

PROTOCOL GOVERNING FILING OF CHILD ORDER OF PROTECTION PETITION BY JUVENILE OFFICER

- I. A child order of protection may be filed by the Juvenile Officer:
- A. When a Chapter 211 petition will not be filed or has not yet been filed with respect to the child to be protected, if all of the following apply.
- A Chapter 211 referral regarding the child has been received by the Court which is deemed “sufficient evidence” by the Legal Department;
 - The child, the parents of the child or a sibling of the child are already known to the juvenile court due to a previous referral;
 - The child has been subjected to abuse (emotional or otherwise) in connection with domestic violence occurring in the child’s family home;
 - There is an immediate and present danger of further abuse to the child;
 - The non-abusing parent is unwilling or unable to file for a child order of protection due to fear of resulting harm from the abuser;
 - The non-abusing parent has, at a minimum, joint physical custody of the child;
 - The goal of seeking the child order of protection is to prevent the abuser from entering the family home and/or having contact with the child;
 - The Division of Family Services agrees to maintain an open protective service case on the child for the duration of any resulting child order of protection, to provide appropriate social services to the child and non-abusing parent and to report violations of the order of protection to the police, as appropriate, and to the Court.
 - The Juvenile Officer maintains an open case (informal or otherwise) for the duration of any resulting child order of protection.
- B. When a Chapter 211 petition has already been filed with respect to the child to be protected, if all of the following apply.
- The child has been subjected to abuse (emotional or otherwise) in connection with domestic violence occurring in the child’s family home;
 - The child is at risk for further harm;
 - The non-abusing parent is unwilling or unable to file for a child order of protection due to fear of resulting harm from the abuser;
 - The non-abusing parent has, at a minimum, joint physical custody of the child;
 - The goal of seeking the child order of protection is to prevent the abuser from entering the family home and/or having contact with the child and this cannot be accomplished via sanctions and/or incentives available through the Juvenile Code;
 - The Division of Family Services agrees to monitor the abuser’s compliance with the terms of any resulting child order of protection and to report any violations to the police, as appropriate, and to the Court.
- II. In addition to the above requirements, the following must exist in order to successfully prosecute any child order of protection petition filed by the Juvenile Officer
- The Juvenile Officer must allege and be able to prove by a preponderance of evidence that the child has been subjected to physical, sexual or emotional abuse inflicted by other than accidental means.
 - The abuser must be at least 18 year of age (unless emancipated) and must either currently live or have previously lived with the child in the same dwelling unit. The abuser need not be a parent or legal guardian of the child.
 - The child victim must be under 18 years of age.

Note also that an ex parte child order of protection is not an available remedy if the juvenile court or any other court already has in effect an order regarding custody. In such event, a summons must issue to the abuser in anticipation of a hearing on a full order of protection.

- III. If the above circumstances warrant the filing of a petition for child order of protection by the Juvenile Officer, the deputy juvenile officer shall
- Obtain permission from his or her manager or the Department Director to seek the filing of such petition;
 - Consult with the child's guardian ad litem, if any, about filing the petition;
 - Prepare appropriate documentation for the Legal Department staff justifying the filing of such petition and request the Legal Department to file necessary documents;
 - Attend any and all hearings on a full order of protection;
 - Make arrangements for the non-abusing parent and the Division of Family Service worker to attend any and all hearings on a full order of protection, if their attendance is deemed appropriate or necessary by the Legal Department;
 - Coordinate the monitoring of compliance by the abuser with the terms of any ex parte or full order of protection;
 - Monitor the need for modification or extension of any full order of protection.

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