

PRELIMINARY PROTECTIVE HEARING

TIMEFRAME

The PPH must be held within 72 hours of removal. The timeframe may be waived by the parties. Any continuance, if necessary, should not unduly delay this short timeframe; in most cases, a continuance should be no more than a day or two. The parties can stipulate to facts allowing the court to conclude probable cause, but the hearing itself cannot be waived.

PURPOSE

To determine whether there is probable cause to believe a child is dependent and whether protective custody of the child is necessary to prevent abuse or neglect pending the adjudication hearing. These are separate questions and must be answered in sequence.

- ▶ Refer to the **At Every Hearing** guide for findings, practices, and considerations that apply across all hearings.

COURT FINDINGS

In addition to the findings on the **At Every Hearing** guide, the court must determine:

- Whether there is probable cause to believe that the child has been abused or neglected
- Whether protective custody is necessary to prevent abuse or neglect pending the adjudication hearing
- Whether DFCS made reasonable efforts to prevent or eliminate the need for protective custody
- Whether DFCS made reasonable efforts to ensure the child can safely return home, or whether reasonable efforts can be made to prevent or eliminate the need for family separation



The Preliminary Protective Hearing determines whether there is probable cause to believe a child is dependent and whether protective custody of the child is necessary.

POSSIBLE OUTCOMES

PROBABLE CAUSE NOT PROVEN

If DFCS does not prove probable cause to believe the child has been abused or neglected, the court must dismiss the case and return custody of the child to the parent.

PROBABLE CAUSE PROVEN – BUT PROTECTIVE CUSTODY NOT NECESSARY

If DFCS proves probable cause for dependency but not that protective custody is necessary, the court must return custody to the parent pending the adjudication hearing. The court may order a temporary alternative to foster care if necessary to prevent abuse or neglect before adjudication, including:

- Authorizing or continuing a voluntary agreement between the parent and DFCS, including placement with a relative or fictive kin from acts that may render a home an improper place for a child, cooperating in good faith with DFCS, and ensuring the child attends school
- Entering a protective order requiring the parent to take or refrain from specific actions, such as restricting an individual's access to the child, complying with a visitation agreement, abstaining from offensive conduct, giving proper attention to the care of their home and refraining
- Ordering DFCS to investigate and report whether removal is necessary
- Ordering DFCS to provide services designed to allow the child to remain safely at home

PROBABLE CAUSE PROVEN – AND PROTECTIVE CUSTODY NECESSARY

If DFCS proves both probable cause for dependency and that protective custody is necessary, the court may place the child in temporary DFCS custody pending adjudication. DFCS shall prioritize placement with a relative or fictive kin, provided the individual meets DFCS requirements and the placement is in the child's best interests.

Any out-of-home placement finding, including authorizing or continuing an agreement between DFCS and the parent, must include a finding that *continuation in the home would be contrary to the welfare of the child*.

When a relative or fictive kin placement is authorized through an agreement between DFCS and the parent, the court must order a preliminary assessment of that placement, including, at minimum:

- A walk-through of the residence to identify safety hazards
- An in-state criminal record check of the individual and all other adults in the residence
- A search of the Georgia Sex Offender Registry for the individual and all other adults in the residence
- A search of publicly available data from the Department of Community Supervision and Department of Corrections for the individual and all other adults in the residence

WHEN PROBABLE CAUSE IS FOUND

If probable cause is found, the case moves forward to an Adjudication Hearing. In the time between hearings, several activities are typically in motion: DFCS continues its diligent search for relatives, prepares the dependency petition, arranges family time as ordered, makes service referrals, and conducts a safety check of the placement. Understanding what should be happening during this period helps the CASA volunteer know what to look for and ask about as the case moves forward.

- ▶ See the **Adjudication Hearing** guide for what happens next.



Preparation at this stage means gathering as much initial information as possible, quickly, so CASA can make a meaningful recommendation considering the child's best interests.

PREPARING FOR THE HEARING

Preparation at this stage means gathering as much initial information as possible, quickly, so CASA can make a meaningful recommendation considering the child's best interests, even without a full assessment or written report, if appointed in time.



PRACTICE POINTS

- Introduce yourself to the parents and any other individuals associated with the case who are in attendance.
- Advocate for appropriate family time to begin immediately.
- Be ready to make a recommendation considering the child's best interests, even without a written report.



After this hearing, the CASA volunteer's focus shifts to building a full assessment of the case. See the ***Adjudication Hearing*** guide for the preparation steps that begin now.

KEY PRACTICE NOTES

ASSESSING THE BASIS FOR REMOVAL

Consider whether DFCS made timely, meaningful efforts to prevent removal and whether the home could be safe right now with appropriate services in place. If a temporary alternative to foster care could meet the child's safety needs, this is the moment to advocate for it.

FAMILY TIME BEGINS NOW

It is the court's responsibility to set family time, and DFCS may not reduce or suspend visits without a court order modifying them. Visits may be increased by agreement of the parties. Advocating for visitation to begin immediately and ensuring any services ordered at this hearing are actually followed set the tone for the rest of the case.