# ANSWER HEARING

La. Ch. C. arts. 646-649

CHILD IN NEED OF CARE BENCHBOOK

FOR JUVENILE JUDGES

SECTION



# INTRODUCTION

## A. BACKGROUND

If the State decides to move forward with a Child in Need of Care (CINC) case after a Continued Custody Hearing (CCH) or Continued Safety Plan Hearing (CSPH) or after receiving the results of an investigation from the Department of Children and Family Services (DCFS), the State may file a CINC Petition requesting that the court adjudicate the child in need of care. A CINC Petition may be filed when a child is still in the custody of his/her parents¹ or when the child has been removed and is in the provisional custody of a relative, other individual, or DCFS. Some jurisdictions refer to the difference between these types of cases as "non-custodial" and "custodial" cases or "CINC without removal" and "CINC with removal."

The Petition shall specifically set forth the grounds for adjudicating the child in need of care, as per Louisiana Children's Code Article 606(A). The Petition shall use the form and contents as outlined in Articles 633 and 634, including in particular Article 634(3). The Petition shall also include a statement as to whether the Petitioner knows or has reason to know that the child is an Indian Child and facts to support the statement in accordance with the Indian Child Welfare Act (ICWA). See the Petition for Non-Custodial Child in Need of Care and Order Template and Petition for Custodial Child in Need of Care and Order Template in the Appendix.

Even though the Answer Hearing tends to be brief, it is procedurally very important. The parents are required to personally appear before the court to answer the Petition. This formal appearance ensures that the parents' counsel has been engaged and offers an opportunity to schedule future conferences and hearings.

## **B. PREHEARINGCONFERENCES**

One practice in the Children's Code that is sometimes underutilized is the Prehearing Conference. It may be held at the Answer Hearing, or the date may be set at the Answer Hearing. This conference can be used to discuss alternatives to an Adjudication, such as an Informal Adjustment Agreement (IAA). See Informal Adjustment Agreement (IAA) Benchbook Section 1. At the conference, the parties may also determine stipulations, simplify issues, review exhibits, and negotiate the allegations. The State may also amend the Petition. The conference provides time to discuss whether interpreters or special accommodations are needed and whether children should be present in the courtroom when certain witnesses testify.

If a parent stipulates, a Prehearing Conference shall be held prior to the stipulation. This prerequisite helps guarantee that a parent's stipulation and consent to the judgment are both voluntary and intelligent and in the best interest of the child. The court is required to render a separate Order of the actions taken at the Prehearing Conference.

# C. TIMING, NOTICE, AND PRESENCE

The Answer Hearing shall be held no later than 15 days after the filing of the Petition and prior to the Adjudication Hearing. For more information about computation of time, please see Article 114. Parents and children are parties to the case and shall be present at the Answer Hearing. There are times when important decisions are made at the Answer Hearing. Thus, the child's presence at the hearing is important, and waiver requests should be closely examined.

<sup>1</sup> The plural form of "parent" is used throughout the Benchbook for simplicity, even though at times only one parent has been identified in a case

The court shall confirm that the parents received proper service. For parents who reside in Louisiana, proper service of the Petition, summons, and notice is (1) via personal service, domiciliary service, certified mail, or an electronic mail address if the parent expressly designated such an address in a pleading or at the CCH or CSPH or other hearing at which the parent personally appeared and (2) made not less than 15 days prior to commencement of the Adjudication Hearing. For parents who reside outside of Louisiana, proper service is (1) via certified mail return receipt requested to the address in the Petition or an electronic mail address if the parent expressly designated such an address in a pleading or at the CCH or CSPH or other hearing at which the parent personally appeared and (2) made not less than 5 days prior to commencement of the Adjudication Hearing. If service is proper and the parent is absent, the hearing may be held in the parent's absence.

The Answer Hearing is an important time to question DCFS and parents present in court regarding paternity (and maternity in certain cases). The court must ensure that efforts by DCFS are thorough and diligent in locating and involving all legal and putative parents. Paternity and maternity of all children involved in the case needs to be legally determined. When a child does not know who one of his/her parents is, that also means the child may not know his/her race, ethnicity, medical background, culture, relatives, religious ties, and more. Children before the court may suffer negative consequences for their entire life if this information remains unknown.

Parents and children have a right to counsel at all stages of the CINC proceedings. The court should determine whether it needs to make a finding of indigency for one or both parents. Some courts will have already done so if there was a CSPH or CCH. If not, and the parent is found to be indigent at the Answer Hearing, the court shall order that the parent be referred to the Indigent Parents' Representation Program (or Public Defender Office) and that the program/office shall provide representation and be given notice of the appointment and served with a copy of the pleadings filed. If a parent is absent, a curator ad hoc may need to be appointed at the Answer Hearing if not previously appointed.

Due process requires that parents in CINC cases have sufficient time to meet and speak to their attorneys before making decisions about their answer to the Petition; children also must have quality representation and meet with their attorney in all CINC proceedings. Part of the role of the judge is to safeguard due process for the families that come before the court. To that end, the court should ensure that parents and children<sup>2</sup> have had enough time to understand the proceedings, ask questions, and discuss and process the information and allegations with their attorney prior to the case being called. Under Federal and State law, foster caregivers (i.e., foster parents, preadoptive parents, and relatives) providing care for the child also have a right to be present and heard at the Answer Hearing.<sup>3</sup>

For all parties present, the court is responsible for providing and paying for interpretation, translation, and/or language assistance services and reasonable accommodations for those with disabilities. There must be ample time for legal interpreters to review pertinent legal documents prior to the court proceeding. Interpreters must be familiar with the case-related details to provide an accurate, meaningful, and effective interpretation.

#### D. ANSWER OPTIONS

The parents may deny the allegations of the Petition, stipulate that the child is in need of care with or without admitting the allegations of the Petition, and/or admit the allegations of the Petition with or without consenting to the Adjudication (i.e., consent to judgment or agree child is in need of care). The court may also find that the matter should be dismissed.

If a parent denies the allegations in the Petition, the matter shall be set for an Adjudication Hearing. If a parent stipulates after a Prehearing Conference is held, the parent may do so with or without admitting to the allegations of the Petition. Stipulations may only be made if the requirements of ARTICLES 646.1 AND 647 have been met, so that the due process rights of parents are protected.

<sup>2</sup> Rules of the Supreme Court of Louisiana, Rule XXXIII Part III Subpart II Standard 7 requires: "Regardless of the age of the child, counsel for the child must engage in regular and meaningful communication with the child in a developmentally appropriate manner, and should personally meet with the child no later than 15 days after appointment, prior to all court hearings, and when advised of any change in circumstances affecting the child." See <a href="https://www.lasc.org/Supreme\_Court\_Rules?p=RuleXXXIII">https://www.lasc.org/Supreme\_Court\_Rules?p=RuleXXXIII</a>.

<sup>3</sup> See La. Ch. C. art. 623; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

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If the child disagrees with the stipulation, best practice is to hold the Adjudication Hearing. The Children's Code speaks to the "objection" of a child to the answer of his/her parents but does not mention the effect of such an objection. There are multiple reasons why a child may want to have a hearing, and as a party, would be entitled to such a hearing if not in agreement with the stipulation.\

If the parent admits to the allegations of the Petition, the court is required to determine whether there is or is not a factual basis for adjudicating the child in need of care. If the court concludes that there is no adequate factual basis for the admission, it shall refuse it and, instead, enter a denial. If the court determines that there is a factual basis for a CINC Adjudication, the court shall ascertain whether the parent consents to the Adjudication.

Sometimes, a parent may agree to the conduct alleged in the Petition but may not agree that the child is in need of care (i.e., consent to Adjudication or consent to the judgment). If the parent does not consent, the court shall order that the matter be set for an Adjudication Hearing. At a Prehearing Conference, the parties can discuss the allegations and potential amendments to the Petition prior to the Adjudication Hearing. If there is a stipulation after a Prehearing Conference or admission with consent to Adjudication, factual basis finding by the court, and the child does not object to the answer, the court shall order the child adjudicated in need of care.

The Children's Code is not clear about what should happen if parents provide different answers at the hearing. For example, sometimes one parent stipulates, and the other does not. Some courts set the matter for an Adjudication Hearing based on the view that it is the child who is adjudicated in need of care, and the child cannot be adjudicated as to one parent and not the other. This is in line with the view that a child is not "in need of care" if there is a parent who can care for the child. A minority view is that each parent should be adjudicated against separately.

## E. ADJUDICATING THE CHILD IN NEED OF CARE AT THE ANSWER HEARING

If the court finds a factual basis for Adjudication after an admission and/or stipulation to Adjudication and the child does not object, an Adjudication Hearing is not needed. However, the court must still adjudicate the child in need of care and issue an Adjudication Order. See <u>Adjudication Benchbook Section 7</u> and <u>Adjudication Order Template</u>.

The Adjudication Order should delineate the ground(s) for its findings pursuant to Article 606(A) and should, where appropriate, precisely describe the conduct on which the court is basing its finding. For example, if the courts finds that the child is in need of care based upon Article 606(A)(5), that the conduct of the parent constitutes a crime against the child, the court should specify the conduct and the related crime. Such a finding gives the parent notice of the basis of the Adjudication, consistent with due process, and helps guide the formation and implementation of the case plan or safety plan accordingly.

The court must also set the matter for a Disposition Hearing if the child is adjudicated at the Answer Hearing. Occasionally, a court will move to Disposition at the Answer Hearing after adjudicating the child in need of care. However, this may not be best practice if more information needs to be gathered to assist with the important decisions made at Disposition. If the matter goes to Disposition at the Answer Hearing, the court must issue both an Adjudication Order and Disposition Order. See <u>Disposition Hearing Benchbook Section 8</u> and <u>Judgment of Disposition Template</u>.

An attorney or the court is responsible for the completion of the Answer Order (and Adjudication Order and Judgment of Disposition, if needed). All attorneys and unrepresented parties should review the order before the judge signs it to ensure it accurately reflects the proceeding. Time permitting, best practice is to sign the Order on the same day as the hearing. Time permitting, best practice is for the judge to sign the Order on the same day as the hearing.

## F. ENGAGEMENT AND ADVISEMENTS

It is important to ensure the parents and children present are engaged and understand what is happening at the hearing and in the case. The CINC process can be complicated and confusing. Judges are encouraged to ask if the parties understand what the hearing is about and the allegations in the Petition. While judges are sometimes hesitant to engage with parties, the truth is that families engaged



in the CINC process achieve much better outcomes than those who are not.<sup>4</sup> Engaging parties can be hard to do and requires patience. But parents and children are likely to respond to encouragement, positive feedback, and being heard.<sup>5</sup>

A critical component of the court's role at the hearing is to advise parents and persons before the court of their rights and responsibilities. If the parent stipulates, the court shall fully inform the parent of the consequences of a stipulation before adjudicating the child in need of care. It is best practice to have parents acknowledge the advisements on the record and/or execute a written acknowledgment of advisement and understanding of rights.

#### **G. NEXT STEPS**

Depending on what has occurred at the Answer Hearing, the court should either set the matter for an Adjudication Hearing, a Disposition Hearing (if the court adjudicated the child and completed the Adjudication Order), and/or a Case Review Hearing (if the court adjudicated the child and completed the Adjudication Order and the court ruled on the Dispositional alternative and the case plan, if needed, and completed the Judgment of Disposition).

If the child is continued in custody pursuant to Article 627, the Adjudication Hearing shall commence within 45 days of the filing of the Petition. If the child is not in custody, the hearing shall commence within 105 days of the filing of the Petition. If the Disposition Hearing is not conducted immediately after the Adjudication, it shall be conducted within 30 days after the Adjudication. Continuances may be granted for Adjudication (Article 646) and Disposition (Article 659) per the Children's Code.

The court may also authorize the district attorney (DA) to effect an IAA at this juncture of the case. See <a href="Informal Adjustment Agreement">Informal Adjustment Agreement</a> (IAA) Benchbook Section 1. An IAA must be entered into with the consent of DCFS if the child is in the provisional custody of DCFS. The court may dismiss the CINC Petition or allow it to remain pending during the period of informal adjustment. The IAA is a viable alternative to keeping children out of foster care. For example, a child could be returned to his/her parents and an IAA could be used similarly to a safety plan. Or an IAA could be entered into while the child is in DCFS custody to prevent the need for Adjudication.

Articles 635 and 651-658 provide various motions and discovery that can take place between the filing of the Petition and the Adjudication and Disposition Hearings. At any time prior to Adjudication, any person, including a relative of the child, may Petition the court for the provisional or permanent legal custody of the child pursuant to Article 631.

<sup>4 &</sup>quot;Parent advocates" (sometimes called "parent mentors" or "parent partners") are parents who have successfully gone through the CINC process and regained custody of their children and can also help engage parents who have an open CINC case. There is credibility and an understanding that comes with having personal experience with a CINC case. This is one reason why a multidisciplinary representation model, a model that provides peer support to parents and children (i.e., parent advocate or former foster youth) in addition to an attorney and/or social worker, has proved to be beneficial in Orleans Parish and in other States. For more information about the multidisciplinary representation model, please see <a href="https://www.americanbar.org/groups/public\_interest/child\_law/resources/child\_law\_practiceonline/january---december-2019/providing-parents-multidisciplinary-legal-representation-signifi/.">https://www.americanbar.org/groups/public\_interest/child\_law/resources/child\_law\_practiceonline/january---december-2019/providing-parents-multidisciplinary-legal-representation-signifi/. The Extra Mile in Lafayette has a stand-alone Parent Partner program: <a href="https://theextramileregioniv.com/frc/">https://theextramileregioniv.com/frc/</a>.

<sup>5</sup> See Sankaran, Vivek. "My Name Is Not 'Respondent Mother': The Need for Procedural Justice in Child Welfare Cases." ABA Child L. Prac. Today. 2018, <a href="https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2992&context=articles: see also https://www.ncifci.org/child-welfare-and-iuvenile-law/trauma-informed-courts/.">https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2992&context=articles: see also https://www.ncifci.org/child-welfare-and-iuvenile-law/trauma-informed-courts/.</a>

# **OUTLINE**

- **A. TIMING AND CONTINUANCES**
- **B. PREHEARING CONFERENCE**
- C. APPEARANCES AND APPOINTMENTS
- D. NOTICE AND SUMMONS
- **E. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS**
- **F. ADVISEMENTS**
- **G. PATERNITY/MATERNITY**
- H. ANSWER AND FINDINGS AND ORDERS
- I. FURTHER ORDERS
- J. ORDER OF NOTICES AND FUTURE HEARINGS
- **K. CASE MANAGEMENT**
- **L. POSSIBLE NEXT STEPS**
- M. APPENDIX
  - (1) Answer Hearing Bench Card
  - (2) Petition For Non-Custodial Child In Need Of Care And Order Template
  - (3) Petition For Custodial Child In Need Of Care And Order Template
  - (4) Answer Order Template



# **OVERVIEW**

#### A. TIMING AND CONTINUANCES

ARTICLES 625, 646, 646.1, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2

(1) **TIMING:** The Answer Hearing shall be held no later than 15 days after the filing of the CINC Petition and prior to the Adjudication Hearing (See Article 114).<sup>6</sup> However, the court can order the parents to answer the Petition upon completion of the CSPH or CCH if it was filed prior to or during the CSPH or CCH.

#### (2) CONTINUANCES:

a. **Report to Louisiana Supreme Court (LASC):** If a continuance is granted, or a delay permitted, that exceeds the maximum allowable times established by the Children's Code, the court is mandated by Supreme Court Rule XXXIII, Part II, Sections 1 and 2, to report such continuance within 10 days to LASC, along with the reasons for the delay and a copy of the Order. See <a href="https://www.lasc.org/children\_families/timelinessreport.pdf">https://www.lasc.org/children\_families/timelinessreport.pdf</a> for a copy of the report that must be submitted by the court to LASC. See also Louisiana District Court Rules, Title V, Chapter 42, Rule 42.1, for more information.

## **B. PREHEARING CONFERENCE**

ARTICLES 646, 646.1

A Prehearing Conference may be immediately convened at the Answer Hearing (or counsel may also move to convene), or a date may be set for the conference, to address any of the following issues: <sup>7</sup>

- · Alternatives to formal court proceedings and/or other prevention mechanisms such as an IAA;
- Efforts to identify and locate an absent parent;
- Paternity/Maternity;
- Whether interpreters or special accommodations are needed;
- Simplification of the issues, including the elimination of frivolous claims or defenses;
- · Amendments to the Petition;
- · Child's presence at hearings;
- Material facts and issues without controversy and controverted;
- · Proof, stipulations regarding the authenticity of documents, admissibility of evidence;
- · Expert testimony;
- · Discovery;
- · Identification of witnesses, documents, exhibits; AND
- Other such matters as may aid in the disposition of the action.
- The Prehearing Conference may be attended by the DA/assistant district attorney (ADA), DCFS, counsel for all parties, unrepresented parties, and such other persons as the court deems proper.
- The court shall render a <u>separate Order</u> reciting the actions taken at the Prehearing Conference. It is not sufficient to merely state that the Prehearing Conference occurred. See Article 646.1(C).

<sup>6</sup> In computing a period of time prescribed by law, the date of the event after which the period begins to run is not included; the last day of the period is included but if a legal holiday—including Saturdays and Sundays—then the period runs until the end of the next day which is not a legal holiday. La. Ch. C. art. 114.

<sup>7</sup> Gatowski, S., Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: Improving court practice in child abuse and neglect cases. Reno, NV: National Council of Juvenile and Family Court Judges, p. 61 (Many jurisdictions use pre-adjudicatory settlement conferences to facilitate non-trial resolutions of contested matters. NCJFCJ Enhanced Resource Guidelines) [hereinafter Gatowski].

Answer Hearing Benchbook Section	

#### **PRACTICE TIPS:**

- o **Stipulation:** One of the requirements for a parent to stipulate that the child is in need of care is that a Prehearing Conference is held in accordance with Articles 646.1 and 647.
- Purpose: Best practice is to hold a Prehearing Conference even if it is not required by a stipulation. Such conferences
  have demonstrated effectiveness in reducing decision-making delays, discouraging procrastination by counsel, and
  providing opportunities to discuss alternatives to formal court proceedings and/or the early resolution of issues that
  might otherwise result in continuances or other delays.

## C. APPEARANCES AND APPOINTMENTS

ARTICLES 424.1, 575, 607-8, 623, 635.1-645

(1) **PROPER INTEREST OR NECESSARY:** At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. The court shall not admit any other person unless it determines that the person has a proper interest in or is necessary to the proceedings.

#### **HELPFUL GUIDANCE:**

o **Privacy:** Limiting the number of persons present in the courtroom protects the privacy of children in CINC cases. The judge is mandated to exclude all but the listed persons unless first determining the person has a proper interest or is necessary to the proceedings. Law students or social workers studying juvenile procedure might qualify as persons with proper interest. If the court allows other persons to be present, the court should stress the confidentiality of the case information.

#### (2) ESSENTIAL JUDICIAL FUNCTION - ASSISTANCE SERVICES AND SPECIAL ACCOMMODATIONS: Under

State and Federal law, the court is responsible for providing interpretation, translation, and/or language assistance services for parties to CINC hearings and/or reasonable accommodations for parties to CINC hearings with disabilities. When the court appoints counsel for indigent persons, it is also responsible for appointing and paying for a qualified interpreter/translator for indigent persons with these needs to assist in communication with counsel in all phases of the preparation and presentation of the case. There must be ample time for legal interpreters to review pertinent legal documents with the party prior to the court proceeding. Interpreters must be familiar with the case-related details to provide accurate, meaningful, and effective interpretation.

- (3) CHILDREN: Children are parties and shall be present at the hearing unless an exception below applies.
  - **12 and Older:** If the child is 12 years of age or older, he/she shall be present in court unless his/her presence is waived by the court upon motion of the child's attorney.
  - **Below 12:** If the child is below the age of 12 years, he/she shall be present in court upon request of the child's attorney or the court.
  - Waive: The court shall state in the Order whether or not it waives the appearance of the child at the hearing.

<sup>8</sup> See C.C.P. Art. 192.2; La. R.S. § 46:2364; 42 U.S.C. § 3711; 28 U.S.C. § 604(a)(14), (15), and (16), § 1827, and § 1828; see also <a href="https://www.lasc.org/language\_access">https://www.lasc.org/language\_access</a> and <a href="https://www.lasc.org/language\_access">https://www.lasc.org/langua

<sup>9</sup> See National Consortium of Interpreter Education Centers. (2009). Best practices American Sign Language and English interpretation within legal settings. U.S. Department of Education, Rehabilitation Services CFDA #84.160A and B,

Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-

Blind, http://www.interpretereducation.org

<sup>10</sup> Id.

#### **HELPFUL GUIDANCE:**

- o Waiving Presence at the Hearing: The child's attorney has an obligation to inform the child of the right to be present at the hearing and facilitate such presence, if appropriate. The judge should engage in an inquiry related to the child's presence at court. If the child's attorney moves to waive the child's presence, for example, the court should ascertain the reason underlying the request. If the child is present, does the child wish to be heard? The court has an oversight role in CINC cases and, as such, should make every effort to ensure that the child has been given enough information about the court process and an opportunity to be engaged in the process.
- o Importance of Presence at the Hearing: Having all parties present and participating in the hearing is critical for moving the case forward and having a more meaningful hearing. Children are parties to the hearing, and their voice is invaluable to decision-making. Having children present can also assist the court in making decisions about a case. Interacting with the child and observing potential medical issues, delays, etc., provides needed information to the court. Although challenging, courts should try to schedule hearings so that children can be present and participate as much as possible. Scheduling to allow the child to attend hearings necessitates knowing about the child's school schedule and other activities. There are different ways to hold hearings given some of the issues that arise with having children in court. For example, some judges hold their hearings in conference rooms instead of courtrooms to be less intimidating to children and parents. Other judges develop creative solutions, such as holding the hearing at a group home or scheduling the hearing after school.

## (4) PARENTS: Parents of the children are parties and shall be present at the hearing.

#### **PRACTICE TIPS:**

- o **Effect of Nonappearance of Parent:** If it appears from the record that a parent has been served in accordance with Article 640 or 641 and summoned to any hearing, and that parent fails to appear at the hearing, the court shall permit the hearing to be held in that parent's absence.
- o **Curator Ad Hoc Appointed Prior to Answer Hearing:** <sup>11</sup> If a curator ad hoc was appointed prior to the Answer Hearing and fails to locate the parent, the curator ad hoc shall attend the Answer Hearing, submit a note of evidence on the record indicating the efforts made to locate the parent, and proceed contradictorily unless the parent is subsequently served or waives objection to jurisdiction. Proceedings held contradictorily with the curator ad hoc shall be of full force and legal effect against the parent. However, if a curator ad hoc was appointed prior to the Answer Hearing and the parent is subsequently served in accordance with Article 640 or 641 or is located by the curator ad hoc, the curator ad hoc shall be required only to attend the Answer Hearing and submit a note of evidence on the record indicating the efforts made to locate the parent (Article 644). If a curator ad hoc is appointed, DCFS shall identify efforts made to locate the parent to the curator ad hoc within 15 days of its receipt of a copy of the Order appointing the curator ad hoc (Article 645).
- o **Incarcerated Parent:** To ensure the attendance of any parent who is incarcerated at the Answer Hearing, a writ or motion should have been filed and an order issued by the court and served on the warden or administrator of the facility prior to the Answer Hearing. Service should be made sufficiently in advance of the hearing to afford time for the facility to arrange for transportation of the parent to court (or video conferencing where the parent's physical attendance at the hearing is not possible).

<sup>11</sup> See La. Ch. C. art. 575; La. Ch. C. art. 643.

#### (5) ATTORNEYS, APPOINTMENTS, AND WAIVERS:

- a. **Parents:** The Indigent Parents' Representation Program shall provide qualified legal counsel, including curatorship appointments, to indigent or absent parents in CINC cases unless a parent waives his/her right to counsel (See Articles 575, 608, and 643).
  - **Right to Counsel:** The parents of a child who is the subject of a CINC proceeding shall be entitled to qualified, independent counsel at the CCH and at all stages of the proceedings thereafter.
  - **Found to Be Indigent:** The court should determine whether it needs to make a finding of indigency for one or both parents. If a parent is found to be indigent (financially unable to afford counsel) and the parent has not previously been appointed counsel, the court shall order that the parent be referred to the Indigent Parents' Representation Program (best practice is to refer the parents to the local Public Defender Office, See Article 575) and that the program or office shall provide representation and be given notice of appointment and served with notice and a copy of the pleadings.
  - **Waiver of Right to Counsel:** A parent may waive his/her right to qualified, independent counsel. However, before accepting a waiver of counsel, the court shall ensure that the parent was informed of his/her rights enumerated under Article 608 and the possible consequences of this waiver. The court should exercise caution in any request to waive the right to counsel.

#### **HELPFUL GUIDANCE:**

- o **Prior to Hearing:** The judge should inquire whether counsel had sufficient opportunity to consult with the parents prior to the hearing.
- o **Due Process:** Protecting the interest of the parent is an important role of the parent's attorney and ensures due process for the parent. The parent's attorney should zealously advocate for the parent whether the parent is present or not.
- o **Conflicts of Interest:** Judges must be cognizant of possible conflicts of interest that may arise in representation of parents at all junctures in the case. For example, parents who are married or living together may have or may develop divergent legal positions in the CINC case. It may also be a conflict for one attorney to represent multiple fathers or mothers in a case. When there is a curator ad hoc for an absent parent, the curator may not be able to represent a parent who is located due to a conflict.
- b. **Children:** An attorney for the child shall be present at every hearing, assert the child's wishes, and protect the legal interests of the child even if the child is not present (Article 607).<sup>12</sup>
  - Appointment: The program for child representation should have been appointed if there was an Instanter Order. If not
    previously appointed, the court shall order that the program approved to represent the child in that jurisdiction be
    appointed to represent children in all CINC proceedings and be given notice of appointment and served with notice and a
    copy of the pleadings.

#### **HELPFUL GUIDANCE:**

- o **Prior to Hearing:** The judge should inquire whether counsel had sufficient opportunity to consult with the child prior to the hearing and that they received a copy of Petition.
- o **Due Process:** Protecting the legal interest of the child is an important role of the child's attorney and ensures due process for the child. The child's attorney should zealously advocate for the child's wishes whether the child is present or not.
- o **Conflicts of Interest:** Judges must be cognizant of possible conflicts of interest that may arise in the representation of children at all junctures in the case. With regard to current clients, for example, there could be a conflict representing two siblings if one has sexually perpetrated on the other. It would also be a conflict for a child's attorney to represent both a teenage mother and her baby if the baby is in care. Further, a conflict may be present if siblings' wishes are divergent, and the attorney cannot make a colorable argument for the differing positions.

<sup>12</sup> LA. SUP. CT. RULE XXXIII, PART III, SUPART II.

Answer Hearing Benchbook Section	

- c. **State:** An ADA, an attorney the ADA designates, or a DCFS attorney (Bureau of General Counsel/BGC) representing the State should be present at the hearing.
- (6) **DCFS:** A DCFS staff member or representative(s) should be present at the hearing.
- (7) **Court Appointed Special Advocate (CASA):** For confidentiality reasons, CASA should only be present at hearings if the court appointed them.
  - **Appointments:** If CASA was not previously appointed, the court can order that the local CASA program be appointed, subject to the assignment of a qualified CASA volunteer, to advocate for the best interest of the child in these proceedings and that the program be notified of appointment and served with a copy of the pleadings (Article 424.1).

#### **HELPFUL GUIDANCE:**

- o Role: CASA volunteers are sworn officers of the court appointed by judges to advocate for the best interests of children in CINC cases. CASA volunteers visit with children to get to know them and find out important information, such as how they are doing in the placement, what kind of services are needed, and how school is going. The CASA volunteer may also talk to professionals working on the case, the child's family, the foster caregivers, teachers, and others. They can review important documents relating to the case, such as summaries on the parent and/or child's progress. The CASA volunteer prepares reports for the court about what they have learned about the child. In the report, they make independent recommendations to the court about what should happen in the case to have the best outcome for the child—to keep the child safe, promote the child's well-being, and help find a permanent placement for the child. Unlike the children's attorney, the CASA volunteer does not advocate for the wishes of the child unless those wishes are in the child's best interest. The CASA volunteer can also monitor the case plan and advocate to make sure the plan is followed and serves the best interests of the child. The court appoints the local CASA program, subject to the assignment of a qualified volunteer. If available, then a CASA volunteer will be assigned to the case. The Children's Code requires the CASA program to be established in compliance with the National CASA Association standards and the volunteer to be trained in accordance with those standards.<sup>13</sup>
- (8) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD: Foster caregivers (i.e., foster parents, relatives, or preadoptive parents) providing care for the child have a legal right to receive notice of and be present at the Answer hearing. The court may permit the hearing to be held in the person's absence even if they were not properly notified. See Continued Custody Hearing (CCH) Benchbook Section 5 G(5) for more information.<sup>14</sup>

#### OVERALL GUIDANCE:

Engagement: The court should do all that it can to support and encourage the meaningful engagement of families in CINC proceedings. <sup>15</sup> Testifying in court is stressful for many parents and children. Court is intimidating for most individuals (including non-party witnesses), and the stakes could not be higher for parents and children in CINC cases. Many parents and children are coming into court with a history of trauma. Regardless of the trajectory of the case, parents and children may benefit from having their voice heard. It is critical for the judge to consider information provided by the parents and children, and to convey to the parents and children that their testimony is being given due consideration in the court's ruling. Positive engagement is critical to successful outcomes in the case. <sup>16</sup> Judges must create an environment where parents and children are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process. <sup>17</sup>

 $<sup>13 \</sup>quad \text{ La. Ch.C. art. } 116 \text{(2.1) and (2.2)}.$ 

<sup>14</sup> See La. Ch. C. art. 623; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

<sup>15</sup> Gatowski, supra note 7, at 68.

<sup>16</sup> Id.

<sup>17</sup> Gatowski, supra note 7, at 16.

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## D. NOTICE AND SUMMONS

ARTICLES 575, 607-8, 623, 635.1-645, 42 U.S.C. § 675(5)(G), 45 C.F.R. § 1356.21(o)

The court shall determine if proper notices of the hearing were made, and enter required findings in the Order as required.

(1) **COUNSEL OF RECORD:** Upon the filing of a Petition, the court shall provide notice and a copy of the Petition to the program designated for the jurisdiction to provide counsel for the child and representing indigent parents (Public Defender Office).

#### (2) PARENTS:

- a. **Service on Every Parent:** The following shall be served in a sealed envelope on every parent of the child who is the subject of the CINC proceeding:
  - A copy of the Petition;
  - · Notice of the nature of the hearing in accordance with Article 639; AND
  - The rights of the parent, as provided in Article 639.
- b. **Service for Resident Parent:** When the Petition is filed, the court shall issue a summons commanding resident parents of the child to appear before the court at the designated time and place for the Answer Hearing. If a parent resides within Louisiana, service of the Petition, summons, and notice shall be made as soon as possible, and not less than 15 days prior to the commencement of the Adjudication Hearing on the matter, by any means outlined in Article 640.
- c. **Service for Nonresident Parent:** If a parent does not reside within Louisiana, service of the Petition and notice, and summons if issued by the court, shall be made not less than 5 days prior to the commencement of the Adjudication Hearing, by any means outlined in Article 641.

#### **HELPFUL GUIDANCE:**

- o Location of Parents: Notwithstanding any other provision of the law to the contrary, DCFS shall obtain and provide to the DA/ADA all available information pertinent to the location of every parent, including names and addresses of known relatives and any parents of a sibling where such parent has legal custody of the sibling, and any information available from the parent locator service. If a curator ad hoc is appointed, DCFS shall supply efforts to locate the parent to the curator ad hoc within 15 days of its receipt of a copy of the Order appointing the curator ad hoc. DCFS shall fully cooperate with any court which has authority with respect to the placement of a child in foster care or for adoption for the purpose of locating a parent of the child, including making available all information obtained from the Federal Parent Locator Service.
- Dual Paternity: Article 638 explicitly states that "every parent of the child" shall be served. Thus, it implicitly
  acknowledges the concept of dual paternity established by LASC. See Authors' Notes in Articles 638 and 1193 for more
  information.
- o **Content of Summons:** The summons shall command parents to appear to answer the Petition in accordance with Article 646 and may also command the presence of necessary participants for a Prehearing Conference convened in accordance with Article 646.1.
- o **Failure to Appear:** If a properly served person fails to appear in response to a summons, the court may order that such person be taken into custody and immediately brought before the court.
- o **Appoint Curator Ad Hoc:** If a parent cannot be served in accordance with Article 640 or 641, the court shall appoint an attorney at law (best practice is to appoint the local Public Defender Office per Article 575 in the Order) as curator ad hoc for the parent and service shall be made on the curator ad hoc. Upon appointment of curator ad hoc, a copy of the letter of appointment shall be forwarded to DCFS and the DA. See duties of the curator ad hoc in Article 644.

Answer Hearing	Benchbook Section	

- o **Unidentified Father:** If a father is unidentified, it is not necessary to appoint a curator ad hoc for that parent. The father shall be considered unidentified if:
  - The biological father's name is not provided on the birth certificate;
  - · There is no presumed father; AND
  - No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.
- (3) **CHILDREN:** When the Petition is filed, the court shall issue a summons commanding the child to appear before the court at the designated time and place for the Answer Hearing.
- **(4) OTHER PERSONS:** When the Petition is filed, the court shall issue a summons commanding such other persons as the court deems proper to appear before the court at the designated time and place for the Answer Hearing.

#### **HELPFUL GUIDANCE:**

- o **Content:** The summons may command the presence of necessary participants for a Prehearing Conference convened in accordance with Article 646.1.
- o **Failure to Appear:** If a properly served person fails to appear in response to a summons, the court may order that such person be taken into custody and immediately brought before the court.

#### (5) FOSTER CAREGIVERS PROVIDING CARE FOR THE CHILD:

- Notice and Right to Be Heard: The court shall determine whether DCFS:
  - Gave notice of the date, time, and place of the Answer Hearing to any foster caregiver providing care for the child; AND
  - Informed the recipient of his/her right to attend and be heard at the hearing.
- **Fails to Appear:** If a foster caregiver fails to appear at a hearing, DCFS shall report to the court whether notice was given or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing to be held in the person's absence.
- **Solicit Information:** The court shall solicit and consider information regarding the care and treatment<sup>18</sup> of the child from any foster caregiver providing care for the child who appears for the Answer Hearing.<sup>19</sup>

#### **PRACTICE TIPS:**

o Valuable Information that Must be Considered: The court should value the role of the child's daily caregiver and the insight they can provide to the court about how the child is doing and what he/she needs. Because of their day-to-day care of the child, foster caregivers have useful information that the court, DCFS, CASA, and parties to the CINC case need to make crucial decisions regarding the child's well-being. Thus, their role in the court process is to provide current and accurate oral and/or written information about their observations of how the child is doing so that judges can make informed decisions in the best interest of the child.

<sup>18</sup> Neither State nor Federal law provides a definition for "care and treatment of the child," but DCFS policy states that it "includes information that the foster parent, relative, or pre-adoptive parent feels is critical to the safety and well-being of the child, such as how the child is doing physically, developmentally, emotionally, behaviorally, mentally, socially, and academically and what supports or services are needed for the child or caregiver to properly care for the child."

<sup>19</sup> See La. Ch. C. art. 623; 42 U.S.C. § 675(5)(G); 45 C.F.R. § 1356.21(o).

- o **Solicit Information:** While foster caregivers are not parties, they have a legal right to be heard at any CINC hearing regarding a child in their care. There are at least 2 ways the court can solicit and consider information from caregivers. The caregiver can: (1) submit a Foster Caregiver Progress Form to DCFS prior to the hearing or (2) attend and speak at the hearing, or both.<sup>20</sup>
- o **Submit a Foster Caregiver Progress Form:** The Foster Caregiver Progress Form is one of the ways foster caregivers can exercise their right to be heard but is not required. If the caregiver chooses to complete the form, they will submit it to DCFS, who will bring copies of the form to the hearing. The form can be submitted to DCFS even though the caregiver may not attend the hearing. These forms contain hearsay information and should be treated as information about the child in the same way DCFS provides other information to the court. Even if the caregiver submits the form, they still have the right to attend and be heard at any CINC hearing regarding the child in their care. See the <u>Foster Caregiver Progress Form Template</u> in the <u>Appendices Benchbook Section 12</u>.
- o **Speak at the Hearing:** In accordance with State and Federal law, if the foster caregiver attends the hearing, the court shall solicit information from the caregiver about the care and treatment of the child (even if they submitted a Foster Caregiver Progress Form). At the beginning of the hearing, the court should identify the people in the courtroom and their connections to the case. This includes foster caregivers. After the court hears from parties, if another party has not called on the caregiver to speak, the judge should call on them to see if they would like to speak. Some caregivers may wish only to attend and not speak. Judges may allow the caregiver to use the form to guide them when they speak and/ or may want to utilize the form to ask the caregiver questions.<sup>21</sup>

## E. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS

The court should consider whether any of the following Federal laws or regulations apply to this case:

- · Americans with Disabilities Act (ADA);
- · Service Members Civil Relief Act (SMCRA);
- Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA); AND/OR
- Interstate Compact on the Placement of Children (ICPC), as codified in La. Ch. C. art. 1608 et seq.
  - ICPC Generally: ICPC is an agreement between all 50 States, Washington, D.C., and the U.S. Virgin Islands. It provides for the movement and safe placement of children between States when the children are sent out of State for placement in foster care or as a preliminary step to a possible adoption. The process involves several steps and goes from the local or field level in one State, through the central or State office of each State, to the local level in the other State for investigation. At the conclusion of the investigation, a report is sent from the local level to the State administration and back to Louisiana. The process usually takes several months to complete, so it is recommended that this process begins as soon as a potential caregiver out of State is identified and determined to be a suitable potential placement or resource. If the receiving State finds that the proposed placement is contrary to the interests of the child, DCFS may not place the child with that caregiver. The judge still has authority to grant custody or guardianship to the out-of-State caregiver without ICPC approval. Still, there would be no supervision of the home and may be other severe repercussions. See <a href="Disposition Hearing Benchbook Section 8 E">Disposition Hearing Benchbook Section 8 E</a> for more information on ICPC.

## F. ADVISEMENTS

ARTICLES 625, 646, 648

## (1) PARENTS:

a. **General Advisements:** Unless so advised at a previous hearing, the court shall advise the parents of their rights and responsibilities pursuant to Article 625, including:

<sup>20</sup> Id.

<sup>21</sup> ld.

- The nature of the proceedings and allegations in terms understandable to them;
- The right to an Adjudication Hearing, including the rights to call and cross-examine witnesses and the right to appeal;
- The right to be represented by counsel and the right of indigent parents to representation by the Indigent Parents' Representation Program in accordance with Article 608;
- If the parent provides an electronic mail address at which the parent is willing to receive service and notice of future
  proceedings, then all service or notice of future proceedings may be sent electronically until such time as the parent
  provides notice to the court and all parties in writing or open court that he/she is no longer able to receive service or notice
  at such address; AND
- Responsible for notifying DCFS and their counsel in writing of their current whereabouts, including their address, cellular number, telephone number, and any other contact information, and that if they fail to do so, the law authorizes hearings to be held in their absence.
- b. **DCFS Custody:** If the child is in DCFS custody, the court shall also advise the parents of their rights and responsibilities pursuant to Article 625, including:
  - The child's need to have a safe and stable relationship with caretakers, either his/her parents or, if necessary, others who are
    willing and able to assume parental responsibility, provide a permanent home, and have these caretaker decisions made as
    quickly as possible;
  - Their responsibility to cooperate in preparing a case plan and otherwise in meeting the needs of their child;
  - Their obligation to contribute to the cost of care and treatment of their child or in the alternative, child support pursuant to R.S. § 9:315 et seq., as provided in Article 685; AND
  - Their responsibility to assist the child's adjustment to other caretakers.

#### **PRACTICE TIP:**

o **Parent's Email:** If a parent has not provided an email address at which they can be served, judges should encourage parents to do so. Having an email address to send notice helps ensure the parents receive the notice. For example, when a parent does not have a stable home to live in, and their address continues to change, it is helpful to have an email address to send them notice.

#### **HELPFUL GUIDANCE:**

- o **Acknowledgment from Parents:** If the parents have not already done so, it is recommended that the judge have the parents acknowledge on the record and/or execute a written acknowledgment of advisement and understanding of rights.
- o **Engage with Parents, Children, and Relatives Present:** It is important to make sure the parents, children, and relatives present are engaged and understand what is happening. Judges are encouraged to ask:
  - Do you understand what this hearing is about? (Explain the purpose of the hearing).
  - Do you understand the allegations in the Petition? (Review the Petition with parties).
  - · Were you involved in any mediation process used before this hearing? If yes, what was the outcome?
  - What family members and/or other important people should be involved in this process?

Answer Hearina	Benchbook Section	

#### (2) ALL PERSONS BEFORE COURT:

- a. **General Advisements:** Unless so advised at a previous hearing, the court shall advise all persons before the court of their rights and responsibilities pursuant to Article 625, including:
  - To identify the name, address, and whereabouts of each parent and any relative or other individual willing and able to offer a wholesome and stable home for the child; all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child; AND
  - Of their responsibility in achieving timely permanency for the child.

## **HELPFUL GUIDANCE:**

- o **Continued Obligation to Find Potential Caregivers:** All persons and parties before the court have a continuing obligation to achieve timely permanency for the child. It is critical for relatives and other individuals to be found as soon as possible so that permanency can be achieved expeditiously if reunification becomes no longer viable. Finding these potential placements early on in the case is also crucial to reducing further trauma to a child who may form secure attachments with caregivers. The court's role is to continue to hold persons before the court, parties, and DCFS accountable to these obligations. See <u>Appendices Benchook Section 12</u> for the <u>Family Connection Form</u> and <u>Circle of Influence Form</u> DCFS uses with children and parents to help identify potential caregivers. Also, some attorneys create "Family Trees" to help identify potential caregivers.
- o **Preference to Relatives Per Federal Law:** For States to receive funding for foster care and adoption assistance, Federal law under Title IV-E of the Social Security Act requires that the State "consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards." Per the Fostering Connections to Success and Increasing Adoptions Act, within 30 days following the removal of the child and any time after that a relative is identified, DCFS is required to contact all known adult relatives of the child and to inform them about placement and permanency possibilities for the child. Title IV-E of the Social Security Act also requires all States to exercise due diligence to identify and provide notice to all grandparents, all parents of a sibling of the child, where such parent has legal custody of the sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents) that (1) the child has been or is being removed from the custody of his/her parents; (2) the options the relative has to participate in the care and placement of the child; and (3) the requirements to become a foster parent to the child. These Federal laws are based on evidence that placement with relatives maintains the child's connections with his/her family, and children generally fare better in many child well-being factors when placed with a relative.<sup>23</sup>
- o **Suitable Individuals and Cultural Considerations:** The court should press parties and persons before the court to consider not only biological relatives but also individuals with whom the child has a significant relationship (also referred to as "fictive kin," "suitable persons," or "suitable individuals"). These are individuals who are not related by blood, marriage, or adoption to the child but could be close family friends or someone the child considers family or has a relationship with. It is important to consider the child's culture, heritage or customs, traditions, religion, etc., in determining placement and custody options. For example, some children may call a close friend their "auntie" even though they are not related by blood. However, the auntie may be the best placement for the child but overlooked if there is no thorough inquiry is made.

<sup>22 42</sup> U.S.C. § 671(a)(29).

See Child Welfare Information Gateway. (2020) Reasonable efforts to preserve or reunify families and achieve permanency for children. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, <a href="https://www.childwelfare.gov/pubPDFs/reunify.pdf">https://www.childwelfare.gov/pubPDFs/reunify.pdf</a>; Center on Children and the Law. (2016) Judicial Tip Sheet: Kin First. Washington, DC: American Bar Association, <a href="https://www.americanbar.org/groups/public\_interest/child\_law/resources/child\_law/practiceonline/child\_law\_practiceo/lol-35/july-2016/judicial-tip-sheet--kin-first/; Issue Brief, Strong Families (2019) Why Should child protection agencies adopt a kin-first approach? Casey Family Programs, <a href="https://www.ncasey.org/kin-first-approach/">https://www.ncasey.org/kin-first-approach/</a>; National Conference of State Legislatures. (2019) The Child Welfare Placement Continuum: What's Best for Children?, <a href="https://www.ncsl.org/research/human-services/the-child-welfare-placement-continuum-what-s-best-for-children-aspx;">https://www.ncsl.org/research/human-services/the-child-welfare-placement-continuum-what-s-best-for-children-aspx;</a>; Child Welfare Information Gateway. (2018). Placement of children with relatives. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, <a href="https://www.childwelfare.gov/pubPDFs/placement.pdf">https://www.childwelfare.gov/pubPDFs/placement.pdf</a>.

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## G. PATERNITY OR MATERNITY

#### The court should make a finding as to whether or not:

• Paternity or maternity has or has not been established pursuant to Louisiana law for each child in the case.

## **PRACTICE TIPS:**

- o **Direct Parent Present to Identify Other Parents:** If a parent has still not been located, the judge should direct the parent who is present under oath to provide name, address, and whereabouts for any parent who has not been located and emphasize the importance of identifying and locating any absent parents.
- o **Determining Paternity/Maternity:** The court must ensure that efforts by DCFS are thorough and diligent in locating and involving all legal and putative parents and that paternity or maternity of all children is legally determined. If the identity and whereabouts of an alleged parent is known but filiation has still not been legally determined, the court can order that DCFS acquire information needed to determine filiation (i.e., obtain DNA testing, copy of birth certificate, certificate regarding Putative Father Registry, certificate of results from Clerk of Court showing whether an acknowledgement was filed in the parish of the child's birth, etc.), including ordering that DCFS make arrangements for DNA tests to determine the paternity/maternity of any alleged parents and that the alleged parents comply.
- o **Direct Parent Present to Identify Potential Relative Caregivers:** Establishing paternity or maternity is also critical for finding potential relative caregivers for the child; thus, the court may also want to direct the parents under oath to identify relatives of the child.

#### **HELPFUL GUIDANCE:**

- o **Identification of Parents or Legal Custodians:** Courts should ensure all biological, legal, and putative parents are legally established as soon as possible. Decisions made in CINC hearings can affect a child's entire life if this information remains unknown. When a child does not know who one of his/her parents is, that also means the child may not know his/her race, ethnicity, medical background, culture, relatives, religious ties, and more. Timely resolution of filiation and paternity or maternity issues is in the best interest of the child and essential to due process and avoiding permanency delays.
- o **Maternity:** There may be cases where there is an issue with maternal filiation. However, Louisiana law has not been amended to contemplate situations when, for example, two women are married and one gives birth to a child during the marriage. Louisiana filiation laws for paternity would likely be instructive for similar maternity issues.

## H. ANSWER AND FINDINGS AND ORDERS

ARTICLES 606, 646.1, 647, 649, 658

**ESSENTIAL JUDICIAL FINDING AND ORDER - ANSWER:** At the Answer Hearing, the court shall require the parents to appear and Answer the Petition. The parent may deny or admit the allegations of the Petition with or without consenting to the Adjudication according to Article 606(A) (i.e., consenting to judgment or agreeing that the child is in need of care) or stipulate to the Adjudication, with or without admitting to the allegations in the Petition. However, stipulations may only be made if the requirements of Articles 646.1 and 647 have been met. Depending on the parents Answer's, the court's finding of whether there is a factual basis for Adjudication, and whether the child's objects, the court will either: (1) dismiss the Petition, (2) set the matter for Adjudication, or (3) adjudicate the child in need of care and complete a separate Adjudication Order.

Answer Hearing Benchbook Section	

#### (1) DENY OR ADMIT THE ALLEGATIONS OF THE PETITION:

- **Find:** The court may find that:
  - After being advised of his/her rights by the court and his/her attorney;
  - A parent denies OR admits the allegations of the Petition in whole or part.
- **Factual Basis and Consent Inquiries and Finding:** If a parent admits, the court shall determine whether the allegations admitted form a factual basis for finding the child is in need of care per Article 606(A) AND whether the parent consents to the Adjudication.

#### **PRACTICE TIP:**

o **Adjudication:** Some parents admit to the allegations of the Petition, but they do not agree that the child is in need of care and want an Adjudication Hearing.

#### (2) STIPULATE AFTER PREHEARING CONFERENCE:

- a. **Prehearing Conference:** A parent may stipulate that the child is in need of care according to Article 606(A), with or without admitting the allegations of the Petition, only if:
  - The Petitioner and DCFS approve the stipulation;
  - A Prehearing Conference was convened in accordance with Article 646.1;
  - The parent stipulating personally appears;
  - The court fully informed the parent of his/her rights according to Article 625;
  - The court fully informed the parent of the consequences of the stipulation, including his/her responsibility to comply with the case plan and correct the conditions requiring the child to be in care; AND
  - The parent knowingly and voluntarily consents to the judgment (consent to Adjudication).<sup>24</sup>

#### b. Findings:

- **Allegations of the Petition:** After the requirements for Articles 646.1 and 647 have been met, the court may find and enter into the Order that:
  - The parent stipulates that the child is in need of care according to Article 606(A) and knowingly and voluntarily consents to Adjudication;
  - · With OR without admitting the allegations of the Petition; AND
  - After being advised of his/her rights by the court and his/her attorney.
- For Factual Basis and Admission Inquires and Findings: If a parent stipulates, the court shall determine and enter into the Order whether the allegations form a factual basis for finding the child is in need of care and whether the parent denies or admits the allegations.

#### **PRACTICE TIP:**

o Include Date: Best practice is to include the date the Prehearing Conference was convened in the Answer Order.

<sup>24</sup> Parents' attorneys are guided in their practice by the Louisiana Public Defender Board "Trial Court Performance Standards for Attorneys Representing Parents in Child in Need of Care and Termination of Parental Rights Cases," <a href="http://lpdb.la.gov/Supporting%20Practitioners/Standards/txtfiles/pdfs/2011%20CINC%20Standards.pdf">http://lpdb.la.gov/Supporting%20Practitioners/Standards/txtfiles/pdfs/2011%20CINC%20Standards.pdf</a>. Those standards state: "The primary and most fundamental obligation of an attorney representing a parent in a child in need of care or a termination of parental rights case is to provide zealous and effective representation for his/her client at all stages of the process." Judges play an important role in helping to ensure due process for all parents in their courts.

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Answer Hearina B	enchbook Section	

#### **HELPFUL GUIDANCE:**

- o **Purpose of Stipulation:** The purpose of the stipulation is to provide an alternative to parents who wish to stipulate that the child is in need of care rather than defend themselves at a trial.
- o **Requirements of Stipulation:** The requirements of Articles 646.1 and 647 uphold due process rights of parents. The advisements are similar to the instruction that must precede the acceptance of a guilty plea in a criminal prosecution to ensure that it is knowingly and voluntarily made. The prerequisite of consultation at a Prehearing Conference seeks to ensure that a parent's stipulation is both voluntary and intelligent and in the best interest of the child. The prerequisite of court instruction about continuing parental responsibilities are parallel to Article 682, which imposes similar requirements upon the court when entering or confirming an order removing the child from parental custody following a formal hearing and Adjudication.
- o **Example of Stipulating Without Admission:** A parent may decide to stipulate without admission, for example, when there are pending criminal charges against him.
- **(3) CHILD MAY OBJECT:** A child may object, in writing or open court, to an answer of his/her parent, which objections should be entered in the Order, not just the minutes of the proceedings.

#### **PRACTICE TIPS:**

- o Order: Best practice is to include in the Order whether the child objected to the answer of a parent or not.
- o **Set for Adjudication Hearing:** If the child disagrees with a parent's answer, best practice is to hold the Adjudication Hearing. The Children's Code speaks to the "objection" of the child to the answer of his/her parents but does not mention the effect of such an objection. There are multiple reasons why a child may want to have a hearing, and as a party, would be entitled to such a hearing if not in agreement with the stipulation.

#### (4) ORDER:

- a. **DISMISS PETITION:** If the court finds no factual basis for Adjudication, it shall order the:
  - Matter be dismissed.
- b. SET MATTER FOR ADJUDICATON HEARING: The court shall set the matter for Adjudication Hearing if:
  - A parent denies allegations in whole or part;
  - · The court finds a factual basis for Adjudication and a parent does not consent to Adjudication; OR
  - The child objects to a parent's consent or stipulation to Adjudication.
- c. **ADJUDICATE CHILD IN NEED OF CARE:** The court shall adjudicate the child in need of care in accordance with Article 606(A) if the court:
  - Finds a factual basis for Adjudication and Articles 646.1 and 647 stipulation requirements have been met (whether the parents admit or deny allegations); OR
  - Finds a factual basis for Adjudication and parents consent to Adjudication.
  - » Include the specific provision(s) in Article 606(A) (1-8) that forms the basis for the Adjudication; the Answer Order should make it clear that a separate Adjudication Order (including Pre-Disposition orders) should be completed.

#### **PRACTICE TIPS:**

- o **Court Must Adjudicate Even If Stipulation/Admission:** Even if the court finds a factual basis for Adjudication after an admission and/or stipulation to Adjudication and the child does not object, the court must still adjudicate the child in need of care and issue an Adjudication Order. In this Adjudication Order, the court must set the matter for a Disposition Hearing unless the Disposition occurs immediately following the Adjudication. If the matter goes forward to Disposition, the court must issue both an Adjudication and Disposition Order. See <u>Adjudication Benchbook Section 7</u> and <u>Adjudication Order Template</u> and <u>Disposition Hearing Benchbook Section 8</u> and <u>Judgment of Disposition Order Template</u>.
- o **Specific Ground(s) for Adjudication:** The Adjudication Order should delineate the grounds for its findings from 606(A) and should, where appropriate, describe precisely the conduct the court is relying on. For example, if finding the child in need of care under 606(A)(5), that the conduct of the parent constitutes a crimThe Adjudication Order should delineate the specific ground(s) from Article 606(A) upon which the court bases its finding for Adjudication and should, where appropriate, describe precisely the conduct of the parent the court is relying upon. For example, if finding the child in need of care under Article 606(A)(5), that the conduct of the parent constitutes a crime against the child, the court should articulate the conduct and which crime. This clarity on the part of the court gives the parent notice of the basis of the Adjudication, consistent with due process, and helps guide the formation and implementation of the case plan or safety plan accordingly.
- o **Amendment of Petition:** With leave of court, the petitioner may amend the Petition at any time to cure defects of form. With leave of court, prior to Adjudication Hearing, the petitioner may amend the Petition to include new allegations of fact or requests for Adjudication. However, if such leave is granted, the child or parent may request continuance of the Adjudication Hearing. A continuance may be granted for such period as is required in the interest of justice (see Article 635).
- o **Deny or Admit in Part:** If parents admit to some, but not all, of the allegations set forth in the Petition, the court may set the matter for an Adjudication Hearing as to one or more of the grounds codified in Article 606(A). The court's decision may take into account the parties' positions (i.e., State decides to amend the Petition and remove the allegations that are denied). If the court finds a basis for an Adjudication based on a parent's admission to part of the allegations (i.e., neglect), parties may still want the matter to go to an Adjudication Hearing on a specific ground asserted in the Petition, but not admitted. A Prehearing Conference may also be immediately convened. There, parties and counsel can discuss amendments to the allegations before the court makes its ruling, or the State may move to amend the Petition (see Article 635); otherwise, if the Petition is not amended accordingly, there may be due process implications if the child is adjudicated based on a partial admission of the allegations set forth in the Petition.
- o Parents Answer Differently: The purpose of an Adjudication is to determine if the child is in need of care. The Children's Code is not clear as to what should happen if parents provide different answers as to the allegations of the Petition (for example, one parent stipulates, and one does not). In these instances, some courts set the matter for an Adjudication Hearing/Trial, taking the stance that it is the child who is adjudicated and that a child cannot be adjudicated as to one parent and not the other. Other courts take the stance that the court should adjudicate the child as to the parent who admitted to the allegations set forth in the Petition, relieving them of the obligation to attend the Adjudication Hearing/Trial. (In these instances, the court will set the matter for an Adjudication Hearing/Trial as to the parent who denied the allegations set forth in the Petition, and the parent who admitted may still attend the Adjudication Hearing/Trial because they remain a party with a legal interest in the case.). However, a child should not be adjudicated in need of care if one of the parents can care for the child. Therefore, given the purpose of Adjudication, if the parents answer differently, best practice would be to set the matter for Adjudication Hearing/Trial and for all parents to be present.
- o **Different Answer for Each Child:** If a parent admits to the allegations set forth in the Petition as to one child and not another child, the court should adjudicate the child to whom the parent admitted to the allegations and set the matter for an Adjudication Hearing/Trial as to the other child. This is sometimes seen in cases where one child was sexually abused, and the other was not.

Answer Hearing Benchbook Section	
Answer meaning benefited to Section	

#### OVERALL GUIDANCE:

- ESSENTIAL JUDICIAL FINDING Indian Child Welfare Act (ICWA): The court shall ask each person whether they know or have reason to know that the child is a member of or eligible for membership in a Federally recognized Indian Tribe and a biological child of a member of a Federally recognized Indian Tribe. Further, the court shall advise all to inform the court if any of the above information is subsequently discovered. If the court knows or has reason to know, the court shall follow Articles 624, 624.1, 661.1 and should utilize Indian Child Welfare Act (ICWA) Bench Card. The court should also inquire as to DCFS's due diligence in locating and contacting the Tribe. Noncompliance with ICWA may result in an invalidation of the proceedings, including a subsequent adoption. The CINC Petition should have included a statement regarding ICWA. See also 25 U.S.C. § 1901 et seq.
- **Form and Content of Petition:** The Petition shall use the form and contents as outlined in Articles 633 and 634, including in particular Article 634(3). The Petition shall also include a statement as to whether the Petitioner knows or has reason to know that the child is an Indian Child and facts to support the statement in accordance with the Indian Child Welfare Act (ICWA).

## I. FURTHER ORDERS

ARTICLES 102, 309, 318, 601, 627, 672, R.S. § 17:238(C)

• The court may make additional orders at the Answer Hearing that are in the best interest of the child (See Article 627, Authors' Notes), such as orders related to Disposition, visitation (Article 309), paternity or maternity, child's education, services, Protective Orders (PO), and placement of the child when they are in DCFS custody (Article 672(A)(2)), etc.

## **PRACTICE TIPS:**

- o **Potential Caregivers or Placements:** The judge may order DCFS to:
  - Explore all possible relative or individual caregivers (i.e., fictive kin, people who matter to the child, etc.) with results and/or updates on results to be presented at Disposition;
  - Initiate a child welfare background clearance, criminal background check, and/or assessment of home or home study on potential caregivers so that they can be considered for placement by DCFS and/or for custody or guardianship at Disposition;
  - Take necessary steps for potential caregivers to complete timely foster care certification, if needed (i.e., to receive guardianship subsidy if applicable, etc.); AND/OR
  - Initiate ICPC process for potential placement with any out-of-State relatives or individuals. See <u>Disposition Hearing</u>
    <u>Benchbook Section 8 E</u> for more information on ICPC.
- o **Child Specific Certification:** DCFS provides "child specific" foster care certification for a relative or other individual with whom the child is placed or being considered for placement. The certification requires fewer classes than general foster care certification and allows the relative/individual to receive a board rate (monthly financial support) like a certified foster parent. If the relative or individual is interested in becoming the child's legal guardian, the certification would have to be completed (along with other DCFS requirements) to receive a subsidy after a transfer of guardianship. The court may want to request updates on status of certification to ensure timely completion.

## J. ORDER OF NOTICES AND FUTURE HEARINGS

ARTICLES 625, 646, 646.1, 648

#### Unless the court dismisses the Petition, the court shall also make the following orders:

(1) **FUTURE HEARINGS:** The parents of the child, all attorneys of record, DCFS representative(s), and CASA (if appointed) be present at all future hearings.

#### (2) SET MATTER FOR ADJUDICATION AND/OR DISPOSITION HEARING:

- Clerk to notify all parties of the date, time, and location of the hearing and that all parties of interest appear;
- Sheriff's Office to serve the parents with a summons commanding him/her to appear at court for the hearing;
- DCFS to provide notice to the parents of the date, time, and location of the hearing as well as the nature of the allegations;
- Notice of the hearing shall be made on counsel of record and CASA (if appointed); AND
- DCFS to provide notice to any foster caregiver providing care for the child of the date, time, and location of the hearing and that the recipient has the right to attend and be heard.

#### **PRACTICE TIPS:**

- o **Adjudication Hearing Not Needed:** If the court finds a factual basis for Adjudication after an admission and/or stipulation to Adjudication and the child does not object to his/her parents admission or stipulation, an Adjudication Hearing is not needed. However, the court must still adjudicate the child in need of care and issue an Adjudication Order. If the matter goes forward to Disposition, the court must still issue both an Adjudication and Disposition Order. See Adjudication Benchbook Section 7 and Adjudication Order Template and Disposition Hearing Benchbook Section 8 and Judgment of Disposition Order Template.
- o **Set Dates and Times in Adjudication Order:** Best practice is to set the date and time for the Prehearing Conference, Adjudication Hearing, and Discovery deadline in the Order.
- Notice or Schedule Hearings in Open Court: The court may schedule future hearings and serve notice in open court
  (Article 646).

## (3) ARRANGEMENTS FOR ANY INCARCERATED PARENT: Be made to attend hearing, either in person or remotely.

## K. CASE MANAGEMENT

#### (1) ENGAGEMENT:

- Specifically, ask parents and children if they understand what occurred at the hearing and engage them in a conversation about the next steps.
- Ask parents (and children, if appropriate) if there is anything the court and other stakeholders involved could do to support their efforts to reunify their family (if reunification is still viable)?
- Advise parents of the importance of their active participation in all proceedings.
- · Advise parents of the rigorous timeframes for child abuse and neglect cases outlined in State and Federal laws.
- · Advise parents of the consequences for failure to appear at any further court hearings.
- Ensure that parents and children have contact information for caseworkers and attorneys and understand the process to request court review if necessary.
- · Ask if there are any questions for the court.
- It is helpful for children and parents to be able to meet very briefly with their attorneys after the hearing so that the attorneys can address immediate issues.

Answer	Hearing	Benchbook	Section	

#### (2) PREPARATION FOR NEXT HEARING:

- · Identify tasks to be accomplished by the various parties for the next hearing.
- Make oral findings and orders that all participants can understand.
- Consider the appropriateness of mediation, and order if applicable (Article 435 et seq.).
- An attorney or the court is responsible for the completion of the Answer Order. See Answer Order Template.
- All attorneys and unrepresented parties should review the Order before the judge signs it to ensure it accurately reflects the proceeding.
- Time permitting, best practice is to sign the Order on the same day as the hearing.
- Ensure all Orders are written, signed, copied, and distributed at the end of the hearing.
- Provide parents with a copy of the Order immediately following the hearing.

## L. POSSIBLE NEXT STEPS

ARTICLES 628, 631, 635-58, 659, 668-70,678

#### (1) INFORMAL ADJUSTMENT AGREEMENT (IAA):

 After the filing of a CINC Petition, and with the consent of DCFS, if the child is in the provisional custody of DCFS, the court may authorize the DA to effect an IAA. The court may dismiss the Petition or allow the Petition to remain pending during the period of informal adjustment.

#### **PRACTICE TIP:**

- o **Viable Alternative to Removal and/or Adjudication:** An IAA may be used whether the child is in DCFS custody or not. It is a viable alternative to keeping the child out of foster care. For example, the child could be returned to his/her parents and an IAA could be used similarly to a safety plan. Or an IAA could be entered into while the child is in DCFS custody to obviate the need for Adjudication. See <a href="Informal Adjustment Agreement">Information</a>.
- (2) **AMENDMENT OF PETITION:** With leave of court, the petitioner may amend the Petition at any time to cure defects of form. With leave of court, prior to Adjudication Hearing, the petitioner may amend the Petition to include new allegations of fact or requests for Adjudication. However, if such leave is granted, the child or parent may request continuance of the Adjudication Hearing. A continuance may be granted for such period as is required in the interest of justice.
- (3) **SPECIAL MOTIONS AND DISCOVERY:** Articles 635 and 651-658 provide various motions and discovery that can take place between the filing of the Petition and the Adjudication and Disposition Hearings.
- **(4) PETITION FOR CUSTODY:** At any time prior to Adjudication, any person, including a relative of the child, may petition the court for the provisional or permanent legal custody of the child.

#### **HELPFUL GUIDANCE:**

- o **If Foster Care is Potential Disposition:** This Article aligns with Articles 681(A)(1), 683, and 622(D) and gives any person or relative the authority to seek court review (prior to Adjudication) of their claim to custody of a child in which foster care is a potential Disposition.
- o **Timing for Petition for Custody:** The Children's Code is not clear as to when the court should review this matter. The request is likely meant to be decided at Disposition because custody of a child involved in a CINC case is not ruled upon unless, and until, the court goes to Disposition. Once a child has been found in need of care due to the actions of a parent or caretaker, the question of future custody to another parent or caretaker is an issue of Disposition subject to a Predisposition Investigation. Thus, if a relative or other person has filed a petition for the child's custody, the resolution of that claim is properly reserved for the Disposition Hearing. See also the Authors' Notes for Article 666.

Answer Hearing	Benchbook Section	

o **Provisional versus Permanent:** It is important for judges to consider the consequences of granting provisional versus permanent legal custody of a child. If provisional custody is granted, the court should continue holding review hearings until permanent custody is resolved. If permanent legal custody of a child is granted to a person, the CINC case and DCFS involvement would end, and, thus, the court case would be closed. This is important for courts to keep in mind when making these decisions, especially if services and supports would still benefit the child and/or family.

#### (5) ADJUDICATION HEARING:

- **Timing:** If the child is not adjudicated at the Answer Hearing and has been continued in custody pursuant to Article 627, the Adjudication Hearing shall commence within 45 days of the filing of the CINC Petition. If the child is not in custody, the hearing shall commence within 105 days of the filing of the Petition.
- **Continuance:** After notice to the opposing party and upon a showing of good cause, the court may grant, deny, or condition a requested continuance of the proceeding in extraordinary circumstances. The hearing may be continued for up to 5 additional days. If a continuance is granted, the court shall issue a written order identifying the mover and reciting the particular facts justifying the continuance.
- **Not Timely Commenced:** If the hearing has not commenced timely, upon motion of the child, the court shall release a child continued in custody and may dismiss the Petition.

#### **PRACTICE TIP:**

o **Timing Considerations:** While the law does not prohibit the court from holding the Adjudication Hearing on the same day as the Answer Hearing, the court should consider whether time is needed to ensure due process for the children and parents. For example, there may be paternity or maternity issues that need to be resolved, medical, sensory, psychological, or psychiatric examinations that need to be conducted, evidence that needs to be obtained, witnesses that need to be secured, etc.

#### (6) DISPOSITION HEARING:

- **Timing:** The Disposition Hearing may be conducted immediately after the Adjudication and shall be conducted within 30 days after the Adjudication.
- **Continuance:** After notice to the opposing party and upon a showing of good cause, the court may grant, deny, or restrict a requested continuance of the hearing in accordance with the best interests of the child. If a continuance is granted, the court shall issue a written Order identifying the mover and reciting the particular facts justifying the continuance.

#### **PRACTICE TIP:**

o **Timing Considerations:** While the law does not prohibit the court from holding the Disposition Hearing on the same day as the Answer Hearing, the court should consider whether time is needed to ensure due process for the child and parents. For example, there may be paternity or maternity issues that need to be resolved, medical, sensory, psychological, or psychiatric examinations that need to be conducted, evidence that needs to be obtained, witnesses that need to be secured, placement possibilities to further investigate, case planning to complete, etc.



# **ANSWER HEARING**

La. Ch. C. arts. 646-649

B E N C H C A R D



**PURPOSE** 

Parents appear before the court to answer the CINC Petition. While largely a legal formality, the Answer Hearing allows the court to ensure that parents and children have proper notice and counsel. It is an opportunity to schedule critical meetings and future hearings to ensure case meets statutory timelines.

# **Timing and Continuances**

- ARTICLES 625, 646, 646.1, LA. SUP. CT. RULE XXXIII, PART II, SEC. 1-2
- (1) TIMING: Shall be held no later than 15 days after Petition filed and prior to Adjudication, or may be immediately held after Continued Custody Hearing (CCH) or Continued Safety Plan Hearing (CSPH) if Petition has been filed (See Article 114). See <u>Petition for Non-Custodial Child in Need of Care and Order Template</u> and <u>Petition for Custodial Child in Need of Care and Order Template</u>.
- (2) CONTINUANCES: Court shall report continuance exceeding maximum allowed within 10 days to Louisiana Supreme Court, with reasons and copy of Order.

PRACTICE TIP | Prehearing Conference: May be immediately convened at Answer Hearing: (1) demonstrate effectiveness in reducing decision-making delays, discouraging procrastination by counsel, and providing opportunities to discuss alternatives to formal court proceedings and/or early resolution of issues that might otherwise result in continuances/other delays; and (2) required for parents to stipulate that child is in need of care. See Articles 646(C) and 646.1.

PRACTICE TIP | CINC with/without Removal: Petition may be filed when child still in custody of parents or when child removed and in provisional custody of a relative/individual/DCFS. Referred by some jurisdictions as "non-custodial" and "custodial" cases or "CINC without removal" and "CINC with removal."

# **Appearances and Appointments**

- ARTICLES 421.1, 575, 607-8, 623, 635.1-645
- (1) ONLY ADMIT PERSONS WITH PROPER INTEREST/NECESSARY: Including parents, child, attorneys for child and parents, DA/ADA/ DCFS attorney (BGC), DCFS representatives, CASA (if appointed), and foster caregivers.
- (2) CHILDREN ARE PARTIES: 12 years or older, shall be present unless waived upon motion of child's attorney; include in Order if waived or not. Under age 12, shall be present upon request of child's attorney or court.
- (3) PARENTS ARE PARTIES: If absent, hearing may only proceed if it appears from record parent has been served per Article 640 or 641 and summoned. If absentee, see Articles 575, 608, and 643 for appointment of curator ad hoc. If incarcerated, verify writ/motion to guarantee parent's attendance filed and Order issued/served timely on facility.
- (4) ATTORNEYS: Child shall have attorney appointed and present (Article 607); indigent and absent parents shall be provided representation (Articles 575 and 608) unless right waived by parent per Article 608.

#### **ESSENTIAL JUDICIAL FUNCTION** | Assistance and Accommodations:

Court responsible for providing interpretation, translation, language assistance services, and/or reasonable accommodations for parties. Interpreters must be familiar with case-related details to provide accurate, meaningful, and effective interpretation.

**PRACTICE TIP** | Appointments: If not previously appointed, order program approved to represent child be appointed and refer parents to local Public Defender Office to represent parents; order notice of appointments and service of copy of pleadings. Finding of indigency may be needed for parents. Court can also appoint CASA if not appointed.

PRACTICE TIP | Foster Caregivers (Foster Parents, Pre-Adoptive Parents, And Relatives): Are not parties but have legal right to notice and opportunity to be heard at any hearing involving a child in their care. If they do not appear, DCFS shall report whether notice given or diligent efforts made to locate and notify caregiver; hearing may be held in their absence even if notice not given by DCFS. Article 623, 42 U.S.C. § 675(5)(G), and 45 C.F.R. § 1356.21(o).

**PRACTICE TIP | Confidentiality:** If court allows other persons to be present, stress confidentiality of case information.

## **Notice and Summons**

- ARTICLES 575, 623, 635.1-645, 42 U.S.C. § 675(5)(G), 45 § C.F.R. 1356.21(o)
- Court shall determine if proper notices were made to all parties, counsel, and foster caregivers; enter required findings in the Order; ensure parties and counsel received copy of Petition before hearing.

#### **Advisements**

- ARTICLES 625, 646, 648
- (1) RIGHTS AND RESPONSIBILITIES: Unless previously advised, court shall advise parents and persons before court of their rights and responsibilities pursuant to Article 625; including that all persons before court shall identify name, address, and whereabouts of each parent and any relative or other individual willing and able to offer wholesome and stable home for child.
- (2) **ELECTRONIC EMAIL:** At hearing, parents shall be asked to provide electronic mail address that they are willing to receive service and notice of future proceedings; court shall advise once so provided that all service and notice of future hearings may be sent electronically until notice provided in writing to court and all parties or in open court that no longer able to receive at such address.

PUBLISHED 2021 1 of 3

# Paternity/Maternity

Court should make a finding as to whether has/has not been established per Louisiana law.

PRACTICE TIP | Determining Paternity/Maternity: If a parent has not been located, direct parent present under oath to provide name, address, and whereabouts for that parent. If identity and whereabouts known, but filiation not legally determined, court can order that DCFS acquire information needed to determine filiation (i.e., obtain DNA testing, copy of birth certificate, certificate regarding Putative Father Registry, certificate of results from Clerk of Court showing whether an acknowledgement was filed in the parish of the child's birth, etc.). Court can also direct parent under oath to provide name, address, and whereabouts of any relatives of the child.

## **Answer and Findings and Order**

- ARTICLES 606, 646.1, 647, 649, 658
- DENY/ADMIT: Parents may deny or admit allegations in Petition in whole or part with or without consenting to Adjudication (i.e., judgment/child is in need of care per ground(s) in Article 606(A)).
  - » Factual Basis and Consent Inquiries and Findings: If admit, determine whether allegations admitted form factual basis for finding child is in need of care <u>AND</u> whether parents consent to Adjudication.
- (2) **STIPULATE:** Parents may stipulate to Adjudication with or without admitting allegations if:
  - · Petitioner and DCFS approve stipulation;
  - Prehearing Conference was convened in accordance with Article 646.1 (Include date in Order);
  - Parents stipulating personally appear;
  - · Court fully informed parents of rights according to Article 625;
  - Court fully informed parents of consequences of stipulation, including their responsibility to comply with case plan and correct conditions requiring child to be in care; <u>AND</u>
  - Parents knowingly and voluntarily consent to judgment.
  - » Factual Basis: If stipulate, court shall determine whether the allegations form factual basis for finding child is in need of care <u>AND</u> parents deny <u>OR</u> admit allegations.
- (3) **CHILD MAY OBJECT:** In writing or open court, to answer of parents; objections shall be entered into minutes of court.

  \*Best practice is to include objection in Order and, if child objects, set matter for Adjudication Hearing.
- (4) ORDER:
  - a. **DISMISS PETITION:** No factual basis for Adjudication.
  - b. SET MATTER FOR ADJUDICATON HEARING:
    - A parent denies allegations in whole or part;
    - Find factual basis for Adjudication and a parent does not consent to Adjudication; OR
    - Child objects to a <u>parents</u> consent or stipulation to Adjudication.
  - c. ADJUDICATE CHILD IN NEED OF CARE:
    - Find factual basis for Adjudication <u>AND</u> stipulation requirements met (whether admit allegations or not); <u>OR</u>
    - Find factual basis for Adjudication <u>AND</u> parents consent to Adjudication.
  - Include specific provision(s) in Article 606(A)(1-8) that forms basis for Adjudication; complete a separate Adjudication Order and include Pre-Disposition orders.

#### **ESSENTIAL JUDICIAL FINDING AND ORDER | Answer: Court shall**

require parents to appear and Answer Petition. Parent may deny or admit allegations of Petition with or without consenting to Adjudication or stipulate to Adjudication with or without admitting to allegations in Petition. Stipulations must meet requirements of Articles 646.1 and 647. Depending on the parents Answer's, court's finding of factual basis for Adjudication, and whether child objects, court will either: (1) dismiss Petition; (2) set matter for Adjudication; or (3) adjudicate child in need of care and complete separate Adjudication Order.

**PRACTICE TIP** | Delineating Specific Ground(s): From Article 606(A), gives parents notice of basis of Adjudication, consistent with due process, and helps guide formation and implementation of case plan or safety plan accordingly.

**HELPFUL GUIDANCE** | Different Answers/Admissions in Part: Parents may answer differently from one another and/or for each child involved. Parents may only admit to some allegations. In such cases, there must be a legal basis for adjudicating the <a href="child">child</a> in need of care per one or more Article 606(A) grounds; due process rights of parents and child must be protected. See <a href="Answer Hearing Benchbook Section 6 H(5)">Answer Hearing Benchbook Section 6 H(5)</a> for related practice tips.

#### **ESSENTIAL JUDICIAL FINDING** | Indian Child Welfare Act (ICWA):

At every CINC hearing, court shall ask each person, and make record of answer in Order for each child, whether they know or have reason to know child is a member of or eligible for membership in a Federally recognized Indian Tribe and/or biological child of a member of Federally recognized Indian Tribe. Advise all to inform court if any of above information is subsequently discovered. If know or have to reason to know, proceed to Articles 624, 624.1, and 661.1. Court should also inquire as to DCFS's due diligence in locating and contacting Tribe. Noncompliance with ICWA may result in invalidation of proceedings. Petition should have included statement regarding ICWA. See also 25 U.S.C. § 1901 et seq. and Indian Child Welfare (ICWA) Bench Card.

## **Further Orders**

- ARTICLES 102, 309, 318, 601, 627, 672, LA. R.S. § 17:238(C)
- Court may make additional orders in best interest of child, such as orders related to Disposition (see <u>Adjudication Hearing Bench</u> <u>Card</u>), visitation, paternity/maternity, child's education, services, Protective Orders (PO), placement of child when in DCFS custody (Article 672(A)(2)), etc.

PRACTICE TIP | Potential Placements: Court can order DCFS to conduct a child protection clearance, criminal background check, and/or assessment of the home/home study on potential relative/individual caregivers so they can be considered for placement by DCFS and/or custody or guardianship at Disposition. Court can order DCFS to initiate Interstate Compact on the Placement of Children (ICPC) process for potential placement with out-of-State relatives/individuals.

HELPFUL GUIDANCE | Foster Care Certification: DCFS provides "child specific" foster care certification for relatives/individuals with whom child is placed or being considered for placement. Requires fewer classes than general foster care certification and allows relative/individual to receive board rate (monthly financial support) like a certified foster parent. If relative/individual is interested in becoming child's legal guardian, certification must be completed (along with other DCFS requirements) to receive subsidy after a transfer of guardianship. If applicable, court may want to request updates on status of certifications to ensure timely completion.

PUBLISHED 2021 2 of 3

## **Order of Notices and Future Hearings**

ARTICLES 625, 628, 646, 646.1, 648

Unless dismiss Petition, court shall also make the following orders:

- PARTIES, DCFS, COUNSEL, AND CASA: Be present at all future hearings;
- (2) **SET MATTER FOR ADJUDICATION AND/OR DISPOSITION HEARING:** Can also set dates for Prehearing Conference and/or discovery deadline; see <u>Adjudication Benchbook Section 7/Bench Card</u> for additional orders to consider before Disposition;
- (3) SERVICE/NOTICE OF HEARINGS: Be made on parties, counsel, CASA and foster caregivers; AND
- (4) ARRANGEMENTS FOR ANY INCARCERATED PARENT: Be made to attend hearing, either in person or remotely.

PRACTICE TIP | Adjudication Order: If court finds factual basis for Adjudication after an admission and/or stipulation to Adjudication and child does not object, Adjudication Hearing is not needed. However, court must still adjudicate child in need of care and issue Adjudication Order. If matter goes forward to Disposition, court must issue both an Adjudication and Disposition Order.

## **Case Management**

- Ask parents and children if they understand what occurred at the hearing; engage conversation about next steps.
- An attorney or the court is responsible for completion of Order. See Answer Hearing Order Template.
- All attorneys and unrepresented parties should review Order before judge signs to ensure it accurately reflects proceeding.
- Time permitting, best practice is to sign Order on the same day as the hearing.
- Consider giving attorneys time to meet with clients after hearing to discuss questions/concerns.
- Provide parents with copy of Order immediately following hearing.

## **Possible Next Steps**

- ARTICLES 628, 631, 635-58, 659, 668-70, 678
- (1) **INFORMAL ADJUSTMENT AGREEMENT (IAA):** After filing CINC Petition (with consent of DCFS if child in DCFS custody), court may authorize DA to effect IAA and either dismiss Petition or allow to remain pending during period of informal adjustment.
- (2) AMENDMENT OF PETITION: With leave of court petitioner may amend Petition: (1) at any time to cure defects of form or (2) prior to Adjudication Hearing to include new allegations of fact or requests for Adjudication. However, if granted, child/parent may request continuance, which may be granted for such period as required in interest of justice.
- (3) **SPECIAL MOTIONS AND DISCOVERY:** Articles 635 and 651-658 provide various motions and discovery available between filing of Petition and Adjudication and Disposition Hearings.
- (4) PETITION FOR CUSTODY: Before Adjudication, any person, including relative of child, may petition court for provisional or permanent legal custody of child.
- (5) ADJUDICATION HEARING: If child in custody, shall be held within 45 days of filing Petition; if not in custody, within 105 days of filing of Petition.
- (6) DISPOSITION HEARING: May be conducted immediately after Adjudication and shall be conducted within 30 days after Adjudication. Before Disposition, court may order Predisposition Investigation and physical and mental examinations in accordance with Articles 668-670.

PRACTICE TIP | Alternative to Removal/Adjudication: IAA may be used whether child is in DCFS custody or not. It is a viable alternative to keeping child out of foster care. For example, child could be returned to parents and IAA used similarly to a safety plan. Or IAA could be entered into while child in DCFS custody to obviate need for Adjudication. See Informal Adjustment Agreement (IAA) Benchbook Section 1.

PRACTICE TIP | Holding Hearings on Same Day: While law does not prohibit court from holding Adjudication and/or Disposition Hearings (if child adjudicated) on same day as Answer Hearing, court should consider whether time is needed to ensure due process for children and parents. For example, there may be paternity/maternity issues that need to be resolved, medical, sensory, psychological, or psychiatric examinations that need to be conducted, evidence that needs to be obtained, witnesses that need to be secured, placement possibilities to further investigate, case planning to complete, etc.

#### CRITICAL CONSIDERATIONS FOR ALL AT EACH CINC HEARING:

Can the child safely go home today (if reunification is still possible)? If not, what needs to happen to make return possible? Who is responsible? What is the timeframe?

PUBLISHED 2021 3 of 3

STATE OF LOUISIANA DOCKET NUMBER:					
IN THE INTEREST OF		SECTIO	SECTION:		
	DOB:	COURT:			
	DOB:	PARISI	1 OF		
			OF LOUISIANA		
Filed:		DEPUT	Y CLERK:		
PETI	ITION FOR NON-	CUSTODIAL CHILD	IN NEED OF CARE		
				-1	
NOW INTO COURT,	through undersig	gned counsel, com	es the State of Louisiana (the State	∍),	
petitioner herein, who upon	information and	d belief respectfully	represents:		
	I.	CHILD(REN) AND I	PARENTS		
The minor child(ren)	) and parent(s) in	nvolved in this mat	ter are:		
(1) CHILD'S NAME:		DOB:	RACE/SEX:		
PLACE OF BIRTH:					
CURRENT ADDRESS:					
PARENT:					
CURRENT ADDRESS:					
TELEPHONE AND EMAIL	(if known):				
PARENT:					
CURRENT ADDRESS:					
TELEPHONE AND EMAIL	(if known):			;	
(2) CHILD'S NAME:		DOB:	RACE/SEX:		
PLACE OF BIRTH:					

PARENT:		
CURRENT ADDRESS:		
TELEPHONE AND EMAIL (if known):		
(3) CHILD'S NAME:	DOB:	RACE/SEX:
PLACE OF BIRTH:		
CURRENT ADDRESS		
PARENT:		
CURRENT ADDRESS:		
TELEPHONE AND EMAIL (if known):		
PARENT:		
CURRENT ADDRESS:		
TELEPHONE AND EMAIL (if known):		;
II.	INDIAN CHILD WE	LARE ACT
The Petitioner: (Please check the ap	oplicable boxes)	
☐ Knows or has reason to know that		is/are an
Indian child(ren). The facts that support th		
□ Does not know/have reason to know that		 is/are an
Indian child(ren). The facts that support th		
		ADUIDICATION
	FACTUAL BASIS FOR	
		of Children and Family Services (DCFS), ir
the Parish of		
regarding th	e minor chila(ren), _	·
	d of care based on Lo	uisiana Children's Code Article(s)
The minor child(ren) is/are in need		uisiana Children's Code Article(s)

(include facts that give rise to CINC finding; also, include relevant court involvement and DCFS history);
With regard to the PARENT,, of the minor child(ren),
, the PARENT:
(including facts that give rise to CINC finding; also, include relevant court involvement and DCFS history);
IV. PRAYER
At this time the State is requesting that the child(ren) be adjudicated as a child in need of care
it does not believe the minor child(ren)'s safety can otherwise be protected;
WHEREFORE, the petitioner prays that the   PARENT,
□ and PARENT,, of the minor child(ren) be served with a copy of the
Petition and cited to Answer, and after all due proceedings are had, that the above-named minor
child(ren) be adjudicated as child(ren) in need of care with an appropriate disposition entered.
RESPECTFULLY SUBMITTED,
ASSISTANT DISTRICT ATTORNEY
BAR ROLL NO
PLEASE SERVE THE FOLLOWING WITH NOTICE AND COPY OF THIS PETITION:
<ol> <li>Parent(s) Of Minor Child(ren)</li> <li>Attorney(s) for Parent(s) of Minor Child(ren)</li> <li>Attorney(s) for Minor Child(ren)</li> <li>DCFS</li> <li>CASA</li> </ol>
PLEASE GIVE NOTICE TO:

6) District Attorney

STATE OF LOUISIANA DOCKET NUMBER:	
IN THE INTEREST OF	SECTION:
DOB: _	COURT:
DOB: _	PARISH OF
DOB: _	STATE OF LOUISIANA
Filed:	DEPUTY CLERK:
NON-CUS	STODIAL CINC PETITION ORDER
Considering the foregoing petitio	n:
IT IS HEREBY ORDERED THAT AN	APPEARANCE TO ANSWER Hearing is set forday of
, 20, at	am/pm.
IT IS ORDERED BY THE COURT the	at if not previously ordered: (Please check the applicable boxes)
	be and is hereby appointed to represent the child(ren)
in these proceedings and that said progra	am be given notice of appointment and served with a signed
copy of the pleadings filed herein.	
$\square$ that the parent(s),	, is/are be referred to the
District Public Defender	Office who shall provide for representation and that said
program be given notice of appointment	and served with a signed copy of the pleadings filed herein.
☐ that the District	Public Defender Office shall provide for a curator ad hoc to
locate absent parent(s),	, and that said
program be given notice of appointment	and served with a signed copy of the pleadings filed herein.
☐ that the local CASA program be and is h	nereby appointed, subject to the assignment of a qualified
volunteer to advocate for the best interes	st of the child(ren) in these proceedings. CASA must be given
notice of appointment and served with a	copy of the pleadings filed herein.
THUS DONE AND SIGNED ON THIS	day of, 20, in
, Lo	puisiana.

JUDGE

STATE OF LOUISIANA		DOC	KET NUMBER:	
IN THE INTEREST OF		SECT	SECTION:	
	DOB:	COU	RT:	
	DOB:	PARI	SH OF	
	DOR:	STAT	E OF LOUISIANA	
Filed:		DEPU	JTY CLERK:	
	PETITION FOR C	USTODIAL CHILD II	N NEED OF CARE	
NOW INTO COURT	, through unders	signed counsel, cor	mes the State of Louisiana (the Sta	ate),
petitioner herein, who upo	n information ar	nd belief respectful	lly represents:	
	ı.	CHILD(REN) AND	PARENTS	
The minor child(rer	n) and parent(s)	involved in this ma	atter are:	
(1) CHILD'S NAME:		DOB:	RACE/SEX:	
PLACE OF BIRTH:				
TELEPHONE AND EMAI	L (if known):			
PARENT:				
(2) CHILD'S NAME:		DOB:	RACE/SEX:	
PLACE OF BIRTH:				

PARENT:			
CURRENT ADDRESS:			
TELEPHONE AND EMAIL (if known): _			
(3) CHILD'S NAME:	DOB:	RACE/SEX:	
PLACE OF BIRTH:			
CURRENT ADDRESS:			
PARENT:			
CURRENT ADDRESS:			
TELEPHONE AND EMAIL (if known): _			
PARENT:			
CURRENT ADDRESS:			
TELEPHONE AND EMAIL (if known): _			;
The Petitioner: (Please check the  ☐ Knows or has reason to know that  Indian child(ren). The facts that support to			
☐ Does not know/have reason to know th	nat		 is/are an
Indian child(ren). The facts that support t	he above statement a	re:	
III.	FACTUAL BASIS FOR	ADJUDICATION	
On or about	, the Department	of Children and Family Se	rvices (DCFS), in
the Parish of			
regarding the	he minor child(ren), _		·
The minor child(ren) is/are in nee 606(A)	ed of care based on Lo	uisiana Children's Code Ar	ticle(s)

With regard to the PARENT, _		, of the minor child(ren),
	, the PARENT	;
		;
(include facts that give rise to CINC finding; also, inc	lude relevant court involvement and	d DCFS history);
With regard to the PARENT, _		, of the minor child(ren),
	the PARENT:	
(including facts that give rise to CINC finding; also, i	nclude relevant court involvement a	and DCFS history);
	IV. PRAYER	
At this time the State is reque	esting that the child(ren) b	e adjudicated as a child in need of care as
it does not believe the minor child(re	n)'s safety can otherwise b	pe protected;
WHEREFORE, the petitioner p	rays that the $\square$ PARENT, $\_$	
□ and PARENT,	, of the mind	or child(ren) be served with a copy of this
Petition and cited to Answer, and after	er all due proceedings are	had, that the above-named minor
child(ren) be adjudicated as child(ren	) in need of care with an a	ppropriate disposition entered.
	RESPECTFULLY SUBMIT	TED,
	ASSISTANT DISTRICT A	TTORNEY
	BAR ROLL NO	
PLEASE SERVE THE FOLLOWING WITH	NOTICE AND COPY OF TH	IIS PETITION:
<ol> <li>Parent(s) of Minor Child(ren)</li> <li>Attorney(s) for Parent(s) of M</li> <li>Attorney(s) for Minor Child(red)</li> <li>DCFS</li> <li>CASA</li> </ol>		
PLEASE GIVE NOTICE TO:		

6) District Attorney

STATE OF LOUISIANA			DOCKET NUMBER:	_
IN THE INTEREST OF			SECTION:	_
	DOB:		COURT:	_
	DOB:		PARISH OF	_
	DOB:		STATE OF LOUISIANA	
Filed:			DEPUTY CLERK:	
		ORDE	₹	
Considering the for	egoing petition	n:		
IT IS HEREBY ORDE	RED THAT AN	APPEARANCE	TO ANSWER Hearing is set for	day of
, 20	_, at	am/_	_pm in	
IT IS ORDERED BY T	<b>HE COURT</b> tha	t if not previo	ously ordered: (Please check the applicab	le boxes)
O		be an	d is hereby appointed to represent	the child(ren)
in these proceedings and th	at said progra	m be given no	otice of appointment and served w	ith a signed
copy of the pleadings filed h	nerein.			
☐ that the parent(s),			, is/are referred t	to the District
Public Def	ender Office w	ho shall prov	ride for representation and that sa	id program be
given notice of appointmen	t and served w	ith a signed o	copy of the pleadings filed herein.	
☐ that the District	P	ublic Defend	er Office shall provide for a curato	r ad hoc to
locate absent parent(s),			, a	nd that said
program be served with a si	gned copy of t	he pleadings	filed herein.	
☐ that the local CASA progra	am be and is he	ereby appoin	ted, subject to the assignment of a	qualified
volunteer to advocate for the	ne best interes	t of the child(	ren) in these prsoceedings. CASA r	nust be given
notice of appointment and	served with a c	copy of the pl	eadings filed herein.	
THUS DONE AND SIGNI	ED ON THIS	day o	of	, 20, in
	, Lou	uisiana.		

JUDGE

	STATE OF LOUISIANA IN THE INTEREST OF		DOCKET NUMBER:	
			SECTION:	
		DOB:	COURT:	
		DOB:	PARISH OF	
		БОВ	STATE OF LOUISIANA	
	Filed:		DEPUTY CLERK:	
			ANSWER ORDER	
	THIS CAUSE came for an An	swer Hearing pur	rsuant to Louisiana Children's Code	Articles 646-649 on the
day of	, 20, pur	suant to a Petitio	n filed on theday of	, 20,
concer	ning the following child(ren),			,
and th	e following parent(s),			·
		I.	APPEARANCES	
	The child(ren),			, is/are present.
	The child(ren),			, is not present and:
	(Please check the applicab			
	moved to waive the	: child's appearar	nce, and the court grants the waiver	
			iaa.ua	
			, is youn	ger than 12 of age, and counsel
	did not request the	child's appearan	ce.	
	Darant		Department of Children and Far	mily Convince
	Parent Parent's Attorney			-
	Parent			
	Parent's Attorney			
	Caretaker(s)			
	Child(ren) Attorney(s)			
	Others		_	

## II. NOTICE

THE COURT FINDS that: (Please check the applic	cable boxes)
☐ the parent(s),	, <u>has been</u> properly served and summoned.
☐ the parent(s),	, <u>has not been</u> properly served and summoned.
THE COURT FINDS that: (Please check the applic	cable boxes)
$\Box$ the foster parent(s), pre-adoptive parent(s), or r	relative(s),, providing care
for the child(ren),	, is absent and that notice of the
date, time, and place of the hearing and right to a	ttend and be heard was given by the Department; and, that diligent
efforts were made by the Department to locate ar	nd notify the absent caregiver.
$\Box$ the foster parent(s), pre-adoptive parent(s), or r	relative(s),, providing care for
the child(ren),	, is absent and that notice of the date, time, and place of the
hearing and right to attend and be heard was not	given by the Department; and, that diligent efforts
$\square$ were not made or $\square$ were made by the Depart	ment to locate and notify the absent caregiver.
	III. APPOINTMENTS
IT IS ORDERED BY THE COURT that if	not previously ordered: (Please check the applicable boxes)
t	be and is hereby appointed to represent the child(ren) in these
proceedings and that said program be given notice	e of appointment and served with a signed copy of the pleadings filed
herein.	
☐ that the parent(s),	, is/are found to be indigent and is/are
referred to the District Public De	efender Office who shall provide for representation and that said
program be given notice of appointment and serve	ed with a signed copy of the pleadings filed herein.
☐ that the District Public De	efender Office shall provide for a curator ad hoc to locate absent
parent(s),	, and that said program be served with a signed
copy of the pleadings filed herein.	
☐ that the local CASA program be and is hereby ap	opointed, subject to the assignment of a qualified volunteer to
advocate for the best interest of the child(ren) in t	these proceedings. CASA must be provided notice of appointment and
served with a copy of the pleadings filed herein.	

#### IV. ADVISEMENTS

The Court advised the parent(s) of the nature of the proceedings; the allegations; the right to an Adjudication Hearing; the right to be represented by counsel; and the right to representation by the Indigent Parents' Representation Program if indigent.

The Court advised the parent(s) that once an electronic mail address is provided all service and notice of future proceedings may be sent electronically until such time as they provide notice to the Court and all parties in writing or in open Court that they are no longer able to receive service or notice at such address.

The Court advised the Department and the parent's counsel of their responsibility to promptly inform the Court of a new mailing address or electronic mail address, upon receipt of information regarding a parent's change of address.

The Court directed all persons before the Court to identify the name, address, and whereabouts of each parent and any relative or other individual willing and able to offer a wholesome and stable home for the child(ren).

The Court advised all persons before the Court of their responsibility in achieving timely permanency for the child(ren).

The Court advised all persons before the Court of their responsibility to identify the name, address, and whereabouts of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, all other adult relatives of the child(ren) and any other individual willing and able to offer a wholesome and stable home for the child(ren).

If the child is in the custody of the State:

The Court advised the parent(s) of the child(ren)'s need to have a safe and stable relationship with caretakers, either their parents or, if necessary, others who are willing and able to assume parental responsibility and provide a permanent home, and to have these caretaker decisions made as quickly as possible.

The Court advised the parent(s) of their responsibility to cooperate in preparing the case plan and otherwise in meeting the needs of their child(ren), and if their child(ren) cannot return home safely, to assist the child(ren)'s adjustment to other caretakers, and to contribute to the cost of care and treatment of their child(ren) as provided in Children's Code Article 685.

The Court advised the parent(s) to notify the Department and their counsel in writing of their current whereabouts, including their mailing address, cellular number, telephone number, electronic mail address, and any other contact information, and that if they fail to do so, the law authorizes hearings to be held in their absence.

## V. PATERNITY/MATERNITY

THE CO	OURT FINDS that: (Please check the applicable boxes)		
☐ paternity/ma	aternity <u>has</u> been determined for child(ren), _		, pursuant to
Louisiana laws.			
☐ paternity/ma	aternity <u>has not</u> been determined for child(re	n),	, pursuant to
Louisiana laws.	•		
	VI.	ANSWER	
THE CO	OURT FINDS that: (Please check the applicable boxes fo	r each parent)	
☐ the parent(s)	),	, <u>deny</u> the allegations of the Petition aft	er being
advised of thei	r rights.		
☐ the parent(s)	),	, <u>admit</u> the allegations of the Petition af	ter
being advised	of their rights;		
If adm	itting, the Court finds that: (Please check the appli	cable box)	
	$\Box$ there $\underline{is}$ a factual basis for Adjudication;		
	$\Box$ there <u>is not</u> a factual basis for Adjudication	n;	
If adm	itting, the Court further finds that: (Please cl	neck the applicable box)	
	$\Box$ the parent <u>consents</u> to Adjudication of ch	ild(ren),	
	☐ the parent <u>does not consent</u> to Adjudicati	on of child(ren),	
☐ the parent(s)	),	, stipulat	<u>e</u> that the
child(ren),		, are in need of care and knowingly a	nd voluntarily
consent to the	judgment:		
	□ <u>without admitting</u> to the allegations of th	e Petition after being advised of their righ	ts by the Court an
	their attorney;		

$\Box$ <b>and admit</b> to the allegations of the Peti	tition after being advised of their rights by the Court and their
attorney;	
If admitting, the Court finds that: (Please check the ap	applicable box)
☐ there <u>is</u> a factual basis for Adjudication;	ı;
$\Box$ there <u>is not</u> a factual basis for Adjudicat	ation;
If there has been a stipulation, whether admitting	ing or not admitting:
The requirements of Article 647 have bee	en met and a Pre-Hearing Conference was convened in
accordance with Article 646.1 on the	day of, 20
THE CHILD(REN), (Please check the applicable box)	
□	, <u>object</u> to the answer of the parent(s).
	, do not object to the answer of the parent(s).
VII  THE COURT ORDERS that: (Please check the applicable bo	
□ the matter be dismissed pursuant to Article 658 for chil	ild(ren),
$\square$ the matter be set for an Adjudication Hearing for child(	(ren),
□ child(ren), (1-8) and a separate Adjud completed.	, are adjudicated in need of care in accordance dication Order (including Pre-Disposition Orders) shall be
VIII.	FURTHER ORDERS

## IX. ORDERS OF NOTICES AND FUTURE HEARINGS

**IT IS FURTHER ORDERED** that the parent(s) of the child(ren), all attorneys of record, the DCFS representative(s), and CASA be present at all future hearings.

This matter be set for ☐ Adjudication Hearing ☐ Disposition Hearing, the clerk shall notify all parties of
the date, time, and location of the hearing and that all parties of interest appear; the Sheriff's Office
serve the parent(s) with a summons commanding him or her to appear at Court for the hearing; the
Department provide notice to the parent(s) of the date, time, and location of the hearing as well as the
nature of the allegations; notice of the hearing be made on the child and parent representation
programs and CASA (if appointed); the Department provide notice to foster parents, pre-adoptive
parents, or relatives providing care for the child of the date, time, and location of the hearing and right
to attend and be heard; and for any parent(s) incarcerated, arrange for the
parent(s) to attend the hearing, either in person or remotely.
☐ This matter has been set for a <b>PRE-HEARING CONFERENCE</b> on theday of
☐ This matter has been set for <b>ADJUDICATION</b> on theday of,
20, atam/pm.
☐ This matter has been set for <b>DISPOSITION</b> on theday of,
20, atam/pm.
20, at
☐ The Discovery deadline is:
,
<b>THUS DONE AND SIGNED ON THIS</b> day of, 20, in
, Louisiana.
JUDGE
DISTRIBUTION OF NOTICE
DISTRIBUTION OF NOTICE
Please serve all parties and counsel of record as follows:
Parent:
Street:
City, State, Zip:
Email Address:
Parent's Attorney:
Street:
City, State, Zip:
Fax Number: ()
Email Address:

☐ **IT IS FURTHER ORDERED** that:

Parent:	
City, State, Zip: _	
Email Address: _	
Parent's A	Attorney:
City, State	e, Zip:
Fax Numb	per: ()
Email Add	dress:
Child(ren) Attorr	ney(s):
City, State, Zip:	
	_)
Email Address:	
	t Attorney/Bureau of General Counsel:
City, State, Zip: _	
City, State, Zip: _ Fax Number: <b>(</b>	
City, State, Zip: _ Fax Number: ( Email Address: _	
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar Department of C	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar Department of C Street:	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar Department of C Street: City, State, Zip: _	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: (	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _	nd copy of order as follows: Children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ CHASA: CASA: CASA: City, State, Zip: _	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ CHASA: CASA: CASA: City, State, Zip: _	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: _ City, State, Zip: _ Fax Number: ( Email Address: _	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ Fax Number: ( Email Address: _	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: _ City, State, Zip: _ Fax Number: (_ Email Address: _  Casa: _ Chy, State, Zip: _ Fax Number: (_ Email Address: _  Other: Cother:  Chy, State, Zip: _ Chy, State	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ Fax Number: ( Email Address: _  Chash	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ Se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ Email Address: _  Chasa: Street: City, State, Zip: _ Fax Number: ( Email Address: _  Other: Role: Street: Street: Street: Street: Street: Street:	children and Family Services Staff/Representative:
City, State, Zip: _ Fax Number: ( Email Address: _ se send notice ar  Department of C Street: City, State, Zip: _ Fax Number: ( Email Address: _  CASA: Street: City, State, Zip: _ Fax Number: (_ Email Address: _  Other: Role: Street: City, State, Zip: _ Email Address: _	children and Family Services Staff/Representative: