

ENGAGING TODDLERS (AGES 1-3) & PRESCHOOLERS (AGES 3-5) IN THE COURTROOM

JUDICIAL BENCH CARD¹

Document court actions

Document in the court order:

- If the child is present and verbal, have him identify himself on the record.
- OR if the child is not present, address the reasons why the child is not in attendance.
 - What efforts were made and the accommodations offered to encourage the child's attendance.
 - Explore and encourage resolution of transportation issues as a reason for nonattendance.
 - Depending on the situation, consider postponing the hearing until the child can be present.
 - Request a current picture that will be introduced into the record.²

Communicate with the child during the hearing

- Keep language simple and age appropriate.
- Speak slowly and allow the child time to process the information.
- Use concrete terms.³
- Use names instead of pronouns.
- Stop at regular intervals to ask the child if he understands and if he has any questions.
- Ask the child to perform simple age-appropriate tasks (as outlined in the Milestone Chart).

Observe the child's behavior and appearance

- How does the child interact and respond to caregivers, parents, and guardians?
- Observe the child's demeanor when answering the questions (if verbal).⁴
 - Who does the child look to for help in answering questions?

AGE	MILESTONES*
12 months	Stands alone Can say 1 word Imitates activities
18 months	Runs Can remove garment Can point to at least 1 body part
24 months	Jumps up Combines words Puts on clothing
3 years	Balances on each foot 1 second Speech all understandable Can name a friend
4 years	Hops Names 4 colors Can copy a cross (+)
5 years	Can walk on tiptoes Can draw a person with head, body, arms, and legs Capable of lacing own shoes

*50% to 90% of children can perform these milestones.

The Milestone Chart was adapted from Hagan JF, Shaw JS, Duncan PM, eds. 2008. *Bright Futures: Guidelines For Health Supervision of Infants, Children, and Adolescents*, Third Edition, Elk Grove Village, IL: American Academy of Pediatrics and Schor EL, ed. 2004. *Caring For Your School-Age Child*, New York: Bantam Books.

- Is he scared? Anxious? Avoidant?
- Does he look to the caregiver for the "right" answer?
- Assess whether the child appears healthy and well kept.
- Does the child exhibit appropriate developmental milestones?⁵

¹ This bench card was created to assist judges when a child is present in the courtroom. It does not include what information the judge should require from additional parties, such as a report from the child's therapist about the child's mental health status.

² The social worker or caregiver can provide the court with a picture.

³ Concrete terms refer to objects or events that are available to the senses. For example, use "in the backyard" instead of "area."

⁴ Changes in a child's demeanor while answering questions may have several meanings. For example, a child could look to an adult for the answer because he is attached to that adult and wants to please him or her. On the other hand, the same action can mean that the child is afraid of the adult. For more information about questioning children, see Anne Graffam Walker, *Handbook on Questioning Children: A Linguistic Perspective* (ABA Center on Children and the Law 2d ed. 1999).

⁵ Please refer to the Milestone Chart. For more information about child development, see Genie Miller Gillespie and Diane Boyd Rauber (eds.), *A Judge's Guide: Making Child-Centered Decisions in Custody Cases* (ABA Child Custody and Adoption Pro Bono Project and ABA Center on Children and the Law 2d ed. 2008).

Preparations for court attendance

- Ensure that your courtroom is child friendly.⁶
- Ensure all children are accompanied by a familiar caregiver, such as a foster parent.
- Consult with the child's caregiver when scheduling the next hearing so it does not interfere with the child's normal daily routine, e.g., naptime, mealtime, etc.
- If the child is verbal:
 - If helpful, offer to have a conversation in chambers, making sure it complies with all procedural rules.
 - Have the agency invite him to submit drawings, cards, or other age-appropriate materials periodically. Refer to anything previously submitted.
 - Acknowledge anything that the child gives to the court while the child is present.
 - Thank the child for coming to court.
 - Encourage the child to attend the next hearing.
 - Ask the child whether he has anything to say before the hearing ends.

Possible questions to ask the child (if child is verbal)

- How old are you?
- Do you like where you are staying now?
- What do you like (not like) about where you are staying now? Suggest options (e.g., bedroom, pets, people who live there).
- Do you go to preschool or daycare? What things do you like to do while you are there?
- What kinds of things did you and your mommy (or daddy) do the last time you saw her (or him)?
- Do you feel sad or miss anyone? Suggest options (e.g., brothers, sisters, grandparents).
- Have you been to the doctor?
- Do you like the doctor?

Possible questions to ask the caregiver about the child

- Is the child forming healthy attachments?⁷ With whom?
- Is the child meeting developmental milestones?⁸

⁶ It may be necessary to address issues related to the child's safety at the courthouse and the appropriateness of courtroom waiting areas. Judges may find it beneficial to have age-appropriate toys and books available.

⁷ For more information about attachment, see JoAnne Solchany and Lisa Pilnik, *Healthy Attachment for Very Young Children in Foster Care*, Child Law Practice, Vol. 27, No. 6 (August 2008).

⁸ Please refer to the Milestone Chart.