§ 1027. Hearing and preliminary orders after filing of petition. (a) (i) In any case where the child has been removed without court order or where there has been a hearing pursuant to section one thousand twenty-two of this part at which the respondent was not present, or was not represented by counsel and did not waive his or her right to counsel, the family court shall hold a hearing. Such hearing shall be held no later than the next court day after the filing of a petition to determine whether the child's interests require protection, including whether the child should be returned to the parent or other person legally responsible, pending a final order of disposition and shall continue on successive court days, if necessary, until a decision is made by the court.

(ii) In any such case where the child has been removed, any person originating a proceeding under this article shall, or the attorney for the child may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

(iii) In any case under this article in which a child has not been removed from his or her parent or other person legally responsible for his or her care, any person originating a proceeding under this article or the attorney for the child may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection, including whether the child should be removed from his or her parent or other person legally responsible, pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

(iv) Notice of a hearing shall be provided pursuant to section one thousand twenty-three of this part.

(b) (i) Upon such hearing, if the court finds that removal is necessary to avoid imminent risk to the child's life or health, it shall remove or continue the removal of the child. If the court makes such a determination that removal is necessary, the court shall immediately inquire as to the status of any efforts made by the local social services district to locate relatives of the child, including any

non-respondent parent and all of the child's grandparents, as required pursuant to section one thousand seventeen of this article. The court shall also inquire as to whether the child, if over the age of five, has identified any relatives who play or have played a significant positive role in his or her life and whether any respondent parent or any non-respondent parent has identified any suitable relatives. Such inquiry shall include whether any relative who has been located has expressed an interest in becoming a foster parent for the child or in seeking custody or care of the child. Upon completion of such inquiry, the court shall remand or place the child:

(A) with the local commissioner of social services and the court may direct such commissioner to have the child reside with a relative or other suitable person who has indicated a desire to become a foster parent for the child and further direct such commissioner, pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours and thereafter expedite approval or certification of such relative or other suitable person, if qualified, as a foster parent. If such home is found to be unqualified for approval or certification, the local commissioner shall report such fact to the court forthwith so that the court may make a placement determination that is in the best interests of the child;

(B) to a place approved for such purpose by the social services district; or

(C) with a relative or suitable person other than the respondent.

(ii) Such order shall state the court's findings which support 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, and, where a pre-petition removal has occurred, whether such removal took place pursuant to section one thousand twenty-one, one thousand twenty-two or one thousand twenty-four of this part. If the parent or other person legally responsible for the child's care is physically present at the time the child is removed, and has not previously been served with the summons and petition, the summons and petition shall be served upon such parent or person coincident with such removal. If such parent or person is not physically present at the time the child is removed, service of the summons and petition shall be

governed by section one thousand thirty-six of this article. In determining whether removal or continuing the removal of a 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 the hearing held under subdivision (a) of this section to prevent or eliminate the need for removal of the child from the home and, if the child was removed from his or her home prior to the date of the hearing held under subdivision (a) of this section, where appropriate, that reasonable efforts were made to make it possible for the child to safely return home.

(iii) 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 or as enumerated in subdivision (c) of section one thousand twenty-two of this article, notwithstanding the fact that a petition has been filed.

(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.

(c) Upon such hearing, the court may, for good cause shown, issue a preliminary order of protection which may contain any of the provisions authorized on the making of an order of protection under section one thousand fifty-six of this act.

(d) Upon such hearing, the court may, for good cause shown, release the child to his or her parent or other person legally responsible for his or her care, pending a final order of disposition, in accord with subparagraph (ii) of paragraph (a) of subdivision two of section one thousand seventeen of this article.

(e) Upon such hearing, the court may authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

(f) If the court grants or denies a preliminary order requested pursuant to this section, it shall state the grounds for such decision.

(g) In all cases involving abuse the court shall order, and in all cases involving neglect the court may order, an examination of the child pursuant to section two hundred fifty-one of this act or by a physician appointed or designated for the purpose by the court. As part of such examination, the physician shall arrange to have colored photographs taken as soon as practical of the areas of trauma visible on such child and may, if indicated, arrange to have a radiological examination performed on the child. The physician, on the completion of such examination, shall forward the results thereof together with the color photographs to the court ordering such examination. The court may dispense with such examination in those cases which were commenced on the basis of a physical examination by a physician. Unless colored photographs have already been taken or unless there are no areas of visible trauma, the court shall arrange to have colored photographs taken even if the examination is dispensed with.

(h) 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 a 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. A copy of such order shall be provided to the parent or other person legally responsible for the child's care.