§ 1094. Initial appearance and preliminary proceedings. (a) At the initial appearance, the court shall:

(1) appoint an attorney to represent the child in accordance with section two hundred forty-nine of this act, and appoint an attorney to represent a parent, caretaker or interested adult in accordance with paragraph (ix) of subdivision (a) of section two hundred sixty-two of this act, if he or she is financially unable to obtain counsel;

(2) (i) if any parent, caretaker or interested adult enters an appearance, determine whether the child may safely remain in or return to his or her home and, if appropriate, order services to assist the family toward that end; provided however, that such order shall not include the provision of any service or assistance to the child and his or her family which is not authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect;

(ii) determine whether temporary care is necessary to avoid risk to the child's life or health and whether it would be contrary to the welfare of the child to continue in, or return to his or her own home, and, if so, whether the child should be placed in the temporary care and custody of a relative or other suitable person or in the temporary care and custody of the commissioner of social services;

(iii) upon a determination that the child should be temporarily placed:

(A) direct the petitioner to investigate whether there are any parents, caretakers or interested adults not named in the petition or any other relatives or other suitable persons with whom the child may safely reside and, if so, direct the child to reside temporarily in their care; and

(B) if a relative or other suitable person seeks approval to care for the child as a foster parent, direct the petitioner to commence an investigation into the home of such relative and thereafter approve such relative or other suitable person, if qualified, as a foster parent; provided, however, that if such home is found to be unqualified for approval, the petitioner shall report such fact to the court forthwith and, in the case of a relative who seeks approval to care for the child as a foster parent, the relative may proceed in accordance with section one thousand twenty-eight-a of this act.

(3) set a date certain for the fact finding and disposition hearing pursuant to section one thousand ninety-five of this article and, if the child is temporarily placed, set a date certain for the initial permanency hearing pursuant to paragraph two of subdivision (a) of section one thousand eighty-nine of this act. The date certain for the initial permanency hearing shall be no later than eight months from the date the social services official accepted care of the child;

(4) determine whether reasonable efforts were made prior to the placement of the child into foster care to prevent or eliminate the need for removal of the child from his or her home, and if such efforts were not made whether the lack of such efforts were appropriate under the circumstances; determine, where appropriate, if reasonable efforts were made to make it possible for the child to remain in or return safely home; and

(5) include the findings made pursuant to paragraphs one through four of this subdivision in a written order.

(b) (1) Any parent or caretaker, or interested adult from whose care the child has been removed, or the child's attorney may request a hearing to determine whether a child who has been removed from his or her home should be returned and, if so, whether services should be ordered to facilitate such return; provided however, that such order shall not include the provision of any service or assistance to the child and his or her family which is not authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect. Except for good cause shown, the hearing shall be held within three court days of the request and shall not be adjourned. The court shall grant the application for return of the child unless it finds that the return presents an imminent risk to the child's life or health. If imminent risk to the child is found, the court may make orders in accordance with paragraph two of subdivision (a) of this section, including, but not limited to, directions for investigations of relatives or other suitable persons with whom the child may safely reside.

(2) 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 the hearing to prevent or eliminate the need for removal of the child from the home and where appropriate, whether reasonable efforts were made after removal of the child to make it possible for the child to safely return home.

(3) 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 and the basis for such finding.

(4) If the court determines that reasonable efforts to allow a child to safely return home were not made subsequent to the removal of the child but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding and the basis for such finding.

(c) (1) The court may upon its own motion or the motion of any person, deem a person not named in the petition who has a significant connection to the child alleged to be destitute, a party to the proceeding, if such person consents to being added as a party, and such action is appropriate under the circumstances.

(2) If the court deems a person a party pursuant to paragraph (i) of this subdivision and such person is not before the court, the court shall cause a copy of the petition and a summons requiring such person to appear in court on the return date be served on such person in accordance with subdivision (d) of section one thousand ninety-three of this article.

(d) The court may, if it deems appropriate, appoint counsel for an interested adult or another person named as a party to the proceeding pursuant to subdivision (c) of this section, if such adult or person is financially unable to obtain counsel.