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# ARRAIGNMENT AND SHELTER REVIEW

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At the arraignment hearing the parents/legal custodians will enter pleas in response to the petition for dependency. § 39.506(1). The parent or legal custodian can admit, deny, or consent to findings of dependency alleged in the petition. This hearing is similar to arraignment in criminal court, except the court also reviews issues related to the child such as shelter placement and visitation. The court should also do the following:

- Conduct a paternity inquiry if paternity has not been established.
- Review issues of placement, visitation, and whether the department has made reasonable efforts to prevent removal or the need for removal.
  - The court must review the necessity for the child's continued placement in shelter. § 39.506(8).
  - If the child is in an out-of-home placement, visitation must be ordered absent a showing that it is not in the best interests of the child. §. 39.506(6). Any visitation order must conform to § 39.0139, the Keeping Children Safe Act. § 39.506(6).
- If the court has not appointed counsel for the parent at shelter, counsel should be appointed at the arraignment hearing.
- Order substance abuse assessments for anyone with custody or seeking custody of the child.
- Remind the parents of the requirement to notify the court of any suitable relative placements.
- Require all parties to provide a permanent mailing address. § 39.506(4).

## **Reasonable Efforts**

The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. § 39.506(7). If the court determines that the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety. § 39.506(7).

## **Time Frames**

- Must be held within 28 days of shelter for a child sheltered out of the home. § 39.506(1).
- If a demand for early filing has been made by any party, within 7 days after the date of filing of the dependency petition. §39.506(1).
- Must be held within a reasonable time for a child not sheltered. § 39.506(2).

## **Other Time Frames**

- The court is required to hold a status hearing within 60 days of the petition and every 30 days thereafter until an adjudicatory or disposition hearing begins. Rule 8.315(d).
- If there is a violation of the time requirements for filing a petition the court shall make a written determination regarding the child's continued placement in shelter within 24 hours of such violation. § 39.506(8).
- If a continuance is requested after a parent/legal custodian consents, delaying the date of disposition hearing past 15 days, the court shall make a written determination of the child's continued placement in shelter before granting any such continuances. § 39.506(8).

## **Service**

- The petitioner, typically the department, is responsible for serving the parent at least 72 hours before the arraignment hearing. § 39.501(4).
- Initial dependency petition must be served personally or through affidavit of diligent search. § 39.506(3)-(9).
- Personal appearance eliminates the need for service. § 39.502(2).
- If the parent is served but fails to appear at the arraignment hearing, this constitutes consent to the dependency petition. § 39.506(3). (NOTE: the document containing the notice to respond/appear must contain specific statutory language in § 39.506(3) warning that failure to appear may result in loss of custody of the child.)

## **Diligent Search**

- If a parent's/prospective parent's location is unknown, ask the court to order diligent search.
- At a minimum, § 39.503(5)and(6) require inquiries of:
  - all known relatives of parent;
  - all program offices of the department likely to have information regarding the parent;
  - other relevant state and federal agencies;
  - utility and postal providers; and
  - law enforcement.
- If there is no affidavit of diligent search, or the search is not satisfactory, then the department must continue its efforts to complete a successful search.

## **Parent's Plea**

- The parent may admit, consent or deny the dependency petition. § 39.506(1).

- If the parent enters an admission or consent, the court must make a finding that the plea is made knowingly, voluntarily and intelligently and that the parent/custodian has a full understanding of the nature of the allegations and the possible consequences as well as his or her right to counsel. Rule 8.325(c).
- If the parent enters an admission/consent, disposition should be set within 15 days. § 39.506(1).
- If the parent enters a denial, the adjudicatory hearing should occur within 30 days. § 39.507(1).