

232.43 Answer — plea agreement — acceptance of plea admitting allegations of petition.

1. A written answer to a delinquency petition need not be filed by the child, but any matters which might be set forth in an answer or other pleading may be filed in writing or pleaded orally before the court.

2. The county attorney and the child's counsel may mutually consider a plea agreement which contemplates entry of a plea admitting the allegations of the petition in the expectation that other charges will be dismissed or not filed or that a specific disposition will be recommended by the county attorney and granted by the court. Any plea discussion shall be open to the child and the child's parent, guardian or custodian.

3. The court shall not accept a plea admitting the allegations of the petition without first addressing the child personally in court, determining that the plea is voluntary and not the result of any force or threats or promises other than promises made in connection with a plea agreement and informing the child of and determining that the child understands the following:

a. The nature of the allegations of the petition to which the plea is offered.

b. The severest possible disposition and the maximum length of such disposition which the court may order if the court accepts the plea.

c. The child has the right to deny the allegations of the petition.

d. If the child admits the allegations of the petition the child waives the right to a further adjudicatory hearing.

4. The court shall not accept a plea admitting the allegations of the petition without first addressing the county attorney and the child's counsel in court and making an inquiry into whether such a plea is the result of a plea agreement. The court shall require the disclosure of the terms of any such agreement in court. If a plea agreement has been reached which contemplates entry of the plea in the expectation that the court will order a specific disposition or dismiss other charges against the child before the court, the court shall state to the parties whether the court will concur in the proposed disposition or dismissal of charges. If the court will not concur in such disposition or dismissal, the court should advise the child personally of this fact, advise the child that the disposition of the case may be less favorable to the child than that contemplated by the plea agreement, and afford the child the opportunity to withdraw the plea. If the court defers decision as to whether the court will concur with the proposed disposition or dismissal until there has been an opportunity to consider the predisposition report, the court shall advise the child that the court is not bound by the plea agreement and afford the child the opportunity to withdraw the plea.

5. The court shall not accept a plea admitting the allegations of the petition without:

a. Determining that there is a factual basis for the plea.

b. Determining that the child was given effective assistance of counsel prior to tender of the plea.

c. Inquiring of the parent or parents who are present in court whether they agree as to the course of action that their child has chosen. If either parent expresses disagreement with the plea, the court may refuse to accept that plea.

6. If the court determines that a plea is not in the child's best interest it may refuse to accept that plea regardless of the agreement of the parties.

[C79, 81, §232.43]