

IJR 16 EXPANSION FOR JUVENILE JUDGES

(CASES COMING FROM JUVENILE CORRECTIONS TO CP PROCEEDINGS)

Bench Card

PURPOSE

1. To direct the Department to investigate the circumstances of the juvenile and report to the court; and/or,
2. To determine whether a Juvenile Corrections Act (JCA) proceeding should be expanded to a Child Protection Act proceeding.¹

WHEN

1. At any stage of a JCA proceeding, when the court has reasonable cause to believe that a juvenile living or found within the state is neglected, abused, abandoned, homeless, or whose parents or legal custodian fails or is unable to provide a stable home environment.²
2. If the proceeding is expanded, the JCA court may, in its discretion, order the juvenile placed in shelter care. The CPA court must hold a shelter care hearing within 48 hours of the child being placed in shelter care, excluding Saturdays, Sundays and holidays.³
3. The CPA court must hold an adjudicatory hearing within thirty (30) days of the JCA court's determination to expand the proceedings.⁴

WHO MAY BE PRESENT

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.⁵

EVIDENCE

The Rules of Evidence apply in the JCA proceeding unless it is a detention hearing or a sentencing hearing. The evidentiary standard is reasonable cause.⁶

REQUIRED FINDINGS

1. There is reasonable cause to believe the juvenile is living or found within the state and is neglected, abused, abandoned, homeless, or where his/her parents or other legal custodian(s) have failed or are unable to provide a stable environment.⁷
2. If the child is placed in shelter care, such shelter care is in the best interest of the juvenile and needed for the juvenile's protection.⁸
3. If:
 - a. An order expanding a JCA proceeding is issued, and
 - b. The court orders that the juvenile be removed from his/her home, and
 - c. If the expansion order is the first order sanctioning removal of the child from the home, then

The court must also determine whether it is contrary to the welfare of the child to remain in the home, and it is in the best interest of the child to be removed from the home pending further proceedings. This finding must be in writing and case-specific.⁹

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ORDER

1. The order expanding the JCA proceeding to a CPA proceeding must be in writing and contain the factual basis supporting the order.¹⁰
2. The order, as set forth in IJR 16(g), expanding the Juvenile Corrections Act proceedings to Child Protective Act proceeding, serves the function of the CP Petition and should substantially conform to the format found in IJR 16(g).

ENDNOTES

¹ IJR 16(a).

² IJR 16(a).

³ IJR 16(b).

⁴ IJR 16(d).

⁵ IJR 16(f).

⁶ IRE 101(e)(6); IJR 16(a), IJR 51(a).

⁷ IJR 16(a).

⁸ IJR 16(b).

⁹ 45 C.F.R. §1356.21(c); IC §16-1615(5); IJR 16(g).

¹⁰ IJR 16(a).