.

II. Amendments to Traffic Law

Bill Document: House Bill 158 (Limited Driving Privileges)

Sponsor: Rep. Blessing

Effective Date: June 10, 2020

O.R.C. §§ Amended: 4509.101

O.R.C. §§ Created: None

Requires courts to ensure that a person has proof of financial responsibility before issuing limited driving privileges. Mandates that a court waive costs or fees associated with a petition for limited driving privileges if the person demonstrates that they are indigent.

III. Amendments to A/N/D Cases

Bill Document: Senate Bill 256 (90 Day Timeline)

Sponsor: Sens. Manning, Lehner

Effective Date: April 12, 2021

O.R.C. §§ Amended: 2151.35

O.R.C. §§ Created: None

In response to *In re K.M.*, 2020-Ohio-995, a provision was amended into this bill (which generally prohibits life sentences for juveniles bound over and tried as adults), that reads as follows:

"The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed except that, for good cause shown, the court, on its own motion or on the motion of any party or the child's guardian ad litem, may continue the dispositional hearing for a reasonable period of time beyond the ninety-day deadline. This extension beyond the ninety-day deadline shall not exceed forty-five days and shall not be available for any case in which the complaint was dismissed and subsequently refiled."

Bill Document: House Bill 4 (Child Abuse Reporting)

Sponsor: Reps. Plummer & Manchester

Effective Date: May 30, 2022

O.R.C. §§ Amended: Various

O.R.C. §§ Created: 2151.4220 & 2151.4234

1. Creates the 'Youth and Family Ombudsman Office' to investigate complaints about agencies and organizations involved in the child welfare, foster care and adoption realm and provides that the records of that office are not public records.

2. Creates an entirely new section for the MOU that is biennially signed by law enforcement, JFS and the Juvenile Court to determine practices in the county for investigating child abuse cases. Addresses requirements of the MOU, including information as to how information will be shared between organizations. Provides procedures for how the status of an investigation will be provided back to the initial reporter.

3. Adds, to existing law, that the following persons may conduct adoption home studies: (1) a current or former PCSA caseworker, (2) a current or former PCSA caseworker supervisor, and (3) an individual with at least a bachelor's degree in any of the specified human services fields and has at least one year of experience working with families and children.

Bill Document: Senate Bill 202 (Disability)

Sponsor: Sens. Hackett and Antonio

Effective Date: April 3, 2023

O.R.C. §§ Amended: None

O.R.C. §§ Created: 2131.031 to 2131.036

Provides that no court, public children services agency, private child placing agency, or private noncustodial agency shall deny or limit a person from any of the following solely on the basis that the person has a disability:

1. Exercising custody, parenting time, or visitation rights with a minor;
2. Adopting a minor;
3. Serving as a foster caregiver for a minor;
4. Appointment as a guardian for a minor.

Further provides that this is not a guarantee that these things will be granted, but requires agencies and courts to consider whether modifications or supportive services should be granted, to provide its reasoning, and if a court proceeding, to document the decision in writing.

The act also permits a person to initiate an action for court review of a disability determination, but does not specify which court should hear the action or any procedures for such a hearing.

VI. Probate Amendments

Bill Document: House Bill 8 (Probate Omnibus Bill)

Sponsor: Reps. Grendell and Stewart

Effective Date: August 17, 2021

O.R.C. §§ Amended: Various

O.R.C. §§ Created: None

This term's 'Probate Omnibus' bill, it makes several changes across a variety of probate case types:

1. Clarifies language on a surviving spouse selecting automobiles in an estate;
2. Expands the powers of guardians as to revocable trusts, insurance policies, retirement plans, IRA's and other future interests of the ward, but also expands required notice to include potential beneficiaries. Requires a probate court hearing before changes in certain beneficiary designations can be made;
3. Permits non-profit corporations to be appointed as guardian so long as they meet state and local requirements for training and reporting;
4. Eliminates will designations as a valid method of making anatomical donations;
5. Permits courts to consider diagnoses made by advance practice registered nurses with psychiatric training in involuntary mental health treatment cases;
6. Sets up a 'name conformity' process to permit a person to correct an error in an official document;
7. Reduces the length of necessary residence for a name change from one year to sixty days;
8. Permits the court to waive the notice requirement on a name change if the applicant demonstrates that publication would threaten their personal safety.

VII. Rule Changes

VIII. Other Legislation of Note

Bill Document: House Bill 567 (Online Dockets)

Sponsor: Reps. Stewart, Brown

Effective Date: April 6, 2023

O.R.C. §§ Amended: 2303.081, 2303.901

O.R.C. §§ Created: None

Requires the Clerk of the 'Common Pleas Court' to make all civil cases on the 'general docket' available electronically no later than 18 months after the effective date of the bill (October 6, 2024). The act specifically excludes the general docket of domestic relations, juvenile and probate courts.

Pending legislation in 135th General Assembly:

- House Bill 5 is the adoption modernization bill. *Passed House on 6/27/23. Introduced in Senate on 9/12/23.*
- House Bill 14 would make shared parenting a default in custody matters.
- House Bill 124 would eliminate the statute of limitations for rape.
- House Bill 139 would increase penalties if the victim of an assault is a sport official. *Passed House assigned to committee in Senate on 12/5/23.*
- House Bill 140 would increase penalties for passing a stopped school bus.
- House Bill 164 would establish a foster-to-college scholarship program.
- House Bill 172 would permit electronic wills.
- House Bill 180 would prohibit certain municipal and county curfews.
- House Bill 262 would designate May as 'Umpire Recognition Month.'
- House Bill 272 would allow concealed carry in certain buildings that are also courthouses. *Passed House and assigned to committee in Senate on 12/11/23.*
- House Bill 305 would require courts to have some sort of electronic filing option available to litigants. *Passed House and assigned to committee in Senate on 12/19/23.*
- House Bill 315 would repeal 2151.271 (but not the companion juvenile rule).
- House Bill 395 would strengthen driver education requirements.
- Senate Bill 22 would permit unsuccessful primary candidates to fill a general election vacancy for the same office, including for local and state judicial races.
- Senate Bill 30 would allow persons under 16 to work after 7 PM on a school night. *Voted out of committee on May 9, 2023.*
- Senate Bill 62 would designate a Rutherford B. Hayes day. *Passed Senate and assigned to committee in House on 11/16/23.*
- Senate Bill 176 would permit child support orders for children over 18 who have a disability.

Delinquency/Traffic

State v. Grim, 2023-Ohio-4474 (3rd Dist.) – The juvenile’s confrontation clause rights were not violated by the court’s permitting a detective to testify about co-defendant’s statements at a bindover probable cause hearing, because probable cause is not a trial and confrontation clause rights are ‘trial rights’.

In re D.T., 2023-Ohio-4382 (9th Dist.) – Denial of a motion to suppress is overturned when a juvenile was in custody was read his Miranda rights, but never asked whether he understood them or wished to waive them.

In re A.U., 2023-Ohio-4341 (6th Dist.) – A juvenile court need not give a juvenile confinement credit for time spent a treatment facility that is not locked and secure as it does not protect the public nor restrict the juvenile’s freedom of movement to a degree that dictates such credit being applied.

In re J.M.D., 2023-Ohio-4158 (2nd Dist.) – A denial of a motion for judicial release is not a final, appealable order.

In re M.L., 2023-Ohio-2515 (5th Dist.) – It is improper for a juvenile court to adjudicate a child dependent when the only pending matter is a delinquency complaint. However, many dependency-related court orders can be imposed as terms of disposition in a delinquency matter.

In re H.D., 2023-Ohio-1849 (12th Dist.) – The fact that a child is in the permanent custody of a children’s services agency in county A does not preclude prosecution of that child in county B for a delinquency offense if the offense occurred in county B.

In re Z.P., 2023-Ohio-3767 (5th Dist.) – It is not inappropriate, under Juv.R. 17, for a court to assess subpoena costs to a prosecutor’s office where the prosecutor files a late amendment, on the day of the adjudicatory hearing.

In re A.B., 2023-Ohio-1047 (8th Dist.) – While courts generally have leeway to apply sex offender classification criteria, the misapplication of specific facts in that process (here, stating that the juvenile had not been involved in sex offender therapy when he had) results in reversible error by the trial court.

State v. McBride, 2023-Ohio-161 (1st Dist.) – In a discretionary bindover, the State need not provide affirmative evidence of a lack of amenability to overcome expert opinion that the juvenile is amenable, so long as the Court provides objective reasons for not accepting the experts’ opinions based on a higher risk for reoffending.

In re R.S., 2023-Ohio-45 (12th Dist.) – On an adjudication of theft, the Court’s order for restitution of \$50,167.49 is not in error where there is no evidence of insurance reimbursement, and no evidence that the amount exceeded the victim’s loss.

In re D.R., 2022-Ohio-4493 – Reading R.C. 2152.84 restrictively violates the due process rights of juveniles. Thus, it must be read in a manner that permits the juvenile court to not only modify, but also terminate, a juvenile registration requirement.

In re J.T., 2022-Ohio-3466 (9th Dist.) - Where the victim of a damaging offense is a home health care provider who relies on her personal car for work transportation and the car is damaged in the act, it is proper for the court to adjudicate the juvenile on a vandalism offense.

In re V.H., 2022-Ohio-3432 (8th Dist.) - Where a child is determined to be incompetent to testify, it is proper to admit statements that the child made to a SANE nurse and case worker under Evid.R. 807.

In re D.S., 2022-Ohio-2408 (8th Dist.) - Where a court denies a request for a discretionary bind-over, it must permit the State time to seek an SYO status, and it is error to permit the juvenile to immediately admit the charge and move to disposition, thus denying the State that right.

In re G.K., 2022-Ohio-2124 (5th Dist.) - Placing human bodily substances into food that is surreptitiously feed to others is a sufficient basis for a finding of assault where those persons suffer physical illness upon discovery of the ruse.

In re D.H., 2022-Ohio-1972 (6th Dist.) - The fact that the court mentioned that the juvenile's offense of aggravated riot led to the eventual death of another juvenile does not mean that the court considered that death in making its disposition, particularly where the court expressly laid out the basis for its dispositional terms.

In re D.W., 2022-Ohio-1407 (8th Dist.) - The use of the juvenile's age at the time of reverse bind-over, rather than at the time of the commission of the offense in making an amenability determination is not reversible error as age is only one of 17 factors.

In re B.C., 2022-Ohio-1298 (4th Dist.) - It is proper for a court to impose both a DYS commitment and probation/local supervision terms as R.C. 2152.19(A)(4)(a) grants courts that broad authority.

State v. Jones, 2022-Ohio-1139 (8th Dist.) - It is neither error, nor unconstitutional, for a court to transfer two delinquency cases to the adult court but retain a third on a finding of amenability, so long as the juvenile has not been convicted of the transferred offenses in adult court at the time of the denial of transfer of the third case.

In re J.G., 2022-Ohio-1137 (3rd Dist.) - The successful completion of probation conditions does not mandate a termination of court jurisdiction. The court maintain supervision if there are other conditions or orders that remain active.

State v. Hollie, 2022-Ohio-872 (12th Dist.) - A finding of amenability in a bind-over proceeding is error where that finding comes just two months before a juvenile's 21st

birthday, leaving insufficient time to rehabilitate the juvenile on a charge of aggravated robbery.

State v. Courts, 2022-Ohio-690 (8th Dist.) and *State v. Dell*, 2022-Ohio-2483 (5th Dist.) - The admission of hearsay testimony at a bind-over probable cause hearing does not violate the confrontation clause rights of a juvenile because that right is a trial right, and a probable cause hearing is not a final determination of guilt.

In re J.P., 2022-Ohio-539 (1st Dist.) - Dismissal of an SYO specification is proper where the State of Ohio does not comply with filing timelines. Such a dismissal is a final, appealable order.

In re T.D.S., 2022-Ohio-525 (8th Dist.) - Where a court receives two different competency evaluations, which reach different conclusions, it is not error for the court to accept and follow one and dismiss the other, so long as there is sufficient evidence to support the conclusion.

State v. Moore, 2022-Ohio-460 (4th Dist.) - Where a juvenile is bound over and then enters a guilty plea in the adult system, that juvenile may not then challenge the probable cause and amenability findings of the juvenile court, because the guilty plea waives all non-jurisdictional errors.

State v. Smith, 2022-Ohio-274 (Sup. Ct.) and *State v. Williams*, 2022-Ohio-2022 (1st Dist.) - A finding of probable cause is a prerequisite for transfer to adult court for prosecution, and an adult court's jurisdiction is limited to the acts transferred by the juvenile court. Later clarified by *State v. Jones*, 2022-Ohio-4606, which notes that an indictment can include new charges, but not those for which probable cause was not found.

In re C.M., 2022-Ohio 240 (3rd Dist.) - Simply warning a witness of the consequences of perjury or contempt if the witness lies or entirely refuses to testify does not violate the due process rights of an alleged delinquent child.

In re Z.M., 2022-Ohio-194 (8th Dist.) - It is not error for a trial court to deny an adjudicated delinquent child's request to amend a juvenile-offender registration requirement so long as there are some factors weighing in support of maintaining the registration and the court outlines its analysis of the factors.

In re C.P., 2021-Ohio-4522 (8th Dist.) - A court's rejection of an extraordinary fee application from a GAL in a delinquency matter must be accompanied by some reasoning for the denial, particularly in a case where the court approved a nearly identical request from the juvenile's counsel.

In re J.L., 2021-Ohio-3823 (8th Dist.) - In a juvenile matter with an SYO specification, it was error for the juvenile court to use the words 'guilty plea' and 'conviction' in its entries,

since SYO matters remain in the juvenile system. The remedy, however, is a remand with instructions to expunge the words from a corrected entry.

In re R.B., 2021-Ohio-3749 (1st Dist.)- The act of closing a door in the face of an officer- who is then able to simply open the door and proceed- does not constitute the offense of Obstructing Official Business.

In re L.S., 2021-Ohio-3353 (8th Dist.)- The juvenile court erred in imposing separate dispositional terms for the allied offenses of grand theft and aggravated robbery, and imposing concurrent DYS terms for those offenses did not alleviate the error as concurrent sentences are still separate and distinct terms.

In re A.G., 2021-Ohio-3185 (1st Dist.)- The admission of print-outs of Facebook posts was not in error where a witness testified that he took the screenshots and that they were accurate depictions of Facebook posts that he had viewed.

In re E.S., 2021-Ohio-3722 (5th Dist.)- Where a juvenile is released from a secure DYS facility and transferred to a non-secure residential treatment facility (here, Paint Creek), the court conduct classification at the time of the release from DYS and any classification attempted later is invalid.

In re D.F., 2021-Ohio-3109 (4th Dist.)- The classification of a juvenile as a tier III juvenile offender registrant is in error when the juvenile is committed to the Department of Youth Services at disposition. Under those circumstances, the court must wait until the juvenile's release from D.Y.S. pursuant to R.C. 2152.83(A)(1).

In re E.G., 2021-Ohio-917 (5th Dist.)- A juvenile's parent has no standing to appeal a delinquency adjudication and raise an ineffective assistance of counsel claim where the parent suffers no harm in the case.

In re A.M., 2021-Ohio-432 (3rd Dist.)- Suppression is not appropriate where a juvenile was brought to the law enforcement agency by his parents, his parents were present for the entire interview, and he was told that he would be permitted to leave when the interview was over.

In re N.S., 2021-Ohio-427 (1st Dist.)- Where a child is adjudicated delinquent for grand theft and placed on 'probation for investigation' with no other terms, that child cannot later be subsequently found delinquent for violating probation since there were no actual probation terms.

State v. Lamb, 2021-Ohio-87 (6th Dist.)- The Confrontation Clause right is a trial right and has never been extended to preliminary proceedings, thus does not apply to juvenile bindover hearings.

In re M.H., 2020-Ohio-5485 (Sup. Ct.)- A CPS investigator is neither a law enforcement agent, nor an agent of the state, and need not administer Miranda warnings to a juvenile unless conducting an investigation specifically at the behest of law enforcement.

In re R.B., 2020-Ohio-5476 (Sup. Ct.)- Sex offender classification need not occur on the exact same day as disposition, but may be held later, within a 'reasonable time' after disposition is conducted.

In re D.S.S., 2020-Ohio-5388 (11th Dist.)- It is error for a court to find a treatment facility employee in indirect contempt for failure to obey the subpoena of a GAL, where the court made only a determination that the subpoena had not been obeyed, but did not take any testimony or make any finding on intent.

In re T.R., 2020-Ohio-4445 (1st Dist.)- It is error for the court to conduct a sex offender classification hearing when the juvenile is not present, as the classification hearing is part of the disposition on the case. The appropriate remedy is remand for hearing in the presence of the juvenile.

In re L.R., 2020-Ohio-2990 (3rd Dist.)- Unlike the adult criminal system, penalties in the juvenile delinquency realm are not exclusive, and a juvenile court may impose both a commitment to the Department of Youth Services and a period of community control sanctions for the same offense and in the same dispositional hearing.

In re K.C., 2020-Ohio-836 (6th Dist.)- Most recent decision upholding the juvenile sex offender registry scheme, and finding that it is not a violation of equal protection because it is rationally related to a legitimate governmental interest.

State v. Jackson, 2020-Ohio-80 (1st Dist.)- Where a juvenile is charged with a mandatory bindover offense, and where that juvenile stipulates to probable cause and waives a probable cause hearing, it is not error for the juvenile court to transfer the case to adult court without conducting such a hearing.

Abuse, Neglect and Dependency

In re A.A., 2024-Ohio-224 (10th Dist.) – Adjudication of a child as dependent was proper despite G.A.L.’s failure to observe mother and child together in violation of Sup.R. 48.03(D), as that rule is ‘a general guideline that lacks the force of law.’

In re I.C., S.C., 2023-Ohio-4707 (3rd Dist.) – Permanent custody was not improper in case where parents had successfully completed all case plan terms but, in part due to cognitive limitations, were unable to provide safe and stable home for children, and there was evidence that home was unsafe or inappropriate.

In re K.A., 2023-Ohio-4401 (9th Dist.) – Failure to hold a dispositional hearing on a permanent custody motion with 120 days is not dispositive and does not divest the trial

court of jurisdiction as the legislature has specifically authorized the court to exceed that time ‘for good cause’.

In re D.D., 2023-Ohio-4147 (10th Dist.) – Awarding permanent custody to the agency is in error where a father completed many of his case plan terms but was precluded from completing family counseling because the agency case worker failed to make the necessary referral.

In re M.L., 2023-Ohio-2515 (5th Dist.) – It is improper for a juvenile court to adjudicate a child dependent when the only pending matter is a delinquency complaint. However, many dependency-related court orders can be imposed as terms of disposition in a delinquency matter.

In re J.M., 2023-Ohio-1390 (5th Dist.) – Where a relative makes an oral motion for custody in a P.C. case and signs a statement of legal understanding, but never files a motion for custody, it is not error for the trial court to grant permanent custody to the department.

In re C.P., 2023-Ohio-1350 (9th Dist.) – In an award of legal custody of dependent child to aunt, an order that biological father have only remote/video visitation cannot be supported absent evidence of why in-person visitation was unsafe or otherwise inappropriate.

In re J.L., 2023-Ohio-1127 (9th Dist.) – An adjudication of dependent is in error where the only evidence is that the children and mother have had to stay at friends’ houses, but where the children are regularly attending school, their basic needs are being met, and the temporary housing is adequate and safe. The lack of a permanent address does not, *per se*, equate to homelessness.

In re A.C., 2023-Ohio-722 (4th Dist.) – Where an agency dismisses and refiles a case, a parent’s counsel withdraws, and the parent does not appear in the new case and make a request for counsel, it is still error for the court not to appoint subsequent counsel for the parent, as the parent may reasonably be relying on the fact that they are represented, and the Court has not been able to obtain a valid waiver of counsel from the absent parent.

In re J.S., 2023-Ohio-591 (9th) – A parent may waive the right to contest a permanent custody motion specific to an outcome (here, permanent custody being awarded to the department) and absent that outcome, the waiver is not valid.

In re A.B., 2022-Ohio-4805 (5th Dist.) – Where a CPS agency moves to dismiss a complaint, a juvenile court may maintain jurisdiction under R.C. 2151.23(A)(1) since the Juvenile Rules do not provide for voluntary dismissals of A/N/D cases.

In re C.L., 2022-Ohio-3596 (12th Dist.) - Legal custody of dependent children to grandparents was reversed where the trial court refused to grant a continuance to an

incarcerated father who was unable to attend a hearing due to a pandemic lockdown and where there were no other assurances of safeguards of father's rights.

In re J.C.B., 2022-Ohio-3098 (12th Dist.) - Where a court holds a hearing remotely and makes no effort to determine if a parent is technologically unable to attend, then holds the hearing in the absence of the parent, orders made in that hearing are in error.

In re K.S., 2022-Ohio-2827 (12th Dist.) - It is plain error for a court to fail to appoint a GAL for children in a dependency and neglect case as such an appointment is mandated by R.C. 2151.281(B) and Juv.R. 4(B).

In re J.A.S., 2022-Ohio-2508 (5th Dist.) - It is error for a trial court to summarily deny a request for consideration of special juvenile immigrant status in a custody proceeding as the court has jurisdiction to make the determination as to whether sending the child back to their home country would be in their best interests.

In re E.M., 2022-Ohio-2091 (3rd Dist.) - Where a child's parents and the Native American tribe to which they belong request transfer of a PCS case to a tribal court, and the CPS does not oppose the transfer, the foster parents do not have standing to object and the fact that the transfer will require a change in placement is not good cause to deny the transfer.

In re A.S., 2022-Ohio-1861 (10th Dist.) - Where a GAL fails to meet with the child, fails to familiarize themselves with the facts of the case, and fails to view the child's interactions with parents and foster parents, it is error for the court to admit the GAL report and permit the GAL's testimony.

In re D.V., 2022-Ohio-1024 (1st. Dist.) and *In re E.H.*, 2022-Ohio-1190 (12th Dist.) - A grant of permanent custody is in error where the wishes of a child who is old enough to express those wishes is never communicated to the court through a GAL report, counsel for the child, or an in-camera interview.

In re X.H., 2022-Ohio-779 (9th Dist.) and *In re J.S.*, 2022-Ohio-3465 (9th Dist.) - Failure of service on father in a permanent custody case is not grounds for appeal by mother where mother can only show a speculative effect of that failure on her case.

In re S.S., 2022-Ohio-520 (8th Dist.) - It is error for a court to dismiss a parent's motion for expanded visitation in a child protective services case without holding a hearing, providing any analysis or stating sufficient reasoning for the denial.

In re H.M.M., 2022-Ohio-473 (1st Dist.) - An award of permanent custody is in error due to a lack of subject-matter jurisdiction where a court fails to hold a dispositional hearing within the statutory time frame after adjudicating a child abused, neglected, or dependent. Neither the filing of an identical 'amended' complaint, nor the attempted waiver of the deadline by the mother will repair the error.

In re O.C., 2022-Ohio-190 (8th Dist.) - Award of permanent custody of dependent child to agency was error where GAL filed a motion for permanent custody in opposition to agency's wishes, the court's findings for best interests factors were based on testimony from foster parents and GAL and largely ignored professional's overwhelming evidence that did not support the court's findings, most of the GAL's recommendations were based on mother's intellectual limitations, and mother had been providing a safe environment.

In re B.F., 2021-Ohio-4251 (3rd Dist.) - Because a parent may challenge a juvenile court finding that a department is exercising reasonable efforts at the time that each individual judgment entry is issued, the parent is barred by *res judicata* from raising that issue on appeal at the time of a permanent custody filing.

In re C.W., 2021-Ohio-4156 (9th Dist.) - The failure of a parent to object to consistent juvenile court findings that JFS was making reasonable efforts at reunification may bar the parent from claiming, on appeal, that the department failed to do so.

In re R.F., 2021-Ohio-4118 (12th Dist.) - Mental illness may be a sufficient basis for a finding of permanent custody where it renders the parent unable to provide the level of care that the children need to thrive, even when the parent otherwise complies with case plan terms.

In re A.V., 2021-Ohio-3873 (12th Dist.)- In an adjudication of dependency, the trial court erred in finding that children were dependent under R.C. 2151.04(C) where parents provided appropriate housing and met children's needs, there was no evidence that either parent used drugs while children were present or that they were incapable of caring for children and, because there was no evidence demonstrating that parents' drug use had an adverse impact on children, there was no clear and convincing evidence of dependency.

In re X.N., 2021-Ohio-3633 (9th Dist.)- Permitting foster parents to cross-examine witnesses in a dependency case is not per se error where the evidence they elicit is already before the court in other ways and there is sufficient other evidence to support such a finding.

In re W.W., 2021-Ohio-3440 (7th Dist.)- Permanent custody is not granted solely on the basis of mother's intellectual disability where the mother lacks basic parenting skills, cannot demonstrate skills taught to her in parenting classes, and where the agency provided a proper case plan and case services.

In re J.G., 2021-Ohio-3258 (5th Dist.)- An award of permanent custody is not error despite failure of trial court to appoint GAL for mother where there was no showing that mother was incompetent and no demonstration that the failure prejudiced mother in any way.

In re J.H., 2021-Ohio-2922 (1st Dist.)- An award of permanent custody must be overturned when the trial court fails to outline its consideration of the R.C. 2151.414(E) factors.

In re C.H., 2021-Ohio-2084 (3rd Dist.)- In an action for permanent custody, Mother failed to demonstrate that conditions related to the pandemic prevented her from working her case plan and failed to properly follow court's requirements to request a continuance of trial, which were in effect despite the pandemic.

In re P.C., 2021-Ohio-1238 (3rd Dist.)- In a custody dispute involving dependent children, it is not error for the court to grant mother's motion to have children vaccinated and deny father's motion against vaccination, since R.C. 3313.671 requires proof of required vaccinations for a child to attend school.

In re K.S., 2021-Ohio-1106 (4th Dist.)- A step-parent is not a party under Juv.R. 2(Y) and thus has no standing to appeal a dependency adjudication unless they move to intervene and are granted party status by the court.

In re J.C.F., 2021-Ohio-1057 (11th Dist.)- It was not error for trial court to deny father's request, in a permanent custody case, for an extension of time to file a transcript because of pandemic-related delay, as father had timely filed objections without issue, had not requested an extension pursuant to local rule, and had not timely requested that the state pay for the transcript.

In re J.B., 2021-Ohio-807 (10th Dist.)- A parent waives a request for the court to conduct an in-camera interview where, after making the initial request, they neither object, nor remind the court of the request.

In re C.D., 2021-Ohio-639 (3rd Dist.)- Father was not denied due process where he was given the opportunity to participate in permanent custody hearing by telephone, was given ample notice of the hearing, was represented by counsel, and never asked to testify at the hearing.

In re L.S., 2021-Ohio-510 (8th Dist.)- A court may grant permanent custody of a child pursuant to R.C. 2151.414(E)'s 'all relevant evidence' language, on the basis of the fact that the child does not want to be reunified with the parent, and the parent, despite otherwise complying with the case plan, cannot resolve the conflict with the child.

In re R.M., 2021-Ohio-324 (2nd Dist.)- An agency may move for permanent custody based on a child being in care for 12 out of 22 months, even when a court has not made a finding that the department has made reasonable efforts toward reunification as the two are distinct and separate bases for filing.

In re C.M.C., 2021-Ohio-314 (8th Dist.)- Where a magistrate's decision is served electronically on counsel at email addresses provided by counsel to the court, a claim for failure of service cannot stand.

In re A.C., 2021-Ohio-288 (5th Dist.)- Where a parent fails to seek prenatal care, used heroin and cocaine during pregnancy, and has a history of housing instability,

adjudication of dependency is appropriate even where neonatal drug use did not directly impact the child.

In re Z.S., 2021-Ohio-118 (5th Dist.)- Where a parent initially admits to a dependency allegation and then files a motion to withdraw the admission, that motion does not extend the 90-day timeline to disposition, and a failure to move to disposition within 90 days must still result in reversal of the adjudicatory order.

In re E.S., 2020-Ohio-6708 (9th Dist.)- It is not error for a court to accept admission to a dependency allegation by telephone or video hearing where the court properly serves notice to the parties, swears in the parent under oath, and makes a recording of the proceeding.

In re C.W., 2020-Ohio-6869 (6th Dist.)- Award of permanent custody is appropriate where mother frequently pulled out a gun and shot at mice in the home, then pointed the gun at the children. (No basic principle of law here, just... wow.)

In re L.R., 2020-Ohio-5299 (9th Dist.)- It is not error for a court to grant permanent custody where a parent moves out of state, and the court refuses to transfer the case to the new state, so long as the children are in foster care at the time and the Department continues to make reasonable efforts to reunify with the parent.

In re A.P., 2020-Ohio-5131 (3rd Dist.)- Where a court limits the parents' ability to cross-examine witnesses from the CPS agency, and renders judgment prior to the parents calling witnesses, the due process rights of the parents have been violated.

In re H.R.H., 2020-Ohio-3160 (1st Dist.)- It is not inappropriate for a judge or magistrate to question witnesses so long as the presiding official is clarifying earlier testimony, is responsive to objections to their questions, and is not acting as an advocate or questioning witnesses in a biased manner.

In re D.T., 2020-Ohio-2968 (6th Dist.)- Ohio law requires that a CPS agency make reasonable efforts toward reunification, but it does not impose any minimum, or arbitrary mandatory period during which services must be provided.

In re B.F., 2020-Ohio-3086 (3rd Dist.)- While Ohio law provides a 200 day statutory deadline to complete permanent custody matters, the statute explicitly states that failure to comply with the standard does not affect the jurisdiction of the trial court, or the validity of the order deciding the matter.

In re J.F., 2020-Ohio-3085 (3rd Dist.)- Failure of the trial court to either specifically address all of the R.C. 2151.41(D)(1) best interest factors, or to state that it has done so, renders the appellate court unable to fully review the permanency decision, thereby necessitating remand back to the trial court.

In re P.S., 2020-Ohio-3082 (3rd Dist.)- It is error for a court to proceed on a motion for legal custody when notice given to the parties in the case informed them only that a case review hearing would be held, as the failure of notice on the legal custody hearing deprives the parties of due process.

In re A.G., 2020-Ohio-2763 (6th Dist.)- Any person may file a complaint alleging that a child is dependent, including a parent whose parental rights over the child had previously been terminated.

In re P.C., 2020-Ohio-2889 (3rd Dist.)- R.C. 2151.28(L) requires a court to make findings of fact and conclusions of law in dependency matters. Failure to do so is reversible error.

In re M.B., 2020-Ohio-1391 (8th Dist.)- Even where a parent has met specific case plan conditions, if the meeting of those conditions does not alleviate the underlying cause of the removal of the child, then it is appropriate for the Court to grant permanent custody.