



5. The Iowa legislature also enacted *Iowa Code* §232.38(1) which states, “Any hearings or proceedings under this division subsequent to the filing of a petition **shall not take place without the presence of one or both of the child's parents....**”

6. It is best practice to have a parent participate in these proceedings in person whenever possible.

Just because the process employed here was good enough does not make it right. We note that the due process requirements outlined in our prior cases are a floor, not a ceiling. Although the court was not required to permit the mother to remain on the telephone during the proceedings, we see ample reasons why an incarcerated parent should be permitted to do so. If a witness is providing untruthful or biased testimony about an interaction with the parent, it is the parent who is in the best position to recognize it. Hearing the evidence as it comes in—either in person or telephonically—provides a parent with the opportunity to confer with counsel and potentially offer points of rebuttal to that evidence. We see no reason for the denial of the mother’s participation in the termination hearing—nor was any articulated by the court. Certainly, the court must be allowed to run its own courtroom as it sees fit, and if the mother was disruptive during the proceedings, the court could have denied her continued participation. But where the mother was ordered to pay for the cost of her participation and no reason was shown to preclude her participation in the entire hearing, the better practice would have been to allow it. Just because a parent’s participation is not constitutionally required does not mean it should be denied without reason.” *In Re K.M.*, 2016 WL 4379375 16-0795 (August 17, 2016)

7. The parent of this child is currently located in the county jail within this county. It would require minimal expense to have the parent transported to and from this hearing despite being held in federal custody.

8. It is the minor child’s best interest for the parent to attend these proceedings.

**WHEREFORE**, the Petitioner, **Parent's Name**, prays that the Court issue a Writ of Habeas Corpus Ad Prosequendum directing the Sheriff of **\_\_\_\_\_** County, Iowa, or any of his deputies, to take custody of the defendant and to transport him to the **\_\_\_\_\_** County Courthouse where he will be presented to the Iowa Juvenile Court to in the above-captioned case, and that the Sheriff hold the defendant there in custody, available for consultation with his attorney, or until such time as this Court may issue further orders in the premises. The Petitioner further prays that the Sheriff be allowed to return the defendant to the custody of the United States after the completion of the court proceeding.

Dated this **\_\_\_\_\_** day of **\_\_\_\_\_**, **20\_\_** at **CITY, \_\_\_\_\_** County, Iowa.

Respectfully Submitted,

LAW FIRM NAME

---

Attorney's Name (AT #)

Address

City, State, Zip

Telephone:

Facsimile:

Email:

ATTORNEY FOR PETITIOENR-**MOTHER/FATHER**