§ 1022. Preliminary orders of court before petition filed. (a) (i) The family court may enter an order directing the temporary removal of a child from the place where he or she is residing before the filing of a petition under this article, if (A) the parent or other person legally responsible for the child's care is absent or, though present, was asked and refused to consent to the temporary removal of the child and was informed of an intent to apply for an order under this section and of the information required by section one thousand twenty-three of this part; and

(B) the child appears so to suffer from the abuse or neglect of his or her parent or other person legally responsible for his or her care that his or her immediate removal is necessary to avoid imminent danger to the child's life or health; and

(C) there is not enough time to file a petition and hold a preliminary hearing under section one thousand twenty-seven of this part.

(ii) When a child protective agency applies to a court for the immediate removal of a child pursuant to this subdivision, the court shall calendar the matter for that day and shall continue the matter on successive subsequent court days, if necessary, until a decision is made by the court.

(iii) In determining whether temporary removal of the child is necessary to avoid imminent risk to the child's life or health, the court shall consider and determine in its order whether continuation in the child's home would be contrary to the best interests of the child and where appropriate, whether reasonable efforts were made prior to the date of application for the order directing such temporary removal to prevent or eliminate the need for removal of the child from the home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding.

(iv) If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that such efforts were appropriate under the circumstances, the court shall order the child protective agency to provide or arrange for the provision of appropriate services or assistance to the child and the child's family pursuant to section one thousand fifteen-a of this

article or subdivision (c) of this section.

(v) The court shall also consider and determine whether imminent risk to the child would be eliminated by the issuance of a temporary order of protection, pursuant to section one thousand twenty-nine of this part, directing the removal of a person or persons from the child's residence.

(vi) Any order directing the temporary removal of a child pursuant to this section shall state the court's findings with respect to the necessity of such removal, whether the respondent was present at the hearing and, if not, what notice the respondent was given of the hearing, whether the respondent was represented by counsel, and, if not, whether the respondent waived his or her right to counsel.

(vii) At the conclusion of a hearing where it has been determined that a child should be removed from his or her parent or other person legally responsible, the court shall set the date certain for an initial permanency hearing pursuant to paragraph two of subdivision (a) of section one thousand eighty-nine of this act. The date certain shall be included in the written order issued pursuant to subdivision (b) of this section and shall set forth the date certain scheduled for the permanency hearing.

(b) Any written order pursuant to this section shall be issued immediately, but in no event later than the next court day following the removal of the child. The order shall specify the facility to which the child is to be brought. Except for good cause shown or unless the child is sooner returned to the place where he or she was residing, a petition shall be filed under this article within three court days of the issuance of the order. The court shall hold a hearing pursuant to section one thousand twenty-seven of this part no later than the next court day following the filing of the petition if the respondent was not present, or was present and unrepresented by counsel, and has not waived his or her right to counsel, for the hearing pursuant to this section.

(c) The family court, before the filing of a petition under this article, may enter an order authorizing the provision of services or assistance, including authorizing a physician or hospital to provide emergency medical or surgical procedures, if (i) such procedures are necessary to safeguard the life or health of the child; and

(ii) there is not enough time to file a petition and hold a preliminary hearing under section one thousand twenty-seven. Where the

court orders a social services official to provide or contract for services or assistance pursuant to this section, such order shall be limited to services or assistance authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect.

(d) The person removing the child shall, coincident with removal, give written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this act, the name, title, organization, address and telephone number of the person removing the child, the name and telephone number of the child care agency to which the child will be taken, if available, the telephone number of the person to be contacted for visits with the child, and the information required by section one thousand twenty-three of this act. Such notice shall be personally served upon the parent or other person at the residence of the child provided, that if such person is not present at the child's residence at the time of removal, a copy of the notice shall be affixed to the door of such residence and a copy shall be mailed to such person at his or her last known place of residence within twenty-four hours after the removal of the child. If the place of removal is not the child's residence, a copy of the notice shall be personally served upon the parent or person legally responsible for the child's care forthwith, or affixed to the door of the child's residence and mailed to the parent or other person legally responsible for the child's care at his or her last known place of residence within twenty-four hours after the removal. The form of the notice shall be prescribed by the chief administrator of the courts.

(e) Nothing in this section shall be deemed to require that the court order the temporary removal of a child as a condition of ordering services or assistance, including emergency medical or surgical procedures pursuant to subdivision (c) of this section.

(f) The court may issue a temporary order of protection pursuant to section ten hundred twenty-nine of this article as an alternative to or in conjunction with any other order or disposition authorized under this section.