

Juvenile Shelter Care Hearing Rights

Hello. The purpose of this hearing is to determine if it is safe and appropriate for the child to return home.

A judicial referee or judge may decide not to let the child go home if they believe the child continues to need protection or if they believe letting the child return home may endanger another person or their property.

A judge or judicial referee may also continue to keep the child out of the home.

A judge or judicial referee may also continue to keep the child out of the home if there is no one suitable who can supervise and care for the child, or if they are concerned that the child will run away, or that the person caring for the child will take them away or won't bring them back for court.

Before the hearing begins, let's review the rights of the child and the parents or guardians.

Because this is a hearing to determine if a child is in need of protection or services, the court will automatically appoint a lawyer for any child who is old enough and able to understand the court process well enough to explain to a lawyer what they want to happen with their case and why.

As a parent, you also have the right to have a lawyer represent you at all stages of this case. If you cannot afford to hire a lawyer, one may be appointed for you. To determine if you are eligible for a court-appointed counsel, you must first complete an application form.

If you qualify for a court appointed counsel, the lawyer will be paid by the State of North Dakota. However, you should know that under North Dakota law, a judge or judicial referee may require you to reimburse the state for some or all of the costs for that lawyer. You should also know that if there is a conflict of interest between two or more of you that the court is required to appoint a different lawyer for each of you.

Even if you apply for a court-appointed counsel, there will still be a hearing today because you have the right to tell the court if you think the child should return home and because the court is required by law to make a decide within 96 hours of the child being taken from you if it is okay for the child to return home.

If your application for court appointed counsel is approved or if you hire an attorney on your own and you disagree with the judicial referee or judge's decision today, you have the right to ask for another shelter care hearing.

You have the right to remain silent about any allegations that the child is in need of protection or services. It is up to the state of North Dakota to prove the allegations.

If the judicial referee or judge decides that the child cannot go home, the court can keep the child in shelter care for up to 60 days from the date the child was taken from the home. If the Indian Child Welfare Act applies, that time is limited to 30 days.

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.