

Juvenile Detention Hearing Rights

Hello. The purpose of this hearing is to determine if you can return home today or if it is more appropriate to have you continue in detention or some other alternative.

If the Court determines that it is more likely than not that you committed the act you are accused of or if the Court thinks that for your safety or the safety of others you should not be allowed to go home today.

Instead, the judge or judicial referee could order that you remain in detention or be moved to some other appropriate placement.

The Court could also allow you to return home with certain conditions in place. Those conditions could include such things as restrictions on when and why you can leave your home, restrictions on who you can be with, use of an electronic monitoring device, or requiring your parent or guardian to provide extra supervision of your activities.

They may end this hearing if the Court determines there is no one to provide adequate care and supervision. If the court determines today that there is no one able to provide adequate care and supervision of you, the judge or judicial referee may end this hearing, and a child in need of protection case will be filed. A shelter care hearing would then be scheduled as soon as possible but no later than 96 hours. Ninety-six hours equals 4 days, excluding weekends and holidays.

Before we begin the hearing, you need to know that the following rights apply. You have a right to have an attorney represent you. Under North Dakota law, an attorney must be provided for you if you are not already represented by an attorney.

If an attorney is appointed, the judge or judicial referee may order your parents or any other person who is legally responsible for your well-being to reimburse the state for any fees or expenses paid to your attorney.

You may waive, or give up, the right to an attorney only if you are at least fourteen years old and the court has determined that you made this decision on your own and that you understand the consequences of not having an attorney.

Your parents or others who may be legally responsible for your wellbeing are entitled to a separate court-appointed attorney but only for two specific parts of the court process. The two parts are called the detention hearing, which is when the court decides if a child can go home or not and the disposition hearing which is the same as a sentencing hearing if someone was an adult charged with a crime.

To get a court-appointed attorney, you have to fill out an application and a judicial referee or judge has to determine that you qualify for the attorney based on your income. A parent or others may have an attorney during any of the rest of the process, but it would be at their own expense.

There are legal requirements for how long a child can be held in detention without a court order. Because of those requirements, even if your parent or guardian applies for an attorney today or decides to hire an attorney, the court will still need to hold a hearing today to decide if you can go home. If they don't like the judge or judicial referee's decision today they can ask for a hearing to review that decision.

You have the right to have a hearing on the issue of whether further detention is necessary.

You have a right to remain silent concerning any allegations of delinquent acts made against you.

You are presumed innocent. That means that it isn't your responsibility to prove you didn't do what you are accused of. Instead, it is the responsibility of the state to prove to the court that you did what they are accusing you of.

One of the judicial referee or judge's duties today is to determine if there is probable cause to believe you did what you are being accused of doing. Probable cause doesn't mean you are guilty. It only means that based on the information the judge or judicial referee has in front of him, it is reasonable to think that someone committed the act you are accused of, and it is reasonable to believe that person who committed that act was you.

Because the judicial referee or judge is only looking at probable cause today, there will not be an opportunity to present evidence or have witnesses testify. Later in the court process, both the state and you will have a chance to bring in witnesses and evidence and to tell your side of the story, but that will not happen today.

If the court does find probable cause today the judge or judicial referee can decide to do any of the following:

- To release you to your parent, guardian, custodian, or another responsible adult who is able and willing to assume custody of you and who will promise to bring you back to court for all future hearings.
- To release you to a parent, guardian, or another responsible adult with conditions such as home confinement. Home confinement means an adult must supervise you at all times, and you may only leave home for specified times such as required appointments, school, or authorized work.
 - Home confinement can include monitoring with a bracelet that will track your movement.
 - Orders for home confinement only last until the trial on the charges and final decisions of the court are made.
- To continue to hold you in secure detention

A petition must be filed in five days by the state's attorney. The petition is a document written by the state's attorney that explains what you are accused of and includes information about what they believe happened.

If the petition isn't filed within five days, then you will automatically be released from detention.

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If the judicial referee or judge orders further detention, the order usually expires in 14 days.

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You or your parents can request another detention hearing at any time if you have a plan for your safe release. In order for you to continue to be held in detention, a further detention hearing must be held and the state must prove that you pose a risk to public safety and that no less restrictive alternative would work. Regardless of the length of the detention order, you or your parents can request another detention hearing at any time if you have a plan for your safe release that you want the judicial referee or judge to consider. You can contact either the clerk of court or the juvenile court office to request a review hearing.

The judicial referee or judge will ask whether you understand these rights.

The judicial referee or judge will ask whether you understand these rights. If you have any questions about your rights, ask your attorney before the hearing or ask the judicial referee or judge during your hearing.

You are required to provide any change of address or additional contact information to the court.

You, your parent, guardian, custodian, or other responsible adult are required to provide any change of address or additional contact information to the court. All court hearings are closed to the public; therefore, your case will be called individually.

At the beginning of the hearing, the judicial referee or judge will ask you if you understand these rights. If you have any questions about them, you should ask them then.