**SHELTER CARE CHECKLIST FOR JUDICIAL OFFICERS**

**Purpose:**

**Was the purpose of the hearing explained to the parents, guardians, custodians, and child(ren)?**

**Yes  No**

* The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending

**Timing:**

**Was the hearing was held within 72 hours of removal, excluding Saturdays, Sundays, and Holidays?** RCW 13.34.065(1)(a)

**Yes  No**

**Notice:**

**Was proper notice given to all parties, and are there sufficient ongoing efforts to provide notice?**

**Yes  No**

Express finding that notice (required by 13.34.062) has been given to all parents, legal custodians, guardians that their child has been taken into custody, the reasons why, and their legal rights, including the right to a shelter care hearing as soon as possible. RCW 13.34.065(4)(a) and .062

If a parent, guardian or custodian is not present, testimony is taken from the social worker or CPS worker regarding reasonable efforts to notify the parents. (Notice may be given in any means reasonably certain of notifying the parent including, but not limited to, written, telephone, or in person oral notification.)

If notice was not given, and whereabouts are known or knowable, order DCYF to make reasonable efforts to notify. 13.34.065(4)(a)

ICWA - Notice has been given to the appropriate tribe. 13.34.065(4)(h)

**Rights:**

**Was there adequate advisement of rights?  Yes  No**

Parents, guardians, custodians have been advised of their rights under RCW 13.34.090.

Their right to have counsel appointed

Their right to discovery

Their right to a shelter care hearing that may include calling witnesses, cross examining witnesses, and

The court to make a fair and unbiased decision based only on the facts produced at the hearing.

Was the advisement of rights in person – even if hearing was agreed?

**Attorneys:**

**Was counsel timely appointed for parents?  Yes  No**

Eligibility has been determined for parents, guardians, custodians – attorneys appointed.

If any child is aged 12 or above, appoint an attorney for the child?  GAL or CASA?

**Discovery:**

**Was discovery properly provided to responding parties before hearing?  Yes  No**

Confirm that the pleadings and the discovery from DCYF has been given to the parent’s representatives, and

They received it with a reasonable amount of time to review before proceeding.

**ICWA:**

**Was ICWA applicability properly determined?  Yes  No**

Sworn testimony has been taken regarding whether court “knows or reason to know” child is a member of an Indian tribe or is eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe. 13.38.040(7) and .050 and 13.34.065(4)(h), *also see* Matter of Dependency of Z.J.G., 10 Wash.App.2d 446, 448 P.3d 175 (2019)

Is this an “emergency hearing” (Active Efforts, 10-day notice to tribe, testimony of QEW, and heightened burden – clear and convincing - not required)

**Jurisdiction** – Testimony about residence or domicile of child (if on reservation, tribe has original and exclusive jurisdiction).

**Reasonable Efforts – Active Efforts:**

Reasonable/Active efforts were determined in relation to an **assessment of safety for each child**, and a clearly articulated **safety plan**.

**Were Reasonable Efforts made to prevent the removal of the child and to make return of the child to the parent possible?  Yes  No**

**If applicable, were Active Efforts made to prevent the breakup of the Indian Family?  Yes  No**

The department has made **active efforts**. 13.38.040(1)(a)(i)

Reasonably available and culturally appropriate preventative, remedial, or rehabilitative services, including those offered by tribes and Indian organizations when possible.

Department worked with family to engage in services, not simple “referral”

Hearing is “emergency hearing” – Active Efforts showing not required. 13.38.140 and Matter of Z.J.G..

**Child safety:**

**(Non-ICWA) -** Is there *reason to believe* there would be a serious threat of substantial harm to the child if released to the custody and control of a parent, guardian, or legal custodian – notwithstanding 26.44.063 order?  **Yes  No  N/A**

Or,  There is NO parent, guardian, custodian, or  Available parent, guardian, or custodian committed Custodial Interference (9A.40.060 or .070)

**(ICWA non-Emergency removal) –** is there *clear and convincing* evidence that continued custody of the child by the parent or Indian custodian is *likely* to result in serious emotional or physical damage to the child? 13.38.130(2) **Yes  No  N/A**

Testimony from Qualified Expert Witness.

**(ICWA Emergency removal) –** is there *reason to believe* placement is necessary to prevent imminent physical damage or harm to the child? 13.38.140(1)  **Yes  No  N/A**

**Placement:**

**Return or remain** with parent, guardian, or custodian.

with appropriate conditions and/or protective orders. JuCR 2.4 and 13.34.065(7)(b)

* **“Safety Plan”**

The child cannot remain or be returned home safely, and

The department has asked the parents for names of relatives or other suitable persons with whom the children can be placed;  and made efforts toward that placement.

There is a **relative or suitable person,** and there is no *reason to believe* the health, safety, or welfare of the child will be jeopardized, or efforts to reunify with parents will be hindered, and it is in the child’s best interests to be placed with this person.

There is NOT a relative or other suitable person. Child shall remain **in shelter care** with the department. 13.34.065(5)(b)

Qualified Residential Treatment Program

* Set hearing within 60 days to approve or disapprove QRTP
  + Consider assessment required in 13.34.420
  + Consider if any other placement better serves child

**Current Conditions for Return** – stated clearly in plain language the parents understood.

The proposed placement is the **least disruptive and most family like** setting that meets the child’s needs, including education and health.

Determine if it is in the child’s best interest to **remain enrolled in his or her school of origin**, development program, or child care. RCW 13.34.065(4)(f). Transportation to school – McKinney-Vento Act; CA Policy §4538.

**Educational liaison** appointed (presumption if parent) RCW 13.34.045.

In this order of preference:

* Presumed to be parent, or
* Relative or other suitable person known to child (i.e. foster parent), or
* Other adult (i.e. CASA, but NOT social worker)

**GAL CASA:**

An order has been signed appointing a **GAL or CASA** (satisfied by appointment of counsel for child)

**Visitation:**

The frequency, duration, and level of supervision has been ordered and is in the child’s best interest.

* Visitation is the right of the family, including the parents and the child.
* Early, consistent, and frequent visitation is crucial to maintaining the bond between the parent and the child and making it possible for parents and children to safely reunify.

Is Safety assessed in the visitation scenario specifically?

**Services:**

Parents have voluntarily agreed to services – agreed services are written into the shelter care order.

**ORDER:**

Settlement Conference and 30-day status have been set. 13.34.067

Fact finding date if customary.

Order paternity testing if paternity has not been established.

Restraining orders pursuant to 26.44.063 to facilitate the child remaining with parent.

Sign orders for child’s health care. 13.34.069

**Engaging parents**

Describe purpose of the hearing

Address parties by name

Check with parents about their understanding of the process, why we are here, what are the next steps toward their goals.

* + - Ask parents “what do you need to accomplish your short- or long-term goals?”

Clearly articulate Conditions for Return

Encourage parents