I.J.R. 41. Adjudicatory Hearing (C.P.A.)

Idaho Juvenile Rule 41. Adjudicatory Hearing (C.P.A.)

(a) The purpose of the adjudicatory hearing is to determine: (1) whether the child is within the jurisdiction of the court under the Child Protective Act as set forth in I.C. §§ 16-1603; and (2) if jurisdiction is found, to determine the disposition of the child. The court may also determine whether aggravated circumstances exist, if aggravated circumstances were alleged in the petition or raised by written motion with notice to the parents prior to the adjudicatory hearing. The court may make an aggravated circumstances determination at any time after the adjudicatory hearing if aggravated circumstances is raised by written motion with notice to the parents prior to the hearing.

(b) The hearing shall be scheduled as set forth in I.C. § 16-1619. The hearing may not be continued more than 60 days from the date the child was removed from the home, unless the court has made case-specific, written findings as to whether the department made reasonable efforts to prevent the need to remove the child from the home.

(c) The hearing shall be conducted in an informal manner. The Idaho Rules of Evidence apply to the portion of the hearing where jurisdiction and/or aggravated circumstances is determined. The Idaho Rules of Evidence do not apply to disposition or any other portion of the hearing.

(d) In the event the court finds the child is within the jurisdiction of the court under the Child Protective Act, it shall make findings of fact and conclusions of law indicating the basis of jurisdiction.

(e) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and if the court places the child in the custody of the department, and if the court does not find that the parent subjected the child to aggravated circumstances, then the court shall make written, case-specific findings that the department made reasonable efforts to eliminate the need for shelter care but the efforts were unsuccessful or that the department made reasonable efforts to eliminate the need for shelter care but was not able to safely provide preventative services.

(f) If the adjudicatory decree is the first order of the court sanctioning removal of the child from the home, the court shall make a written, case-specific finding that remaining in the home is contrary to the welfare of the child, or, in the alternative, removal from the home is in the best interest of the

child.

(g) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and if the court vests legal custody of the child in the department, and the court does not find that the parent subjected the child to aggravated circumstances, then the court shall order the department to prepare a written case plan, to be filed with the court and served upon the parties five days prior to the hearing on the case plan. The department shall consult with the guardian ad litem and the childís parents in preparing the plan.

(h) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and the court places the child under the protective supervision of the department, then the court shall order the department to prepare a written case plan, to be filed with the court and served upon the parties five days prior to the hearing on the case plan. The department shall consult with the guardian ad litem and the child's parents in preparing the plan.

(i) If the court finds that the child is within the jurisdiction of the court under the Child Protective Act, and finds that the parent has subjected the child to aggravated circumstances, then the court shall order the department to prepare a written permanency plan, to be filed with the court and served upon the parties five days prior to the hearing on the permanency plan. The department shall consult with the guardian ad litem, and the childís parents in preparing the plan.

(Revised Rule 41 - adopted August 21, 2006; amended April 26, 2007, effective July 1, 2007, amended April 24, 2013, effective July 1, 2013.)

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