

STATE OF MICHIGAN
JUDICIAL CIRCUIT - FAMILY DIVISION
COUNTY

ORDER AFTER PRELIMINARY HEARING
(CHILD PROTECTIVE PROCEEDINGS), PAGE 1
ORDER _____ OF _____

CASE NO.
PETITION NO.



Court address

Court telephone no.

1. In the matter of
name(s), alias(es), DOB

2. Date of hearing: _____ Judge/Referee: _____ Bar no.

3. Removal date: _____ (Specify for each child if different.)

4. Military/nonmilitary affidavit attached.

THE COURT FINDS:

5. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).

6. The child(ren) is/are is not/are not subject to the continuing jurisdiction of another court. Court: _____

7. Notice of hearing was given as required by law. Notice of proceedings is to be given as required by law.

8. a. There is probable cause to believe the legal/putative father(s) is/are: (Name each child, his/her father, and whether legal or putative.)

b. The putative father of _____ is unknown and cannot be identified.

9. The probable-cause determination was waived by all parties present.

10. There is is not probable cause that one or more of the allegations in the petition are true.

11. There is good cause to adjourn the preliminary hearing because _____ .
 Petitioner recommends removal of the child(ren) from the home to assure the immediate safety of the child(ren).

12. There is probable cause the parent guardian legal custodian other person residing in the child(ren)'s home abused the child(ren). Presence of the alleged abuser in the home does does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being and he/she should should not be ordered out of the home. (Use form JC 65, Order Removing Alleged Abuser from Child's Home, as appropriate.)

13. The child(ren) has not/have not been removed prior to this hearing and an order to take the child(ren) into protective custody is necessary because:
a. the child(ren) is/are at substantial risk of harm or is/are in surroundings that present an imminent risk of harm and the child(ren)'s immediate removal from those surroundings is necessary to protect the child(ren)'s health and safety,
b. the circumstances warrant issuing this order; and
c. no remedy other than protective custody is reasonably available to protect the child(ren).
(If item 13 is checked, contrary to the welfare and reasonable efforts findings must be made. See items 15 and 16.)

(SEE SECOND PAGE)

Do not write below this line - For court use only

USE NOTE: Do not use this form for removals if a petition has already been authorized in this case. Use JC 75 instead.

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Court address

Court telephone no.

In the matter of

14. The child(ren) is/are Indian as defined in MCR 3.002(12). The petitioner has has not given notice of the preliminary hearing as required by MCR 3.920(C)(1).
 The preliminary hearing must be adjourned pending conclusion of a removal hearing required by MCR 3.967.
 The removal hearing required by MCR 3.967 was conducted in conjunction with this hearing (see required findings in item 16).

A qualified expert, _____, testified as required by law.

15. a. Contrary to the welfare findings were made in a prior order.
 b. It is contrary to the welfare of the child(ren) to remain in the home because: (Attach separate sheets as necessary.)

16. a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**
 b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include: (Specify below.) **OR**
 c. The child(ren) is/are Indian, and the court finds by clear and convincing evidence and the testimony of a qualified expert witness who has knowledge about the child-rearing practices of the Indian child's tribe, that active efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. These efforts have proved unsuccessful, successful, the continued custody of the child(ren) by the parent or Indian custodian is is not likely to result in serious emotional or physical damage to the child(ren), and the child(ren) should should not be removed from the home.
(Specify below.)

The efforts for 16.b. or 16.c. are: (Specify the efforts from 16.b. or 16.c. here. If the child is an Indian child, specify active efforts as defined by MCR 3.002[1] and MCL 712B.3[a].)

- d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.

(SEE THIRD PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER AFTER PRELIMINARY HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 3 ORDER _____ OF _____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

17. a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to
 the mother's father's subjecting the child(ren) to the aggravated circumstance(s) of _____ as provided in section MCL 722.638(1) and (2), and as evidenced by _____.

- the mother's father's conviction for murder of another child of the parent.
- the mother's father's conviction for voluntary manslaughter of another child of the parent.
- the mother's father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
- the mother's father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
- the mother's father's involuntary termination of parental rights to a sibling of the child(ren).
- the mother father being required to register under the Sex Offender Registration Act.

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are
 not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.
OR
 still recommended because:

(When item 17 is checked, either complete item 19 below or schedule a permanency planning hearing within 28 days of this determination.)

18. a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
 b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

19. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (**Use and attach form JC 19**, Order Following Dispositional Review/Permanency Planning Hearing.)

20. Custody of the child(ren) with the parent/guardian/legal custodian
 a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
 No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
 Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.
 b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

21. Parenting time with _____, even if supervised, may be harmful to the child(ren).

(SEE FOURTH PAGE)

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Court address

Court telephone no.

In the matter of

IT IS ORDERED:

22. The petition is authorized. is not authorized. is not authorized pending resumption of the preliminary hearing.

23. Notice is to be given to the legal/putative father(s) as required by law. The father was not present and must appear at the next hearing. The putative father was present at this hearing and shall establish paternity within 14 days.

24. This matter is set for a continued preliminary/removal hearing on _____ pursuant to MCR 3.967. The petitioner shall give notice of these proceedings as required by MCR 3.920(C)(1). (Use form JC 48.)

25. The child(ren)

- a. is/are placed with the department for care and supervision, and
 - 1) the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the department with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the department.
 - 2) if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the department and a copy of the home study submitted to the court not more than 30 days after the placement.
 - 3) upon request, the department shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(15).

The child(ren) shall be taken into protective custody. To effect this order, _____ is authorized to enter the premises located at _____. This authorization to enter the premises and take the child(ren) into protective custody expires _____.
 Enter on LEIN

b. is/are released to _____ under the supervision of the department.
Name(s) of parent(s), guardian, or legal custodian

The following terms and conditions apply to the parent(s), guardian, or legal custodian:

26. The child(ren) named _____ shall have a psychological evaluation counseling to determine appropriateness and conditions of parenting time.

27. a. Parenting time of _____ is unsupervised. supervised until further order of the court.
 The department has discretion to allow unsupervised or supervised parenting time by its designee.

b. Parenting time of _____ is unsupervised. supervised until further order of the court.
 The department has discretion to allow unsupervised or supervised parenting time by its designee.

c. Parenting time of _____ is unsupervised. supervised until further order of the court.
 The department has discretion to allow unsupervised or supervised parenting time by its designee.

d.

(SEE FIFTH PAGE)

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Court address

Court telephone no.

In the matter of

IT IS ORDERED: (continued)

28. Until further order of the court, placement shall continue pending resumption of the preliminary hearing pretrial
 trial disposition on _____ .
Date and time

29. Other:

Recommended by: _____
Referee signature Date

Date

Judge

Reference Note: The term "department" refers to the Department of Health and Human Services.

CHECKLIST FOR ADVICE OF RIGHTS AND GENERAL PROCEDURE FOR PRELIMINARY HEARING

1. Determine whether parent(s), guardian, or legal custodian have been notified, are present, and if not present, whether to proceed in their absence.
2. Determine whether the lawyer-guardian ad litem for the child is present and direct that the lawyer-guardian ad litem for the child receive a copy of the petition.
3. Determine whether the minor has no father as defined in MCR 3.903(A)(7) and take appropriate action as described in MCR 3.921(D). *If the father of the child has not been identified, the court should inquire of the mother regarding the identity and whereabouts of the father.*
- 5 ~~4~~. If a respondent is present, assure that each respondent has a copy of the petition.
- 6 ~~5~~. Read the allegations in the petition in open court unless waived by all parties present.
- 7 ~~6~~. Determine whether the petition should be dismissed or the matter referred to alternate services; otherwise, the preliminary hearing shall continue. *4. If a nonrespondent parent is present, advise the nonrespondent parent of his or her right to seek place of his or her child in his or her home.*
- 8 ~~7~~. Advise the respondent of the right to the assistance of an attorney.
- 9 ~~8~~. Advise the respondent of the right to trial on the allegations in the petition and that the trial may be before a referee unless a timely demand for a jury or judge is filed.
- 10 ~~9~~. Allow the respondent an opportunity to deny or admit allegations and make a statement of explanation.
- 11 ~~10~~. If the hearing is held by a referee, advise the parties of the right to file a request for review of the referee's recommended findings and conclusions.
- 12 ~~11~~. Inquire whether the child is subject to the continuing jurisdiction of another Michigan court and, if so, which court.
- 13 ~~12~~. Inquire if the child is an Indian as defined in MCR 3.002(12), and if so, follow the procedure in MCR 3.965(B)(2) and determine whether to continue with the preliminary hearing.
- 14 ~~13~~. Unless the preliminary hearing is adjourned, decide whether to authorize the filing of the petition, and if authorized, whether to release the child to a parent, guardian, or legal custodian or whether to place the child out of the home as prescribed by MCR 3.965(C). **If this is the first court order authorizing removal of the child, make findings regarding whether:** *The court must inquire of the parent, guardian, or legal custodian regarding the identity of relatives of the child who might be available to provide care.*
 - **custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.**
 - **no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk of harm to the child's life, physical health, or mental well-being.**
 - **continuing the child's residence in the home is contrary to the child's welfare.**
 - **consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.**
 - **conditions of child custody away from the home and with the individual with whom the child is placed are adequate to safeguard the child's health and welfare.**Reasonable efforts findings must be made now or within 60 days of the date of removal. If the child is an Indian, there are additional requirements.
- 15 ~~14~~. Advise the parent(s) when additional costs or reimbursement may be assessed.
- 16 ~~15~~. Having ordered placement of the child outside the child's home, inform the parties of the following:
 - a. that the agency has the responsibility to prepare an initial services plan within 30 days after the child's placement.
 - b. the general elements of an initial services plan as required by the rules promulgated pursuant to 1973 PA 116, MCL 722.111 to 722.128, including:
 - the background of the child(ren) and the family;
 - an evaluation of the experiences and problems of the child(ren);
 - a projection of the expected length of stay in foster care; and
 - an identification of specific goals and projected time frames for meeting the goals.
 - c. that participation in an initial services plan is voluntary without a court order.
 - d. that, on motion of a party, the court will review the initial services plan and may modify the plan if it is in the best interests of the child.
- 17 ~~16~~. Having found the alleged abuser should be ordered out of the home, complete JC 65, Order Removing Alleged Abuser from Child's Home.