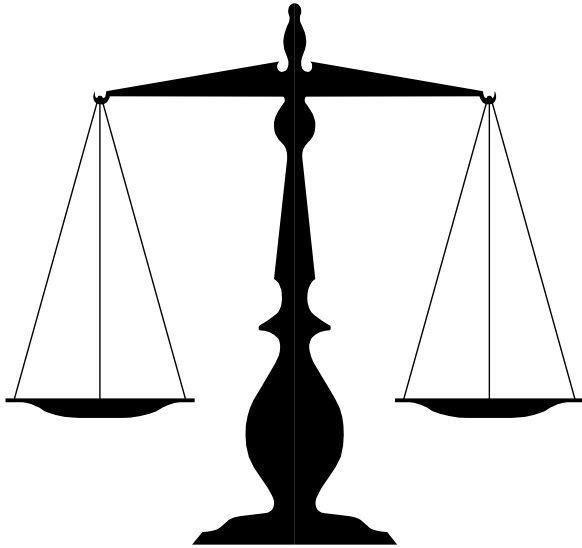


PARENT GUIDE
TO THE
JUVENILE COURT
CHIPS PROCESS



INTRODUCTION

This booklet has been prepared to help parents gain a better understanding of what to expect in Juvenile Court CHIPS proceedings (Chapter 48 – Children's Code) when there has been an allegation that a child has been abused, neglected or requires special treatment. This is general information and not intended to cover everything that can happen in court. When used as a guide, this information will help explain what has happened, what to expect next and what you should do. It is not intended to take the place of an attorney. We believe it is important for parents to understand this information so everyone can work together, both in and out of the courtroom setting.

This booklet has been prepared by the Fond du Lac County
Department of Social Services Court Improvement Project Team.

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Do I need a lawyer?

Parents have the right to hire their own lawyer (attorney) for all court hearings. Parents will not routinely be appointed a lawyer. The court can, at times, upon its own discretion, appoint a lawyer to represent a parent, if the parent is unable to pay for a lawyer. What this means is that if you want to have a lawyer, you will need to hire one on your own or ask the Judge if a lawyer can be appointed for you.

You are not required to have a lawyer with you in court. If you choose to appear in court without a lawyer, the following information will help you prepare for court:

! Read the Petition

Before going to court, make sure you have read the petition. This is the piece of paper where the information about what allegedly happened is printed. If you have a hard time understanding what it means, ask someone for some help. It is very important for you to understand what is written in the petition. You will receive a copy of the petition in the mail. If you do not have a copy, ask your attorney or social worker for one.

! Be On Time

Be on time for scheduled court hearings. Once you get to where you are supposed to be, make sure someone knows you are there. Each county may do things somewhat differently. Ask the Social Worker or Intake Worker how court is run in your county. You will want to know how cases are scheduled, what you need to do when you arrive for your hearing and where you should wait for your hearing.

! Bring Your Papers

Each court hearing is scheduled to do something different. It could be a "*Plea Hearing*," a "*Fact Finding Hearing*," or a "*Disposition Hearing*". Some counties have "*Change of Plea Hearings*". There may be a "*Pre-Trial Conference*" or "*Motions Hearing*". You will know what types of hearings you are scheduled for because you will have received your written notice (papers) from the court. Bring your papers with you to court. If you do not understand where you are supposed to be or what the hearing is about, it is much easier for someone to help you if they can look at your court papers.

! Courtroom Behavior

A courtroom is very similar to being in a school classroom. If you don't understand something or disagree with something, ask for permission to speak. Even though you may not like or disagree with what you are hearing, do your best to control yourself. Losing control in a courtroom could make matters worse.

! Does My Child Need a Lawyer?

Your child will be represented in court either by an attorney called a Guardian ad litem or by another kind of attorney often referred to as advocacy or adversary counsel (generally a Public Defender). The Guardian ad litem is normally used for children under the age of 12, while a Public Defender is normally used for children 12 and over. The Guardian ad litem is there to let the court know what is best for your child. The Public Defender is there to let the court know what your child wants. In either case, they are representing your child, not you. Ask your child's attorney what your responsibilities are.

How does a case actually end up in Court?

Investigation

First, someone makes a report stating that they suspect a child has been abused, neglected, or has mental health problems and is in need of services. The report is made either to Social Services or the police.

If it appears possible that abuse or neglect occurred or mental health problems exist, there will be an investigation. The very first thing a Police Officer or Social Worker needs to determine is whether or not the child is safe.

If the investigator believes that a child is not safe, the child may be removed from his home (or someone else may need to leave the home). This process may be called "*Taking and Holding in Custody*".

If the investigator believes the child is safe, the child will be left in the home. However, the case still might be referred to Juvenile Intake. (Please refer to the section that applies to your case.)

Taking and Holding in Custody/Temporary Physical Custody

Who can take a child into custody?

- ! Police Officer (law enforcement)
- ! Social Worker

A child can be taken into custody for the following reasons:

- ! child suffering from illness or injury and is in immediate danger
- ! child has run away
- ! an order has been issued by the court to take the child into custody
- ! there is a belief the child may harm him/herself
- ! child has violated conditions of court ordered non-secure custody
- ! there is a belief the child may be harmed by others or is unsafe

What happens when a child has been taken into custody?

The child is taken to a Juvenile Intake Worker who makes a decision to either release the child to the parents, a guardian or other relative, or to place the child in non-secure custody or, if mental health problems are present, to place the child in a mental health facility.

Non-secure custody is a temporary order from the Juvenile Intake Worker deciding where a child will stay. It means the Juvenile Intake Worker believes there is enough information to indicate that something happened to a child and the child may not be safe.

Where can a child be held on non-secure custody?

- ! the home of a parent, relative or guardian
- ! the home of a friend of the family
- ! a foster home, group home or shelter care facility
- ! a hospital

How can this decision be reviewed?

If you disagree with the decision made by the Intake Worker, there will be a hearing within 48 hours for the Court to review the case. This hearing is called a *Detention Hearing*.

Detention Hearing/Emergency Removal Hearing

If your child is placed on non-secure custody either at your home or outside your home and you object to the placement, a detention hearing will be held

within 48 hours (not counting weekends and holidays). The detention hearing will be held in front of a Judge or Court Commissioner. The court will decide whether or not your child should remain in non-secure custody.

The main purpose of a detention hearing is for the court to decide where your child should stay while the case is pending in court. The Judge (or Court Commissioner) can place your child in the same places as the Intake Worker. The Judge (or Court Commissioner) can also order conditions for you to follow as a part of the non-secure custody order. This is a temporary order. There will be other court hearings to decide other issues.

At the detention hearing, the District Attorney or Corporation Counsel will either file a petition or be given 72-hours to file a petition. The petition is a legal document which contains an explanation of what happened to make your child in need of protection or services and what led to the decision to place your child under non-secure custody. You will be sent a copy of the petition when it is filed with the court.

The Judge or Court Commissioner will tell you what the next hearing will be about and when it will be held. You will also receive a notice from the court telling you the time, date and place of that hearing. If you don't understand something, ask for help from your Social Worker, Juvenile Intake Worker, lawyer, or the court.

Juvenile Intake

Following the investigation by the Social Worker, the case may be referred to Juvenile Court Intake for a review. An Intake Inquiry is where the Juvenile Intake Worker will make a decision as to whether or not the case should be closed, handled informally or referred to the District Attorney or Corporation Counsel (called Prosecutor) for a petition to court.

In many cases, there will be an Intake Inquiry Conference. (This may vary from county to county depending on its size.) This is an informal meeting between the parents, Social Worker and Juvenile Intake Worker. The purpose of the meeting is for the Juvenile Intake Worker to review the information and assessment done by the Social Worker and to decide how the case should be handled. Parents cannot be ordered to attend the Intake Inquiry, but if they don't, it makes it much more difficult to resolve matters informally; which increases the likelihood the case will be referred to court for formal action.

At the Intake Inquiry, the Juvenile Intake Worker will explain what rights you

have, what supposedly (allegedly) happened and what could happen in court. You can bring a lawyer to the Intake Inquiry if you want to, but it is not required by law. As noted above, this is an informal meeting to assist the Juvenile Intake Worker in making a decision as to what should happen next. If the Juvenile Intake Worker decides to recommend formal court action, he will make a Request for Legal Action to either the Corporation Counsel or District Attorney (Prosecutor).

Reviews of Request for Legal Action

If the Juvenile Intake Worker has made the decision to refer the case for formal court action, all information about the case will be sent to the Prosecutor. The Prosecutor will review all the information and make a decision as to whether or not there is enough evidence to petition the court. If there is not enough evidence, the case will be closed or sent back to the Intake Worker for more information.

The Prosecutor will be looking for information to show how the child was abused, neglected or emotionally damaged. The Prosecutor will also be asking the question, "Can I prove this in court with clear and convincing evidence?" The Prosecutor will look at all available information, police, doctor and social worker reports and any pictures which may have been taken. What the parents said or did will also be considered. If the Prosecutor believes there is enough evidence, a *Petition for Determination of Legal Status*" will be filed with the court.

Petition for Determination of Legal Status

A Petition for Determination of Legal Status is a formal legal document sent to the Juvenile Court asking that a hearing before a Judge be scheduled and that the court get involved with a family. The petition describes what events are believed to have occurred. It is extremely important that you take the time to carefully read the petition. The Judge or Court Commissioner will be asking you whether you admit or deny the information in the petition.

The petition being filed is a request to the court to determine whether or not your child is in need of protection or services and to enter a court order for services if it is found that they are needed. That is why it is called a child in need of protection or services (CHIPS) petition. Unless caretakers have been charged in Criminal Court, they are not on trial.

After the petition is filed with the court, a notice (letter) will be sent to both parents telling them the time, place and date of the court hearing and what kind of hearing is scheduled. Both parents will get notice even if they are divorced and even if one of the parents hasn't been involved for a long time. **IT IS VERY IMPORTANT FOR PARENTS TO ATTEND COURT HEARINGS.**

It is very important to let your social worker know your current address and telephone number so that you can be informed of court hearings and other things that may be happening with your child. **You should tell your social worker and attorney immediately if your address or telephone number changes.**

Normally, the first hearing scheduled is called a "*Plea Hearing*".

Plea Hearing

The Plea Hearing is set for you to either admit or deny the allegations in the petition. What this means is that if you agree with all of the information in the petition, you will admit to the Judge or Court Commissioner that you agree with all of the information in the petition. If you do not agree with all of the information in the petition, you will tell the Judge or Court Commissioner you deny (or contest) the petition. This is not the same as pleading guilty or not guilty. Those are terms used in Criminal Court, not Juvenile Court. It is possible for one parent to admit and for the other parent to deny. The attorney for the child will also enter an admission or denial to the petition.

! Admit

If all parties admit to the petition, the Judge will schedule a "*Disposition Hearing*". This may vary from county to county. Sometimes the Judge will go right to the disposition if everyone is in agreement. In most counties, a separate hearing is scheduled. This hearing is required to be held within certain time periods. Once again, things vary from county to county.

You may be asked if you are willing to *waive* the time period. What this means is that the Judge can schedule the hearing past the stated time limits, if that is okay with you. You are not required to waive these time limits if asked to do so. The choice is up to you. The court will set a date for the "*Disposition Hearing*". You will receive a notice in the mail stating the time, date and place of the hearing.

! Deny/Contest

If anyone denies (contests) the information in a petition, the court will schedule a "*Fact Finding Hearing*", often referred to as a trial. Once again, things will vary from county to county as to what will happen next. It is very important for you to ask the Social Worker or Intake Worker how things work in your county. The "*Fact Finding Hearing*" has to be held within certain time limits. You may be asked if you are willing to waive the time limits. As stated above, the choice is up to you.

After the "Plea Hearing" when there is a denial, some counties schedule a "*Pre-Trial Conference*". This is a meeting with the District Attorney or Corporation Counsel prior to the "*Fact Finding Hearing*" (trial). The purpose of the "*Pre-Trial Conference*" is to discuss the case outside the formal courtroom. This gives the District Attorney or Corporation Counsel the opportunity to talk with others involved in the case. In some situations agreements can be made which are acceptable to everyone involved. There may no longer be a need for the trial.

Fact Finding Hearing (Trial)

When someone denies (contests) the information in the petition and no agreement can be reached, the court will schedule a "*Fact Finding Hearing*" (trial). There are two types of trials in Juvenile Court. One is a trial by Judge. The other is a trial by jury.

A trial by Judge means that the Judge will listen to all the information and make a decision. This is when witnesses are brought to Court to tell the Judge what did or did not happen. This is the hearing where the case has to be proven by the Prosecutor. At the end of the hearing, the Judge will decide whether or not the child is in need of protection or services.

A trial by jury means that six or twelve people from the community will listen to all the information and they will decide if the child is in need of protection or services. If the information does not show the child to be in need of protection or services, the case will be dismissed.

If the Judge or jury finds the child to be in need of protection or services, the case will then be scheduled for a final hearing called the "*Disposition Hearing*".

Disposition Hearing

This is the final hearing at which the Judge decides what will happen with your child. The Social Worker will make recommendations to the Court. It is up to

the Judge to make the final decision. The Judge has several options available. He or she can order one or any combination of the following:

- ! Counseling services for the child, parent and/or guardian
- ! Order the child to be under the supervision of a child welfare agency or responsible adult with rules and conditions the child and parents need to follow
- ! Place the child in the child's home
- ! The child welfare agency to provide certain services to the child and child's family
- ! Supervised independent living (17 year olds only)
- ! A specific educational program for the child
- ! Outpatient drug/alcohol treatment services
- ! Placement of the child in the home of a relative
- ! Placement of the child in a foster home, group home or residential treatment center

You are strongly encouraged to talk to the Social Worker before going to court so that you know what is being recommended at the hearing. Most often, you will have been a part of the planning and will already know what to expect. The Judge is not required to follow the recommendations being made.

If someone disagrees with the recommendations, it's up to the Judge to decide what happens next. Sometimes a special hearing will be set which allows enough time for people to state their objections. The hearing could involve formal testimony, where people get on the witness stand to state why they think the plan is a good one or bad one. The Judge has the final say.

Court Order

At the hearing, the judge will enter an order that tells you what you need to do to keep your child safe within your home or to have your child returned home if the child is living somewhere else. If your child is placed with someone other than you, the things that you need to do before the child could be returned to your home are called the conditions for return.

The court order will also tell you what the "permanency plan" is for your child. The permanency plan is the long-term plan for where your child will live. It talks about where your child is placed, what services your child and your family need, and what needs to happen for your child to come back home or to make a safe permanent home for your child somewhere else. Usually the permanency plan is either to return to a parental home, guardianship with a relative or other person, or termination of parental rights and adoption. The permanency plan must be reviewed at least every six months and the judge can change the permanency plan at a hearing.

The court order will also very likely contain Termination of Parental Rights warnings if your child is placed with someone else. These are reminders to you that you must work quickly to meet the conditions of the court order or the court may choose someone else to permanently care for your child. If you do not meet the conditions within a certain amount of time (as soon as six months after the disposition hearing in some cases) the court could order that your parental rights be terminated so that someone else can raise your child. This is

why it is important to meet the conditions for return as quickly as possible. The court will probably also read these warnings to you at the court hearing if your child is not living with you at the time of the hearing.

Because of a law called the Adoption and Safe Families Act that went into effect in 1997, parents may have less time to meet the conditions for return. This law says that if a child has been living outside their parent's home for 15 of the last 22 months, a Termination of Parental Rights Petition **MUST** be filed unless some exception exists. These exceptions are:

1) If the child is with a relative

2) If the court determines that it is not in the child's best interest to terminate parental rights or

3) If the agency responsible for providing services to the family has not made reasonable efforts to assist the family

It is up to the court to determine whether an exception to filing a Termination of Parental Rights Petition exists. It is extremely important to immediately begin working on the court-ordered conditions, due to the fact there is so little time before the court could consider termination of parental rights. Failure to do so could result in the court taking additional action.

Court orders can be in effect for up to one year. The court or a panel will review the permanency plan within six months for children placed outside the home. This may be called an Administrative Review or Permanency Hearing. Within 12 months, there may be an extension hearing to determine whether or not there will be continued court involvement. You will be sent a written copy of all court orders. If you do not have a copy of the court order, ask your social worker or attorney for one. If you do not understand what the court order asks you to do, you should also talk with your social worker or attorney.

Conclusion

There is a lot involved when a case goes to court. This guide has been developed to help you learn some major points so that it is not quite so confusing. Don't be afraid to ask questions. You have a right to know what is happening. If you don't understand, you need to ask. The more you understand what is going on, the better it is for you and for the court. Please reread the sections, as you need them. You are an important part of the court process.

DEFINITIONS

Adjudication

A legal word meaning "decision of the court".

Allegations

Things someone claims to be true, but have not yet been proved. In child welfare cases, someone may make "allegations" that a child has been mistreated or needs special help.

Administrative Review

A meeting between parents, social workers, and others in cases where children are placed outside of the parental home. The meeting reviews the progress that the parents are making to meet the conditions for return.

ASFA

Adoption and Safe Families Act (ASFA). A recent Federal Child Welfare Law with a focus on safety and permanence for children.

Chapter 48

The part of Wisconsin law which tells about children and how they are protected. *Another name for Children's Code.*

Children's Code

Another name for the part of Wisconsin law which tells about children and how they are protected. *Another name for Chapter 48.*

CAN

Child abuse/neglect.

Child

A person under the age of 18

CHIPS

Child in Need of Protection or Services.

Conditions of Return

What a family must do so that a child who has been placed outside the home can be returned home.

Corporation Counsel

A lawyer who works for the county government. In some Wisconsin counties, corporation counsels prosecute, or try to prove, allegations of child abuse and neglect. In other counties this is done by the district attorney.

Court Order

A court order is a written report which tells what a judge has decided.

Criminal Court

A court which handles cases where an adult or 17 year old has been charged with a crime.

DA

A short name meaning "District Attorney".

Department of Human Services
(Child Welfare Agency)

In some counties, this is the name of the part of county government, which is responsible for child protection. This is where child welfare social workers work.

Department of Social Services

In some counties, this is the name of the part of county government which is responsible for child protection. This is where child welfare social workers work

Dispositional Report

A court-ordered report written by a county social worker which tells the judge about a family and makes the recommendations to the court what services the family needs.

Dispositional Hearing

A hearing at which a judge decides on a plan to help a child have a safe home.

Dispositional Order

A report telling what the judge has decided at a dispositional hearing.

District Attorney

A lawyer who represents the state. In some Wisconsin counties, district attorneys prosecute, or try to prove, allegations of child abuse and neglect. In other counties, this is done by the corporation counsel.

Emotional Damage

The child is severely anxious, depressed, withdrawn or outwardly aggressive and the parent or guardian does not get help for the child.

Extension Hearing

A hearing which happens if county social workers believe a child or family needs continuing help after 12 months or at the end of the period of supervision.

Fact Finding Hearing

A hearing at which a judge or jury decides whether claims that a child has been mistreated or needs special help are true.

Guardian ad litem (GAL)

An attorney who is appointed by the Court to tell the Judge what is in the best interests of the child. This doesn't always mean telling the Judge what the child, the family, or the child welfare agency wants. It means telling the Judge what the Guardian ad litem (GAL) feels is best for the child.

Group Home

A licensed home that can serve four to eight children.

Jurisdiction

The court's right to get involved. In child welfare, if the court determines that a child is in danger, it has a right to get involved. It has "jurisdiction".

Juvenile Court

Juvenile Intake Worker

A court which handles cases involving children under the age of 18, for child protection issues, and under 17 for children having committed a crime.

A person who works for the juvenile court. In child welfare cases, intake workers make important decisions when children are first taken into custody.

Neglect

Failure to provide food, clothing, shelter, a safe living environment, medical or dental care which **seriously endangers** the child's physical health. Some examples would be: broken glass laying on the floor, electrical wires a child can touch, dog and cat waste laying around the house, drugs or alcohol left where a child can reach them, no food, no home to stay in, or a failure to protect the child from neglect.

Non-Secure Custody

A temporary order placing a child in a protective setting.

Notice

A legal word meaning a letter or form which tells people when and where a hearing will be held.

Out of Home Placement

This is also called "alternate care" or "substitute care". It could be a shelter home, a foster home, a group home, a residential treatment center, or a relative placement.

Permanency Plan

A plan which talks about where a child is placed, what services the child and his or her family needs, and what needs to happen for a child to come back home or to make a safe, permanent home for the child somewhere else.

Petition

A formal request for the Court to take legal action. The petition gives the Court information as to why a child is in need of protection or services. The petition is the paperwork that starts the formal court process.

Physical Abuse

Physical injury to a child which is not an accident. The injury need not be severe. It is also considered abuse when a parent knows his child is being abused and fails to protect his child.

Physical Injury

Includes, but is not limited to cuts, bruises, fractured or broken bones, internal injuries, welts from being hit with an object or hand, burns, (the injury need not be severe)

Plea Hearing

A hearing early in a case at which parents learn about their rights and tell the judge whether they agree or disagree with the things the petition says.

Prosecutor

A lawyer who tries to prove things in a petition are true. In child welfare cases, either the district attorney or the corporation counsel is the "prosecutor".

Sexual Abuse

Sexual intercourse or sexual contact with a child. Children under the age of 16 cannot legally give consent.

Sexual Contact

Any intentional touching of another's intimate parts either directly or through clothing by use of any body part or object

Termination of Parental Rights
(TPR)

A legal phrase meaning ending the legal relationship between a parent and a child. Sometimes a parent volunteers to do this to free a child for adoption. Sometimes a court uses its power to make this happen when the parent fails, after a great deal of help, to make a safe home for a child.

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