

Orleans Parish Juvenile Court

Child in Need of Care Training: *The First 30 days*

Considerations for the *First Court Order:* *Safety Plans and Protective Orders*

January 27, 2023

“***shall be administered and interpreted to avoid unnecessary interference with family privacy and trauma to the child, and yet, at the same time, authorize the protective and preventive intervention needed for the health, safety, and well-being of children.”

Ch.C.Art. 601-Purpose



- Report → investigation → disposition:

Ch.C.Art. 615

- In need of care (INC) + *immediate removal necessary*
- Justified; evidence of child abuse/neglect = TRO, P/O, S/P
- Justified; evidence of child abuse/neglect = referral to DA w/i 30 days
- Inclusive; evidence tends to support abuse/neglect, cannot confirm
- Not justified; facts do not support child abuse/neglect
- False report

Note: Family Services can be involved in conjunction with investigation and assessment

Temporary Restraining Order (TRO) – 617

- ✓ Clear and present danger of abuse
- ✓ Ex parte proceeding
- ✓ Can be granted outside regular work hours
- ✓ Hearing within 10 days – rule to show cause

Protective Order (P/O) - 618

- ✓ Six months w/extension
- ✓ Can grant temporary custody, visitation, txt,...
- ✓ Must have consent agreement or notice & opportunity

Venue and standing - Ch.C.Art 1566

- ✓ **Where:** parish of marital domicile, defendant resides, where abuse is alleged or where divorce could be brought.
- ✓ **Who:** an adult (not the minor)
- ✓ **Who:** any parent, an adult household member, child protection unit of DCFS or district attorney on behalf of any child
- ✓ If ex parte, the petition shall contain an affidavit signed by the petitioner that fact and circumstances are true and correct.



**So
You've Got a
Restraining
Order**



Instant Order – 619

- ✓ Verified compliant (written) with supporting facts
- ✓ **Reasonable grounds INC + emergency removal or S/P necessary**
- ✓ If removal, triggers R/E (i.e TRO, P/O, S/P, services, efforts to locate...)
- ✓ Order **1)** finds INC in accordance with Art. 606; **2)** grants removal or S/P; **3)** provisional custody to--; or denial



Oral Instant Order - 620

- ✓ Exceptional circumstances & supporting facts
- ✓ Oral including telephonically to the judge
- ✓ Order to take custody or court order S/P or denial
- ✓ Affidavit + written order w/i 24 hours



Custody without Court Order – 621

- ✓ Police and probation officer
- ✓ Welfare endangered + immediate removal necessary
- ✓ Release to the department – instant b/4 custody or release

“**Safety Plan**” means a plan for the purpose of assuring a child’s health and safety by imposing conditions for the child to safely remain in the home, or after a child has been removed from the home, for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons. Ch.C.Art. 603(27)

Child safely remains in the home:

- Ch.C.Art. 615 (B)(2) – Report appears to be justified, in that there is evidence of child abuse, or neglect, and a protective order or *instanter safety plan order* would eliminate the need for removal of the child in order to protect him from further abuse. Apply for TRO or P/O or **instanter safety plan order authorized by Article 619 or Article 620.**
- Ch.C.Art 619 (A)(1) – A peace officer, district attorney, or employee of the local child protection unit of the department may file a verified complaint alleging facts showing that there are reasonable grounds to believe that the child is in need of care **and** that emergency **removal or the implementation of a safety plan** is necessary to secure the child’s protection.
- Ch.C.Art 619(C)(3) – If, the court determines that with the issuance of a safety plan order that the child’s welfare can be safeguarded **without removal**, the court shall immediately issue a written **instanter order** directing compliance with the terms of the **safety plan**. (Note: parent and **safety monitors** must comply with court ordered safety plan conditions)
- **Set for continued court ordered safety plan hearing**

After removal, continued placement with a custodian:

- Ch.C.Art. 619 (C)(2) - ...If custody is given to a **suitable relative or other suitable individual**, a **safety plan** shall be made an order of the court and shall direct the provisional custodian to adhere to the conditions of the safety plan. The safety plan shall set forth conditions of contact with parents or other third parties. (Note: provisional custodian must comply with safety plan conditions)
- **Set for continued custody hearing**



Ch.C.Art. 619 (C)(2) and 620(B) (written verified compliant & oral instanter)
If the court determines that the child's welfare cannot be safeguarded without removal, the court shall immediately issue a written instanter order directing that the child be placed in the **provisional custody** of a suitable relative or other suitable individual capable of protecting the health and safety of the child **OR** taken into the **custody of the state**. (note: if the state has custody, then state decides placement)

Placement pending CCH – **622**

- ✓ Ex parte provisional custody to suitable relative/individual (they seek custody)
- ✓ Priority of placement by **court** (relative/relative/individual/foster care/trafficked)





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Thank You!

Gail Grover, Judge
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