

REMOVAL ISSUES

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ALWAYS - MUST CHECK FOR RELATIVE OPTIONS

MUST PLACE SIBS TOGETHER UNLESS EXPERT OPINION DOCUMENTED

FCA 1021 Consent (do not confuse with voluntary placements under SSL 384-a)

- “receipt for child”
- written consent to DSS, cops – must give “rights” and contact info to parent
- must have decided child is abused or neglected
- copy of the signed consent must be attached to petition
- petition must be filed w/in 3 court days - can return child, if neglect
- must do a 1027 one day after petition filed and get a court order that finds reasonable efforts to prevent, best interests – parent can have 1028 if no attorney to assist at 1027

FCA 1022 Pre-Petition Court Order

- parent not present to ask for consent or asked for consent and refused
- must notice parent of intent to seek court order if can be located
- court must hear on the day DSS asks and order must find imminent danger, reasonable efforts to prevent, best interests – petition filed 3 court days after
- not enough time to petition - enough time/safety to seek court order
- federal court decisions and Court of Appeals say DSS should do 1022 instead of 1024 if time and safe – must justify why not
- if parent not present or without attorney at 1022 (most common) then court must hold 1027 one day after petition filed, if no attorney at 1027, can still have a 1028

FCA 1024 Emergency Removal

- can be done by DSS, cops (not docs or hospitals- they only “hold” until CPS takes action or at most until next business day)
- parents can be present or not
- must have decided child abused or neglected and imminent danger and not enough safe time for 1022
- must tell parent of rights, if present - give notice of 1028
- must inform court ASAP and must file petition by next court day - court can grant 3 days but only upon order with “good cause” shown
- may return child if neglect
- imminent danger. reasonable efforts, best interests must be proven and in court order

FCA 1027 Post Petition Hearing

- always done if no court ordered the removal - so do this “hearing” with both 1021 and 1024 removals
- also done where 1022 removal but parent was not at 1022 or was there but had no attorney
- must show imminent risk

- court can place in foster care or not and can also place with relative, “suitable person” or other parent under Art. 10 or Art. 6
- court can issue o/p along with or instead of
- court can review issues re medical exams and photos
- court often issues temporary orders re visitation

FCA 1028 Request for Return

- parent can request 1028 hearing at any time after a removal unless already had a 1027 with attorney present
- if asked, court must grant and hold hearing w/in 3 court days
- focus is on imminent risk - sometimes used to force issues of visitation, relatives or o/p alternatives
- parent can really always ask for any order to be modified in any event – but if already had a 1028, then there is no “3 day” requirement

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