

COMPLAINT

- ✓ Ensure that a complaint has been filed. R.C. 2151.31(E)(1) and 2151.31(D); Juv. R. 10
- ✓ If a complaint has **not** been filed, see R.C. 2151.31(D) and (E).

NOTICE

Determine whether:

- ✓ reasonable oral or written notice of the time, place, and purpose of this hearing has been given;

AND

- ✓ notice was provided informing parents, custodian, or guardian that a case plan may be prepared, general requirements of case plans, and the possible consequences of non-compliance with a case plan. R.C. 2151.314(A); Juv. R. 7(F)(1)



Consider Indian Child Welfare Act issues, if present. Refer to Ex Parte Orders Bench Card.

SERVICE

- ✓ Serve the parties present with the complaint and summons. R.C. 2151.28

APPOINTMENTS

- ✓ Advise any unrepresented party of their right to counsel, including court-appointed counsel. R.C. 2151.314(A); Juv. R. 7(F)(2)



Failure to pay \$25 fee for appointment of counsel is NOT grounds for denial of appointment. R.C. 120.36(B)

- ✓ The Court shall direct the person to pay the application fee at the time the person files an affidavit of indigency or a financial disclosure form with the Court or within seven days of that date. If the person does not pay the application fee within that seven-day period, the Court shall assess the application fee at sentencing or at the final disposition of the case. R.C. 120.36(A)

- ✓ Appoint a guardian ad litem for the child. R.C. 2151.281(B); Juv. R. 4(B)



A guardian ad litem and counsel should be present at the shelter care hearing.

- ✓ Appoint counsel for the child when abuse is alleged. Juv. R. 4(A)
- ✓ Appoint counsel for the child if appropriate when dependency and/or neglect are alleged.



The guardian ad litem may also serve as counsel for the child providing no conflict exists between those roles.



If a conflict exists between the roles and responsibilities of attorney and guardian ad litem, then the court shall appoint another person to serve as guardian ad litem for the ward and the attorney shall remain on the case as attorney. Juv. R. 4(C)(1) and (2); *In re Williams* (2004), 101 Ohio St. 3d. 398, 2004-Ohio-1500

- ✓ Appoint a guardian ad litem for a minor parent or a parent who appears mentally incompetent. R.C. 2151.281(C); Juv. R. 4(B)(3)

HEARING PROCEDURE

Rules of Evidence: Relaxed. Juv. R. 7(F)(3); Juv. R. 27(A)

Standard of Proof: Probable Cause. Juv. R. 6

Record all proceedings if heard by a magistrate. Juv. R. 37(A) and 40(D)(2)



If a party requests an interpreter, has limited English proficiency, or is deaf/hard of hearing, the court shall appoint a qualified interpreter to assist such person. R.C. 2311.14; 42 U.S.C. 12181 through 12183; Title VI of Civil Rights Act of 1964

FINDINGS

- ☑ Determine whether there is probable cause for the removal or ex parte Order.
R.C. 2151.31(E); Juv. R. 7(F)(3) and 13(F)

Determine whether there are **reasonable grounds** to believe that:

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

AND

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm.

OR

- ☑ the child has been abused or neglected (or another member of that household has been abused or neglected);

AND

- ☑ the child is in danger of immediate or threatened physical or emotional harm from that abusive or neglectful person.

OR

- ☑ the child is suffering from illness or injury;

AND

- ☑ there is no one available to care for the child;

AND

- ☑ the removal of the child is necessary to prevent the child's physical or emotional harm.
R.C. 2151.31(A)

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); R.C. 2151.419(A)(1); Juv. R. 27(B)(1)

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). R.C. 2151.31(E)(2); Juv. R. 27(B)(1)

AND

- ☑ 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 § 472(1)
- ☑ Any of the above determinations **MUST** be stated in the order if temporary custody is granted to the agency. R.C. 2151.33(E)

Determine whether the child should remain or be placed in shelter care until the dispositional hearing. *R.C. 2151.28(B); Juv. R. 29(F)(4)*

- ✓ If a shelter care determination is made, determine whether there is an appropriate relative willing to take temporary custody of the child, and, if so, appoint that relative. *R.C. 2151.28(B)(1); Juv. R. 7(F)(3) and 27(B)*
- ✓ If the court finds that a relative placement is NOT appropriate, set forth the reasons for the determination in writing. *R.C. 2151.314(B)(2); Juv. R. 7(F)(3)*
- ✓ If a shelter care determination is made, issue written findings of fact that sustain the relative placement conclusion. *R.C. 2151.28(B)(1); Juv. R. 29(F)(4), and 7(F)(3) and 27(B)*

NOTE

The court's consideration of a relative for appointment as temporary custodian does not make that relative a party to the proceedings. *R.C. 2151.28(B)(1)*

- ✓ Determine what school district shall bear the costs of education for the child. *R.C. 2151.357 and 3313.64*



Issuing school district determination as a separate order will protect the confidentiality of the information regarding the child.

- ✓ Consider any other temporary orders under *Juv. R. 13*, such as those addressing child support, visitation and restraining orders, orders for forensic mental evaluations, or orders for immediate services. *R.C. 2151.33; Juv. R. 13(B) and Juv. R. 32*
- ✓ Where an emergency Order is sought regarding medical or surgical care, determine whether the motion is supported by the **certification** of one or more reputable practicing physicians and find that the **treatment appears to be immediately necessary for the child**. *Juv. R. 13(C)*

- ✓ Order paternity testing, if appropriate.



Paternity testing, when appropriate, should be performed as early as possible in the life of the case.

CASEFLOW TIME FRAMES

- ✓ Set the adjudication and disposition dates AND have notice for those hearings issued to the parties while they are present. *R.C. 2151.28; Juv. R. 29*

NOTE

The adjudication and dispositional hearings may be held on the same day, **ONLY** if all parties were served with all of the documents required for the dispositional hearing prior to adjudication. *R.C. 2151.35(B)(1)* The adjudication and disposition must be separate hearings. Juvenile Rule also requires that all parties consent to the dispositional hearing being held immediately after the adjudication hearing. *Juv. R. 34(A)*

- ✓ The adjudication date **MUST** occur within 30 days of the filing of the complaint, but may be extended up to 60 days after the filing of the complaint for good cause shown. *R.C. 2151.28(A)(2); Juv. R. 29(A)*

NOTE

Failure of the court to hold the adjudicatory hearing within these timeframes does not undermine the jurisdiction of the court. *Juv. R. 29(A)*

- ✓ Disposition **MUST** occur within 90 days of the filing of the complaint or the complaint shall be dismissed without prejudice. *Juv. R. 34(A)*



The Order should be distributed to all parties prior to the adjournment of the shelter care hearing.



All parties should be advised of ASFA timeframes.

- ✓ Journalize Entry.