

CINA



Nuts and Bolts

Topics of Discussion

- Shelter care
- CINA adjudication
- CINA disposition
- Post disposition issues

Shelter Care

- The temporary placement of a child outside of the home at any time before disposition

Shelter Care Hearing

- A hearing held before disposition to determine whether the temporary placement of the child outside the home is warranted

Shelter Care Hearing

Rule 1

- Read what they plead !



Shelter Care Hearing

- **→ Step 1**

- Determine if all necessary parties are present

- ✓ DSS attorney

- ✓ Child/child's attorney

- ✓ Mother/mother's attorney

- ✓ Father/father's attorney

- ✓ Guardian, custodian and/or attorney



Shelter Care Hearing

- **→ Step 2**
 - Advise unrepresented parties of the nature of the proceedings and their right to counsel

Shelter Care Hearing

- The child must ALWAYS be represented
- The hearing can be postponed for a maximum of 8 days following commencement of shelter care, and this time may be used to allow a party to secure counsel



Shelter Care Hearing

- **→ Step 3**
 - Take testimony or
 - Accept agreements/proffers

Shelter Care Hearing

RULE 2

- Hearsay is admissible at shelter care hearings!



Shelter Care Hearing

- **→ Step 4**

- Determine if DSS has proven its case by proving by a preponderance of the evidence that:

- ▶ The child's continued placement in the home is contrary to the child's welfare

AND

Shelter Care Hearing

▶ Removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child

OR

▶ Reasonable but unsuccessful efforts were made to prevent or eliminate the need for the removal of the child from home



Shelter Care Hearing

- **➔ Step 5**
 - Following the shelter care hearing, if the child is placed in shelter care, prepare a shelter care order

Shelter Care Order

Shelter care orders must include the following findings:

▶ Return of the child home is contrary to safety and welfare of the child

AND

▶ Removal is necessary due to an alleged emergency and to provide for the safety of the child

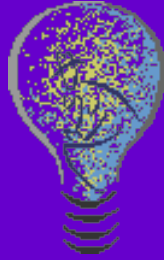
OR

▶ Reasonable but unsuccessful efforts were made to prevent placement

Shelter Care Order

- If the absence of efforts to prevent placement was not reasonable, include this in the order
- Include whether reasonable efforts are being made to return the child or whether absence of such efforts is reasonable

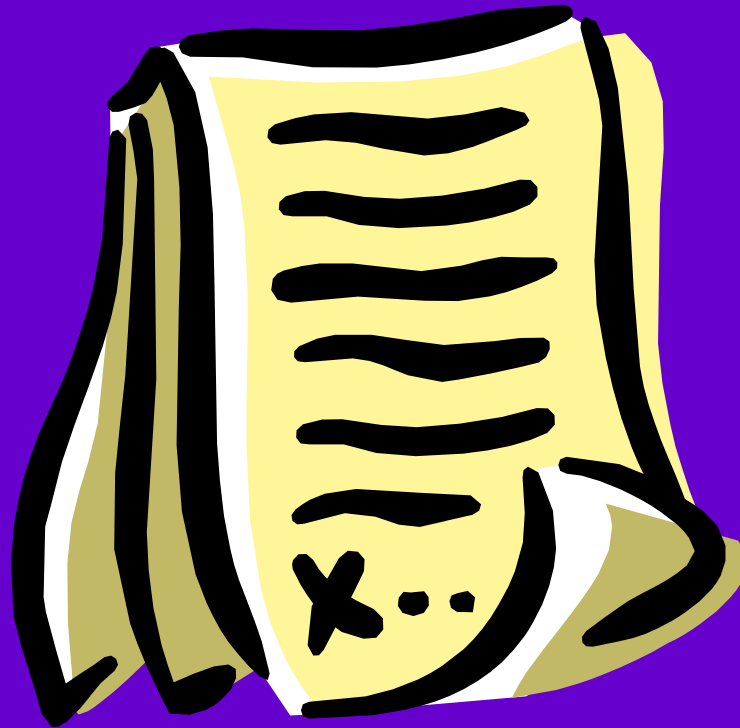
Hint



- Use preprinted, form orders
 - A good form order will prompt you to make all necessary findings
 - A good form order can serve as a checklist while you are hearing the case

Shelter Care

Shelter Care Petition



Shelter Care

Shelter Care Petition

Shelter Care Testimony



Testimony of
June Adams,
Social Worker

Child

Intervention

Neglected, Abused

Ability lacking

Child in Need of Assistance

- A Child in Need of Assistance is a child who requires the court's intervention because:

Child in Need of Assistance

- The child has been abused, neglected, has a developmental disability or mental disorder

And

- The parents, guardian or custodian are unable or unwilling to give proper care and attention to the child and the child's needs

Child in Need of Assistance

Abuse of a child is:

- ▶ Sexual abuse whether or not physical injury is sustained
- ▶ Physical or mental injury under circumstances indicating the child's health or welfare is harmed or at risk of harm by a parent or other individual who has permanent or temporary care, custody or responsibility for the supervision of the child, or a household or family member

Child in Need of Assistance

Neglect of a child is:

- ▶ Leaving a child unattended or other failure to give proper care and attention by parent or person with permanent or temporary custody under circumstances indicating;
 - ▶ The child's health or welfare is harmed or at risk of substantial harm
- OR
- ▶ The child has suffered a mental injury or been placed at substantial risk of mental injury

Child in Need of Assistance

Developmental Disability is:

- ▶ A severe chronic disability that is
 - ▶ Attributable to a physical or mental impairment other than solely mental illness
 - ▶ Is likely to continue indefinitely
 - ▶ Results in an inability to live independently
 - ▶ Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services that are individually planned and coordinated for the individual

Child in Need of Assistance

Mental Disorder

- ▶ Includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care and treatment necessary or advisable for the welfare of the individual or the safety of the person or property of another

CINA Adjudication

- Adjudicatory Hearing
 - A hearing to determine whether the allegations in the petition, other than the allegation that the child requires the court's intervention, are true.



CINA Adjudication

- **→ Step 1**
 - Determine if all necessary parties are present

CINA Adjudication

- ✓ DSS attorney
- ✓ Child/child's attorney
- ✓ Mother/mother's attorney
- ✓ Father/father's attorney
- ✓ Guardian, custodian and/or attorney



CINA Adjudication

- **→ Step 2**
 - Advise unrepresented parties of the nature of the proceedings and their right to counsel
 - The child must ALWAYS be represented



CINA Adjudication

- **→ Step 3**
 - Take testimony and/or
 - Accept proffers and stipulations



CINA Adjudication

- **→ Step 4**
 - Make a decision!

CINA Adjudication

Has DSS proven, by a preponderance of the evidence that the child has been:

Abused ?

Neglected ?

Has a developmental disability ?

Has a mental disorder ?

CINA Adjudication

Has DSS proven, by a preponderance of the evidence that :

The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs?



CINA Adjudication

- **→ Step 5**
 - Announce your decision
 - Dismiss the case if evidence is insufficient
 - Proceed to disposition (held on the same day as the adjudication, unless there is good cause to delay to a later date) or schedule disposition within 30 days



CINA Adjudication

CINA Petition



CINA Adjudication

CINA Testimony



Testimony of
June Adams,
Social Worker



Testimony of
Sara Barton,
Registered Nurse



Testimony of
David Smith,
Father

CINA Disposition

- Disposition
 - A separate hearing to determine whether the child is in need of assistance
 - AND
 - If so, the nature of the court's intervention to protect the child's health, safety and well-being



CINA Disposition

- **→ Step 1**
 - Take testimony
 - Review reports (evaluations, home studies, etc.)

CINA Disposition

- Dispositional Options
 - On finding that the child is a CINA you may:

CINA Disposition

- 1. Decide not to change the child's custody status

CINA Disposition

- 2. Commit the child to the custody of:
 - a parent, relative or other individual on terms the court deems appropriate
 - OR
 - a local DSS, DHMH or both, including the type of facility in which the child is to be placed

CINA Disposition

- 3. Place the child under the protective supervision of the local DSS

CINA Disposition

- 4. Order the child and parents, guardian or custodian to participate in rehabilitative services that are in the best interest of the child and family
- 5. Determine custody, visitation, support or paternity of the child in the appropriate circumstances of concurrent jurisdiction

CINA Disposition

- 6. Grant limited guardianship to DSS or an individual for specific purposes, including medical and educational purposes, if the parent is unavailable, unwilling or unable to consent to services that are in the child's best interests

CINA Disposition

- Note:

If the allegations are sustained against only one parent, and there is another parent available, able and willing to care for the child, you may *not* find the child a CINA, but before dismissing the petition, you may award custody to the other parent!



CINA Disposition

- **→ Step 2**
 - Announce your decision including:



CINA Disposition

- Specific findings of fact as to the circumstances which created the need for removal
- Whether DSS has made reasonable efforts to reunify or prevent placement, or the absence of such efforts was reasonable
- What the disposition is, who gets custody and under what terms or conditions that are appropriate
- Set at least minimal visitation schedule and conditions



CINA Disposition

- **→ Step 3**
 - Prepare and sign order



Hint: a good preprinted form order will be helpful to prompt you to make the appropriate findings



CINA Disposition

- **➔ Step 4**
 - Schedule any reviews
 - For out of home placement, schedule a permanency planning hearing

CINA Order

- If disposition removes a child from the home, the order **MUST** include the following:

CINA Order

- Specific findings of fact as the the circumstances that caused the need for removal

AND

CINA Order

- Inform the parents, custodian or guardian that the permanency plan of reunification may change to another plan, including the filing of a petition to terminate parental rights if:
 - The parents have not made significant progress to remedy the circumstances that caused the need for removal as specified in the court order and
 - They are unable or unwilling to give the child proper care and attention within a reasonable amount of time

CINA Disposition

Court Report



Post Disposition

- Review
 - A discretionary hearing, scheduled after disposition, to review the status of the case, to determine if the conditions which caused the child to be adjudicated CINA have been ameliorated, and whether or not the disposition should be modified

Post Disposition

- Permanency Planning Hearing
 - A hearing held NOT LATER THAN 11 MONTHS after a CINA enters an out of home placement, to determine the permanency plan for the child
- Note: a child is considered to have entered an out of home placement 30 days after the child is placed in an out of home placement

Adoption &

Safe

Families

Act