Rule 4. Order for Custody
(a) Issuance.

(1) Prior to filing of petition.   If, prior to the filing of a petition, a law enforcement officer has probable cause to believe that a child has committed a delinquent act, such officer may apply to a judicial officer of the Family Court for an order for custody for the child. The application shall be approved by the Office of the Attorney General before submission to the judicial officer and shall be supported by sworn testimony or affidavit. If the judicial officer finds that there is probable cause to believe that a delinquent act has been committed and that the child named in the application has committed it, the judicial officer may issue an order for custody for the child.

(2) During the pendency of the proceedings.   The judicial officer, upon motion of a party or sua sponte, may issue a custody order for a respondent who, after receiving proper notice, fails to appear for a hearing.

(3) For runaway, absconder or escapee.   Upon application of a law enforcement officer, parent, guardian, or custodian, the judicial officer may issue a custody order for a respondent where there are reasonable grounds to believe that the respondent has run away, escaped or absconded from the respondent's parent, guardian, or custodian.

(b) Form.   The order for custody shall be signed by a judicial officer of the Family Court. It shall be issued under the title of the Superior Court of the District of Columbia Family Court and shall contain the name of the judicial officer to whom the case is assigned, if known; the date of issuance of the custody order; the name of the respondent or, if the respondent's name is unknown, any name or description by which the respondent can be identified with reasonable certainty; and the respondent's age and address. It shall describe the offense charged. It shall command that the respondent be taken into custody and shall state whether the respondent should be brought before the Family Court for detention pending the next regularly scheduled session of Court or brought before a representative of the Director of Social Services for a determination of placement pending appearance.

(c) Execution and return.

(1) By whom.   An order for custody shall be executed by a law enforcement officer.

(2) Territorial and time limits.   An order for custody may be executed at any place in the District of Columbia, but not more than 1 year after the date of issuance or reissuance; except that, pursuant to the provisions of the Interstate Compact on Juveniles, D.C. Code § 32-1101 et seq., an order for custody may be executed anywhere within the jurisdiction of the United States.

(3) Manner.   The order for custody shall be executed by the taking into custody of the respondent named therein. The officer need not have the order in his or her possession at the time of the taking into custody, but upon request the officer shall show the order to the respondent as soon as possible. If the officer does not have the order in his possession at the time of the taking into custody, the officer shall then inform the respondent of the offense charged and of the fact that an order for custody has been issued.

(4) Unexecuted custody orders.   Any unexecuted order for custody may be returned by the Office of the Attorney General and cancelled by the judicial officer. The judicial officer may, sua sponte or upon request of the Office of the Attorney General, reissue an unexecuted order for custody within one year of its issue or reissuance.

COMMENT

Paragraph (a) of this Rule provides for the issuance of custody orders at all stages of the juvenile process. Subparagraph (a)(1) requires the order for custody for a juvenile suspected of having committed a delinquent act to be based on probable cause. *See Schall v. Martin, 467 U.S. 253 (1984).* Absent exigent circumstances, a custody order must be obtained when the juvenile is to be taken into custody in his or her home. *Payton v. New York, 445 U.S. 574 (1980).*