



SHELTER CARE HEARING BENCHCARD

Relevant Statutes	42 Pa.C.S. §§ 6325, 6332, 6334 Pa.R.J.C.P. 1240, 1242 (B) (3), 1243
Purpose of Hearing	An informal hearing to determine (a) whether shelter care is necessary; (b) whether allowing the child to remain in the home would be contrary to the welfare of the child; (c) whether reasonable efforts were made to prevent such placement; or (d) if, in case of emergency where services were not offered, whether lack of efforts were reasonable. Shelter care hearing is not a substitute for the adjudicatory hearing.
Time Frame	<p>Hearing within 72 hours of removal (42 Pa.C.S. § 6332).</p> <p>If the child is not released and a parent or guardian or other custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order release of the child, unless it appears from the hearing that shelter care is required under 42 Pa.C.S. § 6325.</p> <p>Upon application or the filing of a dependency petition, a shelter care hearing will also be conducted in those cases where removal of a child has not yet occurred, but is planned or a voluntary agreement is revoked by the parent and the agency intends to keep the child in care.</p>
Rules of Evidence	All evidence helpful in determining the questions presented, including oral or written reports, may be relied upon to the extent of its probative value. Thus hearsay may be admissible.
Next Hearing	<p>Child in Custody: Adjudicatory hearing within 10 days of the filing of the petition.</p> <p>Child Not in Custody: Adjudicatory hearing as soon as practical but within 45 days of the filing of the petition.</p>



SHELTER CARE HEARING SUMMARY OF KEY QUESTIONS/DETERMINATIONS

- Are there sufficient facts to support the shelter care application?
- Is custody with the agency warranted? Where will the child be placed (kinship care, foster care or other)?
- If a shelter care application was submitted by a person other than the agency, is that person a party to the proceedings?
- Would remaining in the home be contrary to the welfare and best interests of the child?
- Is the placement proposed by the agency the least disruptive and most family-like placement to meet the needs of the child?
- If the father is absent, is the father known? What is his relationship with the child? Can the father safely care for the child?
- Has family finding been done to identify all possible family and caregivers, on both the maternal and paternal side?
- Has the agency reasonably engaged in family finding?
- Has the family been offered a Family Group Decision Making Conference?
- Were reasonable efforts made by the agency to prevent the child's placement?
- Were the services offered by the agency relevant to the family's problems? Were they adequate, accessible and well-coordinated? Were there other cost-effective services that should have been offered?
- If services were not offered in the case of an emergency placement, whether the lack of efforts was reasonable?
- Are any additional orders needed concerning the conduct of the parents, such as restraining orders or orders expelling an allegedly abusive parent from the home?
- Are any additional orders needed concerning the agency's efforts to provide services?
- Are additional orders needed to address the immediate needs of the child, such as immediate medical treatment, evaluation or other examinations?
- What steps have been taken to ensure the educational needs of the child are being met? Does the child have an Individual Education Plan (IEP)?
- Has visitation been provided within 72 hours of the child's removal from their home? What are the terms and conditions for parental visitation or sibling visitation?
- What consideration has been given to financial support of the child?
- Has the court made a determination as to whether the child is an Indian Child as defined by the Indian Child Welfare Act (25 U.S.C. § 1901 *et seq.*) and the Bureau of Indian Affairs regulations (25 C.F.R. § 23.2)?

These questions are adapted from the text of this chapter, the *Mission and Guiding Principles for Pennsylvania's Dependency System* and the Preliminary Protective Hearing Checklist provided in the *Enhanced Resource Guidelines* (NCJFCJ, 2016, pp.161-175)