

PARENT GUIDE

to

DEPENDENCY PROCEEDINGS

PREPARED BY THE

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DEPARTMENT OF SOCIAL SERVICES

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YOUR CHILD WAS PLACED IN PROTECTIVE CUSTODY

This guide was written to help you understand:

- 1) What that means.
- 2) Why it happened.
- 3) What your rights and responsibilities are.
- 4) How the Juvenile court system works, and what will be happening to you and your child.
- 5) How Child Welfare Services can help resolve the safety issue(s).



The information in this guide is based upon the Welfare and Institutions Code of the State of California, which is the legal document used as the basis for Dependency proceedings.

This guide is designed to explain the role of the Department of Social Services in the dependency process. The Department has chosen the most commonly asked questions and provided answers to these questions.

Because laws and procedures do change this guide should not be used as the final word. For answers to specific questions, please contact your attorney or social worker.

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Why has my child been taken from me?

A law enforcement officer or social worker believes that something has happened or will happen to your child and that they are not safe.

It could be that:

- Your child had inadequate care or supervision; or
- Your child was neglected or abused; or
- Your child was left with someone who could not or would not provide safe care.

The law allows a law enforcement officer or authorized social worker to take temporary custody (protective custody) of your child if the law enforcement officer or social worker believes your child to be in danger of abuse or neglect as defined in Section 300 (WIC 305). That means that the law enforcement officer or social worker can remove your child from their home, school, or wherever your child is found. When that happens, the Department of Social Services is responsible for placing your child in a safe place. That safe place can be a relative's home, or it can be a licensed foster home. If your child is not returned to you within 2 days (48 hours) it is likely that the social worker is going to ask the court for an order to temporarily detain your child.

What is confidentiality?

What is said in any hearing about your child is confidential, kept private among those who are involved with your child. You will be asked to share very personal information about yourself such as, medical or mental health history, alcohol or other substance abuse information, income and employment status, criminal record, etc. Confidentiality restrictions were established as a way to protect the privacy of individuals and to ensure that personal information is disclosed only when necessary. All court documents are confidential.

Confidentiality means that you only have the right to talk about your case to participants in the proceedings such as your attorney, social worker, and your child's other parent. **You cannot** share Juvenile Court documents such as Petitions or Court Reports with others without Court permission.

Your social worker, attorney and other professionals involved with your court case have been trained in confidentiality and are part of a Multi-Disciplinary Team (MDT) of professionals who are designated as being knowledgeable and trained about the issues of the prevention, identification and treatment of child abuse, and confidentiality.

A Juvenile Court hearing is private: no one is allowed in the courtroom except court personnel and the people who are involved in the case. However, if you ask to have a friend

or relative present for moral support, that may be allowed, and confidentiality applies to them.

What is the first step in the process?

As a parent or guardian, you have very important rights and responsibilities with regard to your child. You have the right and the responsibility to:

- decide where your child will live and to provide him/her with a place of residence;
- decide what kind of medical care your child will receive and who may provide that medical care;
- to care for your child and keep him/her safe from harm; and
- the right to make the important decisions about his/her life.

If your child becomes a dependent of the court, the judge will make those important decisions.

The first step in dependency proceedings occurs when the social worker files a petition with the Juvenile Court, and schedules a Detention Hearing.

The social worker will notify you of the place, date and time of the Detention Hearing, unless you cannot be located.

IT IS VERY IMPORTANT FOR YOU TO BE AT THE DETENTION HEARING.

If there is some reason why you can't be there, you need to tell the social worker about it. The hearing will still take place without you, but another hearing may be scheduled for a time when you can be present.

What is meant by abuse or neglect? Who decides?

In California, Section 300 of the Welfare and Institutions Code, allows a child under the age of 18 to come within the jurisdiction of Juvenile Court if he/she:

- has been physically hurt by a parent or guardian (when it wasn't an accident), or if there is a serious risk that the child will be hurt;
- has suffered physical or emotional harm, or is in danger of suffering such harm, as a result of the failure of the parent or guardian to properly supervise, protect, or provide for him/her;
- is suffering serious emotional damage as a result of the conduct of the parent or guardian;
- has been sexually abused, or is at risk of being sexually abused by his/her parent or guardian, or the parent or guardian has failed to protect the child from sexual abuse when they should have done so;
- if the child is a ward of someone who has been convicted of causing the death of another child through abuse or neglect;

- has been left without any provision for support;
- has been subjected to an act of cruelty by the parent or guardian or a member of the household;
- is the brother or sister of a child who has been abused or neglected in any of the ways noted above.

Your child was placed in protective custody because there was reason to believe one or more of those things has happened to your child, or is very likely to happen, and without protective custody they would not be safe.

The temporary protective custody can only last for 48 hours (two working days). Before this time is up, your child must either be released to you or another parent, or a petition must be filed with the Juvenile Court. If a petition is filed, a Detention Hearing must be held on the third working day from the time your child was put in protective custody.

Both law enforcement and the Department of Social Services must immediately investigate the situation. In San Luis Obispo County law enforcement and the social worker often work together. The social worker will find out all they can about what has happened to your child and how it happened. The social worker will provide information to you about what needs to be done to make the situation safer.

Where is my child now?

Your child may be placed in a relative's or friend's home, or in a foster home. All of these homes must be checked out by the social worker to make sure that they are a safe place for your child. The social worker will give you a telephone number to call to find out more information about where your child has been placed.

Will my child be safe in foster care?

Relatives and non-related extended family member homes can be approved and funded by the Department of Social Services so that they can take care of your child. These homes are required to meet the same standards as a licensed foster home.

Foster homes are licensed by the County or certified by a licensed foster family agency. Before foster parents can be licensed or certified, they are checked out to be sure that the adult(s) living in the home are in good health; that they have cleared a criminal record check; and that their home is safe and reasonably well kept. Foster parents are provided with training and support to help them do a good job of taking care of the children who are placed in their care.

Your child will tell you about what's happening in the foster home. You need to alert the social worker if you believe that things are not going well for your child. Remember, though, that all families are unique and that your child will experience some adjustments.

If my child is in protective custody does that mean I will go to jail?

If law enforcement believes that you have committed a crime by hurting or failing to protect your child, you may be charged with a crime. If so, your case will be heard in criminal court with a different judge hearing your criminal case. There are many situations where a child is placed in protective custody, but the parent(s) do not face criminal charges.

The judge in the Juvenile Court does not decide whether you have committed a crime.

What rights do I have now that my child is in Protective Custody?

You have the following rights:

- You have the right to be notified as soon as possible, that your child has been removed from your home by a social worker and placed in protective custody.
- You have the right to be told why your child was placed in protective custody.
- You have the right to be assured that your child is safe.
- You have the right to receive a telephone call from your child unless there is a safety reason that this should not happen.

What happens if my child is not returned to me?

If the social worker decides that your child cannot be returned to you, the social worker will file papers, called a *petition* and a *Detention Report* in the Juvenile Court, asking the Juvenile Court judge to make an order to keep your child out of your home for the present time.

My child's other parent hasn't even seen my child in years. Why has the social worker requested his/her home address?

The law requires The Department of Social Services to notify *all* parents when a petition is filed with the Juvenile Court. The law also requires the Department of Social Services to consider providing reunification plans for both parents if a child is removed from the care of the parent who was caring for him/her.

Do I need an attorney in court?

You have the right to have an attorney represent you in Juvenile Court.

What if I want an attorney but cannot afford one?

You will be asked about your income and if you meet certain financial guidelines the Court will appoint an attorney to represent you. If you or your child is represented by a court appointed attorney you may be billed for that service, based on your ability to pay (WIC 903.1).

All of the court appointed attorneys have met the juvenile dependency standards of training and experience.

How do I find a qualified attorney?

Friends and relatives are one source; the telephone directory is another. Child Welfare Services has a list of experienced Juvenile Court attorneys. We recommend that you select an attorney who is experienced in Juvenile Court dependency matters.

Does my child need an attorney?

Your child will have an attorney appointed to represent him/her.

What will happen in court at the first juvenile court hearing?

At the Detention Hearing the first decision the judge makes is whether or not your child will remain detained (kept out of your home). If the Judge orders your child be detained he/she decides where your child will stay, what the visitation will be between your child and you, and when the next hearing will be. The Judge does not decide whether or not the petition is true, only whether or not there is reason to believe your child needs the Court's protection while the investigation proceeds.

At the first court hearing, the following things will occur:

- You will receive a copy of the petition.
- You may be appointed an attorney.
- Your attorney will present your point of view and information to the judge.
- You will be asked to tell the court about your child's relatives and close family friends. The Judge may ask for their addresses and telephone numbers, so that your child can be placed with a relative or friend, if possible.
- You have the right to a trial and if you request one, the judge will set a time and date for that trial.
- The social worker will ask the judge to make orders about your child.
- The judge will decide whether your child can be returned to you immediately, and if your child can't be returned immediately;
 - The judge will tell you when and where you can visit your child.
 - The judge will tell you the date and time of the next court hearing.

If the judge says that my child can't be returned to me or another parent yet, what happens next?

It is much better for your child to be placed with a relative, while you are working to overcome the issues that brought your family before the court.

Beginning at the time of the initial removal, the social worker will ask you to identify your child's relatives for possible placement. Please bring as much information as you can about all of your child's relatives to the first court hearing.

In the back of this booklet is a two (2) page form *Family Information Sheet* for you to fill out and give to the social worker as soon as possible.

In most cases you will be offered a reunification plan with services to help your family reunify; at the same time Child Welfare Services must also make a plan for your child if you should fail to regain custody during the time allowed. This is called the Concurrent Plan. If you are not successful in reunifying with your child, a permanent plan (adoption, guardianship, or a planned permanent living arrangement) has to be chosen. The person(s) who have been taking care of your child will be considered for that permanent plan before anyone else. If at all possible, that person should be a relative. When you provide as much information as you can about your relatives, your child will have the best chance of staying within your family if you cannot reunify with him or her.

For the next hearing the social worker will prepare the Jurisdiction and Disposition Reports for the court. Your social worker will prepare a Jurisdiction Report, before the Jurisdiction hearing which explains the petition, the results of the investigation, and tells why your child needs the protection of the Court. The Jurisdiction Report will be the basis for the Court to consider Jurisdiction over your child. You will receive a copy of the report before the hearing.

What is the Jurisdiction Hearing?

A Jurisdiction Hearing must be scheduled within fifteen working days of the Detention Hearing, unless you agree to have it later.

At the Jurisdiction Hearing, the Judge determines whether the allegations are true. If they are found to be true, the Court may take Jurisdiction. Court Jurisdiction can be taken when:

- Parent(s) admit the facts in the petition are true.
- Parents submit to jurisdiction – meaning they do not admit to anything but allow the judge to make the decision based on the information given.
- Parent(s) contest or deny that the petition is true but the Court finds the petition to be true.

If the judge does not find the petition to be true, your child may be returned home and the petition may be dismissed.

You have a right to challenge the information presented in the Jurisdiction Report and to have a Contested Jurisdiction Hearing; that means you have the right to have the petition proved to be true. A Contested Jurisdiction Hearing is like any other trial, except that it is held before a Judge only; there is never a jury in a Juvenile hearing. Witnesses may be presented to testify that the allegations are true, and you may present witnesses of your own to testify that they are not true. The Judge will decide.

What is the Disposition Hearing?

A Disposition Hearing must be set within ten working days after the Jurisdiction Hearing, unless everyone agrees to have it later than that. Quite often, the Jurisdiction and Disposition Hearings are held on the same day.

The social worker will prepare a Disposition Report and make recommendations for the Court. You will receive a copy of the report before the hearing.

You have a right to have a Contested Disposition Hearing if you do not agree with the recommendations.

At the hearing the judge will decide whether your child can be returned to you with or without continued involvement of the court and social services, and what if anything needs to be done to protect your child. A case plan may be ordered. The case plan explains in detail what you must do to get your child back in your care, or if your child is allowed to live with you what you must do in order to keep your child with you and have dependency dismissed.

The case plan may include things you need to do to get your child back, such as:

- Counseling for you and your family;
- Treatment for alcohol and drug use;
- Testing for alcohol and drug use;
- Parenting classes.

Together you and your social worker will work toward getting your child home. There are some occasions when reunification is not ordered, such as:

- The child was subjected to life threatening injury by the parent;
- The parent has been convicted of a felony of a kind which would endanger the child (like child molestation or child abuse);
- The parent has a long history of serious substance abuse and has refused treatment in the past three years;

- The parent has one or more children who have previously been dependents of the court, and has failed to reunify with that child and a permanent plan was made for them;
- The parent is unable to benefit from reunification services because of mental or emotional problems.

Most parents are provided reunification services. Your case plan may be called a reunification plan because it tells you what you must do to get your child back.

If your child is living with you, your case plan is called a family maintenance case plan.

It is very important that you work hard on your case plan and work with your social worker on developing and maintaining a safe lifestyle for your family.

Why do I have to deal with so many different social workers?

There are many different kinds of services required if your child goes through the whole dependency process. The job of the first worker (Emergency Response) involved with your family is to collect information, determine what safety issues exist and figure out a temporary solution. The job of the second worker (Dependency Investigation) is to present the facts to the Juvenile Court. The job of the third worker (Family Maintenance/Family Reunification) is to receive your case after the court process and work with you to help you solve safety issues so Child Welfare Services and the Juvenile Court will no longer be involved in your life. If reunification is not successful, there may be a fourth worker (Adoption) to develop a permanent plan for your child, either through adoption, guardianship or a planned permanent living arrangement.

What happens if my child becomes a dependent of the court?

The court will supervise your case. Your social worker will visit with you and your family. Your social worker will work closely with you to help you establish and maintain a safe and healthy home for you and your children. Your case plan will probably require you to do some things you wouldn't otherwise do, such as attend therapy and test regularly for drugs and alcohol. At the next hearing, you will need to show the Court that whatever risk(s) previously existed for your child no longer exist, and that your child can be safe in your care.

How much time will I have to work on my case plan?

If your child is under three years old when he/she was detained, you have a right to six months of reunification time. If you have completed most of your case plan at six months, and the court can find that there is a substantial probability that your child could be returned to you by a twelve month hearing, you could be given extra time to complete the case plan. If your child is over three years old at detention, you have a right to twelve months of

reunification time. If after twelve months you are doing very well, and have almost finished your entire case plan, the judge may give you extra time (up to 18 months from the date your child was ordered detained).

What will my social worker do to help me?

- Work with you to help you have your child returned to you.
- Meet with you at least once a month to go over the case plan with you, and help you find and use the services you need, and assess your progress.
- Be available by telephone to answer any questions and concerns you may have.
- Arrange visits between you and your child, as ordered by the court.
- Visit your child every month wherever they are living, to make sure your child is safe and doing well.
- Arrange to get your child all the services he/she needs, including medical and dental care.

How often will the judge review my case?

There will be court hearings at least every six months for the judge to review how you are doing on your case plan, and whether your child can return home to you and/or to dismiss dependency. Your attorney will represent you at all of these hearings.

Your case will be reviewed within six months after the Disposition Hearing.

If your social worker believes that your child can safely be returned to you, Family Maintenance services may be recommended to the court.

If your social worker believes that your child cannot be safely returned by the hearing date but believes there is a very good chance of return by twelve or eighteen months from the detention date, the social worker may recommend to the court that you be given that extra time.

If the court finds that return by twelve months (children under 3) or eighteen months (children over 3) is unlikely, Reunification services may end.

At the six, twelve and eighteen month hearings, you have a right to a contested hearing.

What happens if I don't complete my case plan?

The judge may order that your services be terminated, and that a special court hearing be scheduled to decide where your child should live until he/she turns eighteen years of age. The home may be in a foster home, or with a guardian. If the court finds that your child is adoptable, he/she may be adopted.

What happens if reunification services are terminated?

If the court decides that there will be no reunification services or services are terminated another hearing will be held 90 to 120 days from the hearing where reunification services were terminated to determine whether or not your child is adoptable. If your child is found to be adoptable, your parental rights may be terminated. That means that you will no longer be your child's legal parent, and your child may be adopted by someone else.

You have a right to a contested hearing on this issue.

If your child is found *not* to be adoptable, the court may appoint a guardian for him/her. You will still be your child's legal parent, but the guardian will be responsible for your child and will make the important decisions about their life. The court may determine how much contact you may have with your child, or may leave that to the guardian to decide.

If a guardian is not available, your child will be placed in a planned permanent living arrangement (like a foster home). You will remain your child's legal parent, and it is possible that your child can be returned to you at some point.

We hope that the information presented has helped answer some of your questions and helped you understand the dependency proceedings process.

REMEMBER:

Your child cannot be held more than two days unless a petition is filed with the Court; the Court must hear the petition by the third day.

Your child cannot be kept out of your care unless the Court determines that it is necessary to protect him/her.

You have a right to be heard in Court, and you have a right to be represented by an attorney at every stage in the proceeding.

If the Court decides that your child needs to be cared for by someone else in order to protect him/her, you will be provided with a very clear and specific list of things you need to do in order make it safe for your child to be returned to you.

For as long as you are provided reunification services, you will be provided with resources to do the things you need to do to reunify with your child.

The matter will be brought back before the Court at least every six months, and at those review hearings you will have an opportunity to show the Court that you have done those things the court ordered to ensure your child will be safe in your care.

The law requires the Court and Child Welfare Services to do everything reasonable that they can to help you get your child back.

What should I do if I think that my social worker is being unfair?

If you think that your social worker is being unfair, you should discuss your concern(s) with him/her. You should also discuss your concerns with his/her supervisor. You also can discuss your concern(s) with your attorney. Your attorney may talk to the social worker or the social worker's supervisor, and may resolve the problem. If the problem is not resolved, you may also contact a Regional Manager at 805-781-1825. If after speaking to a Regional Manager there is still no resolution on the issue you have the following options:

- If you have an open Child Welfare case, and you do not agree with how your case is being handled (i.e. visitation approved, services being offered, services being discontinued, etc.) you have the right to be heard by the judge. Be sure to attend any scheduled court dates and bring information that you feel will help the judge make a decision about your case.
- If you do not agree with where your child is living while in foster care you can file a placement review request by submitting a DSS CWS 710 Placement Grievance Review Request.

You may also complete the enclosed **Service Satisfaction Survey** and mail to:

Department of Social Services
P.O. Box 8119
San Luis Obispo, CA. 93401-8119

or

bring the form to our office at 3433 South Higuera in San Luis Obispo