

**CHAPTER 1A**

**PARENTAL FITNESS HEARING IN A RSA 169-C CASE**

***REPLACEMENT OF  
CHAPTER 1A, BILL F. HEARING  
PROTOCOLS RELATIVE TO ABUSE AND NEGLECT CASES AND  
PERMANENCY PLANNING  
(Revised April 2003)***

**FOR USE IN THE NEW HAMPSHIRE CIRCUIT COURTS**



**DEVELOPED BY THE MODEL COURT PROJECT  
IN COOPERATION WITH THE  
NEW HAMPSHIRE COURT IMPROVEMENT PROJECT**

**June 1, 2020**

## INTRODUCTION AND ACKNOWLEDGMENTS

In 2008, the National Council of Juvenile and Family Court Judges selected the Franklin and Concord courts to become a Model Court, part of a national grant program designed to promote innovative and positive change in child protection proceedings. After the end of the grant program, New Hampshire's Model Court Project continued to act as a laboratory, developing and implementing best practices to improve outcomes for children and youth and families. The New Hampshire Model Court Project includes representatives from the New Hampshire Circuit Court, CASA of New Hampshire, the Division for Children, Youth and Families (DCYF), parent attorneys, the Judicial Council and the New Hampshire Court Improvement Project (CIP).

The *Protocols Relative to Abuse and Neglect Cases and Permanency Planning* (Revised 2003 and further revised 2020 by replacing Chapter 1A-Bill F. Hearing with Chapter 1A-Parental Fitness Hearing in a RSA 169-C Case), and all forms promulgated for use with these protocols, are mandatory for use by the New Hampshire Circuit Court. These protocols are the work of the Model Court and Court Improvement Projects and a multidisciplinary committee that has worked, tirelessly since 2018, on this endeavor.

The Parental Fitness Hearing Protocols track both state law, RSA 169-C:19-e, and a 2000 New Hampshire Supreme Court case, *In re Bill F.*, which provide a non-petitioned parent with the right to request a court hearing regarding their ability to obtain physical custody of their child. A Parental Fitness Hearing is significant for both a non-petitioned parent and their child. Most notably, if a parent is found to be fit, RSA 169-C:19-e mandates that the court award custody of the child to the fit parent. Thereafter, the 169-C case will proceed as an in-home case. These 2020 protocols were developed to set forth best practice when requesting, scheduling and conducting a Parental Fitness Hearing.

Insofar as these protocols suggest any interpretation of the law, the reader should bear in mind that the interpretation of the law, as it applies to any given case, is within the sole province of the trial judge, subject to review by the New Hampshire Supreme Court. These protocols do not create substantive rights that do not currently exist and should not be considered as superseding any constitutional or statutory rights of parties to proceedings in RSA 169-C cases.

Special thanks are extended to Kristy Lamont, who has kept the engine of the Model Court Project running smoothly. Special thanks are also extended to the Court Improvement Project's David Sandberg and Marge Therrien, who spent countless hours

drafting, redrafting, editing and formatting these protocols. Finally, thanks go to members of the Model Court Executive Committee, all of whom have given, and continue to give, so generously of their time. They and their staff have made these 2020 protocols possible:

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The *Protocols Relative to Abuse and Neglect Cases and Permanency Planning* (Revised 2003) are further revised by the addition of the 2020 Protocols, consisting of *Chapter 1A-Parental Fitness Hearing in a RSA 169-C Case* (which replaces *Chapter 1A-Bill F. Hearing*) and *Chapter 1B-Missing Parent in a RSA 169-C Case*.

Effective June 1, 2020, *Chapter 1A-Parental Fitness Hearing in a RSA 169-C* and all forms promulgated for use with these protocols are hereby made mandatory for use by the New Hampshire Circuit Court.

Effective July 1, 2020, *Chapter 1B-Missing Parent in a RSA 169-C Case* and all forms promulgated for use with these protocols are hereby made mandatory for use by the New Hampshire Circuit Court.

This order is made pursuant to Supreme Court Rule 54 in order to manage the case flow and ensure the timely disposition of the matters addressed in the protocols.

May 11, 2020



David D. King  
Administrative Judge  
New Hampshire Circuit Court

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## INTRODUCTION

A parental fitness hearing in New Hampshire originated with the New Hampshire Supreme Court case of *In re Bill F.*, 145 NH 267 (2000). The case involved an appeal from a RSA 169-C case in which a non-petitioned father requested that his child be placed with him rather than remain in foster care stemming from a finding of neglect against the child's mother. DCYF objected to the father's request, contending it would not be in the child's best interest. The trial court issued an order continuing the child's placement in foster care, and father's appeal followed.

On appeal, the father maintained that he should have been granted custody of his son, unless following a full hearing, the district court determined that he had abused or neglected him or was otherwise unfit to provide proper parental care. The Supreme Court agreed, rejecting the State's argument that the Supreme Court should apply RSA 169-C:23, and the State analogizing the present situation to *In re Tricia and Trixie H.*, 126 NH 418 (1985) where the Supreme Court held that a father's parental rights could be terminated under RSA 170-C:5, III, despite the fact that he was not named in a prior abuse and neglect proceeding under RSA 169-C.

In concluding its opinion, the Supreme Court held:

"... parents who have not been charged with abuse or neglect [must] be afforded, upon request, a full hearing in the [circuit] court regarding their ability to obtain custody. At that hearing, a parent must be provided the opportunity to present evidence pertaining to his or her ability to provide care for the child and shall be awarded custody unless the State demonstrates, by a preponderance of the evidence, that he or she has abused or neglected the child or is otherwise unfit to perform his or her parental duties."

In remanding the *In re Bill F.* case, the New Hampshire Supreme Court directed the trial court to "promptly hold a hearing in order to determine the placement of the child in accordance with this opinion".

In 2008, the New Hampshire Legislature codified the Supreme Court's *Bill F.* holding in RSA 169-C:19-e.

See **Appendix** for a list of other New Hampshire Supreme Court and United States Supreme Court cases reviewed and considered as part of developing these protocols.

## **PROTOCOL 1      DEFINING A NON-PETITIONED PARENT IN A RSA 169-C CASE AND APPOINTMENT OF COUNSEL**

For purposes of these protocols, the court and parties should construe a “non-petitioned” parent in a RSA 169-C case to mean a parent against whom an **abuse or neglect petition has not been filed** or a parent against whom a **petition was filed** but was either **withdrawn** or **dismissed** (see *In re J.H.*; *In re A.H.*, 171 NH 40 (2018)).

RSA 169-C:10, II(a), allows the court to appoint counsel to a non-petitioned parent who is a household member. Therefore, the court should appoint counsel for a non-petitioned, household member in order to protect that parent’s fundamental liberty interest. This discretionary appointment is permitted only when 1) a non-petitioned parent is a **household member** and 2) such **independent legal representation is necessary** to protect the parent’s interests.

### **COMMENTS**

A non-petitioned parent may be 1) a household or non-household member named in a RSA 169-C petition filed against the other parent; or 2) a missing parent who has been identified and/or located and DCYF has not filed a RSA 169-C petition against the parent.

Pursuant to RSA 169-C:3, XIV-a, a **household member** “means any person living with the parent, guardian, or custodian of the child from time to time or on a regular basis, who is involved occasionally or regularly with the care of the child.”

## **PROTOCOL 2      NON-PETITIONED PARENT NOTIFIED BY DCYF OF RIGHT TO A PARENTAL FITNESS HEARING**

The court should expect that DCYF will, pursuant to RSA 169-C:19-e, II, notify a parent who has not been charged with abuse or neglect of his or her right to request a parental fitness hearing, pursuant to RSA 169-C:19-e.

### **COMMENTS**

Although RSA 169-C:19-e refers to a parent who has “not been charged” with abuse or neglect, these protocols refer to this individual as a “non-petitioned” parent.

A non-petitioned parent who is requesting custody is deemed a “presumptively fit” parent (see *In re J.H.*; *In re A.H.*, 171 NH 40 (2018)).

DCYF’s practice is to notify, at the earliest available opportunity, a non-petitioned parent orally about his or her right to request a parental fitness hearing with the court. DCYF also provides the parent with a brochure that, in addition to

the parent's right to request this hearing, explains the purpose and nature of a parental fitness hearing. DCYF's practice is to provide this notification to a non-petitioned parent regardless of whether a child(ren) is in an out-of-home placement.

### **PROTOCOL 3      NON-PETITIONED PARENT'S REQUEST FOR A PARENTAL FITNESS HEARING**

A non-petitioned parent has a right to request a parental fitness hearing, pursuant to RSA 169-C:19-e. The request may be made orally at a RSA 169-C court hearing or by filing a written request, including the court form **Request for a Parental Fitness Hearing Pursuant to RSA 169-C:19-e (NHJB-3169-F)**.

#### **COMMENT**

If a party to the RSA 169-C case, including the petitioned parent and the CASA GAL/GAL, has concerns about the non-petitioned parent obtaining custody of her/his child(ren), pursuant to RSA 169-C:19-e, best practice is for the party to promptly advise DCYF of their concerns.

### **PROTOCOL 4      SCHEDULING AND NOTICE OF A PARENTAL FITNESS HEARING**

The court should handle the scheduling and notice of a parental fitness hearing as follows:

#### **A.      Court's Scheduling of a Parental Fitness Hearing**

When a non-petitioned parent requests a parental fitness hearing, the parent shall be afforded a hearing, pursuant to RSA 169-C:19-e. Therefore, the court shall select a date and time for the parental fitness hearing to be held. Best practice is for the court to conduct this hearing **no later than thirty (30) calendar days** from the court receiving an oral or written request for a parental fitness hearing.

#### **COMMENT**

Between the time a non-petitioned parent requests a parental fitness hearing and the time the hearing is held, the court should expect that DCYF will, consistent with its practice, provide ongoing discovery to the parent and all parties to the RSA 169-C case. The petitioned parent and the CASA GAL/GAL are entitled to discovery as parties to the RSA 169-C case and may attend the parental fitness hearing to observe or, if called as a witness, to testify.

## **B. Continuances**

A motion for a continuance of a parental fitness hearing should usually be denied, except for good cause shown.

## **C. Notice of a Parental Fitness Hearing**

The court shall mail timely notice of a parental fitness hearing to all parties to the RSA 169-C case.

### **COMMENT**

The petitioned parent and the CASA GAL/GAL are entitled to notice of this hearing as parties to the RSA 169-C case and may attend the parental fitness hearing to observe or, if called as a witness, to testify.

## **PROTOCOL 5 THE COURT CONDUCTING A PARENTAL FITNESS HEARING**

When conducting a parental fitness hearing, the court should consider the following:

### **A. Non-Petitioned Parent Does Not Personally Appear**

If the non-petitioned parent does not personally appear for the parental fitness hearing, the court may proceed as follows:

**Option 1:** Proceed with the parental fitness hearing and have DCYF make an offer of proof as to its assertion that the non-petitioned parent is unfit to perform his/her parental duties, and issue an order accordingly.

**Option 2:** Reschedule the parental fitness hearing, if the court believes there is good cause to do so.

### **B. Legal Standard**

Pursuant to 169-C:19-e, I, a parent shall be awarded custody unless DCYF demonstrates, by a **preponderance of the evidence**, that he/she has abused or neglected the child or is otherwise unfit to perform his/her parental duties. Pursuant to *In re Bill F.*, a parental fitness hearing addresses **physical custody** only.

### **COMMENT**

Neither New Hampshire case or statutory law provides a definitive or legally binding definition of “fit” or “unfit” parent. However, there are examples of both terms in New Hampshire case law. See *e.g.* In the Matter of Douglas Hoyt

Nelson and Sylvia Horsely, 149 NH 545 (2003), citing J. O'Connor in *Troxel v. Granville*, 530 U.S. 57 (2000) (“...so long as a parent adequately cares for his or her children (i.e. is fit...)”); and J. Nadeau and J. Galway, concurring in part and dissenting in part, in *In the Matter of R.A. and J.M.*, 153 NH 82 (2005) (“...a parent who significantly fails to accept his or her responsibilities is arguably unfit”...). See also *In the Matter of Jeffrey G. and Janette P.*, 153 NH 200 (2006) (“...even though their parenting skills are less than ideal, biological and adoptive parents are presumed to be fit parents...”, citing *Granville v. Troxel*, 530 U.S. at 58 (2000).

### **C. DCYF and the Non-Petitioned Parent Presenting Evidence**

Notwithstanding the non-petitioned parent being the party who requested the hearing, DCYF should be the first to present evidence on a parent's fitness as, pursuant to RSA 169-C:19-e, DCYF has the burden of proof at this hearing. Thereafter, and if the non-petitioned parent chooses to do so, RSA 169-C:19-e, I, provides that at a parental fitness hearing the parent shall be provided the opportunity to present evidence pertaining to his/her ability to provide care for the child.

### **D. Additional Considerations for the Court When Conducting a Parental Fitness Hearing**

When conducting a parental fitness hearing, the court should take into account the following additional considerations:

1. The court may hear from a RSA 169-C party who is called by DCYF or the non-petitioned parent as a witness to testify at a parental fitness hearing.
2. The court may hear as evidence **elements of abuse or neglect**, pursuant to RSA 169-C, and may consider this evidence when making a finding of parental fitness. However, best practice is for DCYF to file a RSA 169-C:7 petition, when sufficient grounds exist, and for the court to address allegations of abuse or neglect at an adjudicatory hearing pursuant to RSA 169-C:18 and **not** at a parental fitness hearing, notwithstanding RSA 169-C:19-e, I including abuse or neglect as a basis for the court denying a non-petitioned parent's request for custody.
3. The court may hear as evidence any plan that DCYF had proposed to the non-petitioned parent to gradually transition a child(ren) to the physical custody of the parent and whether the non-petitioned parent objected, in whole or in part, to the proposed plan.
4. If the court finds the parent fit, RSA 169-C:19-e mandates that the court award custody of the child(ren) to the non-petitioned parent. Therefore, **the court should NOT order a plan to transition a child(ren) to the physical custody of the fit parent unless that parent has agreed to a**

**delayed award of custody through a gradual transition plan.** DCYF may offer such a gradual transition plan as alternative requested relief should the court find the parent fit.

**PROTOCOL 6 THE COURT'S ORDER WHEN THE COURT FINDS A PARENT UNFIT TO PERFORM HIS/HER PARENTAL DUTIES**

If the court finds, by a **preponderance of the evidence**, that DCYF met its burden and a parent is **UNFIT** to perform his/her parental duties, the court shall include written findings of fact supporting its decision, pursuant to RSA 169-C:19-e, I.

The court's order, **Parental Fitness Hearing Pursuant to RSA 169-C:19-e (NHJB-3170-F)**, should be mailed **within ten (10) calendar days** of the hearing. It should include the date for the **next scheduled hearing** in the RSA 169-C case, as set forth in the order and below in Protocol 8, A.

Additionally, the court's order should include the following:

1. **Legal custody** of the child(ren) is(are) awarded to or is to remain with DCYF and the child(ren) is(are) to remain where placed;
2. The parent shall participate in a **social study** if she/he has not already done so, which DCYF shall file **within thirty (30) calendar days** of this order. DCYF shall complete a social study, pursuant to RSA 169-C:18, V, "consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family, including sibling relationships and residences for appropriateness of preserving relationships between siblings who are separated as a result of court ordered placement, and submit it in writing to the court prior to the final disposition of the case."
3. DCYF shall review the existing **case plan** and, if necessary, shall file **within thirty (30) calendar days** of this order an amended case plan. DCYF shall complete a specific case plan, pursuant to RSA 169-C:21, II, "which shall include, but not be limited to, the services the child placing agency will provide to the child(ren) and family." The case plan should also include the conditions each parent shall need to meet before the child(ren) is(are) returned home.
4. DCYF shall review any existing **dispositional order** and, if necessary, may file, pursuant to RSA 169-C:22, a motion for modification of the dispositional order, alleging a change in circumstances requiring a different disposition. If such a motion is filed, the **court shall, pursuant to RSA 169-C:22, conduct a hearing** on the motion to modify the dispositional order.

## COMMENT

If the court subsequently receives a motion, pursuant to RSA 169-C:22, alleging a change in circumstances requiring a different disposition and a request to schedule a hearing to modify its dispositional order, the motion may be addressed in conjunction with the next scheduled hearing in the RSA 169-C case, if that hearing is scheduled timely.

## PROTOCOL 7 THE COURT'S ORDER WHEN THE COURT FINDS A PARENT FIT TO PERFORM HIS/HER PARENTAL DUTIES

If the court finds that DCYF did NOT prove, by a preponderance of the evidence, that the parent is unfit to perform his/her parental duties, the parent is therefore deemed to be a **FIT** parent as the presumption of parental fitness has not been overcome. The court shall make written findings of fact supporting its decision.

The court's order, **Parental Fitness Hearing Pursuant to RSA 169-C:19-e (NHJB-3170-F)**, should be mailed **within ten (10) calendar days** of the hearing. It should include the date for the **next scheduled hearing** in the RSA 169-C case, as set forth in the order and below in Protocol 8, A.

Additionally, the court's order should include the following:

1. **Custody** of the child(ren) is(are) awarded to the fit parent, pursuant to RSA 169-C:19-e, I, and the child(ren) shall be placed in the **physical custody** of the fit parent, pursuant to *In re Bill F.*, 145 NH 267, 274 (2000). **Legal supervision** is awarded to DCYF. This court order in the RSA 169-C case vesting the fit parent with physical custody is not a permanent order of custody, and expires upon closure of the RSA 169-C.

## OR

The fit parent agreed to a plan, as set forth below, that will gradually transition the child(ren) to the physical custody of the fit parent, therefore, **legal custody** of the child(ren) is(are) awarded to or is to remain with DCYF and the child(ren) is(are) to remain where placed until a **specified date**. As of such date, **custody** of the child(ren) shall be awarded to the fit parent, pursuant to RSA 169-C:19-e, I, and the child(ren) shall immediately be placed in the **physical custody** of the fit parent. As of such date, **legal supervision** shall be awarded to DCYF. This court order in the RSA 169-C case vesting the fit parent with physical custody is not a permanent order of custody, and expires upon closure of the RSA 169-C case.

2. The parent shall participate in a **social study** if she/he has not already done so, which DCYF shall file **within thirty (30) calendar days** of this order. DCYF shall complete a social study, pursuant to RSA 169-C:18, V, "consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family, including sibling relationships and residences for appropriateness of preserving relationships between siblings who are separated as a result of court ordered placement, and submit it in writing to the court prior to the final disposition of the case."
3. DCYF shall review the existing **case plan** and, if necessary, shall file **within thirty (30) calendar days** of this order an amended case plan. DCYF shall complete a specific case plan, pursuant to RSA 169-C:21, II, "which shall include, but not be limited to, the services the child placing agency will provide to the child(ren) and family." The case plan should also include the conditions each parent shall need to meet before the child(ren) is(are) returned home.
4. DCYF shall review any existing **dispositional order** and, if necessary, may file, pursuant to RSA 169-C:22, a motion for modification of the dispositional order, alleging a change in circumstances requiring a different disposition. If such a motion is filed, the court shall, pursuant to RSA 169-C:22, conduct a hearing on the motion to modify the dispositional order.
5. The previously scheduled **permanency hearing** in the RSA 169-C case is cancelled, as the child(ren) is(are) no longer in an out-of-home placement, as defined by RSA 169-C:3, XX-a, and is(are) reunified when placed in the physical custody of the fit parent.

## COMMENTS

Although the legal standard DCYF is required to meet at a parental fitness hearing is "unfit", a court finding that DCYF did not meet its burden of proof results in the parent being deemed "fit". See *e.g. In re Guardianship of Reena D.* ("...fit parents are those who have not been adjudicated unfit".)

If the court finds the parent fit, RSA 169-C:19-e mandates that the court award custody of the child(ren) to the fit parent. Therefore, **the court should NOT order a plan to transition a child(ren) to the physical custody of the fit parent unless that parent has agreed to a delayed award of custody through a gradual transition plan.** DCYF may offer such a gradual transition plan as alternative requested relief should the court find the parent fit.

If the court subsequently receives a motion, pursuant to RSA 169-C:22, alleging a change in circumstances requiring a different disposition and a request to schedule a hearing to modify its dispositional order, the motion may be addressed in conjunction with the next scheduled hearing in the RSA 169-C case for the petitioned parent, if that hearing is scheduled timely.

RSA 169-C:3, XX-a defines an “out-of-home placement” as “placement of a child in substitute care with someone other than the child’s biological parent or parents, adoptive parent or parents, or guardian.” Thus, a child(ren) placed with a biological or adoptive parent after being in an out-of-home placement is considered to be reunified with his/her parent and therefore a permanency hearing is unnecessary and should not be held. The RSA 169-C case should proceed as an in-home case.

DCYF’s practice is to file its “Court Notification of Child’s Placement Change” form when a child is placed with a parent after being in an out-of-home placement.

## **PROTOCOL 8 THE RSA 169-C CASE WHEN A PARENT IS DEEMED FIT**

When the court makes a finding that DCYF has failed to prove a parent is unfit to perform his/her parental duties, and, therefore, the presumption of parental fitness has not been overcome and the parent is deemed to be a **FIT** parent, the court should proceed as set forth below:

### **A. Keep Open the RSA 169-C Case**

The court should keep open the RSA 169-C case and:

1. If the RSA 169-C case is **pre-finding of abuse/neglect**, the court should proceed pursuant to RSA 169-C:15, RSA 169-C:16, RSA 169-C:17, RSA 169-C:18, RSA 169-C:19 and RSA 169-C:21; or
2. If the RSA 169-C case is **post-disposition**, the court should conduct, pursuant to RSA 169-C:24, **periodic review hearings**. These hearings should be held up to and until the case is closed. This will allow the court to continually assess the needs of the family and child(ren).

### **COMMENT**

Neither *In re Bill F.* nor RSA 169-C:19-e provides for closure of the RSA 169-C case following the child(ren) being placed with a fit parent who has been awarded physical custody following a parental fitness hearing. Additionally, the New Hampshire Supreme Court in *In re Bill F.* noted that “[n]othing in this opinion should be read to prevent the State [DCYF] from...providing social services for the benefit of a child. This matter is remanded to the [circuit] court, which shall

promptly hold a hearing to determine the placement of the child in accordance with this opinion.”

## **B. The Court’s Authority Concerning a Parent Deemed to be Fit**

If the court deems a parent to be fit **prior to an adjudication** of abuse or neglect, but **following a finding at a preliminary hearing** of sufficient facts to sustain the petition against the petitioned parent, the fit parent is subject to orders under RSA 169-C:16, I(a) (child may remain with parent subject to such conditions and limitations as the court may prescribe). Thereafter and if the court makes a finding of abuse or neglect, the fit parent is subject to orders under RSA 169-C:19 (child may remain in physical custody of parent subject to parent participating in therapy, treatment, home visits, allowing visits with other parent, and/or refraining from conduct that could be deemed harmful to the child).

If the court deems a parent to be fit **after an adjudication and finding of abuse or neglect** concerning the petitioned parent, the court must set forth, pursuant to RSA 169-C:21, II, a specific plan that will include, but is not limited to, the services DCYF will provide to the child and both parents. A parent who has been deemed fit and has gained physical custody of the child remains subject to dispositional orders under RSA 169-C:19 (child may remain in physical custody of parent subject to parent participating in therapy, treatment, home visits, allowing visits with other parent, and/or refraining from conduct that could be deemed harmful to the child). Both parents are required to correct the conditions of abuse or neglect, or risk termination of their parental rights, regardless of whether they were the petitioned parent in the RSA 169-C petition. *In re O.D.*, 171 NH 437, 442-43 (2018) (return of child to physical custody of parent did not resolve ultimate question of whether original neglect conditions were corrected); see also *In re Tricia H.*, 126 NH 418, 422 (1985).

## **COMMENTS**

DCYF’s practice is to file a motion requesting the court, pursuant to RSA 169-C:22, modify its dispositional orders in a RSA 169-C case to include orders for the fit parent. If applicable, DCYF may request additional orders regarding the petitioned parent.

Where the child’s expressed interests conflict with the recommendation for dispositional orders of the guardian ad litem, the court may appoint an attorney to represent the interests of a child, pursuant to RSA 169-C:10, II(a). When an attorney is appointed for a child, representation may include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child, pursuant to RSA 169-C:10, II(b).

### **C. Closure of the RSA 169-C Case**

A RSA 169-C court order that legal supervision is awarded to DCYF with the child(ren) placed in the physical custody of the fit parent is not a permanent order of custody, and expires upon closure of the RSA 169-C case. Therefore, prior to the court closing a RSA 169-C case in which there had been **no prior parenting orders** for the child(ren), best practice is for one or both of the parents to file a **parenting petition** so the court may issue, before closing a RSA 169-C case, appropriate temporary orders pursuant to RSA 461-A, Parental Rights and Responsibilities.

Similarly, if there is a **prior parenting order** that differs from the order in the RSA 169-C case, best practice is for one or both parents to file a request to change the prior parenting orders, so that the court may modify the previous parenting orders before closing the RSA 169-C case.

Before a RSA 169-C case is closed, DCYF should file with the court and all parties a **Motion to Close Juvenile Abuse/Neglect Case (NHJB-2708-F)**.

#### **COMMENT**

DCYF's practice in these cases is to file a Motion to Close Juvenile Abuse/Neglect Case when the provision of services to a family and child(ren) is no longer needed.

**APPENDIX**  
**CASE LAW: FIT/UNFIT PARENT**

The following cases were reviewed and considered as part of the development of the Parental Fitness Hearing Protocols:

**New Hampshire Supreme Court**

In re J.H.; In re A.H.; 171 NH 40 (2018)

In re O.D., 171 NH 437, 442-43 (2018)

In the Matter of Bordalo & Carter, 164 NH 310 (2012)

In Re Guardianship of Reena D., 163 NH 107 (2011)

Huff v. Huff, 158 NH 414 (2009)

Alexis O., 157 NH 781 (2008)

In the Matter of Jeffrey G. and Jannette P., 153 NH 200 (2006)

In the Matter of R.A. and J.M., 153 NH 82 (2005)

In the Matter of Douglas Hoyt Nelson and Sylvia Horsley, 149 NH 545 (2003)

In re Samantha L., 145 NH 408 (2000)

In re Bill F., 145 NH 267 (2000)

Preston v. Mercieri, 133 NH 36 (1990)

**United States Supreme Court**

Troxel v. Granville, 530 US 57 (2000)

Stanley v. Illinois, 405 US 645 (1972)