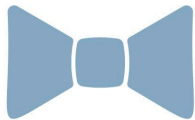


YOUTH COURT TRAINING



THOMPSON
LAW FIRM, *pllc*



Removal/
Shelter

Adjudication

Disposition

Permanency

TPR

REMOVAL

The judge or his designee may require a law enforcement officer, the Department of Human Services, the Department of Child Protection Services, or any suitable person to take a child into custody for a period **not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays.**



- **(a)** Custody orders under this subsection may be issued if it appears that there is **probable cause to believe that:**
 - **(i)** The child is within the jurisdiction of the court;
 - **(ii)** Custody is necessary because of any of the following reasons: **(1)** the child is in danger of a significant risk of harm, **(2)** any person would be in danger of a significant risk of harm by the child, **(3)** to ensure the child's attendance in court at such time as required, or **(4)** a parent, guardian or custodian is not available to provide for the care and supervision of the child; **and**
 - **(iii)** There is no reasonable alternative to custody.

SHELTER HEARING



- **TIMING:** Must be held within 48 hours of removal
- **BURDEN OF PROOF:** Probable Cause

- **NOTICE:** Reasonable oral or written notice
- The child
- Parent(s), Guardian(s), Custodian(s)
- Court-appointed CASA
- His/Her Counsel

<p>Probable Cause the child is within the jurisdiction of the Court ICWA</p>	<p>WHO/HOW did you provide notice of today's hearing? Where did the incident occur? (County) Where do the children reside? (County)</p>
<p>The child's placement in foster care is in the best interest of the child AND</p> <ol style="list-style-type: none"> 1. Reasonable efforts have been made to maintain the child within his own, but circumstances warrant removal AND there is no reasonable alternative to custody; OR 2. The circumstances are an emergency so that no reasonable efforts have been made AND there is no reasonable alternative to custody. 	<p>Is placement in MDCPS care and custody in the best interest of the child? What reasonable efforts did you make to maintain the child in his home? Why was that impossible? Why was there no reasonable alternative to custody? (No relatives/no fictive kin) OR Tell me why these circumstances are an emergency Are there any safety threats/risks in home?</p>
<p>The effect of continuation of the child's residing within the home would be contrary to the welfare of the child.</p>	<p>Why can't this child go/stay home? Why would this not be in the child's best interest?</p>
<p>Probable cause that custody is necessary because</p> <ol style="list-style-type: none"> 1. The child is endangered or any person would be endangered by the child, OR 2. To insure the child's attendance in Court, OR 3. A parent, guardian or custodian is not available to provide for the care and supervision of the child 	<p>How did the Agency become involved with this case? What were the safety risks that led to removal? Did the child/children receive medical attention? What were the conditions of the home? Any disclosures? What did you observe? What did you learn? (hearsay is admissible) Do you believe the child is endangered? Why? Do you believe this child is dangerous? Why?</p>
<p>AND there is no reasonable alternative to custody</p>	<p>Can this child stay with a parent/guardian? What efforts to locate fictive kin/relatives? Background checks? Walk throughs?</p>

DEFINITIONS

ABUSE

- "Abused child" means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused, upon the child, sexual abuse, sexual exploitation, commercial sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. However, physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section. "Abused child" also means a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.
- "Sexual abuse" means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened.

NEGLECT

- (i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or
- (ii) Who is otherwise without proper care, custody, supervision or support; or
- (iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or
- (iv) Who is not provided by the child's parent, guardian or custodian, with food, clothing, or shelter necessary to sustain the life or health of the child, excluding such failure caused primarily by financial inability unless relief services have been offered and refused, and the child is in imminent risk of harm.

REASONABLE EFFORTS

the exercise of reasonable care and due diligence by the Department of Human Services, the Department of Child Protection Services, or any other appropriate entity or person to use services appropriate to the child's background, accessible, and available to meet the individualized needs of the child and child's family to prevent removal and reunify the family as soon as safely possible consistent with the best interests of the child. Reasonable efforts must be made in collaboration with the family and must address the individualized needs of the family that brought the child to the attention of the Department of Child Protection Services and must not consist of required services that are not related to the family's needs.

ADJUDICATION



- **TIMING:** 30 days for child in shelter. 90 days for child not in shelter.
- **BURDEN OF PROOF:** Preponderance of the Evidence

- **NOTICE:** Summons & Petition
- The child
- Person(s) w/ custody
- Parent(s)
- MDCPS
- Any other person Court deems necessary

How did MDCPS become involved with this child?	This means the report that was made AND the allegations contained within the Petition
What did the investigation reveal?	What was the condition of the child? Condition of the home? Was there a danger to the health and safety of the child? Act or failure to act endangers the health and safety of the child?
Was it contrary to the child's welfare to remain in the home?	And Why??
Substantial Risk?	Continuing danger if left or returned to home?
Substantiated/Unsubstantiated?	History with the family
REASONABLE EFFORTS	What has the Agency done? to prevent removal, to return the child home as quickly and safely as possible
FSP (signed)	What are the terms and conditions? Are they narrowly tailored to the allegations?
If in custody, have we identified relatives or fictive kin?	What efforts were made?
Forensic interview(s)/Examinations	Was there a disclosure? When was it completed?
Records/Drug Tests	Have we reviewed drug tests? How often? Random? School records? Medical Records?
RECOMMENDATIONS AND WHY	IF NOT ADJUDICATED, the Case is over and GOES BACK TO THE STATUS QUO

DISPOSITION



- “The paramount concern in determining the proper disposition is **the best interest of the child, not reunification of the family.**”

- **TIMING:** After Adj., w/in 15 days from Adj.
- **BURDEN OF PROOF:** Preponderance of the Evidence. ONLY Evidence at Disposition considered

- (i) the child's physical and mental conditions;
- (ii) the child's need of assistance;
- (iii) the manner in which the parent, guardian, or custodian participated in, tolerated or condoned the abuse, neglect or abandonment of the child;
- (iv) the ability of a child's parent, guardian, or custodian to provide proper supervision and care of a child; and
- (v) relevant testimony and recommendations, where available, from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.

(a)(i) **REASONABLE EFFORTS** have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; **OR**

(ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody; **AND**

(b) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that the placement of the child in foster care is in the best interests of the child; **OR**

(c) Reasonable efforts to maintain the child within his home shall **not** be required if the court determines that: (i) The parent has subjected the child to **AGGRAVATED CIRCUMSTANCES**,

- **AGGRAVATED CIRCUMSTANCES**

including, but not limited to, abandonment, torture, chronic abuse, and sexual abuse;

- The parent has been **convicted** of murder of another child of that parent, voluntary manslaughter of another child of that parent, aided or abetted, attempted, conspired, or solicited to commit that murder or voluntary manslaughter, or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or
- The parental rights of the parent to a sibling have been terminated involuntarily; **AND**
- That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that placement of the child in foster care is in the best interests of the child.

DISPOSITION



• “The paramount concern in determining the proper disposition is **the best interest of the child, not reunification of the family.**”

WHAT THE COURT CAN DO

- releasing the child without further action,
- placing child in custody of parents, relative, or other person but with limitations in place
- granting DLG to a relative or fictive kin licensed as foster parent (after criteria are met),
- order certain treatments for family to assist child and child’s parent, guardian, or custodian,
- order MDCPS or other caregiver to secure social or medical services to provide proper supervision and care of the child,
- give legal custody to MDCPS or other appropriate entity as specified in the statute.

REASONABLE EFFORTS	What services have been offered? Have the parents participated?
FSP (SIGNED)	What is the status of completion?
If in custody, have we identified relatives or fictive kin?	What efforts were made?
Can the child(ren) go home?	Why not? Conditions of home?
Visitation	Frequency?, Location?, Transportation?
RECOMMENDATIONS AND WHY	WHERE DO WE GO FROM HERE?

NOTES: _____

PERMANENCY/REVIEW



- **TIMING:** For children who have been adjudicated abused or neglect, [with some exception], the youth court shall conduct a Permanency Hearing every 90 days. Permanency Review hearings will continue until such time as custody has been returned to the home of origin, durable legal custody has been granted, durable legal relative guardianship awarded, or adoption has been finalized.

The court **shall** require a written report and may require information or statements from the child’s MDCPS specialist, youth court counselor, if any, parent, guardian, or custodian, which includes but is not limited to, an evaluation of the family’s progress as well as recommendations for modifying the Permanency and Concurrent Plans in the best interest of the child.

Foster parents are required to attend permanency review hearings.

At the Permanency Hearing, the court decides whether the child should be:

- (i) returned to the parent(s),
- (ii) placed with suitable relatives,
- (iii) referred for termination of parental rights and placed for adoption,
- (iv) placed for the purpose of establishing durable legal custody, or
- (v) continued in foster care on a permanent or long-term basis because of the child’s special needs or circumstances.

The court must determine, and recite in any court order, that reasonable efforts were made by MDCPS to finalize the child’s permanency and concurrent from Dispo

REASONABLE EFFORTS

Is there a continued need for placement?

Is the plan still the best for the child?

FSP

Do we need to clarify/modify?

Physical, Emotional, Educational Needs?

being met? Do we need additional services?

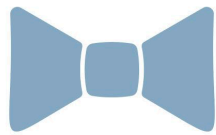
Visitation

Frequency?, Location?, Transportation?

RECOMMENDATIONS AND WHY

WHERE DO WE GO FROM HERE?

CONTACT



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