

# Adjudicatory Hearing (Trial)

MCR 3.972 | SCAO Form JC 49

An adjudication, or “trial,” is conducted to determine if the child comes within the jurisdiction of the court. If the court concludes that the child is within the jurisdiction of the court, the court may order one or more of the dispositions contained in MCL 712A.18(1). The court may conduct the dispositional hearing immediately following adjudication (in that case, use SCAO form JC 17 instead of JC 49).

## Procedural Issues

Must hold the hearing within 63 days after removal. If the child is not in placement, the trial must be held within 6 months after the petition was filed.

Was legally sufficient notice given to the parties?

Unless a party has demanded a trial by judge or jury, a referee may conduct the trial. MCR 3.913(B)

If a parent is in prison can he or she participate in person or via telephone/video conference?

If there is only one respondent parent, what is the status of the other parent? What specific steps has the agency taken to locate and engage the other parent?

Inquire if the child is an Indian child. See ICWA/MIFPA bench card.

Has legal counsel been appointed for the child and parents?

Has the LGAL contacted the child and complied with the statutory duties in MCL 712A.17d?

Is the child present in court? If not, why?

Advise parties of rights.

If no jurisdiction is found, dismiss the case.

## Plea Taking MCR 3.971

### Advise parent(s) of:

Allegations in the petition.

Right to an attorney.

The rights relinquished if a plea is accepted:

- Trial by judge or jury.
- Petitioner requirement to prove allegations by a preponderance of the evidence.
- Have witnesses against the respondent appear and testify under oath at trial.
- Cross-examine witnesses.
- Have court subpoena any witnesses respondent believes could give testimony in his or her favor.
- Plea can be later used as evidence in a proceeding to terminate parental rights.

Court must find that the plea is knowingly, understandingly, and voluntarily made.

Court must find that one or more statutory grounds alleged in the petition are true.

If there is a no contest plea, state why the plea of no contest is appropriate.

## ★ Required Judicial Findings/Orders

Determine if there are statutory grounds to exercise jurisdiction over the child. MCR 3.972 requires the court to find by a *preponderance of the evidence* that one or more allegations in the petition are true.

If termination of parental rights is requested, determine if there are grounds to proceed to termination. MCL 712A.19b lists the statutory grounds for termination. The standard of proof for termination is *clear and convincing* evidence. For an Indian child, the standard of proof is beyond a reasonable doubt.

Determine if the child can remain or be returned home under the court’s jurisdiction.

Determine if the child should be placed into foster care. If placing the child into foster care, the court must find and order the following:

- Statutory out of home placement standards are met. MCL 712A.13a(9)
- Place the child with DHS for care and supervision.
- Order frequent parenting time to maintain the parent-child bond.
- Order specific evaluation and/or services to be provided to the parent(s) and child.
- Assessments and services for parents must be culturally competent and allow the parents to maintain community, cultural, or tribal ties.

Unless the dispositional hearing will immediately follow, schedule the dispositional hearing to occur within 28 days of adjudication. MCR 3.973(c)