

West's Annotated Mississippi Code
Mississippi Rules of Court State
Uniform Rules of Youth Court Practice

Rules of Youth Ct. Practice, Rule 24

Rule 24. Adjudication Hearings

Currentness

(a) Delinquency and child in need of supervision proceedings.

(1) Time of hearing.

(i) If child is not in detention. Unless the hearing is continued upon a showing of good cause or the person who is a subject to the cause has admitted the allegations of the petition, an adjudicatory hearing shall be held within ninety (90) days after the filing of the petition to determine whether there is legally sufficient evidence to find that the child is a delinquent child or a child in need of supervision. If the adjudicatory hearing is not held within the ninety (90) days, the petition shall be dismissed with prejudice.

(ii) If child is in detention. If the child is in detention, the hearing shall be held as soon as possible but not later than twenty-one (21) days after the child is first detained by the court unless the hearing be postponed: upon motion of the child; where process cannot be completed; or upon a judicial finding that a material witness is not presently available. If the adjudicatory hearing is not held or postponed for the aforesaid reasons, the child may be released from detention.

(2) Acceptance of admissions. At any time after the petition has been filed, all parties to the cause may appear before the judge and admit the allegations of the petition. The judge may accept this admission as proof of the allegations if the judge finds that: the parties making the admission fully understand their rights and fully understand the potential consequences of their admission to the allegations; the parties making the admission voluntarily, intelligently and knowingly admit to all facts necessary to constitute a basis for court action under Mississippi's Youth Court Law; the parties making the admission have not in the reported

admission to the allegation set forth facts that, if found to be true, constitute a defense to the allegation; and the child making the admission is effectively represented by counsel.

(3) Plea bargaining. Under no circumstances shall the party or the prosecutor engage in discussion for the purpose of agreeing to exchange concessions by the prosecutor for the party's admission to the petition.

(4) Conduct of hearing. All cases involving children shall be heard at any place the judge deems suitable but separately from the trial of cases involving adults. Adjudication hearings shall be conducted:

(i) without a jury and may be recessed from time to time;

(ii) under the rules of evidence and rules of court as may comply with applicable constitutional standards;

(iii) by excluding the general public and admitting only those persons found by the court to have a direct interest in the cause or work of the court; and

(iv) with a complete record of all evidence taken by stenographic reporting, by mechanical or electronic device or by some combination thereof.

Any person found by the court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.

(5) Verifying information and explaining procedures and rights. At the beginning of each adjudicatory hearing, the court shall: verify the name, age and residence of the child who is the subject of the cause and ascertain the relationship of the parties, each to the other; ascertain whether all necessary parties are present and identify all persons participating in the hearing; ascertain whether the notice requirements have been complied with and, if not, whether the affected parties intelligently waived compliance of the notice requirements in accordance with [section 43-21-507 of the Mississippi Code](#); explain to the parties the purpose of the hearing and the possible dispositional alternatives thereof; and explain to the parties:

- (i) the right to counsel;
- (ii) the right to remain silent;
- (iii) the right to subpoena witnesses;
- (iv) the right to confront and cross-examine witnesses; and
- (v) the right to appeal, including the right to a transcript of the proceedings.

Additionally, if the child is an alleged child in need of supervision, the court shall explain the procedures set forth in Rule 10 of these rules for holding the child in secure juvenile detention for a violation of a valid court order.

The court should then ascertain whether the parties before the court are represented by counsel. If the party wishes to retain counsel, the court shall continue the hearing for a reasonable time to allow the party to obtain and consult with counsel of the party's own choosing. If an indigent child does not have counsel, the court shall appoint counsel to represent the child and shall continue the hearing for a reasonable time to allow the child to consult with the appointed counsel.

(6) Evidence. In arriving at its adjudicatory decision, the court shall consider only evidence which has been formally admitted at the adjudicatory hearing. The following evidentiary procedures apply to these hearings:

- (i) All testimony shall be under oath and may be in narrative form.
- (ii) The court shall admit any evidence that would be admissible in a criminal proceeding.
- (iii) An out-of-court admission or confession by the child, even if otherwise admissible, shall be insufficient to support an adjudication that the child is a delinquent child unless the admission or confession is corroborated in whole or in part by other competent evidence.

(iv) Members of the youth court staff may appear as witnesses except that no admission or confession made to a member of the youth court staff may be testified to at a youth court hearing.

(v) All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence to subpoena, confront and examine the person who prepared or furnished data for the report and to introduce evidence controverting the contents of the report.

(7) Opportunity to present a closing argument. At the conclusion of the evidence, the court shall give the parties an opportunity to present closing argument pursuant to [section 43-21-559\(4\) of the Mississippi Code](#).

(8) Standard of proof. If the court finds on proof beyond a reasonable doubt that a child is a delinquent child or a child in need of supervision, the youth court shall enter an order adjudicating the child to be a delinquent child or a child in need of supervision. Where the petition alleges that the child is a delinquent child, the youth court may, as an alternative, enter an order that the child is a child in need of supervision on proof beyond a reasonable doubt that the child is a child in need of supervision.

(9) Terminating proceedings. The court may at any time terminate the proceedings and dismiss the petition if the court finds such action to be conducive to the welfare of the child and in the best interests of the state.

(b) Child protection proceedings.

(1) Time of hearing.

(i) If child is not in shelter. Unless continued upon a showing of good cause or the person who is a subject to the cause has admitted the allegations of the petition, the adjudicatory hearing of a child who is not in shelter shall be held within ninety (90) days after the filing of the petition to determine whether there is legally sufficient evidence to find that the child is a neglected or an abused child. If the adjudicatory hearing is not held within the ninety (90) days, the petition shall be dismissed with prejudice.

(ii) If child is in shelter. The adjudicatory hearing of a child who is in shelter shall be held as soon as possible but not later than thirty (30) days after the child is first taken into custody unless the hearing is postponed: upon motion of the child; where process cannot be completed; or upon a judicial finding that a material witness is not presently available. If the adjudicatory hearing is not held or postponed for the aforesaid reasons, the child may be released from shelter.

(2) Where parties do not contest the allegations in the petition. At any time after the petition has been filed, all parties to the cause may appear before the judge and voluntarily choose not to contest the allegations in the petition. In such instances, the court may adjudicate the child as a neglected child or an abused child or a sexually abused child or a dependent child, as applicable, if there is a sufficient factual basis to sustain the charge(s) and the court has verified the information and explained the rights and procedures required pursuant to Rule 24(b)(4) of this rule.

(3) Conduct of hearing. All cases involving children shall be heard at any place the judge deems suitable but separately from the trial of cases involving adults. Adjudication hearings shall be conducted:

- (i) without a jury and may be recessed from time to time;
- (ii) under the rules of evidence and rules of court as may comply with applicable constitutional standards;
- (iii) by excluding the general public and admitting only those persons found by the court to have a direct interest in the cause or work of the court; and
- (iv) with a complete record of all evidence taken by stenographic reporting, by mechanical or electronic device or by some combination thereof.

Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel, which shall include the foster parent(s) and the residential child caring agency providing care for the child. The court may exclude the

attendance of a child from an adjudication hearing in neglect and abuse cases with consent of the child's guardian ad litem or legal counsel.

(4) Verifying information and explaining procedures and rights. At the beginning of each adjudicatory hearing, the court shall: verify the name, age and residence of the child who is the subject of the cause and ascertain the relationship of the parties, each to the other; ascertain whether all necessary parties are present and identify all persons participating in the hearing; ascertain whether the notice requirements have been complied with and, if not, whether the affected parties intelligently waived compliance of the notice requirements in accordance with [section 43-21-507 of the Mississippi Code](#); explain to the parties the purpose of the hearing and the possible dispositional alternatives thereof; and explain to the parties:

(i) the right to counsel;

(ii) the right to remain silent;

(iii) the right to subpoena witnesses;

(iv) the right to confront and cross-examine witnesses; and

(v) the right to appeal, including the right to a transcript of the proceedings.

The court should then ascertain whether the parties before the court are represented by counsel. If the party wishes to retain counsel, the court shall continue the hearing for a reasonable time to allow the party to obtain and consult with counsel of the party's own choosing. If an indigent child does not have counsel, the court shall appoint counsel to represent the child and shall continue the hearing for a reasonable time to allow the child to consult with the appointed counsel.

(5) Evidence. In arriving at its adjudicatory decision, the court shall consider only evidence which has been formally admitted at the adjudicatory hearing. The following evidentiary procedures apply to these hearings:

(i) All testimony shall be under oath and may be in narrative form.

(ii) The court shall admit any evidence that would be admissible in a civil proceeding.

(iii) Members of the youth court staff may appear as witnesses except that no admission or confession made to a member of the youth court staff may be testified to at a youth court hearing.

(iv) All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence to subpoena, confront and examine the person who prepared or furnished data for the report and to introduce evidence controverting the contents of the report.

(6) Opportunity to present closing argument. At the conclusion of the evidence, the court shall give the parties an opportunity to present closing argument.

(7) Standard of proof. If the court finds from a preponderance of the evidence that the child is a neglected child or an abused child, the youth court shall enter an order adjudicating the child to be a neglected child or an abused child.

(8) Terminating proceedings. The court may at any time terminate the proceedings and dismiss the petition if the court finds such action to be conducive to the welfare of the child and in the best interests of the state.

Credits

[Adopted effective January 8, 2009.]

Editors' Notes

COMMENTS & PROCEDURES

Rule 24(a)(1),-(b)(1).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-551 \(2008\)](#).

Our court has strictly construed [section 43-21-551 of the Mississippi Code](#), the basis for [Rule 24\(a\)\(1\) and \(b\)\(1\)](#). See, e.g., [D.D.B. v. Jackson County Youth Court](#), 816 So. 2d 380, 383 (Miss. 2002) (“[[Section 43-21-551\(1\)](#)] does not say that an order must be entered within the ninety (90) day period. The statute only says that an adjudicatory hearing shall be held within ninety (90) days or it shall be dismissed, unless the hearing is continued upon a showing of good cause.”); [In re C.R.](#), 604 So. 2d 1079, 1081 (Miss. 1992) (“The [adjudicatory] proceeding's postponement ... is without consequence since [§ 43-21-551](#) provides that a hearing may be continued upon a showing of good cause.”).

Rule 24(a)(2),-(b)(2).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-553 \(2008\)](#).

Rule 24(a)(3).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-555 \(2008\)](#).

Rule 24(a)(4),-(b)(3).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-203 \(2008\)](#).

All cases involving children must be heard separately from the trial of cases involving adults. This is consistent with the confidential and rehabilitative nature of youth court proceedings. An effective method to assure compliance is for the court to schedule its adult cases and youth court proceedings on separate days.

In child protection proceedings, the foster parent(s) and the residential child caring agency providing care for the child are entitled to appear at the adjudication hearing. See also [Miss. Code Ann. 43-15-13\(11\)](#) (providing rights to be extended to foster parents). If a party invokes [Rule 615 of the Mississippi Rules of Evidence](#), the court should take the testimony of the foster parent(s) and the representative of the residential child caring agency prior to taking the testimony of other witnesses.

Rule 24(a)(4)(i),-(b)(3)(i).

Adjudicatory hearings are conducted without a jury. See [McKeiver v. Pennsylvania](#), 403 U.S. 528, 545 (1971) (“[T]rial by jury in the juvenile court's adjudicative stage is not a constitutional

requirement.”); *Hopkins v. Youth Court*, 227 So. 2d 282, 285 (Miss. 1969) (“[W]e hold that the [youth] court did not err in denying a jury trial.”).

Rule 24(a)(4)(ii),-(b)(3)(ii).

Adjudication hearings are conducted under the rules of evidence and rules of court as may comply with constitutional standards. See *M.R.E. 101* (“These rules govern proceedings in the courts of the State of Mississippi to the extent and with the exceptions stated in rule 1101.”). See generally *Application of Gault*, 387 U.S. 1 (1967); *Patterson v. Hopkins*, 350 F. Supp. 676, 683 (N.D. Miss. 1972) (“Gault decided that, although the Fourteenth Amendment does not require that the hearing at this stage conform with all the requirements of a criminal trial or even of the usual administrative proceeding, the Due process Clause does require application during the adjudicatory hearing of “the essentials of due process and fair treatment.””).

Rule 24(a)(5),-(b)(4).

These provisions comport with the statutory procedures. See *Miss. Code Ann. § 43-21-557 (2008)*.

At the beginning of each adjudicatory hearing, the court is required to verify certain information and to explain certain procedures and rights. See *In re J.N.*, 915 So. 2d 1076, 1079-80 (Miss. Ct. App. 2005) (“A child in youth court proceedings is entitled to certain due process rights that cannot be ignored. At the beginning of an adjudicatory hearing, the youth court must explain to the parties the purpose of the hearing, the possible disposition alternatives, the right to counsel, the right to remain silent, the right to subpoena witnesses, the right to cross-examine witnesses testifying against him, and the right to appeal.”).

Rule 24(a)(6),-(b)(5).

These provisions comport with the statutory procedures. See *Miss. Code Ann. §§ 43-21-203(9)(b),-559 (2008)*.

M.R.E. 101 provides:

These rules govern proceedings in the courts of the State of Mississippi to the extent and with the exceptions stated in rule 1101.

M.R.E. 1101(b) provides in part:

Rules Inapplicable. Except for the rules pertaining to privileges, these rules do not apply in the following situations:

(1) Preliminary Questions of Fact. *The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104(a). ...*

(3) Miscellaneous Proceedings ... *probable cause hearings in ... youth court cases; ... disposition hearings; granting or revoking probation; issuance of warrants for arrest, ... and search warrants; and proceedings with respect to release on bail or otherwise.*

(4) Contempt Proceedings. *Contempt proceedings in which the court may act summarily.*

Rule 24(a)(7),-(b)(6).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-559\(4\) \(2008\)](#).

Rule 24(a)(8),-(b)(7).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-561 \(2008\)](#).

The burden of proof in delinquency and children in need of supervision proceedings is proof beyond a reasonable doubt. See [In re Winship, 397 U.S. 358, 368 \(1970\)](#); [L.M. v. State, 600 So. 2d 967, 969 \(Miss. 1992\)](#); [In re Dennis, 291 So. 2d 731, 733 \(Miss. 1974\)](#). The burden of proof in child protection proceedings is proof by a preponderance of the evidence. See [E.S. v. State, 567 So. 2d 848, 850 \(Miss. 1990\)](#).

Rule 24(a)(9),-(b)(8).

These provisions comport with the statutory procedures. See [Miss. Code Ann. § 43-21-557\(4\) \(2008\)](#).

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