

Rule 26. Revocation of Protective Supervision or Modification of the Terms of Protective Supervision and Finding of Violation of Terms of Protective Supervision

(a) Filing of motion. The District of Columbia or guardian ad litem/counsel for the child may file a Motion for Finding of Violation of Terms of Protective Supervision and for Revocation of Protective Supervision or a Motion for Finding of Violation of Terms of Protective Supervision and for Modification of the Terms of Protective Supervision, or a judicial officer may initiate revocation proceedings sua sponte, in any case in which a child is under the jurisdiction of the court pursuant to an order of disposition entered in accordance with Rule 25 and has been released under protective supervision in accordance with that order, and one of the following occurs:

(1) The child or a sibling is subsequently taken into custody by a law enforcement officer pursuant to D.C. Code § 16-2309(a)(3), (4) or (6) or 16-2306(c) and Rule 4(a);

(2) It appears to an investigating law enforcement officer or social worker or to the guardian ad litem/counsel for the child that there are grounds for taking the child into custody under D.C. Code §§ 16-2309(a)(3), (4) or (6) or 16-2306(c) and Rule 4(b);

(3) Facts and circumstances occurring or newly discovered subsequent to the fact-finding hearing or disposition hearing would cause the child to be a neglected child within the meaning of D.C. Code § 16-2301 and as a result of the occurrence or discovery of these facts and circumstances it appears that the removal of the child is now necessary or that modification of the terms of protective supervision is necessary to protect the child pending further proceedings;

(4) The parent, guardian, or custodian has violated the terms of protective supervision and as a result it appears that removal of the child is now necessary or that modification of the terms of protective supervision is necessary to protect the child.

(b) Motion to consolidate. In the event that a new petition has been filed based upon any of the factors set forth in sections (a)(1) - (3), the District of Columbia shall file a motion to consolidate the new case with the existing case.

(c) Custody. If the child has been taken into custody or if the District of Columbia or the child's guardian ad litem or counsel seeks the removal of the child, Rule 4(b) shall apply. The Court may order the child taken into custody pending the shelter care hearing or the hearing on the motion to revoke or modify protective supervision.

(d) Hearing. If the child is not in custody and shelter care is not sought, the District of Columbia, the guardian ad litem or counsel for the child may request a hearing upon the filing of the Motion for Finding of Violation of Terms of Protective Supervision and for Revocation of Protective Supervision or a Motion for Finding of Violation of Terms of Protective Supervision and for Modification of the Terms of Protective Supervision.

(e) Standard of proof. The standard of proof at the hearing on a motion filed pursuant to this rule shall be preponderance of the evidence.

(f) Findings and order. The judicial officer shall enter written findings with respect to each of the factual allegations of the motion within 10 days following a hearing on the motion and shall either reaffirm the previous Order of Disposition or modify it, based upon the findings made. A modified Order shall be in writing and shall include the findings required by Rule 25. Findings previously made may be incorporated by reference in the modified Order and findings.