

## **RULE 5:18. Out-of-Home Placement**

### **5:18-1. Petition for Out-of-Home Placement; Temporary Placement**

- **(a) When Petition May Be Filed.** The Court Intake Services may petition the court for out-of-home placement where, after exhaustion of crisis intervention services and appropriate community services, the juvenile refuses to stay or return home, or the juvenile's parents or guardians refuse to permit the juvenile to stay or return home, or the physical safety of the juvenile is threatened, or the juvenile is in need of immediate care available only by a use of out-of-home placement and in addition to any one of the foregoing, the juvenile's parents or guardians do not agree to an alternate living arrangement for the juvenile in a suitable family setting which is proposed by the Court Intake Services. The petition shall state what appropriate community services have been attempted and the reasons why such services have not proved successful.
- **(b) Temporary Placement.** Prior to the court's disposition of an out-of-home placement petition, the Court Intake Services may make a temporary out-of-home placement of the juvenile pursuant to and in accordance with N.J.S. 2A:4A-88.
- **(c) Form of Petition.** The petition in out-of-home placement actions shall be captioned "The State of New Jersey in the Interest of the Family of \_\_\_\_\_," and shall be made under oath and in the form prescribed by the Administrative Director of the Courts.

Note: Source-new. Adopted December 20, 1983, to be effective December 31, 1983; paragraph (a) amended and paragraph (c) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (c) amended July 13, 1994 to be effective September 1, 1994.

### **5:18-2. Temporary Out-of-Home Placement; Hearing**

- **(a) Time; Appearances.** The court shall hold a hearing on an out-of-home placement petition within 24 hours after it has been filed. All necessary parties shall be notified of the hearing pursuant to R. 5:15-3 and their presence secured, if necessary, by warrant pursuant to R. 5:17-1. The juvenile shall be represented by counsel and if indigent, counsel shall be appointed by the court. The court may request attendance at the hearing of a representative of the Division of Child Protection and Permanency.
- **(b) Hearing; Disposition.** Based on the evidence adduced at the hearing, the court shall either approve or disapprove the temporary out-of-home placement. Approval of temporary out-of-home placement shall be made only if either serious conflict or other problem between the parent or guardian and the juvenile exists which cannot be resolved by the delivery of services to the family while the juvenile is residing at home; or the physical safety and well-being of the juvenile would be threatened if the juvenile resided at the parental home. The order approving the temporary placement shall direct the Division of Child Protection and Permanency or other service or agency to submit a family service plan and to make custodial recommendations pursuant to N.J.S. 2A:4A-89(c) and (d). The order shall set a specific date when the plan is due and shall also instruct the agency to transmit the family service plan to all counsel or parties appearing pro se no later than 3 court days prior to the due date of the hearing. If the court disapproves a petition for temporary out-of-home placement, it shall file a written statement of its reasons therefor and order the juvenile to remain at or return to the parental home.
- **(c) Family Service Plan.** Following the submission to the court of the family service plan herein provided for and on notice to all parties, the court shall consider the plan and all evidence adduced with respect thereto and may approve, reject or modify the plan in its dispositional order. The order shall specify the agency responsible for the juvenile, the parental rights temporarily transferred to such agency and the parenting time or visitation rights accorded to the juvenile's parents. If placement cannot be immediately made, the responsible agency shall report to the court every 14 days on the status of the placement plan. In such event, when the agency has completed the plan it should

transmit it to all counsel or parties appearing pro se no later than three court days prior to the new date of the hearing.

**Note: Source-new. Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (b) and (c) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a) and (b) amended July 9, 2013 to be effective September 1, 2013.**

### **5:18-3. Long-Term Placement**

In considering whether to approve or disapprove out-of-home placement under a family service plan on a long-term basis, the court shall consider whether placement in the home would fail to provide adequate physical protection, shelter or nutrition or would seriously obstruct the juvenile's medical care, education, or physical and emotional development. Upon entry of an order approving a long-term out-of-home placement plan, the matter shall be reviewed pursuant to the provisions of the Child Placement Review Act, P.L.1977, c. 424 (N.J.S. 30:4C-50 et seq.).

**Note: Source-new. Adopted December 20, 1983, to be effective December 31, 1983.**