

A Handbook for Parents and Guardians in Child Protection Cases

**A Resource for Parents and Guardians:
What you need to know about the court process.**

Being involved in a child abuse and neglect case can be very confusing and stressful for a family. Not knowing what to expect can make it even harder.

This handbook will help you understand what will happen. Keep this handbook with you so you can write the names of the people involved in your case, and the dates of meetings and court hearings.

Please note that this handbook is not intended to give legal advice or to function as a substitute for an attorney. You are encouraged to seek the advice of your own attorney to answer any legal questions you may have.



What is CPS?

Child Protective Services (CPS) is a part of the Texas Department of Family and Protective Services (FPS), a State Agency set up by law to make sure children are **SAFE AT ALL TIMES**. If children are not treated in a **SAFE** manner, all citizens in the community **MUST** report unsafe activity by calling 1-800-252-5400.

A report was received saying that your child was not **SAFE**. Information about the reason for the removal of your child is outlined in a paper called a Notification for Removal, left at your home. The Child Protective Services (CPS) caseworker from FPS may also explain why your child was removed from your care.

The Next Step

If you disagree with the caseworker and the reason for removal of your child, you will have a chance to explain your side to a judge soon after the removal of your child.

This handbook provides a basic guide to what happens when you and your child are involved in a CPS case.

Why Should You Talk to the Judge?

To give the parties and the court your explanation of the events that brought your child into foster care. It is important to remember that you may speak with the judge only during court hearings. You may not meet with the judge privately outside of court.

The purpose of the Child Protection Court is to keep children safe and to help families create a safe home for their children. The Child Protection Court is not designed to punish parents.

The Judge can require you and your family to get help. The Judge also can order that your child be temporarily placed in the custody of Child Protective Services (CPS). This means that, for the time being, CPS is legally responsible for your child and, with the approval of the Child Protection Court, can make decisions about where your child should live and what you need to do to have your child returned to you.

The same problems that brought you to the Child Protection Court could result in criminal charges against you, your partner, or someone else in your family. In that case, you may have to go to another court and see another judge. This handbook does not deal with criminal cases. It is about civil proceedings (meetings and hearings) in the Child Protection Court. Anything you say in Child Protection Court may be used against you in a criminal case. If criminal charges have been filed against you, or you think they might be, you should talk to an attorney.

What Happens After Your Child is Removed From Your Home?

If your child is removed from your home, you will be notified in writing and you will receive a copy of the paperwork that has been filed with the Court. One of the forms you will receive is called a petition. The petition was written after a report was received and investigated by CPS.

The petition names you as a respondent. This is the term used by the Child Protection Court for the parent or guardian in a child abuse and neglect case.

The petition lists one or more allegations (allegations are located in the Affidavit attached to the petition) -- statements of what happened and reasons why your child needs to be in the custody of CPS.

If you do not understand the petition or any other paperwork, talk to your attorney.

These are some of your rights:

- You have the right to an attorney. If you cannot afford to pay for an attorney, and CPS is seeking to terminate your parental rights, you may ask the judge to appoint an attorney for you.
- You have the right to admit or deny the allegations made about you and your family.
- You have the right to be notified of all court hearings.
- You have the right to attend all court hearings and meetings.
- You have the right to an interpreter in court if you do not understand English or are hearing impaired.
- You have the right to talk to your CPS caseworker and your attorney. Remember they may be busy with someone else when you call. Be sure to leave a message with a phone number where you can be reached or try to call them again. Keep track of the best times to call them.

These are some of your responsibilities:

- Take this seriously.
- Attend all court hearings and meetings.
- Cooperate with your family service plan.

- Stay in touch with your attorney and your caseworker. Be sure they always have a current address and telephone number for you.
- Things move very quickly in child abuse and neglect cases. Be sure that you know what you are supposed to do and when, and then do it. It could make the difference in whether your child is returned to you.

Who Will Be Involved in Your Case?

CPS Caseworker

When your child is removed from your home, you will be given a notice of removal and the name and phone number of the CPS investigative caseworker. After approximately two to three weeks, your investigative worker will transfer the case to another caseworker. The caseworker will:

- Contact you to give you more information and ask you some questions;
- Visit your child regularly;
- Help you understand the problems that brought you to court, and
- Help you work on your service plan, which lists the steps you must take to have your child returned to you.

If you do not hear from your CPS caseworker for a while, or if you have questions or problems, call him or her.

Your CPS caseworker's name, address, and phone number are:

Name: _____

Address: _____

Phone: _____

Best time to call: _____

Supervisor: _____

Your child's CPS caseworker, if different, is:

Name: _____

Address: _____

Phone: _____

Best time to call: _____

Supervisor: _____

Your Attorney

When you go to Court, the Judge will ask if you have an attorney. You have the right to an attorney. If you cannot afford to pay for an attorney, and CPS is seeking to terminate your parental rights, you may ask the judge to appoint one for you. Your attorney should:

- Talk with you before every hearing;
- Speak for you in court;
- Help you understand your rights;
- Tell you about the hearings you will attend; and
- Tell you what to expect at each hearing.

If you do not hear from your Attorney for a while, or if you have questions or problems, call him or her. It is up to you to make sure your attorney can find you.

Your Attorney's name, address, and phone number are:

Name: _____

Address: _____

Phone: _____

Best time to call: _____

Things I want to discuss or ask about:

The Attorney for CPS

Child Protective Services (CPS) also has an attorney. The Attorney for CPS represents CPS in court, and must prove why your child should be in CPS custody now.

CPS Attorney's Name: _____

Your Child's Attorney – the Attorney ad litem (AAL)

Your child will have an attorney appointed by the Court. This attorney is called an attorney ad litem (AAL). The attorney ad litem's job is to meet with your child and act as an advocate on behalf of your child. Often the attorney ad litem also serves as the Guardian ad litem (GAL) for your child.

Attorney ad litem's Name: _____

Phone: _____

The Court Appointed Special Advocate (CASA)

The Judge may also appoint a Court Appointed Special Advocate. The Child Advocate is a trained volunteer who will meet with you and your child, as well as others involved in this case. The Child Advocate reports to the Court about how your child is doing and what they feel is in your child's best interest. Sometimes the Child Advocate may be called a Guardian ad litem (GAL).

CASA Volunteer's Name: _____

Supervisor: _____

Phone: _____

Mediation / Family Group Conference

During the case, the Judge may order that your case be sent to mediation or family group conference. Mediation is a meeting between you, your attorney, CPS, and their attorney to try to reach an agreement instead of going to court. Mediators are independent, neutral individuals who have been specially trained to help people work out differences. Mediation is not a court hearing. If you wish to use a mediator to help with your case, ask if mediation is available in your area.

Mediation Information:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

When Will You Have to Go to Court?

You may be asked to attend several court hearings and other meetings so that the Judge and others can listen to all sides and decide how to help your family. Most child abuse and neglect cases have at least eight different court hearings and meetings during the first year:

- Emergency Hearing
- Adversary Hearing (Show Cause) or Mediation
- Initial Permanency Planning Team Meeting or PPT
- Status Hearing
- Initial Permanency Hearing
- Additional PPT meetings
- Permanency Hearing
- Final Hearing (Trial)

It is important for you to be on time for all these hearings. If you are not present in court at the time a hearing or trial is scheduled, the proceeding may begin without you.

Each court hearing and meeting has a different purpose. They are all described in this handbook, so that you know what to expect at each hearing or meeting, when and where it will be held, and why it is important for you to attend.

*Remember, the purpose of the Child Protection Court is to keep children safe and to help families create a safe home for their children. If you do not understand the purpose of any hearing you should ask an attorney. **If you cannot afford an attorney it is important that you ask the Judge to appoint one for you.***

The Emergency Hearing

If your child has been removed from your home without a court order, the Emergency Hearing will be held within one working day of when the petition is filed in Child Protection Court, and may take place without you being there.

This hearing gives the Judge the chance to find out why your child was removed from your home. At the Emergency Hearing, the Judge will decide if your child should stay in the temporary custody of CPS until the adversary hearing.

The attorney for CPS will present information about the case to the Judge. Information will include the allegations made and what the investigation by CPS has revealed so far. CPS will also let the Judge know what actions have been taken to find a placement for the child, other than foster care.

The Adversary Hearing (Show Cause)

This hearing will be held no later than the 14th day after the date the child was removed.

The purpose of this hearing is to determine whether the child's emergency removal was proper and to get temporary orders for the protection of the child until the case is over.

The Judge may decide to return your child to you, or to place the child with a family member, a family friend or another appropriate adult who is willing to help and cooperate in this matter. You should come to the hearing with the names, addresses and telephone numbers of people who might be able to keep your child temporarily.

Finally, the Judge may decide that for the safety and protection of your child it would be best that your child remain in the care of CPS.

This hearing is your chance to explain the situation from your point of view and let the Judge know how you intend to protect your child now and in the future.

The time and place of your Adversary Hearing (Show Cause) is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

Permanency Planning Team Meetings

The Permanency Planning Team staffing is usually held between 30 and 45 days after the removal of your child from your home and again in the fifth, ninth and thirteenth months. Although this is not a court hearing and the judge will not be present, all the people who are involved in the case, including the attorneys, the child if over 12 years of age, foster parents, parents, CPS staff and other caretakers can be there. Family members who are interested in your child are also encouraged to attend.

At the first PPT staffing a “service plan” will be developed and discussed. The service plan will include the goal for the child that may be:

- Reunification with parent(s);
- Termination of parents’ rights to the child;
- Placement of child with relatives;
- Placement of child in foster care; or
- Adoptive placement.

The purpose of this meeting is to talk about why your child was removed from your home. The other purpose of this meeting is to come up with a service plan for your child and your family that will help get your family together again, or whatever is best for your child. That service plan will be presented to the Child Protection Court. Be aware that the plan may change, but it will remain in effect until amended by CPS and approved by the Court.

It is very important that you attend the PPT meetings, so that your ideas about what is best for your family and what can be done to make sure your child remains safe can be heard. You will receive a letter telling you about PPT meetings: the date, time and place. You may also call your CPS caseworker to find out about your child’s next PPT meeting.

The time and place of your first PPT and Service Plan meeting is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

The Status Hearing

You have the right to a hearing before a Judge to discuss the service plan prepared by CPS. This hearing is called the Status Hearing. It will be held within 60 days of when your child was ordered into the temporary care of CPS.

The purpose of the Status Hearing is to make sure that there is a Service Plan in place for your child, that you are aware of this Service Plan and all of its contents, and that you understand that you must complete all of the requests made in this Service Plan (which the Judge adopts) in order to have your child returned to you. At this hearing the Judge may also ask about your current compliance with this plan.

You will be warned that unless you do what is asked of you in the service plan, your rights as a parent may be restricted or terminated.

It is very important that you attend the Status Hearing.

The time and place of your Status Hearing is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

The Permanency Hearing

The initial permanency hearing must be held no later than 180 days after CPS is named as temporary managing conservator of your child.

The purpose of the Permanency Hearing is to evaluate the Permanency Plan for the child to ensure that a final order consistent with that permanency plan is rendered before the date for dismissal of the case.

The Judge will review your case to make sure that the Service Plan is being followed. The Judge will check to make sure you are doing what is ordered in the plan. The Judge will check to make sure the CPS Caseworker and others are doing what is ordered in the

plan. If everyone agrees that the Service Plan needs to be changed, the Judge may order those changes.

You will be told in court that your parental and custodial rights may be subject to restriction or termination unless you are willing and able to provide your child with a safe environment.

If the Judge believes your child will be safe, and that it is in your child's best interest to be returned to you at this time, the judge can decide to return your child to you.

The Judge may also decide that your child needs continued substitute care and if the current placement is appropriate, and whether other plans or services are needed to meet your child's special needs.

At this hearing it will be decided what plans, services, or other temporary orders are necessary to ensure final orders are rendered prior to the dismissal deadline.

At the close of the hearing, the Judge may set a dismissal date and give notice in open court to all parties of that date, the date of the next Permanency Hearing, and the date the case is set for trial.

The time and place of your Initial Permanency Hearing is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

Subsequent Permanency Hearings

If the Judge decides at your first Permanency Hearing that your child cannot be safely returned home, another Permanency Hearing will be held to allow you to continue with services and determine the progress you have made, or decide if your child's plan should be changed to adoption, or some other permanent arrangement outside of your home.

Subsequent Permanency Hearings must be held no later than every 120 days until entry of a final order. The court can hold the hearing at an earlier date.

The requirements and procedures are the same as for the initial permanency hearing.

The time and place of your Subsequent Permanency Hearing is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

Final Hearing (Trial)

The court must enter a final order before the first Monday after the first anniversary of the order appointing CPS temporary managing conservator, unless on or before that date the court has granted an extension of no more than 180 days.

A final order is one that:

- Requires that the child be returned to the parents;
- Names a relative of the child or another person as the child's managing conservator;
- Without terminating the parent-child relationship, appoints CPS as the managing conservator of the child; or
- Terminates the parent-child relationship and appoints a relative of the child, another suitable person, or CPS as the managing conservator.

For all Final Hearings, testimony and evidence will be offered regarding your child's best interest.

The time and place of the Final Hearing (Trial) is:

Time & Date: _____

Place: _____

Things I want to discuss or ask about:

Special Information for FATHERS

Establishing Paternity

Acknowledging paternity for a child born to unmarried parents is very important. Under Texas law, when a father and mother sign an Acknowledgment of Paternity and the court accepts these documents, the father becomes the “legal” father. Paternity means that fatherhood has been legally established and the father may be ordered to pay child support. A registry of paternity is established in the bureau of Vital Statistics.

A man who wants to be notified of a proceeding for the adoption of or the termination of parental rights regarding his child that he may have fathered may register with the registry of paternity:

- Before the birth of the child, but
- Not later than the 31st day after the date of the birth of the child.

If the relationship between the father and the child has been established under another law, or if the man begins a proceeding to adjudicate his paternity before the court has terminated his parental rights, then the man is entitled to notice of the proceeding regardless of whether he registers with the registry of paternity.

Notice of a proceeding to adopt or to terminate parental rights regarding a child must be given to you if you have timely registered with regard to that child.

Where can you get an “Acknowledgment of Paternity” form?

Acknowledgment of Paternity forms are available at the hospital, the local registrar, the Child Support Office, and the State Bureau of Vital Statistics at (512) 458-7393.

What if the father thinks that the child is his, but the mother won’t sign the Acknowledgment of Paternity with him?

The father can go to the Attorney General's office and open a case, or he can consult a private attorney.

What if the father does not believe the child is his?

He can ask for paternity testing. A court will look at the results of the paternity test and at other evidence that would link the father to the child. If the tests do show that the man is the biological father of the child, he may be ordered to repay the costs of the tests and may be ordered to pay child support.

