

CHILD PROTECTION CASES:

A Parent's Guide



10th Circuit Court- Family Division
Saginaw County Juvenile Center
3360 Hospital Rd.
Saginaw, MI 48603
(989) 799- 2821

Important Contacts:

Caseworker: _____

Phone Number: _____

Lawyer: _____

Phone Number: _____

Dates to Appear in Court:

Time:

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I

INTRODUCTION

Cases involving the protection of children are called child protection cases, neglect and abuse cases, or dependency cases. You may hear any of these terms used by people connected with your case. Being involved in a child protection case can be confusing and stressful for a family. This guide will help you understand what will happen in court and the things you need to do for the best interests of your child. This booklet is for general information only. To make it easy to read, a lot of details have been left out. If you have more questions, you should talk to your caseworker or lawyer.

Complaints that children are being neglected or mistreated are investigated by the Department of Human Services (DHS). The Department worker can provide you with more information about what DHS does. Many DHS investigations do not result in a court case. Your case may go to court if:

- You need court ordered services to keep your child safe in your home
- Your child is in danger and needs to be moved to a safer place
- You do not immediately make your home safer for your child
- The law requires court involvement

Child Protection cases are NOT about punishing parents or bringing criminal charges. Child protection cases are separate from criminal cases, divorces, paternity cases or custody and support hearings. The purpose of the child protection proceeding is just that – protection of the child.

All hearings regarding the child protection case will take place at the Tenth Circuit Court-Family Division which is located in the Saginaw County Juvenile Center, 3360 Hospital Road, Saginaw, Michigan. This court is also called “Family Court” or “Juvenile Court”. Family court is separate from the

main courthouse. The only cases handled in family court concern the well-being of children and families.

Unfortunately there is no bus service to the Saginaw County Juvenile Center. If you need assistance getting to a hearing you need to make your own arrangements or contact the DHS caseworker in advance of the hearing so the worker can help you arrange transportation. Free parking is available.



II

SOME THINGS ABOUT COURT IN GENERAL

- Try to dress modestly when you come to court, but formal attire is not required. The most important thing is to be there!
- Your hearing will never happen earlier than it is scheduled, but may sometimes be late. Please be courteous and patient. When it is your turn in the courtroom, we will try to give your case our complete attention.
- It is understandable that you may be upset when your child has been removed or you feel that you have been treated unfairly, but you will not make a good impression by yelling, using profanity, or being rude to court staff. The court expects its employees to treat you with respect and expects that you will be pleasant in return.
- It is important to attend every hearing that concerns you or your child, but missing a single hearing does not mean you have lost your child. If you are not present, the hearing will usually proceed without you. Contact your caseworker or attorney to find out what happened and what you need to do. Be sure to show up next time.
- At the end of most hearings you will be given a paper with the date and time for the next hearing. If the jurist says they are putting the date “on the record” rather than having it written down, be sure to write it down yourself or have someone write it down for you. If you lose the date, you can get it from your caseworker or from the court. The court phone number is (989) 799-2821. Push “0” for the operator and tell her that you need the date and time for the next hearing in your case.
- The court is required by law to appoint a lawyer for your child. That person is called a “lawyer-guardian ad litem” or “L-GAL.” The L-GAL is required to investigate the case, have contact with your child, and tell the court the position of your child in the case. The ultimate responsibility of the L-GAL is to represent the best interests of your child in court.

Sometimes what the L-GAL sees as in your child's best interest will not agree with what your child wants to happen.

- You have the right to be represented by an attorney at every hearing. If you show the court that you cannot afford to pay an attorney, the county will appoint and pay one for you. You can also hire an attorney of your own choosing, but you must do so in time for that attorney to prepare for the hearing. You also have the right to represent yourself at any or all hearings, but you should understand that the court makes its decisions, up to and including the termination of parental rights, based on what happens at those hearings. You don't get to do it over, so think very carefully about proceeding without a lawyer's help. If you go ahead at one hearing without a lawyer, you can hire one or see about having one appointed for the next hearing, but remember that the lawyer cannot undo what has already happened at earlier hearings. If an attorney is appointed for you, you may be required to reimburse the county for the costs of the attorney depending on your financial circumstances.
- Caseworkers are not hired or assigned by the court. They work for, or are contracted through, the Department of Human Services. When you have issues with your caseworker about how your case is being handled, you can contact the caseworker's supervisor. If the issues are still not resolved, you can discuss what to do with your attorney or bring the matter up at the next court hearing. The jurist is responsible for general oversight of your case and may be able to address problems that you raise. However, the jurist is going to be just as concerned with how well you are fulfilling your own responsibilities. Any failings of your caseworker are not an excuse for your own failings. If you have a case plan, you need to be working on it to the best of your ability, no matter what your caseworker does.

- The jurist is an impartial overseer of your case and is not allowed to talk to the parties about the case outside of the courtroom. The jurist makes decisions based on the testimony in court and on the papers presented during a hearing, which you and your lawyer are entitled to see.
- If your child has been removed from your care, there is no easy answer to when you will get your child back. It depends on the unique circumstances of your case. In general, the court wants to return children to their home at the earliest possible time where the child's safety can be assured. This can be hours, days or months. It depends to a large extent on the severity of what happened and on your own cooperation and effort.

III PRELIMINARY HEARING

The first hearing in court is called the “preliminary hearing.” When a child is removed from a parent’s care, this hearing must take place within 24 hours, excluding Sundays and court holidays. The purpose of this hearing is to decide whether the state has sufficient legal grounds to assert any control over your child. The Court will also discuss your rights, what will happen next in the court process, and determine where your child will stay until the next hearing. Court hearings are conducted by a judge or referee. Judges and referees are both commonly called “jurists”. If the jurist does not find that the state has shown a legally sufficient reason for the case to be in court, the case will be dismissed. If the case is dismissed, your child must be returned to your care. If the jurist does find that there is legal basis to keep the case in court, your child may be returned to your care under supervision of the Department of Human Services pending the next court hearing, or your child may be placed under the supervision of the Department of Human Services for placement elsewhere. The DHS may place your child with a relative, licensed foster parent, or in other approved placement.

YOU SHOULD ATTEND THE PRELIMINARY HEARING AND ALL OTHER HEARINGS CONCERNING YOUR CHILD. IF YOU HAVE BEEN NOTIFIED OF THE HEARING AND DO NOT ATTEND, THE HEARING WILL USUALLY GO ON WITHOUT YOU. YOU MUST PARTICIPATE IF YOU WANT TO HAVE A SAY IN WHAT HAPPENS.

In a few instances, the court may arrange for a parent to participate in hearings by video or telephone. For example, this may occur if a parent is in jail or prison or lives outside the state of Michigan.

The charges DHS is making are contained in a written document called a “petition.” If you feel that you are not prepared to respond to the charges made in the petition, you may request a continuance of the preliminary hearing to give you additional time to consider what to do.

At the end of the preliminary hearing you will receive a paper with the next hearing date (if any) on it. If your child is not returned home, you will be told when and where you can visit your child. The DHS or private agency worker assigned to your case will work with you to develop a service plan so that your child can safely return to or remain in your care. It is important that you participate in creating this plan. You may be court ordered to comply with its terms at a future hearing. You may also be asked about relatives who could care for your child if the child is not allowed to stay with you. You may be asked about the identity or whereabouts of the child’s other parent if that person is not already clearly identified or cannot be located. Please help the workers gather this information and answer these questions honestly. If you do not, it may delay the hearings or prevent placement of your child with a relative who could offer a safe home and a place where you may be able to visit your child more frequently.



IV

PLEA OR PRETRIAL

If the jurist decides at the preliminary hearing that your case should continue, the next hearing will probably be a plea or pretrial. That hearing will take place about 30 days after the preliminary hearing. This is a chance for you to admit or deny the charges in the petition. You are entitled to receive a written copy of the petition that contains the charges. You should read the petition. If you don't understand something ask your attorney or the protective services worker to explain the charge to you before the hearing.

At the hearing you will be asked whether you admit or deny the allegations contained in the petition.

If you deny the allegations, a trial will be scheduled where the State must present its evidence and try to prove the charges against you.

If you admit the allegations, there will not be a trial. The next scheduled hearing will concern the "disposition" – what should be done in view of the admissions made.

If you don't understand all of the charges in the petition, be sure to tell the jurist. If you believe that one or more of the allegations are not true, you should not admit them.

If you do admit the charges, the dispositional hearing, which is discussed below, may occur on the same day or may be set later. If you deny the charges, the dispositional hearing will not occur unless and until the charges are found true at the trial.

If you don't admit the charges, the case will be set for trial and the court will conduct a "pretrial," which is designed to narrow the issues for trial, make sure information and names of witnesses are exchanged before trial, and further consider other issues such as parenting time or the services plan.

V

TRIAL/ADJUDICATION HEARING

If you denied the charges at the plea/pretrial hearing, the next hearing is called the “trial” or “adjudication.” This usually takes place about 30 days after the plea/pretrial hearing.

At the trial the prosecutor will present evidence and witnesses to try and prove that you are responsible for the abuse or neglect of your child charged in the petition. You have the right to cross examine those witnesses and to present witnesses of your own to show that the charges are not true. If you have a lawyer, the lawyer will question the witnesses and offer the evidence on your behalf; however, you **MUST** cooperate with your attorney and help the attorney prepare to represent you at the trial.

This is not a criminal trial. The issue in this trial is whether the allegations in the petition are true or not and whether they show that you abused or neglected your child. The burden is on the State to prove the charges in the petition. You are not required to present evidence at the trial; however, if you choose not to present evidence, a decision will be made based upon the evidence presented by others. Keep in mind that your attorney has other clients and court commitments. You should contact your attorney **prior** to the trial date in order for your attorney to be prepared to represent you at trial. If you have requested a jury trial, the jury will decide whether these things have been proven or not. If you have not requested a jury trial, the jurist will decide these issues.

If, after all the evidence is presented, the charges are not found to be proven, the case will be dismissed. Your child must be returned to you. (The State could later follow up on any new allegations against you but not on the allegations that were considered at the trial.) If the charges are found to be proven, the next hearing will be the “disposition.” Disposition may occur immediately after the trial or on a different day.

VI

DISPOSITION HEARING

If you admitted the allegations or they have been proven at trial, the next hearing is the disposition. If it is not held on the same date as the plea or trial hearing, the disposition will usually be held within 35 days.

At the dispositional hearing a case plan and service agreement will be presented to the jurist for approval. This is a written document that describes what you will be required to do to recover full custody of your child. Before the dispositional hearing you will have the opportunity to meet with your caseworker and discuss what should go into your case plan. It is important for you to actively participate in the development of this plan. Be sure you understand each of the items in it. For example, if you are expected to go to counseling, ask where the counseling will occur and how it will be paid for. If you have any questions about transportation or the times when counseling will be scheduled, ask them. It is important that you understand and participate in developing every part of the case plan because you will likely be ordered by the jurist to comply with it in order to keep or regain care of your child. If you do not work with the caseworker to develop the case plan, the worker will still present one to the jurist, and you may be ordered to comply with a plan that is not the one you would want or that you believe would help you the most. If you are ordered to comply with the case plan, the jurist will review what you have done at review hearings, and your compliance will have a big impact on whether you keep or regain custody of your child.

The jurist will also consider the needs of your child for such things as medical care, education, and counseling.

If your child remains outside your care, the jurist will consider what kind of parenting time you should have with your child. Unless ordered otherwise by the court, the Department of Human Services must provide at least one hour per week of parenting time to you.

VII

REVIEW HEARINGS

Unless your case is closed after the dispositional hearing, the court will set hearings to review the service plan, your progress in completing it, what the caseworker has done to help you, and whether your child can remain in or be returned to your care. Your child's needs will be reviewed as well. The court will review your case at least every 91 days. The jurist may decide that hearings should be held more frequently in your case. For example, the jurist may want to review your participation in counseling or the caseworker's efforts to help you find housing. The caseworker will prepare a written court report for most of these hearings. You have a right to see this report and to question things you do not agree with. Review hearings may result in changes to the service plan or your parenting time. If a child was removed from the parent's custody, the child is usually returned when the service plan is successfully completed. A child may be returned to a parent's care while the case is ongoing if the parent is complying with the service plan and working to complete it. Children may be reintegrated into the home gradually and spend increasing amounts of unsupervised time with a parent before complete return occurs. This happens in cases where the jurist wants to determine that the parent has made enough progress to keep the child safe.

If you are not making substantial progress toward finishing the case plan, the jurist may direct the caseworker to move toward some other permanent plan for the child.

VIII CONCURRENT PLANNING AND PERMANENCY PLANNING HEARINGS

If a parent does not make substantial progress toward completing the case plan, the court will begin to ask the caseworker what other permanent plan is anticipated for the child if it turns out that the child cannot return to the parent's custody. This process is known as "concurrent planning." Efforts will still be made to reunify the child with a parent. This is the desired goal in almost every case, but the caseworker and court are required by law to achieve permanence for the child within a limited time; therefore, planning will also go on for such things as guardianship or adoption of the child so that one of those plans can be followed if the parent does not make significant progress within a reasonable time.

The court in Saginaw County will ask about this concurrent plan almost immediately. Don't let this scare you or make you give up on completing the service plan. The court wants to return your child to you unless it is clear that won't be possible.

The court is required to hold a "permanency planning hearing" within 12 months of placing a child in foster care and at least once every 12 months thereafter. The permanency planning hearing is to review the status of the child and the progress being made toward the child's return home or other permanent placement. This hearing may result in further proceedings to terminate parental rights. The hearing may be held earlier than 12 months after the child enters foster care if the jurist sees a lack of effort on the parent's part to follow through with the case plan.

IX

TERMINATION OF PARENTAL RIGHTS HEARING

As mentioned above, the court may direct the Department of Human Services, or the agency you are working with, to file a petition for termination of parental rights after a permanency planning hearing. The Department of Human Services may also file a petition for termination of parental rights at other times without orders from the court and is even required to file for termination of parental rights in a few specific circumstances.

Termination usually happens only when reasonable efforts at reunification have failed and after months of effort to work with the parent on the case plan. Termination may happen more quickly in some cases; for example, where the parent's rights have been terminated to other children or a child has been severely injured or sexually abused.

Just because the DHS requests termination, it does not mean that the jurist will grant it. Termination of parental rights will occur only if a jurist has decided after a hearing that there is clear and convincing evidence to support termination and that termination of parental rights is in the best interests of the child.

In every case where termination of parental rights is requested, the parents have the right to a hearing in which the parents can challenge any evidence against them and can present evidence on their own behalf. The hearing is often like a trial.

If rights are terminated, the children become permanent wards of the court or the state and are legally available for adoption. However, the parents have a 14-day period from the date of the written termination order during which they have a right to file an appeal. An attorney will be appointed to assist a parent in the appeal if the parent files their appeal within the 14 days.

X

OTHER PERMANENCY PLANS

A parent may seek to voluntarily release parental rights at any time during the case. The court will accept this release if the jurist finds it to be in the best interests of the child to do so. If a parent chooses to release parental rights, that parent won't have any right to see the child or participate in the child's upbringing. In some cases it may be possible for the parent to see the child in the future or have information about the child, but this will depend on the facts in the particular case. If the rights of both parents are terminated, either by release or after a termination hearing, the Department of Human Services will look for adoption of the child as the first choice of a permanent plan.

The court may also place the child in a guardianship. This may happen with consent of the parents or without their consent as an alternative to termination of their parental rights. In either case, control of the child is legally given to a relative or someone else who already has a bond with the child and who is deemed suitable by DHS. These guardianships are intended to last until the child becomes an adult.



XI

RIGHTS AND RESPONSIBILITIES

If the Department of Human Services takes your child into custody, you have rights which must be honored and you have responsibilities that require you to act in the best interests of your child.

- You have the right to be notified immediately if your child is removed. Under Michigan law, DHS must notify the parent by the fastest available means if DHS takes custody of a child. This may be done face to face, by telephone, or in writing if you cannot be immediately located. You have the responsibility to contact DHS. If you were not present when your child was taken into custody, it is important that you contact the DHS immediately. Call the number that DHS left for you.
- If the case goes to court, you have the right to be represented by an attorney. If you believe you cannot afford an attorney, you can inquire at the court about getting an appointed attorney and the county will appoint one to represent you if you qualify. If you hire an attorney or have an attorney appointed, you have the responsibility to work with your attorney. You must keep the attorney and the court informed of your contact phone number and address. Your attorney may make suggestions on changes you need to make in your life that will help in the effort to reunite you with your child. It is your responsibility to consider those suggestions carefully and make changes that will be in the best interest of your child.
- You have the right to be present at all hearings involving the custody of your child and the responsibility to attend those hearings on time. If you cannot attend the hearing in person due to incarceration or residing outside of Michigan, the court will make arrangements for your participation in some other way, such as by telephone.

- Except where the court has suspended your right to visit with your child, you have the right to visit (also called “parenting time”) with your child. In some cases, parents’ visits may be supervised. If you don’t agree with the parenting time plan you can request a review hearing before the court. You have the responsibility to be on time for visits. It is very difficult for a child when they expect to see their parent and the parent doesn’t come. DHS can require that you call before visits and that you arrive early in order to assure that the visit is positive for the child. You have a responsibility to bring appropriate items, such as nutritious snacks and drinks, diapers and games, etc. for your parenting time with your child. It is your responsibility to discuss a plan for the parenting time with your worker.
- You have the right to participate in the development of a case plan designed to outline what you must do to keep your child at home or to get your child returned to your care. The law requires that DHS present a case plan for you and your caseworker to sign that clearly explains what you are expected to do and what services the DHS will help you obtain. You have the responsibility to follow through with your part of the case plan. If you think the plan should be modified, discuss it with your caseworker. The jurist will likely order you and the DHS to carry out this plan, so be sure you discuss it with your worker and understand what it requires.
- You have the responsibility to pay support toward the cost of care for your child while the child is in out-of-home care. The court will usually order you to complete and mail or deliver financial forms to the court within 10 days. The court will then issue an order about whether you should pay support and how much that support should be. It is your responsibility to pay the child support that is ordered in a timely manner. It is your right to ask for a review of your situation if you cannot pay.
- You have the right to consent to your child getting married or enlisting in the military. If the caseworker disagrees that marriage or the military is in the child’s best interests, the

caseworker may ask the court to review the issue.

- You have the right to express a religious preference for your child. The people caring for your child will need to find a resource for your preference and enable the child to attend religious functions. They will not require your child to participate in religious services or functions if the child does not want to do so.
- You have the right to give permission for any major alteration of your child's appearance. Examples of major alterations in appearance may include such things as long hair being cut short, tattoos or the piercing of any body parts.
- You have the right to consent to major medical treatment except in cases of emergency. Major medical treatment/care is defined as planned hospitalization; surgical procedures involving general anesthesia (this may include general anesthesia being used for very young children when tubes are being put in their ears); birth control prescriptions or intrauterine devices (IUDs); abortions or the use of psychotropic medications or any drugs prescribed for mental illness or behavioral problems. You have the responsibility to keep the caseworker notified of your whereabouts in case you are needed to consent to any of the above treatments. If you are not available to sign consent, the caseworker will ask the court to grant permission for treatment. If you disagree with the need for treatment and refuse consent, the DHS may ask the court to approve the treatment without your permission. The court would do so only after a hearing.
- You have the responsibility to provide the caseworker with information regarding any Medicaid and any other public or private medical/health insurance coverage of your child and to make that coverage available to the child. It is your responsibility to cooperate with the caseworker in providing any financial or other information needed to apply for Medicaid or other medical coverage for your child.
- You have the responsibility to provide the caseworker with any of your child's necessary school, medical or counseling records and with information about any financial or monetary benefits your child may currently have or be

eligible for. Financial or monetary benefits may be inheritances, trust funds, corporation shares, stocks or dividends, bank accounts, social security payments or child support payments.

- You have the responsibility to provide your child's clothing, school materials, and any belongings that are important to the child when your child is placed in out-of-home care. Important belongings may include such things as toys, games, books, blankets, pillows, pictures, musical instruments, radios, bicycles or sporting equipment.

XII

INDIAN (NATIVE AMERICAN) CHILD WELFARE

In addition to state law, a federal law called the “Indian Child Welfare Act” (ICWA) directs the state’s handling of cases involving Indian (Native American) children. An “Indian child” is a child who is a member of, or eligible for membership in, an Indian tribe. Only Indian children from a federally recognized Indian tribe come under the ICWA. The Indian tribe itself determines who is eligible for membership, and a tribe may choose to intervene in the case of an “Indian Child”. In some situations the case may actually be moved to a tribal court.

The jurist should ask at the preliminary hearing if the child is of Indian heritage. If you believe that your child is, or may be, of Indian heritage so that this federal law might apply, please tell the DHS worker, the jurist and your attorney. DHS and the court will take steps to determine whether your child does come within the provisions of the ICWA. If ICWA does apply it increases the legal protections for you and your child.

STATEMENT OF PURPOSE:

The purpose of the Family Division of the 10th Circuit Court is to guarantee a fair, efficient, and speedy resolution of cases involving children and to insure that those under its jurisdiction will receive treatment, care, and guidance consistent with their needs and the public safety.

