

# IJR 16 EXPANSION FOR CP JUDGES

*(CASES COMING FROM JUVENILE CORRECTIONS TO CP PROCEEDINGS)*

*Bench Card*

## **PURPOSE**

To conduct the initial and subsequent hearings in a child protection case that was expanded from a Juvenile Corrections Act (JCA) case.<sup>1</sup>

## **WHEN**

1. If a JCA proceeding is expanded, the JCA court may, in its discretion, order the juvenile placed in shelter care. The CPA court must then hold a shelter care hearing within 48 hours of the child being placed in shelter care, excluding Saturdays, Sundays, and holidays.<sup>2</sup>
2. The CPA court must hold an adjudicatory hearing within thirty (30) days of the JCA court's determination to expand the proceedings.<sup>3</sup>

## **WHO MAY BE PRESENT**

1. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case.<sup>4</sup>
2. The child may be excluded from hearings at any time in the discretion of the court. A counselor, friend, or other person may be permitted to remain in the courtroom at the witness stand as the child testifies.<sup>5</sup>
3. The Department of Juvenile corrections has standing as an interested party in the CPA case if the juvenile is in the custody of the Department of Juvenile Corrections.<sup>6</sup>

## **CPA PETITION**

1. The order expanding the JCA proceeding to a CPA proceeding serves as the petition in the CPA case. No further petition is required. The expansion order must be given to the juvenile's parent(s), guardian(s), or custodian(s), the Department, the prosecuting attorney and other counsel of record, and the Department of Juvenile Corrections if the juvenile is currently under commitment.<sup>7</sup>
2. A petition may be filed in the CPA proceeding, to include other children that come within the jurisdiction of the CPA but who were not before the JCA court. A petition to include other children in the CPA case must be filed at least fourteen (14) days prior to the adjudicatory hearing.<sup>8</sup>

## **EVIDENCE**

1. The Rules of Evidence do not apply to shelter care hearings held after the expansion of a JCA proceeding to a CPA proceeding; they do apply in the CPA proceeding only to that part of the adjudicatory hearing where jurisdiction and/or aggravated circumstances is/are determined.<sup>9</sup>
2. The burden going forward with the evidence at the adjudicatory hearing remains with the prosecutor.<sup>10</sup>

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## ENDNOTES

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<sup>1</sup> IJR 16.

<sup>2</sup> IJR 16(b).

<sup>3</sup> IJR 16(d).

<sup>4</sup> IC §16-1613(1); IJR 39(h); IJR 52(a).

<sup>5</sup> IC §16-1613(1) and (2).

<sup>6</sup> IJR 16(f).

<sup>7</sup> IJR 16(c) and (d).

<sup>8</sup> IC 16-1603(2); IJR 16(d).

<sup>9</sup> IRE 101(e)(6); IJR 39(e), IJR 41(c), and IJR 51(b).

<sup>10</sup> IJR 16(d).