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Guide for Parents: Walking Your Way Through the Nebraska Juvenile Court Child Protection Process

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Guide for Parents

Walking Your Way Through
the Nebraska Juvenile Court
Child Protection Process

Nebraska Supreme Court
Administrative Office of the Courts
P.O. Box 98910
Lincoln, NE 68509



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Nebraska Court Improvement Project
2007 Edition



*This handbook is intended to provide
general information, not legal advice. If
you have questions concerning what you
read, please speak with your attorney.*



Acknowledgements

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Illustrations by Eric Wright

With special thanks to Victoria Weisz, Ph.D., M.L.S., Mark Ells, J.D.,
Angela Williams, Chris Wiklund and Janet Hammer

Portions of this pamphlet were excerpted, with permission,
from the Dependency and Neglect Pamphlet prepared by
the Colorado Judicial Branch and the Handbook for Parents
and Guardians in Child Abuse and Neglect Cases prepared by
the New Mexico Court Improvement Project.

This publication was made possible by Grants No. 90C00932 and G-0001NESCIP from the Children's Bureau, Administration on Children, Youth and Families, U.S. Department of Health and Human Services. The contents are solely the responsibility of the authors and do not represent the official views or policies of the funding agency, nor does publication in any way constitute an endorsement by the funding agency.

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Order of Protection: A court order requiring certain rules to be observed by the parent or others involved in the hearing, for a specified period of time.

Permanency Goal: A goal set by the judge concerning plans for the child's permanent living arrangements.

Petition: The legal document that recites the allegations that the state believes support the court becoming involved with the child and family.

Reunification: The goal that children be returned to live with their parent(s).

TPR: Termination of parental rights. This means that a parent no longer has any legal rights to their child and is no longer responsible for the child.

3A: This is the label that a judge or an attorney might use to refer to an abuse and neglect or dependency case.

3B: This is the label that a judge or an attorney might use to refer to a status offender case. (See below.)

State Ward: A child who is in the legal custody of the Nebraska Department of Health and Human Services.

Status offender: means a juvenile who has been charged with or adjudicated for conduct that would not be a crime if committed by an adult. Some examples are truancy, running away from parents or guardians, or being ungovernable and disobedient.

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THE BASICS

Common Questions

Q: What happens after my child is removed from my home?

A: If your child is removed from your home, you will be notified in writing from the state of Nebraska, and you will receive a copy of the petition that has been filed with the court.

Q: When should I appear for scheduled hearings?

A: It is best to arrive 15-20 minutes before your scheduled hearing. This gives you a chance to meet with your attorney and go over what's going to happen. Also, the judge likes to start on time, so it is important to be prompt.

Q: What should I wear?

A: Dress appropriately, first impressions are always important. The judge, the guardian ad litem (GAL), and your caseworker notice your appearance, so look respectable.

Q: What is basic court etiquette?

A: You must show the judge respect and always address him or her as judge or your honor, use good eye contact, and be polite and attentive. Most important, have a good attitude and take it seriously.

Q: Will I as the parent have an attorney?

A: Yes. You have the right to an attorney. If you cannot afford to pay for one, the court will appoint one for you at no cost to you.

Q: Will my children have their own attorney?

A: Yes. The judge will appoint an attorney to represent your child's best interests. This attorney is usually called a Guardian Ad Litem. You cannot use the child's attorney and they cannot use your attorney. In some cases, your child can request an attorney if he/she disagrees with how his/her GAL is representing his/her wishes.

Finding: A decision made by a judge.

FGC: Family Group Conferencing. This offers a new approach for families in which children have been maltreated. The process is based on the belief that families and communities must partner together to ensure child safety and well being. FGC is a facilitated process through which an extended family works to develop safety plans that protect their children.

Foster Care: Out of home care in a family setting provided to a child who is involved in an abuse or neglect case, who has been removed from his/her home. Foster care may include living with a relative or with a family the child does not know.

GAL: Guardian ad litem. This is the attorney who legally represents your child's best interests.

Hearing: A formal proceeding where issues of fact or law are to be argued in a court before the judge. This is very similar to a trial.

ICWA: The Indian Child Welfare Act is both a state and federal law, which regulates placement proceedings involving Indian children. If your child is a member of a tribe or eligible for membership in a tribe, your family has the right to protection under the ICWA. These rights apply to any child protective case, adoption, guardianships, termination of parental rights action, runaway/truancy matter, or voluntary placement of your children. The goal of the act when it passed in 1978 was to strengthen and preserve Native American families and culture.

Judge: One who conducts or presides over a court and resolves controversies between parties.

Minor: This is a person who is under the age of legal competence. In Nebraska this age is 19 years of age.

DEFINITIONS OF COMMON TERMS



Abused, Neglected, and/or Dependent Minor: A child who has been harmed, or is at risk of being harmed by physical violence or emotional abuse, by someone responsible for caring for him or her; or a child who has been harmed, or is at risk of being harmed, because the person responsible for him or her does not provide the necessary care for the child.

Allegations: These are statements of what is believed to have happened and reasons why your child needs to be in the State's custody.

Appeal: When a attorney asks a higher court to review a case if you or another party disagrees with the decision.

ASFA: The Adoption and Safe Families Act provides federal regulations that govern federal foster care law. ASFA was enacted to remedy problems with the child welfare system.

Case Plan: This is a written plan for the child's care and treatment, for any family services to be provided, and for the future care of the child prepared by the Nebraska Department of Health and Human Services. As a parent you actively participate in creating the case plan. It includes a placement goal for the child, developed by the caseworker, which could be to return the child to his/her home, or find other living arrangements.

CASA: Court Appointed Special Advocate. They are volunteers who advocate for the child's best interests and safety.

Dependency case: any juvenile who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian.

Due Process: Refers to fairness in the court process according to the laws.

Evidence: Proof or testimony submitted to the court to determine the truth or falsity of alleged facts.

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Q: Who attends the court hearings?

A: You, the child or children, the caseworker, the foster parents or relative caregivers, the Court Appointed Special Advocate (CASA), the Guardian Ad Litem and other individuals you want to invite can attend the court hearings. However, this hearing is open to the public so other people may also attend the hearing.

Q: Who is legally required to report child abuse?

A: In Nebraska, everyone is legally required to report child abuse.

Q: How do I show that I am doing better as a parent?

A: It is important for you to participate in the services provided to you. You need to show that you are learning new things about being a parent. You should spend time during your visits with your child practicing these new parenting techniques. Make sure to keep your attorney informed about how you are doing and what you have completed in the case plan.

Q: What if I don't understand the questions?

A: Do not guess at an answer and never lie. If you do not understand a judge or an attorney's question asked in the court hearings, do not answer the question until you understand. If you do not understand, ask the judge or your attorney to explain it.

Q: Does everyone have to do what the judge says?

A: Yes, court orders must be obeyed. Anyone coming to court must follow the directions of the judge. Anyone who does not obey a court order could be jailed, fined, or could have his or her child or children taken away.



Rights

Parents have many rights. The judge will advise you of your rights before you are required to enter a plea. For a full understanding of your rights, you should ask your attorney to explain your rights to you. Here are the most important rights parents have in court:

1. You have the **right to an attorney**. If you cannot afford to pay for one, the court will appoint one for you.
2. You have the right to **admit or deny** the allegations made about you and your family, and in some cases plead “no contest.”
3. You have the right to be **notified** of all court hearings and to fully participate in them.
4. You have the right to a **language interpreter** or a sign language interpreter if you need one.
5. You have the right to **talk** to your caseworker and attorney.
6. You have the right to have your attorney ask **questions of the witnesses** in court.
7. You have the right to have your attorney **present evidence** including having witnesses testify or testify yourself about the allegations of child abuse, neglect, or dependency.
8. You have the right to know what is in your **court file** and what is in most of the reports that are given to the court.
9. You have the right to **see your child** if he or she has been placed outside your care, unless the judge determines that visitation is not in the best interests of your child.
10. In most case, you have the right to **services and assistance** to prevent the removal of your child from your home, or to make it possible for the child to be returned to the home. Your attorney can also request the judge to order needed services if they are not provided in a timely manner.

Your Service Provider:

Name: _____

Address: _____

Phone: _____

Notes: _____

Your Detention Hearing is:

Time: _____

Date: _____

Place: _____

Your Adjudication Hearing is:

Time: _____

Date: _____

Place: _____

Your Dispositional Hearing is:

Time: _____

Date: _____

Place: _____

Your Review Hearing is:

Time: _____

Date: _____

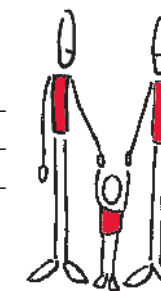
Place: _____

Your Permanency Hearing is:

Time: _____

Date: _____

Place: _____



IMPORTANT NAMES, ADDRESSES, AND NUMBERS

Your Judge:

Name: _____

Address: _____

Phone: _____

Notes: _____

Your Caseworker:

Name: _____

Address: _____

Phone: _____

Notes: _____

Your Attorney:

Name: _____

Address: _____

Phone: _____

Notes: _____

Your Child's CASA Volunteer:

Name: _____

Address: _____

Phone: _____

Notes: _____

Your Child's GAL:

Name: _____

Address: _____

Phone: _____

Notes: _____

11. You have a right to receive a **written case plan** that should be signed by the parents, within 60 days of the child's removal from your home.
12. You have the right to be given a copy of the **judge's written decisions**.
13. You have the right to **appeal** certain rulings or decisions of the judge if you do not agree with what the court ordered.

Rights of Non-custodial Parents

1. Non-custodial parents, who do not themselves face allegations of abuse and neglect, usually have the right to have their child live with them if their child has been removed from the custodial parent.
2. Non-custodial parents have all the previously listed rights of parents, including the right to a court-appointed attorney.

Rights of Parents of Indian Children

1. Courts have the responsibility to determine whether a child is a member or eligible for membership in an Indian tribe.
2. Upon the court's determination, the tribe must be notified. The tribe may get involved in the case or request transfer of the case to the tribal court.
3. Courts must notify parents and custodians of any proceeding that involves an Indian child and their right of intervention. Notification must be made by certified or registered mail with return receipt requested.
4. The grounds for any case under the Indian Child Welfare Act (ICWA) must be proven at a higher standard than for non-ICWA cases.



Special Concerns for Parents

- If you as a parent do not understand something included in this handbook, or something the judge says, ask your attorney to explain it to you.
- If your child has been out of your home for 15 out of the past 22 months, a petition or motion for “termination of your parental rights” (TPR) may be required to be filed in the court by the state of Nebraska. If the petition or motion is successful, your legal rights to your child will be ended. Therefore, it is extremely important to cooperate with all services to ensure your child is returned to you quickly.



Guardian Ad Litem (GAL): The GAL is the attorney who legally represents your child’s best interests. The GAL is responsible for investigating the allegations presented in your child’s case, interviewing the professionals working with your child, and making recommendations to the court regarding what is in your child’s best interest. The GAL will visit your child, and other persons involved in your child’s case. *If you believe your child is not getting this help from their GAL, you should tell the judge in your case.



County Attorney: The county attorney files the petition and is responsible for initiating the abuse and neglect case. The county attorney works with the caseworker from the Nebraska Department of Health and Human Services in your case to make recommendations to the court regarding your child’s best interest.

Court Appointed Special Advocate (CASA): These people are specially screened and trained volunteers appointed by the court to assist your child and the judge. They gather information about your child and provide recommendations to the judge. The CASA volunteer’s only role is to advocate for the best interests and safety of your child. Not every case will have a CASA volunteer.

Foster Care Review Board: These are five member panels of citizens who regularly review the cases and plans of children in out-of-home care to make sure that the children’s best interests are protected. These local boards meet in locations all around the state and review the plans of children in their own communities. You as the parent will be notified of any hearing reviewing your child’s case and have the right to attend and send in your written comments.





JUDGE

WHO'S INVOLVED

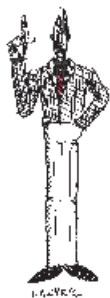
The Judge: The judge is the person who conducts the court hearings. He or she will listen to each side and will make a decision that is in the best interests of the child.

Your Attorney: As a parent, an abuse and neglect case may lead to the termination of your parental rights so it is important for you to get an attorney. The court process is complicated, and an attorney will advise you and advocate for your rights at every stage of the court process. This can include helping you get services you may need to help correct the problems with your situation. If you cannot afford an attorney, the court will appoint one for you at no cost to you. You should meet with your attorney before every hearing and ask him/her to help you understand your rights. Your attorney should tell you about the hearings you are going to attend and what to expect. He or she should advise you about decisions you will need to make. *If you are not getting this help from your attorney you should tell the judge in your case.



CASE WORKER

Your Caseworker: If child abuse is suspected, one of the first people you will meet is a caseworker from the Nebraska Department of Health and Human Services. He/she is generally called a Protection and Safety Worker (PSW). He or she has the job of providing and coordinating services on your case and keeping in contact with your family on a regular basis. The PSW has the best interests of your child in mind; therefore, it is important that you develop a strong working relationship with this person. The caseworker will attend all hearings and will make recommendations about what kinds of services should be provided to your family.



MAN IN SUIT

Responsibilities
As a parent you have many responsibilities. Here are some of the most important ones.

Take your child's removal from your home seriously.
Be sure to know what you are supposed to do, when to do it, and then do it.

November

TO DO:
Visit your child in accordance with the case plan and any court orders. Attend the court hearings and meetings about your child's case.

It is very important to stay in touch with your caseworker and attorney. This means to communicate with them about any questions or concerns you may have. It also means to respond promptly to any questions or requests that your attorney or caseworker may have. Be sure they always have a current address and telephone number for you. This allows them to check your progress regarding the case plan.

Provide information about your child's needs, especially medical and school-related, to your attorney, the court, and the caseworker.

Be involved in developing, and cooperate with your child's case plan.

Actively participate in the services ordered by the court.



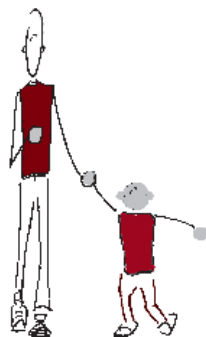
THE COURT PROCESS

Detention or Temporary Custody Hearing: The judge has to sign an order for temporary custody within 48 hours of child's removal from the home. After an order is signed by the judge, the date and time for the hearing will be set by the judge, usually a few days after the order is signed. This hearing provides due process for the parents and child to assure that the removal of the child was necessary. The court will determine if there is a risk to the child's safety in sending him/her back home. If so, the court will enter an order to remove the child from the home.

Adjudication Hearing: Generally occurs within 90 days of the child's removal from the home. This is the trial stage at which the court determines whether the allegations in the petition concerning the child are proven by the evidence. Attorneys present evidence, both sides can have their attorney question witnesses, and then the judge makes a decision. If the judge finds that the petition has not been proven, your child will be returned to you. If the judge decides there was abuse and neglect, he or she then directs that a plan be developed to correct the conditions of abuse and neglect. This next decision takes place at the Dispositional Hearing.

Disposition Hearing: Generally occurs within 30 days after adjudication. At this hearing the judge decides what is best for your child and puts it in a court order. This is called a case plan. The plan could be to send your child home if she or he will be safe, or the plan could order the child to be placed in a safe foster care home or other placement. The judge may also order the caseworker to provide certain services for your child and your family, and may order you to participate in these services.

If the child is removed from your care, the judge will tell you that you must cooperate with your caseworker, follow the requirements included in your case plan,



and correct the conditions which required your child to be placed in foster care; otherwise, you could risk having your parental rights to your child terminated.

Review Hearing: Generally occurs at least every 6 months after the initial dispositional hearing. The purpose of this hearing is so the court reviews the status of the case. This will include examining progress made by the parent(s), determining whether court ordered services were provided, allowing for changes to be made to the case plan, and making sure that the case moves forward and the child spends as little time as possible in temporary placement.

Permanency Hearing: Generally held within 12 months after the child's removal from the home. This hearing is very similar to a review hearing in all aspects; however, it will emphasize the child's permanent living situation. The judge will decide whether you and your child are receiving and participating in the services that will help your family and your child fix your problems. A permanency goal could be: returning the child home, adoption, or guardianship. Keep in mind that the judge may also change previously set permanency goals at this hearing.

Termination of Parental Rights (TPR): May be required to be filed if the child has been out of the home for 15 of the last 22 months, unless the judge finds an exception under the statute. If you do not correct the conditions that led to your child's removal, the state may decide to file a motion to terminate your right to raise your child permanently. The judge would then have to find that there were grounds to terminate parental rights to your child and that it would be in your child's best interests. Termination of Parental Rights means that a parent no longer has any legal rights to a child and is no longer responsible for the child. This is a permanent situation that may discontinue any more contact between you and your child.

