

ALABAMA RULES OF JUVENILE PROCEDURE

Rule 25.

Findings and orders.

(A) At any adjudicatory hearing in a delinquency, dependency, or child-in-need-of-supervision case or a hearing in which the child admits to the allegations of the petition in a delinquency or child-in-need-of-supervision case, the juvenile court may proceed immediately to a dispositional hearing after adjudication or may set a dispositional hearing for a later date. A hearing held pursuant to Ala. Code 1975, § 12-15-203, is not considered an adjudicatory hearing or a hearing in which the child admits to the allegations of the delinquency or child-in-need-of-supervision petition.

If the allegations of the juvenile petition are denied, the juvenile court shall direct that testimony of witnesses be taken. A dependency hearing shall be conducted consistent with legal and due-process requirements and shall proceed generally in a manner similar to the trial of a civil action before the court sitting without a jury. A delinquency or child-in-need-of-supervision hearing shall be conducted consistent with legal and due-process requirements and shall proceed generally in a manner similar to the trial of a criminal action before the court sitting without a jury. If the child alleged to be delinquent or in need of supervision admits the allegations of the petition, the juvenile court may hear evidence to corroborate the admissions of the child. At the close of the hearing, the juvenile court shall make one of the following findings in writing:

(1) That the facts alleged in the juvenile petition are true and the child is dependent, in need of supervision, or delinquent; or

(2) That the facts alleged in the petition are not proved or that the child is not in need of care or rehabilitation or supervision, in which event the juvenile petition shall be dismissed.

(B) Following a finding that the child is a delinquent child, a dependent child, or a child in need of supervision, the child shall remain subject to orders of the juvenile court pending the dispositional phase.

(C) When a juvenile court makes a finding that a child is a delinquent child, a dependent child, or a child in need of supervision, the juvenile court shall make a disposition of the matter concerning the child or set the matter for a dispositional hearing. When possible, the judge or judicial officer who presided at the adjudicatory hearing should preside at the dispositional hearing.

(D) At the close of the dispositional phase, the juvenile court shall make its finding in writing. If the disposition is probation, the order shall set forth the

conditions of probation. In termination-of-parental-rights cases, the juvenile court shall make its finding by written order within 30 days of completion of the trial.

[Amended eff. 9-18-2006; Amended eff. 11-1-2009; Amended 7-14-2011, eff. 10-1-2011.]

Comment

See Section 5-128, Act No. 1205, Acts of Alabama, 1975 Regular Session. Phases referred to in (A) above contemplates, e.g., an advisory phase, a detention phase if necessary, an adjudicatory phase, a dispositional phase, or in any combination of phases.

Comment to Amendment to Rule 25 Effective November 2, 2009

Subsection (A) was amended to clarify that the provisions of this subsection apply to all adjudicatory hearings in juvenile court. Hearings to determine if a child alleged to be delinquent needs to be transferred to adult court are not considered adjudicatory hearings. The language in the former subsection (A) providing "except that the child may not be compelled to be a witness" was deleted in the provision dealing with the conduct of a dependency hearing because the Fifth Amendment right against self-incrimination does not attach in civil-type cases.

Language was also added in subsection (A) to provide that delinquency and child-in-need-of-supervision hearings shall be conducted consistent with legal and due-process requirements and shall proceed generally in a manner similar to the trial of a criminal action before the court sitting without a jury. This provision was added to differentiate between the legal and due-process requirements applicable in dependency cases and those applicable in delinquency and child-in-need-of-supervision cases.

The phrase "and is in need of care or rehabilitation" was deleted from subsection (A)(1) because it is duplicative language -- this element must be met to adjudicate a child a "delinquent child" pursuant to Ala. Code 1975, § 12-15-102(7).

The child's presence in any juvenile court hearing is a matter left to the sound discretion of the juvenile court. See Ala. Code 1975, § 12-15-129, providing that, "[i]f the juvenile court finds that it is in the best interests of the child under the jurisdiction of the juvenile court, the child may be temporarily excluded from the hearings, except while allegations of delinquency or in need of supervision are being heard."

Former subsection (E) was rescinded because provisions for the parties to request a rehearing in cases heard by referees is now covered by Ala. Code 1975, § 12-15-106. Other technical changes were made.

Comment to Amendment to Rule 25
Effective October 1, 2011

The changes to this rule were mostly technical. The word "supervision" was added in subsection (A)(2) to follow the requirement in Ala. Code 1975, § 12-15-102(8), that in order to prove a child is a "dependent child" the child must be in need of care or supervision.

Note from the reporter of decisions: The order amending Rule 8, Rule 25(D), and Rule 28, effective September 18, 2006, is published in that volume of *Alabama Reporter* that contains cases from 939 So. 2d.

Note from the reporter of decisions: The order amending effective November 2, 2009, Rule 12, Rule 15, and Rule 25, and adopting effective November 2, 2009, the Comment to Amendment to Rule 12 Effective November 2, 2009; the Comment to Amendment to Rule 15 Effective November 2, 2009; and the Comment to Amendment to Rule 25 Effective November 2, 2009, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.

Note from the reporter of decisions: The order amending effective October 1, 2011, Rule 1, Rule 2, Rule 3, Rule 5, Rule 6, Rule 8, Rule 9, Rule 12, Rule 13, Rule 14, Rule 15, Rule 15.1, Rule 17, Rule 18, Rule 20, Rule 23, Rule 24, Rule 25, Rule 26, Rule 28, and Rule 31 and adopting effective October 1, 2011, Rule 8.1 and the Comment to Amendment to Rule 1 Effective October 1, 2011; the Comment to Amendment to Rule 2 Effective October 1, 2011; the Comment to Amendment to Rule 3 Effective October 1, 2011; the Comment to Amendment to Rule 5 Effective October 1, 2011; the Comment to Amendment to Rule 6 Effective October 1, 2011; the Comment to Amendment to Rule 8 Effective October 1, 2011; the Comment to Adoption of Rule 8.1 Effective October 1, 2011; the Comment to Amendment to Rule 9 Effective October 1, 2011; the Comment to Amendment to Rule 12 Effective October 1, 2011; the Comment to Amendment to Rule 13 Effective October 1, 2011; the Comment to Amendment to Rule 14 Effective October 1, 2011; the Comment to Amendment to Rule 15 Effective October 1, 2011; the Comment to Amendment to Rule 15.1 Effective October 1, 2011; the Comment to Amendment to Rule 17 Effective October 1, 2011; the Comment to Amendment to Rule 18 Effective October 1, 2011; the Comment to Amendment to Rule 20 Effective October 1, 2011; the Comment to Amendment to Rule 23 Effective October 1, 2011; the Comment to Amendment to Rule 24 Effective October 1, 2011; the Comment to Amendment to Rule 25 Effective October 1, 2011; the Comment to Amendment to Rule 26 Effective October 1, 2011; the Comment to Amendment to Rule 28 Effective October 1, 2011; and the Comment to Amendment to Rule 31 Effective October 1, 2011, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.