

EFFECTIVE

Immediately.

Subject

CPS removal of children.

**COURT ORDERED
REMOVAL OF
CHILDREN FROM
HOME**

PSM 715-2

When it is necessary to remove a child from his/her home, a petition or affidavit of facts must be submitted (electronically or otherwise) to the Family Division of Circuit Court. Local DHS staff must receive (electronically or otherwise) a written court order authorizing removal and placement, or authorizing the department to arrange for placement. Document why it is contrary to the welfare of the child to remain in the home and what reasonable efforts were made to prevent removal.

Law enforcement may remove a child with or without a court order based upon their own statutory requirements. CPS cannot receive custody of a child from law enforcement or remove a child from his/her home or arrange emergency placement without a **written** court order (in writing, communicated electronically or otherwise) authorizing the specific action (even if requested by law enforcement). When DHS is contacted by law enforcement seeking the assistance of CPS in the removal of a child, CPS must immediately contact the designated judge or referee.

Emergency Orders

Emergency removal and placement (sometimes referred to as ex parte orders) must **only** occur after hours and when the child is either at substantial risk of harm or their surroundings present an imminent risk of harm. In all other situations, a preliminary hearing must be the venue for the court to make a determination regarding preliminary jurisdiction and/or placement.

A judge or referee may issue a written ex parte order upon receipt (electronically or otherwise) of a petition or affidavit of facts and the court finds all of the following:

- There is reasonable cause to believe that the child is at substantial risk of harm or is in a surroundings that present an imminent risk of harm and immediate removal is necessary to protect the child's health and safety.
- The circumstances warrant an ex parte order pending the preliminary hearing.
- Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
- No remedy other than protective custody is reasonably available to protect the child.
- Continuing to reside in the home is contrary to the child's welfare.

The ex parte order shall be supported by written findings of fact.

Reason: 2012 PA 163.

COURT DECISIONS

PSM 715-3

At a preliminary hearing, the court may order placement of a child in foster care if the court finds all of the following:

- Custody of the child with the parent presents a substantial risk of harm to the child's life, physical health or mental well-being.
- No provision or service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk as described above.
- Continuing the child's residence in the home is contrary to the child's welfare.
- Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
- Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

Reason: 2012 PA 163.

Manual Updates

PSM 715-2

PSM 715-3

**MANUAL
MAINTENANCE
INSTRUCTIONS**