

NOTICE

Prior to taking a child into custody, determine whether one of the following applies: [R.C. 2151.31(D)]; [Juv.R. 6 (A)(3)(g)]

- reasonable efforts were made to notify the child's parents, guardian or custodian;

OR

- there were reasonable grounds to believe that notifying the parent would:
 - jeopardize the physical or emotional safety of the child,

OR

- result in the removal of the child from the jurisdiction.



Determine if agency provided notice to grandparents and other relatives within 30 days of removal.
HB 279; [42 U.S.C. 671 (a) (29)]; [R.C. 2151.33(F)]

HEARING PROCEDURE

- Standard of Proof: Probable Cause. [Juv.R. 6(B)]
- Conducted in-person, by telephone or otherwise (video conference, Web camera). [Juv.R. 6(A)(3)(g)]

FINDINGS

Determine whether there are **reasonable grounds** to believe that: [Juv.R. 6]

- the child is suffering from illness or injury and is not receiving proper care

AND

- the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

OR

- the child is in immediate danger from the child's surroundings

AND

- that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

OR

- a parent, guardian, custodian, or other household member of the child has abused or neglected another child in the household,

AND

- that the child is in danger of immediate or threatened physical or emotional harm;

OR

- the child has run away from the child's parent, guardian, or other custodian;

OR

- the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child;

OR

- the child may abscond or be removed from the jurisdiction of the court or not be brought to court.

REASONABLE EFFORTS FINDING

Determine whether:

the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home. If removal occurred under emergency circumstances and the agency had no prior contact, the court is not prohibited from finding the agency made reasonable efforts. [R.C. 2151.31(E)(2)] and [R.C. 2151.419(A)(1)]; [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

OR

the agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home or to make it possible for the child to return home safely as the facts fall within one of the factors contained in R.C. 2151.419(A)(2) and R.C. 2151.31(E)(2). [Juv.R. 27(B)(1)]; [42 U.S.C. 672]

BEST INTEREST FINDING

- ❑ To issue an order granting temporary custody of a child to the public children services agency, the court must find that it would be contrary to the welfare and best interest of the child to continue in the home. [R.C. 2151.33(E)]; [42 U.S.C. 672]
- ❑ The above findings MUST be stated in the order if temporary custody is granted to the agency. [R.C. 2151.33(E)]; [42 U.S.C. 672]

INDIAN CHILD WELFARE ACT (ICWA) CONSIDERATIONS

Inquire as to whether the child or parents may be of Native American heritage. [25 U.S.C. 1903, 1912, and 1922] If such heritage is a possibility, until such a determination is made, proceed as if ICWA applies.



ICWA issues should be identified early in the case to avoid delays in caseload time frames. Refer to the Indian Child Welfare Act Checklists and Native American Directory published by the National Council of Juvenile and Family Court Judges.

NOTE

Magistrates can issue orders. [Juv.R. 40]

CASEFLOW TIME FRAMES

- ❑ If it is determined that there is probable cause for the emergency order:
 1. Set this matter for a shelter care hearing before the end of the next business day (and not later than 72 hours) after the emergency order is issued in order to determine if the child should remain in shelter care. [R.C. 2151.31(E)] and [R.C. 2151.314]; [Juv.R. 7(F)(1)]
 2. Ensure that a complaint is filed or has been filed. [R.C. 2151.31(E)]

- ❑ If a motion for an ex parte Order is denied by the Court, the matter must be set for a shelter care hearing on that motion within 10 days after it was filed. [Juv.R. 13(B)(5)]
- ❑ Journalize the order. [R.C. 2151.31(D)]

ADDITIONAL CONSIDERATIONS FOR AN ORDER WITH COMPLAINT

NOTICE

Because the court may issue the orders summarily, without notice, or upon a motion by a party, determine whether notice was given to the parties in a manner in which they were likely to get actual notice of the subsequent review hearing to be held within 24 hours, but not later than 72 hours of granting an ex parte order. Where the court has proceeded without notice under Juv.R. 13(D), it shall give notice of the action it has taken to the parties and any other affected person and provide them an opportunity for a hearing concerning the continuing effects of the action. [R.C. 2151.33(D)]; [Juv.R. 13(D) and (E)]

FILING REQUIREMENTS

Filings shall comply with Sup.R. 44 through 47 regarding personal identifiers.

FINDINGS

In addition to the findings outlined above, determine whether:

- ❑ the best interest and welfare of the child appear to require that the order be immediately issued. [R.C. 2151.33 (D)]