

THE STATE HAS MY CHILD!



What Can I Do?



AMERICAN BAR ASSOCIATION
740 15th Street, N.W.
Washington, D.C. 20005-1009
(202) 662-1748

AUTHOR: Debra Ratterman Baker
INFORMATION DESIGN: Sally Small Inada
COPY EDITORS: Yolande Samerson & Kendra John-Baptiste



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APPOINTMENTS

THE STATE HAS MY CHILD! WHAT CAN I DO?

YOUR CHILD HAS JUST BEEN PUT IN FOSTER CARE WITH THE DEPARTMENT OF HUMAN SERVICES (DHS). AS A PARENT, YOU HAVE MANY QUESTIONS. THIS BOOKLET TELLS YOU WHAT YOU NEED TO KNOW ABOUT WHAT HAPPENS NEXT.

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ASK YOUR SOCIAL WORKER ABOUT YOUR CASE. ASK THESE QUESTIONS. ASK ABOUT ANYTHING ELSE THAT BOTHERS YOU. CALL YOUR SOCIAL WORKER ANY TIME YOU HAVE A QUESTION.

SOCIAL WORKER _____

PHONE NUMBER _____

ADDRESS _____

NOTES

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I have the responsibility to...

- Meet with and stay in contact with my social worker, report any changes to phone number or address, participate in creating my family's and my child's case permanency plan, keep appointments, and make agreed upon changes.
- Request financial assistance if I can't afford an attorney, discuss the petition with my attorney, and stay in contact with my attorney.
- Provide my social worker with names of relatives who may care for my child.
- Develop a family interaction plan and communicate with my child on a regular basis.
- Keep my child's best interest at heart and to try to see things from my child's perspective.
- Attend medical appointments and school meetings for my child, share important information about my child's needs, and contribute to the financial support of my child as determined by the court.
- Engage, participate, and follow through with peer support and the Parent Partner Program.
- Ask about upcoming appointments that my child may have.
- Communicate any concerns I have to the social worker and my attorney.
- Inform DHS, my attorney, and the court if DHS has not provided me with the services listed in my case permanency plan, or if there are additional services I need.
- Stay in contact with my social worker and my attorney.
- Give permission for release of information necessary for my child's health and welfare.

The rights and responsibilities listed above are excerpts from, "A Family's Guide to the Child Welfare System." A collaborative effort among Georgetown University Center for Child and Human Development, American Institutes for Research, Federation of Families for Children's Mental Health, Child Welfare League of America, and National Indian Child Welfare Association (2003). Available to print at <http://gucchd.georgetown.edu/72140.html>

1

Why did the state take my child?

Your child's life or health was in danger. As a parent, you have a right to raise your child. This right is protected by the Constitution of the United States. The state can only get involved if your actions harm or could harm your child. This includes things you should do for your child but don't.

Your child needs help. In Iowa, the state can get involved in a family only if children are:

- Left without a parent or anyone to take care of them.
- Abused, sexually molested, mistreated or at risk of abuse.
- Forced to be prostitutes or to commit crimes.
- Neglected or don't get the medical help or counseling they need.
- Not watched over or their parents can't take care of them.
- Born with illegal drugs in their body.
- Don't want to live with their parents or their parents don't want to live with them for a good reason.

The court must agree. Your child can only be put in foster care if the court orders it. DHS must prove to the judge your child is in danger. At the hearing, you can tell the judge if you don't believe your actions hurt your child. If your child was taken without a hearing, a *Removal Hearing* will be held within 10 days.

You can ask for a hearing if you believe your family does not have any of the problems that make it okay for the state to get involved. The *Petition* is the paper DHS files to get into court. Read the *Petition* to find out why DHS thinks your family needs help. Have a lawyer explain the legal words. See pages 6 and 7 on going to court and page 8 on lawyers.

2

If you or your child are/or have American Indian ancestry, please immediately notify your worker, attorney, GAL, tribe and judge. The **Indian Welfare Act (ICWA)** may apply. ICWA is a federal law enacted in 1978 to prevent the breakup of Indian families and preserve tribes. ICWA applies to American Indian child custody proceedings when the child(ren) can no longer remain safely in their homes. A qualified **expert witness** must provide testimony before a judge before the child can continue to be removed from their home and/or tribal community.

DHS must provide **active efforts** to prevent the removal of the child and throughout the life of the case when working to reunify the family.

Parent Rights and Responsibilities

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Parents whose children have been removed from their care have both rights and responsibilities with respect to their child. On pages 15 and 16 is a summary of some of their most important rights and responsibilities.

I have the right to...

- Know why my child was removed and what needs to happen for them to be returned.
- Have an attorney who represents my rights and interests in court.
- Have my child placed with a relative if a relative can care for my child safely.
- Know where my child is placed and have frequent, meaningful interactions with my child.
- Know that efforts are going to be made to place my child in close proximity to my home and to allow my child to continue in their same school.
- Be consulted and make decisions on my child's religion, health care, and education and participate in my child's care as agreed upon.
- Request a Parent Partner when available and appropriate so that I may be supported by someone who has walked in my shoes.
- Be informed of services my child receives and medical emergencies my child may have.
- Expect that my child is safe in their placement and that my child's needs are met.
- Have my child returned home after conditions required by the court and the case permanency plan has been met.
- File for an appeal against the following: child abuse report determination, termination of parental rights, Child in Need of Assistance, or removal of my child.
- Have information about me and my family kept confidential, unless I agree to share it.

14 Can they take my child away forever?

Yes. If you don't make your home safe for your child, you can lose your child for good. DHS and the court will give you time to solve your problems. But, if you don't try hard or you don't succeed, the court will take action.

Why? Because your child needs a permanent home. Your child needs someone to take care of them. All children need an adult they can depend on. If children can't be with their parents, they feel bad. They worry it's their fault. The longer they are separated, the worse they feel. The best thing for them is to be back home with their parents. But if their parent's home isn't safe, they are stuck in foster care. They can't wait forever.

How long do I have? If your child is three years old or younger, you have six months to make your home safe for your child. If your child is four or older, you have 12 months. You have less time for little children because they need a stable home so badly. You may get longer if you are making steady progress.

Can they take away my child without helping me first? The answer is usually no. However, the law does allow the court to take your child for good in very serious or dangerous situations like severe mental illness, long prison stays, or serious drug addiction.

Only the court can terminate your parental rights. If your child can't go home, DHS will file a *Termination Petition*. At the *Termination Hearing*, the judge will decide whether serious problems mean you cannot care for your child in the future. Your lawyer will argue your case. This hearing is the most important of all. Don't miss it. If you don't show up, the court can terminate your rights without listening to your side.

IT DOESN'T HAVE TO END THIS WAY. You can solve your problems. You can get the help you need. You can get your child back. You can start right now. Take this booklet and talk to your social worker.

3 How can I get my child back?

Talk to DHS. The danger to your child may have just happened once and will not happen again. If DHS believes your child is safe now, they may ask the court to send your child home. If not, DHS must ask the court to keep your child in foster care. You will get a *Petition*. It will tell you when to go to court.

Go to court. The judge may decide your child is not in danger and let you take your child home. The judge may also ask you to talk to a social worker or get help for your problems.

Obey the court order. The judge may decide your child is in danger. Listen carefully to what you are asked to do. Ask in court, "What do I need to do to get my child back?" Talk to your lawyer about the *Disposition Order*. It will include what you must do and what DHS must do to help you.

Make it safe for your child to come home. Make sure you know what problems you have to work on. DHS will offer you services to help you solve these problems. You must use this help. The sooner you make changes, the sooner your child can come home. See pages 10 and 11 on the Case Permanency Plan and page 4 on visits.

You still have parental rights. Even though DHS has custody of your child, you are still the *legal* parent. This means you still can make major decisions for your child. For example, you can consent to medical treatment or participate in a school conference. You also have a duty to take care of your child. You can only lose your parental rights if you sign a surrender or the court terminates your rights. See pages 13 and 14.

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Can I see my child?

Talk to DHS. Your social worker can tell you about visits. Ask:

- When can I visit?
- How long can the visit last?
- How often can I visit?
- Where will I see my child?
- Who else will be there?
- What do I do if I can't make it or need to change the time?
- Can I call or send letters or gifts to my child?

You may be asked to work with your social worker and/or team of people to develop a Family Interaction Plan.

A Family Interaction Plan will identify as many dates and times as possible for your family to have safe, meaningful interactions together. The plan may involve friends or family as well as professionals supporting you by providing transportation and/or supervision for these times.

You have a right to visit your child. Tell your social worker, your attorney, and the judge if your visitation rights are not honored. You can only lose this right if you endanger your child and the court denies you visits.

The court may limit your visits if visits put your child in danger. The judge may require someone (like the social worker) to be there during your visits. The judge can also order you not to visit. The court may ask you to keep someone dangerous away from your child. Ask the judge, "What do I need to do to see my child?"

Make sure your home is safe for visits. What happens at visits is important. If you abuse, neglect, or upset your child during visits, the court may decide not to return your child to you. The court will ask about visits when it decides whether to send your child home.

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What if I can't take my child back?

It's your decision. Not everyone who has a child can raise a child. Take some time to consider what's best for you and your child. This is a big decision. If you give up your child, you will never have your child live with you again.

A relative or friend could raise your child. You can talk to your relatives about taking care of your child for good. If you agree, a relative can be your child's *guardian*. You will still be a parent. You can still visit if the guardian agrees. DHS and the court must agree this plan is best for your child.

Your child could be adopted. DHS could find someone to adopt your child. The foster parents or a relative may even be willing to adopt. You may sign a *Voluntary Termination*. This paper means you give up your rights as a parent forever. You will not be able to visit your child. In some cases, the adopting parents may let you visit, but this is unusual.

Talk to your lawyer. Giving your child up is a serious matter. Make sure you understand your rights. Your lawyer can explain a *Voluntary Termination* or a *Guardianship*. Get all your questions answered.

The court has to approve your decision. Once you decide to give up your child, you will have to go to court. The judge will want to know if you understand your decision. The judge will want to make sure no one forced you to do this. Go to the hearing and make sure the judge knows what you want to happen.

Time to say goodbye. Your social worker will help you get ready to say goodbye to your child. It means a lot to a child to have this goodbye, even if it is painful for you. Your child needs to know that you care. Your child needs to know you want them to be happy in their new home.

Who can I talk to if I have a problem?

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Talk to your social worker. Your social worker's job is to help families get back together. If you have trouble with visits, services, court, or anything, tell your social worker right away.

Talk to your counselor. A counselor or someone at the service agency can also help you with problems. That's what they are being paid to do. They can't help you if you don't tell them the truth. By telling them what you need, you can get advice and help.

Talk to a Parent Partner. You may be connected with a parent who has been in your situation and has had their child returned to their home. Parent Partners can help you understand the DHS process, provide a variety of supports, and assist in connecting you with help in your community.

Talk to your friends and relatives. Part of being a good parent is knowing who to go to for help. Find people like your minister or neighbor to help you now. Then, they can help you when your child comes back home.

Talk to your lawyer. If your social worker, counselor, and friends can't help, talk to your lawyer. Your lawyer can talk to DHS and the court to get you the help you need.

If you have a problem with a service, tell your social worker right away. Your social worker might be able to help you change the time, or change the counselor, or change the agency. But, you have to ask!

Go to services! Going to services isn't a punishment for being a "bad parent." Services are supposed to help make you a better parent. Keep focused. Get what you can out of services. Think how much it means to your child.

It's up to you. DHS, the court, and the service agency all want you to succeed. If you don't accept their help, the court may think you don't want your child back. If you miss enough services, you could lose your child forever. See page 14.

Your child wants to see you, too! Visit your child as often as you can. You may also keep in touch between visits. Call or send letters, cards, or gifts. If you miss a lot of visits, your child will miss you. If you stop visiting, you might lose your child forever. See page 14.

Sibling visits. If siblings are not placed together, the Department will make reasonable efforts to provide for frequent visitation and ongoing interaction between the child and the child's siblings unless visitation or interaction is suspended or terminated by the court.

Will I have to go to court?

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Yes. To keep your child in foster care, DHS must go to court. You will be given a *Petition*. The *Petition* will list the legal reasons your child cannot go home. Your lawyer should explain the legal words to you. The *Summons* will tell you when to go to court.

Your case will go to court many times while your child is in foster care:

- At the *Removal Hearing*, the judge will decide whether your child is in danger and must be in foster care.
- At the *Adjudication Hearing*, the judge will decide whether your family needs help before your child can go home.
- At the *Dispositional Hearing*, the judge will tell you what you need to do to get your child back and where your child will live. It may be held at the same time as the Adjudication Hearing.
- At the *Review Hearing*, the judge will see how well you are doing to solve your problems so your child can go home. These hearings will be held at least every six months.
- At the *Permanency Hearing*, the judge will decide whether your child can go home with you or not. See page 14.

Protect your rights! The reason your case goes to court so much is to protect *your* rights. If you believe DHS is not giving you the help or services you need, tell your lawyer. Your lawyer can speak up in court about your concerns.

Don't miss a hearing. If you can't be at a hearing, tell your lawyer, the court, and your social worker. If you don't, the judge may make a decision without listening to what you have to say.

Your child may attend court hearings. Children age 14 and older may attend all hearings and meetings regarding their placement unless the child's attorney determines it is not in their best interest.

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The Case Permanency Plan can change. As your life changes, the plan can change, too. Let the social worker know when you finish a service or a class. If new problems come up, tell DHS what you need. The social worker and the judge can add new services to the plan, too.

If you do not have a copy of the Case Permanency Plan, contact your social worker. The social worker must complete your Case Permanency Plan no later than 60 days after your child is placed outside your home.

You can get services on your own, too. This will help your case.

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What is a Case Permanency Plan?

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The Case Permanency Plan tells you what you must do to get your child back. It lists:

- The problems that put your child in danger.
- The services you need to help you with these problems.
- What you must do to show these problems are solved.

It will also tell you when DHS thinks they will return your child home.

You have a say in the Case Permanency Plan. Your social worker will meet with you before making the plan. *Don't miss this meeting!* You should tell DHS what you think needs to go in the plan. Talk about any special services you or your child may need. This plan will support you and your family as you make changes to address safety concerns. Make sure you can follow the plan.

You may be asked to participate in a Family Team Decision Making meeting. This meeting can include friends, family members, and others that are a support to you. During this meeting, the permanency plan may be created with your input and involving people you choose, your worker, and other helping professionals. *Family Interaction Plans* are often made and/or reviewed at Family Team Decision Making meetings.

DHS must follow the Case Permanency Plan, too. The Case Permanency Plan includes a list of how DHS will help you solve your problems. It includes:

- The services DHS will help you get.
- How DHS will help you visit your child.
- What DHS will do to help your child.

If DHS is not doing what is listed in the plan, talk to your social worker. You can also tell your lawyer and the judge at the *Review Hearing*.

Your lawyer can also *appeal* the court's decision. An appeal is when a higher court is asked to change the decision of a lower court. To win an appeal, your lawyer must show the judge did not follow the law or did not rely on the right proof of the facts.

Do I need a lawyer?

YES! You have a right to a lawyer. In all court hearings about your child being in foster care, you have a right to be represented by an attorney. A lawyer can help you understand the law. A lawyer can present evidence that helps you in court.

You can get a lawyer by hiring one. If you can't afford a lawyer, ask the court, Juvenile Court Services, or DHS how to get a court-appointed attorney. You also have a right to change lawyers.

Your attorney represents *your* interests. You and the child's other parent may have the same attorney. However, if you live apart or disagree about the case, ask the judge to appoint you your own attorney.

Talk to your lawyer before every hearing. Your lawyer needs to know what you want to happen in court. Sometimes, your lawyer can work out an agreement with DHS. If you don't agree with DHS, your lawyer can argue for you in court.

Go over all legal papers with your lawyer. Keep all the papers you get from DHS and the court. Have your lawyer explain them to you. If you don't understand something that happens in court, ask your lawyer.

Your child will have a separate lawyer. This attorney is called a *guardian ad litem*. In every foster care case, the judge appoints a lawyer for the child. This lawyer represents your child's interests. **THIS LAWYER DOES NOT REPRESENT YOU.** Your child's lawyer may agree or disagree with you in court.

A CASA may be assigned to your case. A CASA is a "Court-Appointed Special Advocate." This person advises the court about what is best for your child. The CASA is not an attorney. The CASA does not represent you. The CASA may agree or disagree with you in court. Not all counties have CASA programs.

Why are they asking about my child's other parent?

Both parents have rights when a child is in foster care. DHS and the court have a legal duty to talk to both parents. This is true even if your child's father or mother does not live with you. The court may consider:

- Including the other parent in the court hearing.
- Having the other parent visit your child.
- Having your child live with the other parent.

The court may order parents to pay child support. DHS may refer your case to the Child Support Recovery Unit. This will help you get child support when your child comes back to live with you. You may also be asked to pay child support while your child is in foster care.

Your child's relatives may offer to care for your child. To avoid having your child live with strangers, DHS will ask you about your relatives and make contact with relatives. DHS will also want to know about the other parent's relatives. If they can, they will place your child in a good relative's home instead of foster care.

Tell DHS about your child's other parent. Give DHS the other parent's name and address. Let DHS know if the other parent visits the child or pays child support. If you think the other parent is dangerous or could hurt you or your child, tell your social worker and your lawyer. Let DHS know if you don't know who or where the other parent is. They may be able to help you find him or her.