

# **A Handbook for Parents & Guardians in Dependency Cases**

This Handbook tells you what you need to know about the Court process and the people helping you with your case. A dependency case will involve formal court hearings to determine whether a child's parent is willing or able to care for him/her. Being involved in a dependency case can be very confusing and stressful for a family. Not knowing what to expect can make it even harder. While some of the circumstances of your case may vary, this handbook should help you understand what will happen. Keep this handbook with you and write in the names of the people who will be working with you and the dates of the court hearings.

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## **How Does Arizona Law Define Child Abuse, Neglect and Abandonment?**

An abused or neglected child is a child whose caregiver negligently or intentionally creates, inflicts, allows or threatens physical or mental injury to the child. In addition, abuse or neglect can occur when the caregiver does not provide the care necessary for the child's health or allows a sexual act to be committed against the child. A child can be considered abused or neglected even if it is not clear who injured the child. An abused or neglected child may also be a child whose caregiver abandons the child or who is mentally or physically unable to care for the child. A parent abandons a child by failing to maintain regular contact with the child according to Article 2, Section 8-531(1) of the Arizona Constitution.

## **Why Do I Have To Go To Court?**

- Department of Child Safety ("DCS") receives reports of suspected child abuse, abandonment or neglect. DCS managers determine if the child is in a safe environment and they also consider the parent's ability to care for and protect the child as well as the strengths and needs of the family. Along with your DCS case manager, you and your family will determine what services your family and your child need. When a child is not safe and services cannot be provided to keep the child safe in the home, DCS files a dependency petition with the juvenile court ("court") seeking an order of temporary custody of children. This order gives DCS emergency custody of the child. If the child is safe and not at high risk, the family may choose to cooperate and DCS may not file a dependency petition.
- The judge makes decisions intended to keep children safe, to help families create a safe home for their children, and to ensure that families and children receive the help they need.
- The judge can require you and your family to get help. Also, the judge can order that your child stay in the custody of DCS and be placed with a relative or in foster care. This means that DCS is legally responsible for your child and, with the approval of the court, can make decisions about where your child should live and what changes need to happen in your home before your child returns to live with you. Your DCS case manager will ask for your thoughts before making these important decisions. You remain financially responsible for your child and may be ordered to pay child support.
- The same problems that brought you to the court could also result in criminal charges against you, your partner, or someone else in your family. Criminal charges are filed by law enforcement agencies, such as the county attorney's office, and not by DCS. If criminal charges are filed, you may also have to go to superior court to see another judge. This handbook does not deal with criminal cases.

## What Are My Rights?

- I have the right to an attorney. If I cannot afford to pay for an attorney, the judge may appoint an attorney to represent me.
- I have the right to admit or deny the allegations made about me and my family.
- I have the right to be notified of all court hearings.
- I may have an interpreter appointed by the court if I do not understand English or cannot hear.
- I have the right to talk to my case manager and my attorney.

## What Are My Responsibilities?

- Stay in touch with my attorney and DCS case manager and make sure they always have a current address and telephone number for me.
- Know what I am supposed to do and when, and then do it.
- Ask my attorney or DCS case manager to explain if I do not understand my case plan, my responsibilities, or anything that I have been asked to do.
- Ask for help whenever I feel discouraged or overwhelmed.
- Attend scheduled visits with my child.
- Attend and participate in court hearings, case plan staffings, child and family team meetings, and other meetings where important decisions could be made about my child.
- Notify my DCS case manager in advance if I cannot attend an appointment or meeting.

**Unless you do what the court requires, you could lose custody of your child forever. If you start working now to change the situation that led to your child's removal, chances are good that your child will be able to return home.**

## **How Will My Child Have Permanency?**

- Permanency means providing a lifetime commitment to a child in a setting where he or she is safe, can have a sense of belonging and well-being and can live to adulthood. The goal of your DCS case manager, the Court and your family is to obtain permanency for your child.
- Children grow best in a permanent, safe and loving family. When children are removed from their homes, it is best for them to return as soon as possible. For your child to be returned to you within certain time limits, you must make your home safe and ensure proper care of your child, as explained in this handbook.
- A Permanency Hearing is usually held in 9 to 12 months after your child was removed from your home to discuss the progress that has been made towards returning your child to your home.
- When children cannot return to their families, another permanent, safe home will be found for them, often through adoption or guardianship, and with a relative if possible. You may be asked to help identify a relative or other person to provide a permanent, safe home for your child.

# Who Is Involved in Your Case?

## *Your DCS Case Manager*

DCS will assign a **case manager** for your child and family. Your caseworker should:

- Help you understand the problems that require DCS and the court to be involved with your family.
- Listen to you and your child to learn your strengths, your needs, and what services or assistance you think will be most helpful to you and your child.
- Help you work on the steps you must take to have your child returned to you.
- Arrange a schedule and location for visits, unless there are concerns that your child would not be safe during visits.
- Maintain regular contact with you and your child (in most cases, your DCS case manager will have monthly, in-person contact with you and your child).
- Report to the court your attendance at appointments and your progress toward being able to provide your child a safe and nurturing home.

Your caseworker will need the following information to care for your child:

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|--|--|
| – Birth certificate  | – Medical insurance coverage   |
| – Immunization Record  | – Family medical history   |
| – Social Security Card   | – Your wage and income   |
| – Your child’s likes, dislikes, and special needs  | – Your child’s medical, developmental, educational and behavioral history  |
| – Your preferences for the care of your child (for example, church attendance, special diet, etc.)                             | – Names, addresses, and telephone numbers of relatives or significant people in your child’s life who might be able to take care of your child |
| – Identifying information for both parents including names, addresses, social security numbers, birth dates, and phone numbers |  |

**Tell your caseworker how you can be contacted. Notify your caseworker whenever you change your address or telephone number. If you do not hear from your case manager for awhile, or if you have questions or problems, call your case manager.**

## Case Manager Contact Information

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Best time to call: \_\_\_\_\_

## *Your Attorney/Lawyer*

The court may appoint an **attorney** for you who should contact you before appearing in court. Or, you may want to hire your own attorney. In any case, you should meet with your attorney **before** your first court hearing. Your attorney represents your rights and your wishes in the case. Your attorney should:

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

**Tell your attorney how you can be reached. When you have questions or concerns, call your attorney. Let your attorney know every time you change your address or telephone number.**

## **Attorney Contact Information**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Best time to call: \_\_\_\_\_

Date, Time, & Place of Appointment: \_\_\_\_\_

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## *Your Child's Attorney or Guardian ad Litem (GAL)*

The court will appoint either an attorney or a **Guardian ad Litem (GAL)** for your child. The attorney or GAL's job is to speak for your child in court, and tell the court what the GAL believes is best for your child. It is important that you let your child's Attorney or GAL visit your child, so he/she can get to know you child and learn what your child wants and what is best for your child. Remember that this Attorney or GAL represents your child, not you, and at times you might disagree with his/her recommendations.

Your attorney or the DCS case manager can tell you who is assigned as your child's attorney or GAL.

**Name of your child's attorney or GAL:** \_\_\_\_\_

### ***The Court Appointed Special Advocate (CASA)***

The court may also appoint a **Court Appointed Special Advocate (CASA)** for your child. The CASA is a trained volunteer who will meet with you and your child, as well as others involved in your family's case. The CASA reports to the judge about how your child is doing and what the CASA believes is best for your child. It is important for you to cooperate with the CASA by answering the CASA's questions and letting the CASA visit with you and your child, and sharing with the CASA your thoughts and feelings about what is best for your child and your family.

#### **CASA Contact Information**

**Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Best time to call:** \_\_\_\_\_

### ***Foster Care Review Board (FCRB)***

The **FCRB** consists of volunteers who are appointed by the presiding juvenile judge of each county to review DCS cases every six months. They listen to all of the people involved in the case, including you, and make recommendations to the court. The court considers these recommendations as part of its determination on how your case is progressing. It is important that you keep your case manager informed of address changes, since the FCRB will send notification of an upcoming review of your case to the address that the case manager gives to them. It is important that you attend the FCRB since the Board has more time to hear from you than the judge does; therefore, the judge takes their recommendations very seriously.

### ***Department of Child Safety's Attorney***

DCS has its own attorneys who tell the judge what DCS believes the court should do. They are employed by the Arizona Attorney General's Office.

## **Are there Rules to Follow While I'm in a Hearing?**

Here are a few tips that should help when attending hearings in court:

- Dress appropriately. Avoid shorts, halter-tops, torn jeans, short skirts, T-shirts with printing and/or logos, and hats.
- Your attorney will advise you where to sit in the courtroom.
- If you would like to speak during the hearing, let your attorney know and they will advise the judge.
- Address the judge as “Your Honor,” “Judge,” “Sir or Madam.”
- Answer yes or no questions out loud and clearly instead of nodding.
- If you have other children not involved in the dependency petition, please arrange for someone to care for them during the hearing.

# When Will I Have to Go to Court?

The court will require you to attend several court hearings so that the judge and others may listen to all sides and decide what is best for your child. Most dependency cases have at least six different court hearings during the first year.

**Step 1 - Pre-Hearing Conference (PHC) & Preliminary Protective Hearing (PPH)**

**Step 2 – Mediation (MED) or Settlement Conference (SET)**

**Step 3 - Adjudication Hearing (ADJ)**

**Step 4 - Disposition Hearing (DIS)**

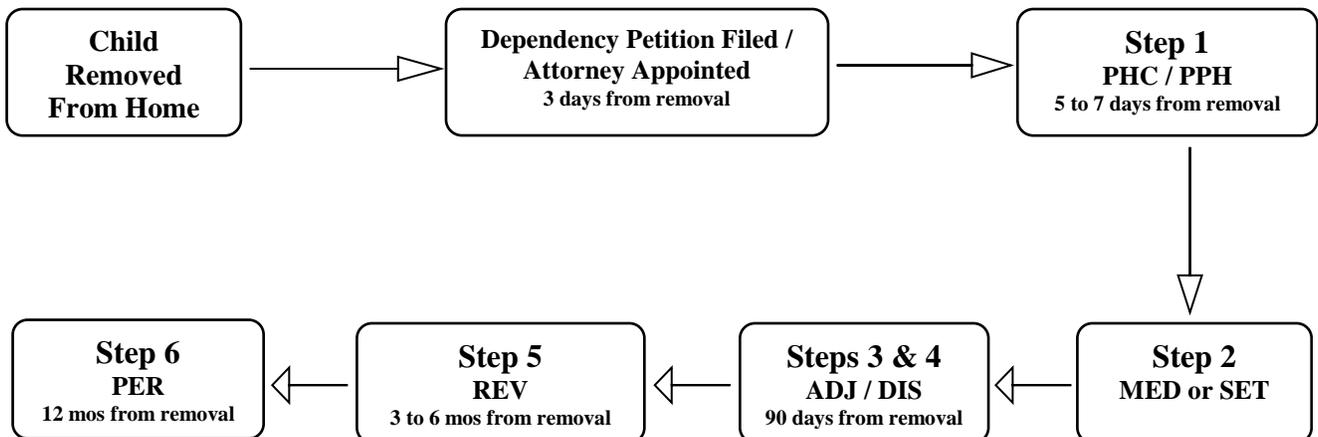
**Step 5 - Review Hearing (REV)**

**Step 6 - Permanency Hearing (PER)**

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

The court's actions are intended to keep children safe and to help families create a safe home for their children. If you do not understand the purpose of any of the hearings, talk to your attorney. By law, the court is required to establish a *Permanent Plan* for your child within **365 days** of the child's removal from the home. Unless you improve the conditions that brought your child into foster care, the court may terminate your parental rights and **your child may be placed for adoption.**

## NINE TO TWELVE MONTH TIMELINE *(Approximate)*



## ***Step 1 - Pre-Hearing Conference / Preliminary Protective Hearing***

### **PART A: Pre-Hearing Conference (PHC)**

You will attend a meeting, called a Pre-Hearing Conference, before you see the judge. The Pre-Hearing Conference will likely take place in a room separate from the courtroom. The following people will also attend the Pre-Hearing Conference:

- Facilitator (to run the meeting)
- Your attorney
- Attorney or GAL to represent your child
- DCS attorney (assistant attorney general) and DCS case manager
- Staff from the Court Appointed Special Advocate (CASA) program

The purpose of the Pre-Hearing Conference is to find out what everyone agrees about and what everyone disagrees about. At the Pre-Hearing Conference, we will discuss placement (where your child should stay temporarily), visitation (when, where and how you see your child), and services (assistance to help you get your child home). At the end of the Pre-Hearing Conference, the facilitator will show the agreement to the judge.

The Pre-Hearing Conference will give you an opportunity to discuss what you think your child needs and how DCS can help you. You will also have the opportunity to state where you want your child to live temporarily or permanently and who should have visitation and contact with your child.

**It is very important that you attend the Pre-Hearing Conference.**

## **Part B: The Preliminary Protective Hearing (PPH)**

The Preliminary Protective Hearing takes place right after the Pre-Hearing Conference. The judge reviews the Pre-Hearing Conference agreement and makes orders based on that agreement. If you cannot come to an agreement about the temporary placement and custody of your child, the judge will schedule a Temporary Custody Hearing within five (5) days.

Your attorney and the judge will explain your rights to you in detail. The judge will ask you if you want to admit (agree) or submit (don't agree, but will go along with) or if you want to enter a denial (disagree and want to argue) to the allegations that are being claimed in the petition against you.

- If you admit / submit, you will skip Step 2 and go to Step 3 without a trial.
- If you enter a denial, you will go to Step 2.

**It is very important that you attend the Preliminary Protective Hearing.**

### **PHC / PPH Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

\_\_\_\_\_

## ***Step 2 - Mediation (MED) or Settlement Conference (SET)***

### ***Do we really need a trial?***

Coming to an agreement with DCS about how you will work together to have your child returned to your home can help to reduce wasted time. However, if an agreement cannot be reached, Mediation or a Settlement Conference can be scheduled. These are meant to be opportunities for all involved to try to resolve your case before trial. The following people will also attend the Mediation or Settlement Conference:

- Mediator (to run the meeting)
- All parents
- Child's attorney or GAL
- DCS case manager
- DCS investigator
- CASA volunteer (if assigned)

Discuss the mediation with your attorney ahead of time, because the parents' lawyers do not usually attend mediation. (The DCS lawyer does not go to mediation, either.)

**It is very important that you attend the Mediation.**

### **Mediation Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

\_\_\_\_\_

### ***Step 3 - Adjudication Hearing (ADJ)***

You have a right to a trial (Adjudication Hearing) within 90 days from your first court hearing (Pre-Hearing Conference & Preliminary Protective Hearing). The purpose of the trial is to allow the judge to consider whether or not the allegations in the dependency petition are true. The judge will decide whether or not you abused, neglected, or abandoned your child. Trials only occur if the case has not already settled at the Preliminary Protective Hearing, the Mediation or the Pre-Trial Conference.

**It is very important that you attend the Adjudication Hearing. If you miss this hearing, it will proceed in your absence.**

#### **Adjudication Hearing Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

\_\_\_\_\_

## ***Step 4 - Disposition (DIS)***

### ***What is the plan for my child and me?***

- If an Adjudication Hearing (Trial) is necessary, a Disposition Hearing will be held within 30 days from the trial. (Sometimes a Disposition Hearing is held immediately after the Adjudication Hearing.)
- The judge will review the case plan developed by DCS and your family.
- The case plan will list the services that will be provided to help your family resolve the problems that brought you and your child into court.
- The judge will tell you exactly what you need to do to get your child home. If your child is already home, then the judge will tell you exactly what your need to do in order for DCS to close its case with your family.
- Do what the judge orders in the case plan right away.

**It is very important that you attend the Disposition Hearing so that you completely understand what you need to do in order to have your child returned to you. Following the case plan is the key to getting your child back home. Unless you do what the judge orders, you could lose your rights to your child.**

### **Disposition Hearing Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

\_\_\_\_\_

## ***Step 5 - Review Hearing (REV)***

Within 3 to 6 months of the Disposition Hearing, there will be a Review Hearing in court. The judge will review your case to make sure that changes are being made to correct the problems that brought your family to court. The judge will also ensure that the case manager and others are providing the necessary services to you and your family.

- Are you receiving the services that you need (parenting classes, counseling, etc.)?
- Is your child receiving all needed services (counseling, help in school, etc.)?

If the case plan needs to be changed, the judge will order those changes.

**It is very important that you attend the Review Hearing.**

### **Review Hearing Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

\_\_\_\_\_

## ***Step 6 - The Permanency Hearing (PER)***

The **Permanency Hearing** will be held 9 to 12 months after DCS removed your child. If your child has not already been placed back into your home, the judge will decide whether or not your child can be safely returned home at this hearing.

If the Judge decides that your child cannot be safely returned home now or in the near future, the permanency goal may be changed to adoption or some other permanent arrangement outside of your home.

**It is very important that you attend the Permanency Hearing.**

### **Permanency Hearing Information**

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Things I Want to Talk About:** \_\_\_\_\_

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