

# What is 'A probable Cause Hearing' to Remove a Child?



**Arrestment or Initial Family Court Hearing and Probable Cause Hearing Procedure From Policy 1100.0000 :** [Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition](#)

## A. At the arrestment, the question before the Court is:

"Does the parent(s) or other person(s) having custody of or legal responsibility for the child admit or deny the allegations in the petition that the child is dependent/neglected/abused?"

1. If temporary custody is assigned to the Department and the child is placed out of the home of the parent(s) by Court order, a Probable Cause Hearing must be scheduled within ten days of a request for hearing by parent(s) or their counsel.
2. The primary worker is prepared at arrestment to answer questions about:
  - a. The child's current placement
  - b. The availability of suitable relative caretakers as a placement resource.
  - c. Services offered to the parent(s) to prevent removal and services that will be offered to assist in a reunification
  - d. Visitation plan
  - e. If parents whereabouts are unknown, the last known addresses
  - f. The reason why petitions may not have been filed on siblings
  - g. Whether or not father's name is on birth certificate

## B. At the Probable Cause Hearing, the main question before the Court is:

"Based upon as accurate and reliable information as possible, are there facts and circumstances that would justify a reasonable person to suspect that a child is abused or neglected?" The Court may also consider whether the child continues to need out of home placement even though probable cause existed at time of the child's removal.

1. The Child Protective Investigator (CPI) and/or primary worker are often the sole witness at the hearing. The primary worker may use supporting documentation, such as emergency records, at this hearing.
2. The Family Court Judge must find that there were reasonable grounds to warrant the Ex Parte removal of the child and that there are reasonable grounds to warrant the continued detention of a child pending a trial on the merits.
3. The Family Court Judge determines if probable cause exists.
  - a. If probable cause is found, the child is continued in the temporary custody of the Department (in placement) pending trial.
  - b. If probable cause is not found, the child is returned to the custody of the parent(s). The primary worker and supervisor meet with Legal Counsel to reevaluate the basis for the petition and determine if or when the Department should withdraw the petition.