

Probable Cause Hearing
(Also known as the EPC Hearing)

S.C. Code Ann. § 63-7-620 et seq.

Similar to a preliminary hearing in a criminal case. Defendant can only submit affidavits and cross-examine witnesses.

Time Frame: To be held within 72 hours after the emergency removal of the child from the home.

1. The court must determine whether there was probable cause for emergency protective custody and assumption of legal custody by DSS.
 - a) The law authorizes removal if there is substantial and imminent danger to the child's life, safety, or health.
 - b) A rebuttable presumption favors removal of a newborn in certain circumstances involving drug or alcohol abuse by the mother. S.C. Code Ann. § 63-7-1660.
 - c) Only the injured child, in an excessive corporal punishment situation, may be removed from the home, unless there is a history of domestic violence, alcohol or drug abuse, or other circumstances that indicate danger to the other children.
2. The court must determine whether reasonable efforts were made to prevent removal and whether return of the child to the home at the time of the hearing would be contrary to the welfare of the child.
3. The court must appoint an attorney and guardian *ad litem* for the child. Indigent parents are entitled to appointed counsel. S.C. Code Ann. § 63-7-1620.
4. The written order must specify reasonable efforts made to prevent the removal of the child. S.C. Code Ann. § 63-7-720:
 - a) Services made available to the family before DSS assumed legal custody;
 - b) Efforts to provide services to the family prior to removal;
 - c) Why services did not eliminate need for removal;
 - d) Outcome of family meeting or reasons meeting was not held;
 - e) Whether efforts were reasonable, including availability, timeliness, adequacy of services, and reasonableness of efforts to place with relative or in other familiar environment;
 - f) What efforts were made to place a child in a family member's home or other familiar environment.

It is possible to find that nothing could have been done to allow the child to remain safely in the home or that removal without services or further services was reasonable.

5. The court may direct expedited relative placement.
 - a) The court shall require DSS to conduct records checks;
 - b) The court may hold the court record open for 24 hours to receive reports.
6. The court must set the time and date for the hearing on the merits.