

Rule 106. Criteria for Detention and Shelter Care

(a) Detention. No respondent shall be placed in detention prior to a factfinding hearing or a dispositional hearing unless the respondent is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required to protect the person or property of others or of the respondent, or to secure the respondent's presence at the next court hearing.

(1) In determining whether detention is necessary to protect the person of others, relevant factors include but are not limited to the following:

- (i) Record of the respondent's previous offenses against persons,
- (ii) Record of the respondent's previous weapons offenses,
- (iii) Nature and circumstances of the pending charge,
- (iv) Nature and circumstances of other pending charges, if they involve an offense against the person or a weapons offense,
- (v) Allegations of danger or threats to witnesses, and
- (vi) Emotional character and mental condition of the respondent.

(2) In determining whether detention is necessary to protect the property of others from serious loss or damage, relevant factors include but are not limited to the following:

- (i) Record of the respondent's previous offenses against the property of others, if serious loss or damage was involved,
- (ii) Nature and circumstances of the pending charge, and
- (iii) Nature and circumstances of other pending charges, if they involve serious loss or damage to the property of others.

(3) In determining whether detention is necessary to protect the respondent's own person, relevant factors include but are not limited to the following:

- (i) Narcotics addiction by the respondent or other indication of illegal drug use,
- (ii) Abuse of alcohol by the respondent,
- (iii) Suicidal actions or tendencies of the respondent, and
- (iv) Other seriously self-destructive behavior creating an imminent danger to the respondent's life or health.

(4) In determining whether detention is necessary to secure the respondent's presence at the next court hearing, relevant factors include but are not limited to the following:

- (i) The respondent's residence in the District of Columbia,
- (ii) Length of the respondent's residence and present community ties,
- (iii) Employment and school record of the respondent,
- (iv) Record of the respondent's appearances at prior court hearings and circumstances surrounding non-appearances, if any,
- (v) Record of the respondent's previous abscondences from institutions or official custody, and circumstances surrounding such abscondences,
- (vi) Record of respondent's abscondences from home, and circumstances surrounding such abscondences and the respondent's eventual return home, and
- (vii) Seriousness of the pending charge and its likelihood of inducing non-appearance.

(5) If detention appears to be justified under the factors listed in subparagraphs (a)(1), (2), (3), or (4) of this Rule, the person making the detention decision may nevertheless consider whether the respondent's living arrangements and degree of supervision might justify release pending adjudication.

(6) No respondent who is charged with homicide, forcible rape, robbery while armed, attempt to commit any such offense, assault with intent to commit any such offense, or burglary in the first degree, or who is in abscondence from Court-ordered secure custody shall be released prior to a detention decision by a judicial officer of the Family Court.

(7) No respondent charged with being a person in need of supervision shall be admitted to a detention facility, except upon order of a judicial officer, unless it appears from available information that immediate detention is necessary to protect the respondent's own person under the criteria listed in subparagraph (a)(3) of this Rule.
(b) Shelter care. No respondent who is alleged to be delinquent or in need of supervision shall be placed in shelter care prior to a factfinding hearing or a dispositional hearing, unless it appears from available information that shelter care is required to protect the person of the respondent, or because the respondent has no suitable parent, guardian, custodian, or other person or agency able to provide supervision and care for the respondent and the respondent appears unable to care for himself or herself.

(1) In determining whether shelter care is necessary to protect the person of the respondent, relevant factors include but are not limited to the following:

(i) Abusive or threatening conduct toward the respondent by a member or members of the family or household,

(ii) Dangerous conduct or threats toward the respondent by persons in the respondent's environment or neighborhood, if the parents, guardian or custodian are unable to protect the respondent therefrom, and

(iii) Danger to the health or welfare of the respondent's person for which additional supervision is required short of secure custody.

(2) In determining whether a respondent alleged to be delinquent or in need of supervision who is without parental or custodial supervision should be placed in shelter care because of inability to care for himself or herself, relevant factors include but are not limited to the following:

(i) The respondent's age,

(ii) Adequacy of the respondent's existing living arrangements,

(iii) Length of existing living arrangements and the respondent's adjustment to them,
and

(iv) Evidence or likelihood of serious harm to the respondent's physical or mental health resulting from existing living arrangements, if any.

(3) No respondent who is judged to be in need of shelter care under D.C. Code § 16-2310(b) and the provisions of this Rule shall be placed in detention, unless the respondent's detention is independently justified under paragraph (a) of this Rule.

COMMENT.

This Rule is adopted pursuant to the statutory direction in D.C. Code § 16-2310(c).