

#### **Rule 4. Taking Into Custody -- Prior to Shelter Care Hearing**

(a) Taking into custody without court order. When a child has been taken into custody pursuant to D.C. Code §§ 16-2309 (a)(3)-(6) or 16-2306(c), notice of the taking into custody and of the shelter care hearing shall be given to the parents and caretakers pursuant to Rule 6.

(b) Ex parte order for custody.

(1) If, prior to or at the time of the filing of a petition alleging abuse or neglect, it appears to an investigating law enforcement officer or social worker that there are grounds for taking a child into custody under D.C. Code § 16-2309(a)(3)-(6), such officer or social worker may apply to a judicial officer for an order for custody.

(2) After approval by the Corporation Counselor his or her designee, the law enforcement officer or social worker shall submit an application for an order for custody, supported by testimony or affidavit, to the judicial officer. The application shall be in writing and shall include:

(A) The name and title of the applicant with office address and telephone number;

(B) A statement of one or more following grounds for taking the child into custody:

(i) A law enforcement officer has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that removal of the child from his or her surroundings is necessary (D.C. Code § 16-2309(a)(3));

(ii) After consultation with the Chief of the Child Protective Services Division of the Department of Human Services, or his or [her] designee, pursuant to D.C. Code § 4-1301.07(b), a law enforcement officer has reasonable grounds to believe that the child is suffering from an illness or injury or otherwise is endangered and that the child's removal from his or her surroundings is necessary (D.C. Code § 16-2309(a)(4));

(iii) A law enforcement officer has reasonable grounds to believe that the child has run away from his or her parent, guardian or other custodian (D.C. Code § 16-2309(a)(5));

(iv) The Chief of the Child Protective Services Division of the Department of Human Services or his or her designee has received written notification by the chief executive officer of a hospital located in the District of Columbia that the child has resided in the hospital for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian or custodian of the child, as established by the hospital admission records, has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child (D.C. Code § 16-2309(a)(6)); or

(v) The child may leave or be removed from the jurisdiction of the Court or will not be brought to the hearing notwithstanding service of the summons (D.C. Code § 16-2306(c)) (petition must be filed prior to asserting this ground).

(C) Allegations of fact supporting the existence of such ground(s);

(D) Whether services are currently available that could protect the child without removal or whether no services can reasonably be provided at this time that would eliminate the necessity for removal; and

(E) The steps taken by the applicant to ascertain whether services are available that would eliminate the necessity for removal.

(3) If the application is submitted after the initial appearance before the Court, the application shall state whether all attorneys of record were notified of the grounds for the application and state the reasons for any failure to notify.

(4) The judicial officer may issue an order for custody authorizing the taking into custody of the child upon a finding of reasonable grounds to believe that the allegations in the application are true. The judicial officer may consider all reliable and credible evidence, including hearsay, in making a decision, without prior notice to the parent.

(5) The order for custody shall be signed by the judicial officer, shall state the name, age (if known), and address of the child to be taken into custody, and shall specify a return date. In addition, the order shall provide the name of an agency official who can be contacted about the child, the official's telephone number, and a statement of where the child will be taken. The order for custody may be in the form of a separate document or may be endorsed upon the summons when the summons and petition have been submitted at the time of the application.

(6) Execution and return.

(A) By whom. An order for custody, whether endorsed upon a summons or issued as a separate document, shall be executed by a law enforcement officer or, where authorized by law, a social worker.

(B) Territorial limits. An order for custody may be executed at any place in the District of Columbia, but not more than one year after the date of issuance.

(C) Manner. The order for custody shall be executed by the taking into custody of the child named therein. The officer or social worker need not have the order in his or her possession at the time of the taking into custody, but upon request the officer or social worker shall show the order to the child and to the parent, guardian, or custodian within 24 hours or before the next hearing, whichever is sooner. The officer or social worker shall provide Notice of Taking into Custody and Shelter Care Hearing as required by Rule 6.

(D) Return. On or before the return day, the person to whom an order for custody was delivered for execution shall make a return thereof to the judicial officer. At the request of the Corporation Counselor or his or her designee, an order for custody returned unexecuted and not canceled may be delivered by the judicial officer to a law enforcement officer for execution. At the request of the Corporation Counselor or his or her designee, any unexecuted order for custody shall be returned and canceled by the judicial officer.