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# ADJUDICATION AND ADJUDICATORY HEARING

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If the parent enters a denial to the dependency petition, an adjudicatory hearing must be conducted by the court, to determine whether the child is dependent. The petitioner must prove the allegations of the petition for dependency by a preponderance of evidence. § 39.507(1)(b). The court may enter an order stating that the allegations were sustained by clear and convincing evidence. Rule 8.330(a). The adjudicatory hearing must be held as soon as practicable after the petition for dependency is filed, but no more than 30 days after arraignment. § 39.507(1)(a).

- Rules of evidence in use in civil cases apply at the adjudicatory hearing. § 39.507(1)(b); Rule 8.330(a). Any evidence that is presented that was obtained as the result of an anonymous call must be independently corroborated. § 39.507(1)(b).
- A party may call any person as a witness. Rule 8.330(b). The child and the parents, caregivers or legal custodians maybe examined separately and apart from each other. Rule 8.330(b).
- All parties have the right to be present at all hearings. Rule 8.330(c).

## **Adjudication**

- If dependency is proved, the court must decide whether to adjudicate the child dependent or withhold adjudication. § 39.507(5),(b).
- To withhold adjudication, the court must find that no other action other than supervision in the child's home is required, i.e., the child must be placed in the home with the parent. § 39.507(5).
- If adjudication is withheld and the parents do not comply with the conditions of supervision, the court may adjudicate without further evidence regarding dependency after a hearing to establish the parents' non-compliance. § 39.507(5).
- If a court adjudicates a child dependent and the child is in out-of-home care, the court shall inquire of the parent or parents whether the parents have relatives who might be considered as a placement for the child and the parent or parents shall provide to the court and all parties identification and location information of the relatives. § 39.507(7).
- The court must notify the parents that if the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent. § 39.507(7).
- The parent or parents shall provide to the court and all parties identification and location information of the relatives. § 39.507(7).
- The court may order a person who has custody or seeks custody to submit to a substance abuse assessment or evaluation. The court may also require that person to necessary

treatment and services – including treatment based drug court program. The court may impose appropriate available sanctions for noncompliance. § 39.507(10).

The court shall schedule the disposition hearing within 30 days after the last day of the adjudicatory hearing.

### **Findings and Orders**

In all cases in which dependency is established the court shall enter a written order stating:

- legal basis for the dependency finding;
- facts upon which the dependency is based; and
- whether the court made the finding by the preponderance of the evidence or clear and convincing evidence.

Rule 8.330(g).

**PRACTICE TIP:** Relative caregiver monies will not go into effect until the child is adjudicated dependent. The program attorney should ensure the case moves forward as quickly as possible. *See the Relative Caregiver Handbook available on [www.flkin.org](http://www.flkin.org). The relative may be able to receive child-only temporary cash assistance benefits until the relative caregiver funds begin.* For more information on subsidies, visit [www.GuradianadLitem.org](http://www.GuradianadLitem.org), Resources by Topic.