

## Delinquent/Unruly Proceedings

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**(a) Time Limits on Scheduling Dispositional Hearings.** Dispositional hearings shall be held within 15 days of the adjudicatory hearing if the child is in detention or otherwise has been placed out of the home by court order, and within 90 days of the adjudicatory hearing in all other cases. Upon good cause shown, the dispositional hearing may be continued to a date certain.

**(b) Separate from Adjudicatory Hearing.** A dispositional hearing shall be separate and distinct from the adjudicatory hearing to which it relates. However, it may be held immediately following the adjudicatory hearing or at a later date.

**(c) Notice of Right to Appeal.** At the conclusion of the dispositional hearing, the court shall advise the child of the right to appeal the dispositional order.

**(d) Temporary Order.** Where a continuance of the dispositional hearing is ordered, the court may enter such temporary order that is in the best interest of the child. Detention may be ordered, but only where such detention appears to be necessary for the protection of the child or others, or where necessary to assure the child's appearance at the subsequent dispositional hearing.

**(e) Evidence Admissible; Standard of Proof.** In arriving at its dispositional decision, the court shall consider only evidence which has been formally admitted and the juvenile court record of the child. All testimony shall be under oath and may be in narrative form. The rules of evidence shall apply except that reliable hearsay, including, but not limited to, documents such as psychiatric or psychological screenings or evaluations of the child or the child's parents or custodian or reports or assessments prepared by a probation officer, youth services officer or the Department of Children's Services, may be admitted provided that the opposing party is accorded a fair opportunity to rebut any hearsay evidence so admitted. However, this subdivision shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the Tennessee Constitution. The parties shall have the right to examine any person who has prepared any report admitted into evidence. The standard of proof at the dispositional hearing is preponderance of the evidence.

### Advisory Commission Comments.

The purpose of a dispositional hearing is to design an appropriate plan to meet the needs of the child and to achieve the objectives of the state in exercising jurisdiction. When possible, the initial approach should involve working with the child and the family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the child.

In choosing among statutorily permissible dispositions in delinquent and unruly cases, the judge should select the least restrictive disposition both in terms of kind and duration that is appropriate to the seriousness of the offense, the degree of culpability indicated by the circumstances of the particular case, and the age and prior record of the child. The preference is for the child to be treated and rehabilitated through community-level resources when appropriate and available. The Commission encourages the making of written findings of fact and reasons for ordering particular dispositions within the law.

If a child alleged to be unruly is placed under a "valid court order" pursuant to § 31.303(f)(3) of Title 28 of the Code of Federal Regulations, the dispositional hearing and order shall be in accordance with the federal regulations.

At the dispositional hearing, it is appropriate that youth services and probation officers be witnesses regarding admissible evidence of which they have knowledge. Youth services officers or probation officers may act as a fact witness.

Although a report may be admissible as reliable hearsay, all the contents of the report may not be reliable hearsay. This is especially important when the source gives an opinion that the person is not qualified to give.

[As amended by order filed December 21, 2016, effective July 1, 2017.]

### Advisory Commission Comments [2017].

The third paragraph of the Advisory Commission Comments is amended by deleting a reference to the appendix that was deleted in the comprehensive revision of the Rules of Juvenile Procedure, effective July 1, 2016.