

Emergency Removal

Child Under Court Jurisdiction Post-Disposition

MCR 3.974(B) | SCAO Form JC 75

An emergency removal hearing is conducted when the agency requests that a child, over whom the court has retained jurisdiction but maintained in his or her home, be removed from the home. (For a removal request for a child not under court jurisdiction, see the Protective Custody bench card)

When to Use This Bench Card

Child is under court jurisdiction, child is placed at or returned home, and removal is requested.

Procedural Issues

Must hold hearing within 24 hours of removing the child from home.

When a child is placed outside the home, notice must be provided to the parents as soon as the hearing is scheduled.

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

Allow parent(s) to make a statement as to why the child should not be removed or should be returned home.

Was legally sufficient notice given to the parties?

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

Ensure parents have received written statement of reasons for removal.

Advise parties of right to:

- Dispositional review hearing within 14 days.
- Counsel at dispositional review hearing.
- Compel witnesses at the dispositional review hearing.

Reasonable Efforts to Prevent Removal

Federal funding regulations require this finding to be made within 60 days of removing the child from the home.

Has the agency provided reasonable efforts (or active efforts in the case of an Indian child) to prevent the child's removal from the home?

Were there any pre-hearing conferences or meetings that included the family?

What services were considered and offered to allow the child to remain at home? Were these services culturally appropriate? How are these services rationally related to the safety threat?

What was done to create a safety plan to allow the child to remain in the home without court involvement?

Out of Home Placement Standards

MCL 712A.13a

The court may place a child into foster care if it finds **all** of the following conditions:

- Substantial risk of harm to child's life, physical health, or mental well-being.
- No service or other arrangement is reasonably available to adequately safeguard the child from the substantial risk of harm.
- Continuing child's residence in the home is contrary to child's welfare.
- Reasonable efforts were made to prevent/eliminate need for removal.
- Conditions away from the parent are adequate to safeguard the child's health and welfare.

If the child is an Indian child, must find clear and convincing evidence, based on qualified expert witness testimony, that the child would be at risk of serious physical or emotional damage unless removed. MCL 712B.15(2)

Continued on reverse

Emergency Removal

Child Under Court Jurisdiction Post-Disposition

MCR 3.974(B) | SCAO Form JC 75

Contrary to the Welfare to Remain in the Home

Federal funding regulations require this finding to be made in the first court order authorizing removal.

Is it contrary to the child's welfare to remain in the home?

What specific conditions make the home an unsafe place for the child, requiring removal?

Is the parent intellectually, emotionally, and physically able to protect the child given the threats?

What prevents the child from remaining/returning home today?

Can the parent articulate a feasible and realistic plan to protect the child?

Placement and Permanency Issues

Is a petition to terminate parental rights required?

Have the non-custodial parent, putative father or other relatives (paternal and maternal) been identified and considered for placement? What efforts have been made to locate/engage them?

If there is a putative father, has he been advised of his right to establish legal paternity?

Does the child's placement allow the child to maintain school placement and other important family and social connections?

Is the child being placed in a safe home that can meet the child's basic, medical, and special needs?

Does the child have siblings who are already in foster care? If so, can the children be placed together? If the children cannot be placed together, is there a plan for sibling visitation?

Parenting Time

The court should order parenting time and sibling visitation in a frequency and duration appropriate to maintain the parent-child and/or sibling bond. Parenting time should not be used as a punishment for noncompliance with the case service plan.

Parenting time should be clearly defined in the order, including electronic contact (email, phone, etc.).

Parenting time should incorporate continued parental responsibilities such as attendance at appointments, school events, or extracurricular activities.

Is parenting time at a location other than the agency appropriate?

If supervised parenting time is requested, what are the specific safety risks preventing unsupervised parenting time?

★ Required Judicial Findings/Orders

The emergency removal order may do either of the following:

- Remove the child from the home pursuant to the out of home placement standards enumerated in MCL 712A.13a (see page 1).
- Return the child to the home under the court's jurisdiction.

Schedule dispositional review within 14 days if the child is removed. MCR 3.974(C)