

## PROCEDURAL ISSUES: CUSTODY TO NONPARENT

- A proposed legal custodian must be identified in the complaint or motion filed by a party to the proceedings. [R.C. 2151.353]
- The proposed legal custodian must have signed a statement of understanding that complies with R.C. 2151.353(A)(3).
- The proposed legal custodian must be present for the hearing to affirm their intent, demonstrate an understanding of the effect of the custody order and answer any questions from the court or any parties. [R.C. 2151.353(A)(3)(d)]



At all permanency hearings, including hearings regarding transitioning the youth from foster care to independent living, the court must consult with the youth in an age-appropriate manner regarding any proposed permanency plan or transition plan. [42 U.S.C. 675(5)(C)]; [R.C. 2151.417(F)] Engage the youth in the hearing by asking the youth pertinent questions on topics such as services the youth still needs, the youth's case plan, and the youth's educational or vocational plans. (See Helping Youth Transition from Foster Care to Adulthood: A Judicial Bench Booklet with Topical Checklists for Hearings Involving Youth Ages 13-18.)

## FINDINGS



An order of legal custody of a child to a person is intended to be permanent in nature. [R.C. 2151.42(B)]

- In making custody determinations pursuant to R.C. 2151.353, the factors under R.C. 3109.04 may be considered. [R.C. 2151.23(F)(1)]
  - When making custody determinations between a non-parent and parent pursuant to R.C. 2151.353, there is no requirement that an unsuitability finding be made. [In re C.R., 108 Ohio St.3d 369, 2006-Ohio-1191, 843 N.E.2d 1188]
  - In addition to awarding custody, protective supervision may be granted in combination with those orders. [R.C. 2151.353(A)(1)]; [R.C. 2151.417(G)]
  - If protective supervision is ordered, consider placing any reasonable restrictions pursuant to R.C. 2151.353(C).
  - An order of legal custody to a person shall not be modified or terminated unless it is found, based on facts that have arisen since the order was issued or that were unknown to the court at that time,
    - that a change has occurred in the circumstances of the child or the person who was granted legal custody;
- AND**
- that modification or termination is necessary to serve the best interest of the child. [R.C. 2151.42(B)]