

What To Do When Your Child is in Foster Care



A handbook for families



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I. INTRODUCTION

If you are reading this Guidebook, your child has most likely been removed from your care by the Utah Division of Child and Family Services (DCFS). For parents, this can be a very frightening and confusing time. A lot of people you have never met before are suddenly making important decisions about your child. You may feel that the State of Utah is against you, or that no one is willing to listen to you.

However, as a parent, you have a great deal of say in what happens to your child. This Guidebook is written to help you understand what is going on and how you, your attorney and the other people involved in your case can work together to reunite you with your child as soon as possible.

Many parents who come to Juvenile Court feel that they should be left alone to raise their children as they wish, without the involvement of the State of Utah. Some may feel that they have been unfairly blamed for things that are not their fault.

However, as a society we have agreed that all children deserve to be treated well by their parents and others. When the State of Utah receives information that a child is not being properly cared for by his or her parents, Utah law requires the Utah Division of Child and Family Services (DCFS) to investigate that information to find out if it is true.

If DCFS decides that the information is true and the child is not being properly cared for by his or her parents, DCFS may start a “child protection” case in Juvenile Court. As part of that case, DCFS will ask the Juvenile Court to make orders to protect the child, including orders removing the child from his home if DCFS believes the child is not safe there.

Please remember that the information in this booklet is very general and not based on specific facts of your case. This information is only intended as a guideline; it is not a substitute for the advice of an attorney.

A PARENT'S RIGHTS AND RESPONSIBILITIES IN CHILD PROTECTION CASES

A PARENT'S RIGHTS:

1. You have the right to an attorney. If you cannot afford an attorney, the court will appoint one for you.
2. You have the right to be present and participate in all court hearings.
3. You have the right to understand what you need to do in order to get your child home with you and to get help to do it.
4. You have the right to examine court files about your case.

A PARENT'S RESPONSIBILITIES:

1. Visit with your child as soon as possible.
2. Do your best to be a good parent and provide a safe home for your child.
3. Cooperate with your DCFS caseworker and follow your Service Plan.
4. Make sure your attorney and caseworker always have your updated address and phone number.
5. Attend all of your court dates and be on time. Dress appropriately and treat the judge with respect.
6. Tell your attorney if you have serious problems with your caseworker. Tell your attorney if you have serious problems with anything in your Service Plan.
7. Stay informed in your case at all times.

ATTENTION ALL FATHERS

If you were not married to the mother of your child when the child was conceived or born, you are not your child's legal father **unless** you take certain steps.

Without compliance:

- You have no legal right to visit your child.
- You have no say about whether or not your child is adopted.

Talk to your attorney about what you must do to become the legal father of your child.

ATTENTION PARENTS OF NATIVE AMERICAN CHILDREN

If you or your child are members, or eligible for membership in a Native American Tribe, additional protections may apply to you. **Notify** the court, your attorney and DCFS ***immediately***.

PENDING CRIMINAL MATTERS

If you have criminal charges pending, or you believe you will have criminal charges brought against you, **notify** your attorney ***immediately***.

II. THE JUVENILE COURT LEGAL SYSTEM

For many parents, the most confusing part of their case is understanding what is going on at court. This section of the Guidebook explains who the different people are that you will usually see in court, and the different types of court hearings you will be required to attend.

PEOPLE WHO WORK IN JUVENILE COURT

The Judge

The judge listens to all the evidence presented by the attorneys in court and then makes decisions based on Utah law. The judge is responsible for making orders to protect your child, and to protect your rights as a parent. Always be respectful to the judge and call him or her “Your Honor” or “Judge.”

The Assistant Attorney General

The Assistant Attorney General works for the State and is the attorney for the Division of Child and Family Services (DCFS). He or she will be representing DCFS at all court hearings.

The Parent’s Attorney

Your attorney, or lawyer, represents your interests and rights regarding your child. You may hire your own attorney. If you do not have the money to hire an attorney, the judge will appoint an attorney to represent you. You can ask your attorney to explain anything that you do not understand. Also, be sure to write down your attorney’s name and telephone number before you leave court and make sure that your attorney has your current address and telephone number.

Guardian ad Litem

Every child who comes to court will have an attorney appointed for him or her by the court. In most cases this will be an attorney from the Office of the Guardian ad Litem. This attorney is known as a Guardian ad Litem or a “G-A-L.” The Guardian ad Litem’s duty is to represent your child in court and to protect your child’s best interests.

DCFS Caseworkers

Caseworkers are from the Division of Child and Family Services (DCFS). DCFS caseworkers are often referred to in court as “**the State**,” because DCFS is a state agency. The job of a caseworker is to see that children are kept safe, and that parents have a chance to fix the problems that brought the family to court. At court, DCFS caseworkers make recommendations about where your child should live, and what services you should be required to complete. Outside of court, DCFS caseworkers are in charge of arranging visitation between you and your child, and helping you complete any court-ordered services. Be sure to talk with your caseworker often. Tell him or her what kind of help you think your family needs. Tell your caseworker what you are doing to fix your family’s problems.

CASA

Some children have a Court Appointed Special Advocate (CASA). This is a trained volunteer who is appointed by the judge. The judge can appoint a CASA at any time in a case. The CASA works under the supervision of the Guardian ad Litem in a case to protect the child’s best interests. The CASA worker may visit your child in your home.

Court Clerk

The Court Clerk is the judge’s assistant in the courtroom. The clerk assists the judge in scheduling hearings, keeping track of reports and other documents that are presented to the court, and operating the court’s recording equipment.

Bailiff

The Bailiff is a member of law enforcement who works in the court house. The bailiff is responsible for courtroom security.

ENTERING THE COURTROOM

Always be in court by the time your attorney or court notice tells you. It is important for you to be in court and on time for all of your court dates.

Once you get to the courtroom, tell your attorney you are there. If you do not know who your attorney is, ask someone who works at the court, such as a clerk or bailiff, if they can help you find a public defender.

DRESS

Always dress as nicely as you can for court hearings. Tank tops, shorts, and revealing outfits are not appropriate, and if you wear them to court, you may not be allowed into the courtroom.

INFORMATION ABOUT THE JUVENILE COURT

Below is an alphabetical, statewide Juvenile Court listing by county (and judicial district):

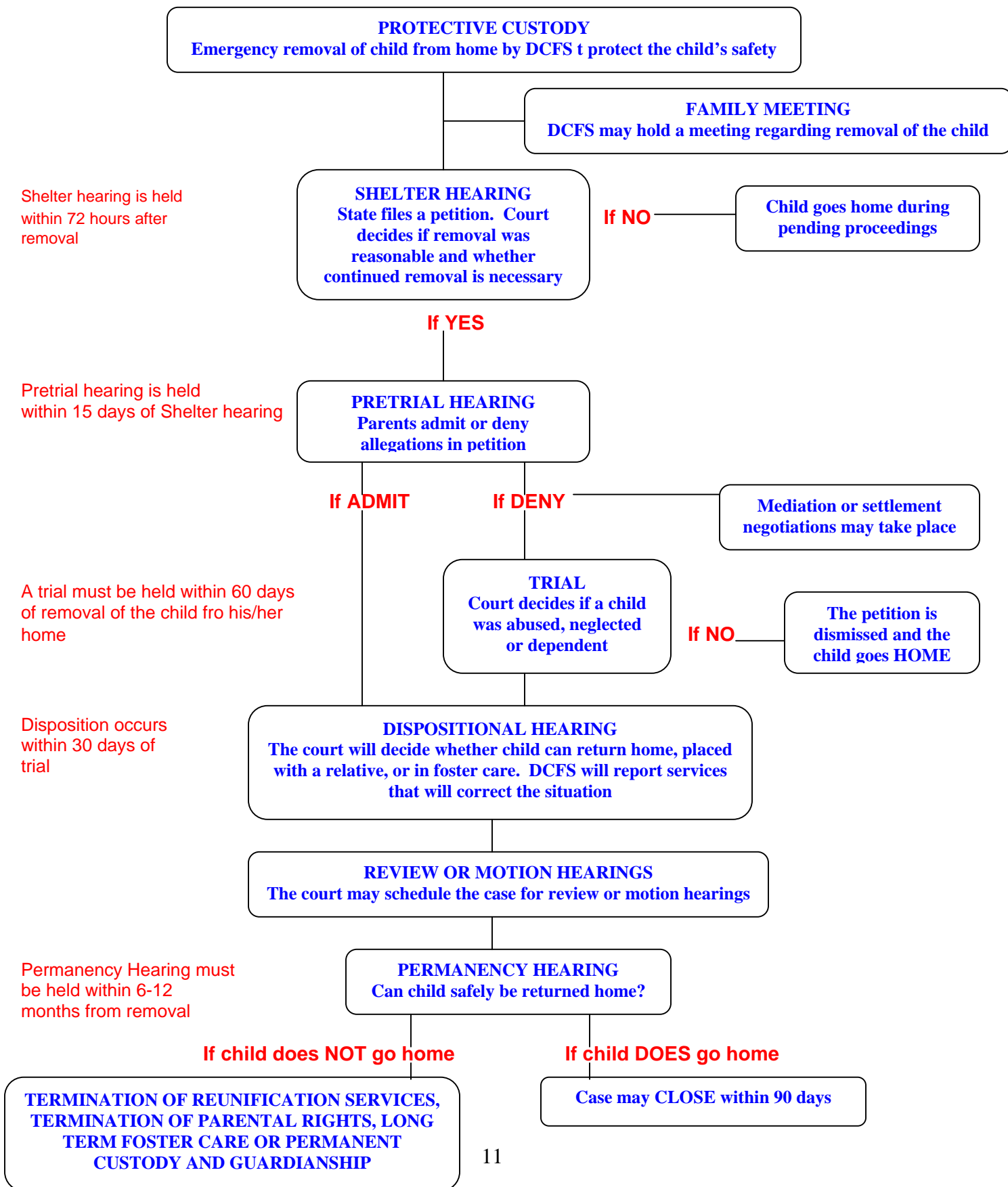
<p>Box Elder County First District Juvenile Court 43 North Main Brigham City, UT 84302-0873 Phone: (435) 734-4623</p>	<p>San Juan County (Blanding) Seventh District Juvenile Court 522 North 100 East Blanding, UT 84511</p>
<p>Cache County First District Juvenile Court 61 West 100 North Logan, UT 84321 Phone: (435) 750-1260</p>	<p>San Juan County (Monticello) Seventh District Juvenile Court San Juan County Public Safety Bldg. 297 South Main Monticello, UT 84535-2122 Phone: (435) 557-2122</p>
<p>Carbon County Seventh District Juvenile Court Carbon County Court Complex 149 East 100 South Price, UT 84501 Phone: (435) 636-3400</p>	<p>Sanpete County Sixth District Juvenile Court 50 South Main, Suite 28 Manti, UT 84643 Phone: (435) 835-2121</p>
<p>Davis County Second District Juvenile Court 447 West 675 North Farmington, UT 84025 Phone: (435) 451-4900</p>	<p>Sevier County Sixth District Juvenile Court Sevier County Courthouse 895 East 300 North Richfield, UT 84701 Phone: (435) 896-2750</p>
<p>Emery County Seventh District Juvenile Court Emery County Courthouse 95 East Main Street Castledale, UT 84513 Phone: (435) 381-5311</p>	<p>Tooele County Third District Juvenile Court Tooele County Courthouse 47 South Main Tooele, UT 84074 Phone: (435) 843-3225</p>

<p>Grand County Seventh District Juvenile Court 125 East Center Street Moab, UT 84532 Phone: (435) 259-1350</p>	<p>Uintah County Eighth District Juvenile Court 920 East Highway 40 Vernal, UT 84078 Phone: (435) 781-0235</p>
<p>Iron County Fifth District Juvenile Court Cedar City Hall of Justice 40 North 100 East Cedar City, UT 84720 Phone: (435) 586-9832</p>	<p>Utah County Fourth District Juvenile Court 2021 South State Street Provo, UT 84606 Phone: (801) 354-7251</p>
<p>Kane County Sixth District Juvenile Court 310 South 100 East Kanab, UT 84741 Phone: (435) 644-2458</p>	<p>Utah County (Orem location) Fourth District Juvenile Court 99 East Center Street Orem, UT 84057 Phone: (801) 764-5833</p>
<p>Salt Lake County Third District Juvenile Court Matheson Courthouse 450 South State Street, 2nd Floor Salt Lake City, UT 84114 Phone: (801) 238-7700</p>	<p>Washington County Fifth District Juvenile Court Washington County Hall of Justice 220 North 200 East St. George, UT 84770 Phone: (435) 986-5730</p>
<p>Salt Lake County (Sandy) Third District Juvenile Court 210 West 10000 South Sandy, UT 84070 Phone: (801) 565-5735</p>	<p>Weber County Second District Juvenile Court 444 26th Street Ogden, UT 84401 Phone: (801) 626-3800</p>

When you enter the courthouse, you will have to go through security. Some items cannot be taken into the building such as weapons, pepper spray/mace, scissors, or illegal drugs.

The security officers can help you find the Juvenile Court within the courthouse.

CHART OF CHILD PROTECTION PROCEEDINGS



TYPES OF COURT HEARINGS, PROCEEDINGS OR MEETINGS

A. *Shelter Hearing*

If your child has been removed from your case by DCFS, the shelter hearing is the first court hearing in your case. By law, the shelter hearing must be held within three (3) business days after your child is removed.

At the shelter hearing, the Juvenile Court judge will decide two things:

1. *Whether DCFS should have removed the child in the first place, and;*
2. *Whether there is a good reason to keep the child out of the home, or if the child should be returned to you immediately.*

In making this decision, the judge will consider evidence from both DCFS and the parent. The judge's decision will be based on what is necessary for the safety of the child.

If the judge determines at the shelter hearing that your child can not be safely returned to your home, the court will first want to know if there are any relatives the child can stay with. If you have a relative who could take good care of your child, try to bring him or her to court with you. ***It is very important that you inform DCFS and your attorney of any family members that can care for your child.*** If there is a relative available, the court will either order that the child be placed in the temporary custody of that relative, or order that DCFS investigate that relative to determine if the child can be safely placed there. If there is no relative available to temporarily care for the child, and the court does not feel the child can be safely returned to the parent immediately, the court will order that the child be placed in the temporary custody of DCFS. DCFS will place the child in foster care.

At the Shelter Hearing, DCFS will also file a "**petition.**" The petition is a written document, prepared by the State which states why DCFS believes the child is not properly cared for in the home, and why DCFS feels the State needs to get involved in the case.

B. Pretrial Hearing

Within fifteen (15) days after a shelter hearing, there must be a pretrial on the petition.

The pretrial is where you and your attorney admit or deny the petition that DCFS filed at the shelter hearing. In other words, at the pretrial hearing you must tell the court whether you agree with the statements made in the DCFS petition, or whether you disagree with them.

If you disagree with the petition, your attorney and the Assistant Attorney General may try to change the statements in the petition in order to make them more accurate. If you agree to the petition after the changes are made, it is called a “**settlement**” of the petition. Sometimes it is referred to as an “adjudication.”

If you do not admit to the petition at pretrial, and no settlement is reached, the court will schedule the matter for trial.

YOUR RIGHTS and RESPONSIBILITIES at the Shelter Hearing and Pretrial:

1. Attend the Shelter Hearing and be prepared to speak, if your attorney believes that you should. Wear conservative clothes when you come to court. Bring any information about your case, and any friends or relatives who could act as witnesses for you.
2. Start keeping records—write down the names of the people involved in your case, the name and telephone number of your attorney, and ask your attorney or caseworker for a copy of the Court Order that the judge signs.
3. Mark on your calendar the next court date when your case will be heard. Cooperate with your caseworker(s) and do what the judge and the Service Plan tell you to do.
4. Visit with your children who are in foster care as often as possible, unless the judge said you may not.

5. Work with your caseworker in developing your Service Plan and follow your Service Plan.
6. If you have any problems, talk to your attorney.

C. Settlement

The parties to a case (DCFS, the Attorney General, the parent and Guardian ad Litem) may agree to “settle” by changing language in the petition to more accurately describe the situation. If a settlement or agreement is reached between you and the other parties, the court will be informed of the changes that have been made to the petition. Your attorney will then tell the court that you admit to the petition now that it has been changed.

If, at any time, you choose to admit to a petition, you must understand that you are waiving certain rights. Your attorney will assist you in making this decision. Your attorney will go over the following rights with you:

- You do not have to admit the petition.
- You have a right to go to trial.
- At the trial, the Attorney General (or State) has to prove the petition by a standard of clear and convincing evidence.
- At the trial, either you or your lawyer can cross examine the State’s witnesses.
- You can call witnesses for your side of the case and testify on your own behalf.
- If you didn’t like the judge’s decision, you could possibly appeal the decision to a higher court.
- If you admit the petition (or if the State prevails on the petition) you subject yourself and your children to the court’s jurisdiction. The court can order that your children are placed with an individual (usually a family member) or State agency.

- The court can also order mental health or medical health for you or your children and can order you to do certain things to have your children returned to you.

D. Mediation

Sometimes that court will order that your case go to mediation before the trial. Mediation takes place outside of court. It is a meeting in which the parties discuss possible resolutions to the case. The court does not know what is said or done in mediation, except that any agreements reached by the parties at mediation will be presented to the court. If the court agrees with the mediation agreement, the judge will make the agreement into a court order.

E. Trial (Adjudication)

The trial is also called the “**Adjudication.**” An adjudication must be held within sixty (60) days after the Shelter Hearing. At the adjudication, the court must decide whether the petition filed by DCFS is true. At this hearing, the court can only receive information about the reason(s) that the case came into court in the first place. The judge will not consider evidence about efforts that you have made to correct problems since the case first came into court.

At the trial, witnesses will tell the judge what they know about the facts of the case involving your child. Your lawyer, the Assistant Attorney General, and the Guardian ad Litem can all ask the witnesses questions.

It is your right to have witnesses testify on your behalf at the adjudication. If you know people you think would make good witnesses, make sure you tell your lawyer as early in the case as possible, and no later than two weeks before trial.

At trial, DCFS will try to convince the court that the statements in the petition are true and that your child is **abused, neglected or dependent**. (Dependent means that you did not properly care for your child, but it is not your fault). Your lawyer will try to convince the court that the statements in the petition are not true, and the petition should be dismissed. After all the witnesses have been heard, and the lawyers have made their arguments to

the court, the judge will decide if the petition is true – that is, whether your child was abused, neglected, or dependent.

If the judge finds that none of the statements in the petition are true and that your child is not abused, neglected or dependent, the court will dismiss the petition. If the judge dismisses the petition, the case is over and the children will be returned to the parent. If the judge finds that all or part of the petition is true, the judge will then hold a “**dispositional hearing.**”

YOUR RESPONSIBILITIES for Trial or Adjudication:

1. Provide a list of witnesses that could testify on your behalf. Be sure to provide witnesses well in advance of the hearing. If you fail to do so, your lawyer may not be able to subpoena them.
2. Tell your lawyer information that would help your court case.
3. Keep accurate records that could help you and your court case. For example, keep track of visits with your children, and any services that you are in or have finished. This will be helpful for the dispositional hearing.

YOUR RIGHTS:

1. You may have the right to appeal the judge’s decision made at adjudication. Contact your lawyer if you want to file an appeal.
2. You have the right to tell what you think, to give evidence or to have other people (witnesses) give evidence for you.
3. You have the right to ask questions of anybody who gives evidence in court.
4. You have the right to a copy of the judge’s written decision.
5. You have the right to know what is in your court file and the right to know that is in most of the reports that are given to the court.

6. If you do not speak or understand English well or need a sign language interpreter, an interpreter will be provided for you.

F. Dispositional Hearing

The Dispositional Hearing will happen within 30 days after the trial and sometimes immediately following trial or settlement.

At the Dispositional Hearing, the judge will decide whether your child(ren) can be returned home, placed with a relative or in foster care. DCFS will report to the judge what services are available for you and your family that will correct the situation. The judge will order that DCFS provide a Service Plan to you.

The Service Plan is a list of things the parent(s) must do before the child(ren) will be returned to them. Usually, the Service Plan requires the parent(s) to attend parenting classes and counseling. Depending on the facts in your case, the judge may require that the parent(s) take drug and alcohol evaluations, psychological evaluations and drug testing. You will also be asked to sign a "release of information." This allows the DCFS caseworker to speak with the service providers to verify your participation. *Be sure to include your lawyer's name on any release of information.* Your lawyer will not be able to talk to the service providers without this.

After receipt of the Service Plan, parent(s) have ten (10) days to object to the Service Plan. Therefore, **immediately** upon receiving the Service Plan, the parent(s) must review it. Ask yourself if there is anything in the Service Plan that you cannot do or if it seems unreasonable. Contact your lawyer with any questions or concerns.

Once the Service Plan is court ordered into effect, the parent(s) **must** complete the requirements of the Service Plan in order to get their child(ren) back. DCFS must help the parent(s) locate services that will help the parent(s) to complete the Service Plan. But once DCFS has helped you get into services, it is up to you to complete the services. If the parent(s) do not complete the Service Plan within eight (8) to twelve (12) months, DCFS can file a petition to terminate the parent(s) rights and place child(ren) for adoption. Additionally, do not assume that you have at least eight (8) months. DCFS or the Guardian ad Litem can file a motion at any time to terminate reunification services if you are not working on the

Service Plan. It is important to show the judge that you have continuously worked on the objectives of the Service Plan rather than waiting until the time is almost up.

At the end of the Dispositional Hearing, the judge will set the next court date.

In order for your child to be returned to you, you must show you can protect and care for your child. It is important for you to work with your caseworker to make the changes that need to be made so that you can safely care for your child.

YOUR RESPONSIBILITIES following disposition and the Service Plan:

1. Cooperate with the court order, including visitation. It is important not to miss any appointments or visitation that you have.
2. Participate in all services offered to you. Keep a record of each time you attend or participate in anything required by your Service Plan. **FAILURE TO COOPERATE IN SERVICES CAN RESULT IN TERMINATION OF REUNIFICATION SERVICES AND YOUR PARENTAL RIGHTS.**
3. Attend and actively participate in your Review Hearings. Try to provide documentation that you have been working on the Service Plan to your caseworker and lawyer prior to the Review Hearing. If you are unable to do so, bring the documents with you to court.
4. Keep in touch with your lawyer and caseworker.
5. Give your caseworker and lawyer copies of all records you have of services you have completed. Your caseworker needs a written record of services in order to show the judge that you have participated in them.

G. Review Hearings

Periodically, the judge may review your case while you are working on the items on your Service Plan. At the review hearing, the judge will receive a report from DCFS and possibly the Guardian ad Litem. The

judge will review the information and possibly enter new orders regarding you and your children.

Your case may be reviewed by a Foster Care Citizen Review Board. The Board will gather information from you and other people involved in your case. The Board will submit a report to the judge with recommendations regarding your progress and what DCFS is doing to assist you and your children.

The review hearings can be an important factor in the return of your children. Make certain that you bring any and all documentation that show you have been working on your Service Plan.

H. Motion for Return Home

Once a child has been taken into temporary custody and placed in foster care, the child can only return home to live with his or her parents with permission from the judge. You may ask the judge to consider returning your child to you as soon as you are able to prove to the judge that you can provide adequate care and a safe home for your child. This can occur at any time. Generally, it does not happen before the Dispositional Hearing, but it is possible.

From the time your child is removed from your custody, you can and should be working toward having your child returned to you.

In order for the judge to consider a child's return home, a judge hearing must be held to determine whether the conditions leading to the child's removal from the home have been corrected. This hearing requires that the judge hear witnesses tell about your situation. For example, your caseworker might tell the judge what you have done to correct the problem(s) and why it is in your child's best interest to return home.

Usually before returning home, a child has longer and longer unsupervised visits with his or her parent, including overnight and weekend visits at home. For more information on this, see the section called "Visiting your Child." Once a child is returned home, the family will have to report to the judge and follow rules ordered by the judge for a period of time.

WHEN YOU BELIEVE THAT YOU HAVE DONE EVERYTHING THAT WAS REQUIRED OF YOU TO HAVE YOUR CHILD OR CHILDREN RETURNED HOME, TALK TO:

1. YOUR CASEWORKER to find out whether your caseworker agrees that you have done everything required and can support you in court to have your child returned home; and
2. YOUR LAWYER to find out what letters, certificates, or other documents your lawyer needs you to get and when he or she plans to file a motion for the judge to hear evidence about your child or children returning home.

REMEMBER, this can be a very slow process. Everyone, including you, needs to feel certain that return home is not only best for your child or children, but that your child or children will be safe at home.

I. Permanency Hearing

If your child has not been returned to your care within eight (8) months to one year, a court hearing will be held to decide on a permanency goal for your child. Permanency goals are to return home, adoption, long term foster care, permanent custody and guardianship or independent living. The goal that is set will show you and your child the direction the case is moving. The goal will also determine what services will be provided to you. If the goal is not for your child to return to live with you, the Division of Child and Family Service will no longer offer you services to help you get your child back.

A permanency hearing will be held before the judge. The judge must determine whether or not your child(ren) can be safely returned to your care. If the judge finds that your child(ren) cannot be returned, the judge will order that reunification services are terminated and decide whether termination of parental rights, adoption or permanent custody is most appropriate for your child(ren).

It is the job of the judge to see that every child has a safe and permanent home. If the judge determines that you are not making enough progress in preparing to provide adequate care and a safe home for your child, he or she may change the goal to ADOPTION.

If you do not complete the goals in your Service Plan, that may be all the evidence that the judge needs to terminate reunification services.

Because one of the possible results of the permanency hearing is for your child(ren) to RETURN HOME to live with you, it is **very important** that you have regular visits, a good relationship with your child, and good progress on achieving the tasks in your Service Plan. If you can show that you have fixed the problem that caused your child to be taken away from you and that you can now provide an adequate home, and you feel sure that you are able to take good care of your child, you should ask your lawyer to request that your child is returned home or to file a Motion for Return Home.

If there are special reasons that adoption is not appropriate for your child at this time, the goal could be PERMANENT CUSTODY AND GUARDIANSHIP or LONG-TERM FOSTER CARE. This means that your child will live with another family who will be responsible for the child until age 18, not adopt him or her.

If your child is 12 years or older, the goal could be LONG-TERM FOSTER CARE. This means that your child will live somewhere other than home, such as a foster home or group home, until he or she is able to live independently or is eligible for an Independent Living program.

If your child was removed from your care more than a year ago, and you have not gotten notice of a Permanency Hearing, ask your lawyer to check into this.

YOUR RESPONSIBILITIES for the Permanency Hearing:

1. Go to the hearing.
2. Participate in the services offered to you, and keep accurate records about your participation. Give your lawyer documentation or evidence of your participation with services. Try to provide documentation well in advance of the hearing.

J. Motion Hearings

Your lawyer or another party may file a motion to have a hearing for a particular reason. **An example is a motion to allow you more visits with your child.** Increasing the number and length of visits is an important step in getting your child back home with you. Another example is a motion to return your child home because you have worked successfully to fix the problem that caused your child to be taken away from you.

K. Termination of Parental Rights Hearing

A termination of parental rights ends the legal relationship between a parent and child. When both parents' rights have been terminated, a child is available for adoption. Under certain conditions the Assistant Attorney General can begin court action to terminate your parental rights. This cannot happen in secret, and you will not be surprised. Your caseworker or lawyer should tell you if things are not going well and termination of parental rights is being considered in your case.

If you are opposed to this action, a lawyer will represent you in an effort to keep the State from terminating your rights as a parent. If you cannot afford to hire a lawyer, the judge will appoint one to represent you. If you agree that it is best that you no longer parent your child, you should consider relinquishing your parental rights or consenting to your child's adoption. There is information about making this decision on the following page.

In a termination hearing, the judge must decide whether the parents are unfit; whether it is in the child's best interest to terminate parental rights; and if reunification services were ordered, whether DCFS provided reasonable services to you and your family.

There are many reasons in which the judge can find you to be an unfit parent and terminate your parental rights. You can be found unfit because an unreasonable amount of time has passed since your first trial and even though you have been offered help, you have not done the things required by your Service Plan. You can be found unfit because you have not shown enough interest in your child over the past year. If the judge finds that you are unfit to parent your child, then the judge will determine if it is in the best interest of your child to terminate your parental rights.

If the judge terminates your parental rights, your child will be free for adoption. The legal relationship between you and your child will end, and you will no longer be entitled to make any decision about your child or to visit your child. The Division of Child and Family Services will be responsible for your child, and can determine where your child will live and who will be permitted to adopt your child.

L. Voluntary Relinquishment

At any time that you feel that it would be best for your child to be adopted by someone else and that you are unable to provide for your child(ren) now or in the future, you may be able to arrange to voluntarily relinquish your parental rights. Your lawyer will prepare a Petition for Voluntary Relinquishment and explain the effect of giving up your parental rights. Because this is a difficult decision, it is important that you give great consideration to your choice. It is wise to speak with your lawyer, family, therapists, or clergy members to help you with your decision. [This is a very important decision, and should only be made when you are sure that it is the right one for you and your child.](#)

Voluntary relinquishment is an irrevocable act. This means that once you sign the documents before the judge, you cannot change your mind. You cannot come back to this court or any other court based upon a future change of mind. Your right to appeal is extremely limited.

A child can have only one set of legal parents. If your child is adopted by the relative or foster parent now caring for him or her, you will no longer have any rights as a parent of that child. The law cannot, of course, cancel the fact that you are the birth parent of your child. But the law does say that the adoptive parent becomes the legal parent. All the rights that you have as a parent are given to the adoptive parent, and all decisions about the child will be made by the adoptive parent.

M. Appealing Your Case

[New rules are in effect as of May 2004 that require you to act quickly if you want to appeal your case.](#) If you disagree with a decision of the Juvenile Court judge in a child welfare case, you have a right to appeal that

decision to the Utah Court of Appeals. However, you must know and follow the rules, which have these strict deadlines and requirements.

- To appeal the Juvenile Court's order you must file a **Notice of Appeal** in the Juvenile Court within **15 days** of entry of the judge's written decision.
- Although your attorney will likely prepare the Notice of Appeal, **you and your attorney must sign it**. Otherwise, the Notice of Appeal will not be valid, and your appeal will be terminated.
- During the appeal you must keep in regular contact with your attorney. Let your attorney know your current address and telephone number, and promptly notify your attorney if these change. You must also give this information to the other parties in the case and to the appellate court.
- If an appeal is filed, the appellant's trial attorney must continue that legal representation throughout the appellate process, unless the Juvenile Court finds extraordinary circumstances.

Appellant must file the notice of appeal with the clerk of the Juvenile Court within 15 days of the entry of the Juvenile Court order. Appellant must file the request for transcript with the appeals clerk in the Juvenile Court within 4 days of the filing of the notice of appeal. The petition on appeal must be filed within 15 days of the filing of the notice of appeal. Any response must be filed within 15 days of the date of service of the petition + 3 days if service is done by mail (Utah Rule of Appellate Procedure 22(d)).

III. WHEN YOUR CHILD IS IN FOSTER CARE

Your Responsibilities When your Child is in Foster Care:

1. VISIT your child as often as possible, at least once a week if allowed by the judge. Your caseworker is required to arrange visits. Ask if you may visit more often. Your child needs to see you.
2. WORK with your caseworker to create your Service Plan and to change the conditions that caused your child to be placed in foster care.
3. DO everything required by the Service Plan. Be sure that you understand what the plan requires of you and how it will help you. Keep a record of your participation in services. Talk to your lawyer about what this means.
4. You must contact the Office of Recovery Services at (801) 536-8500 to determine the amount of support, if any, that you are required to pay for your child(ren) while in DCFS custody.
5. GO to every court hearing. Listen carefully, write down important information, and follow the judge's orders.

Your Rights as the Parent of a Child in Foster Care:

1. You have the right to a lawyer. If you do not have money to hire a lawyer, the judge will appoint a lawyer for you in court. Write down your lawyer's name and telephone number. If the judge determines that you do not qualify for a lawyer to be appointed to represent you, be sure to contact a lawyer as soon as possible. Do not sign or agree to anything without your lawyer's knowledge.
2. You have the right to participate in court hearings. At appropriate hearings, you have a right to testify in court, bring in your own witnesses, and have your lawyer question the people who testify against you. If at any time you do not understand what is happening or think there is a problem, tell your lawyer.

3. You have the right to ask questions of anybody who gives evidence in court.
4. You have a right to visit with your child, unless the judge believes that visits would be unsafe for the child.
5. You have the right to understand and get help with what you need to do in order to get your child home with you. Your caseworker has a responsibility to work with you and to assist you in making the necessary changes to get your child home.
6. If you do not speak or understand English well or need a sign language interpreter, an interpreter will be provided for you.

Getting your Child Returned to Your Care

The law says the Division of Child and Family Services (DCFS) must make reasonable efforts to help you get your child back. DCFS can only help you if they know where you live and how to contact you. It is important for you to keep in contact with your caseworker. Tell your caseworker if you are going to move. Be sure to tell the caseworker before you move.

In order for your child to be returned to your care, you must change the conditions that caused the child to be put in foster care. It is best to do what the judge, the caseworker and the Service Plan tell you to do. If these requests do not make sense to you, talk to your lawyer.

Your Caseworker

A caseworker is available to help you. It is the caseworker's job to make a Service Plan to see that needed services are available to you, your child and your family.

Your caseworker can provide some help with special needs that you might have. Your caseworker might help you to find a place to live, to get financial aid for your family, or to get medical or counseling help.

The caseworker must tell you why your child was taken from your home. The caseworker must also tell you what the plan is for your child.

If you are having difficulties with your caseworker, contact your lawyer to discuss this. Your lawyer cannot assist you unless he/she knows there is a problem.

The Service Plan

Your caseworker should work with you to create a Service Plan within the first 30 days your child is in placement.

The Service Plan tells you what you need to do to get your child back. You must correct the conditions that caused your child to be removed from your home. The tasks set out in the plan will help you to get your child home again. Your caseworker will report on your progress to the judge.

The Service Plan will also tell you what the caseworker will do to help you. For example, your caseworker might help you to get services you and your family need, such as job training, help with parenting or homemaking skills, drug treatment or counseling.

Make sure the Service Plan helps with the problem that caused your child to go into foster care. For example, if drug use is involved, the plan should say that you need to have a drug and alcohol evaluation and counseling. **If you do not think the Service Plan will help you and your child, you can object to it within ten (10) days after you receive it.** Ask your lawyer to tell you not to object to your Service Plan.

Read the Service Plan often. It is very important for you to follow the Service Plan.

The Service Plan also includes a goal. **Know the goal for your child.** The goal describes what DCFS or the judge has determined would be the best future placement for your child (the possible goals are described in the "Permanency Hearing" section).

The services you receive and how often you can visit with your child will depend on what the goal is. You will get help with services and the most frequent visits with your child when the goal in the plan is for your child to "Return Home."

The goal will change if the caseworker and judge believe that it is time to find another permanent home for your child because you have not made enough progress in fixing the problem. Even if you are making some progress, the goal could change if it is taking too long.

Visiting Your Child

Your caseworker is responsible for developing a plan for you to visit with your child.

As long as the Service Plan goal is “Return Home,” most parents have a right to weekly visits.

Be sure that you understand from your caseworker how he or she expects to arrange these visits. Sometimes a parent will request a visit, and then will have to call their caseworker again the day before the visit to confirm it. If you have any difficulty setting up visits, call your lawyer.

At the beginning, the judge usually requires visits between parents and children to be supervised. If you have supervised visits, that means that someone else must be with you when you and your child visit. This person could be an approved relative or caseworker.

As you participate in and complete the services identified in the Service Plan, the judge usually will allow you to have longer visits with your child. Generally the judge allows a parent to have supervised visits, then allows unsupervised daytime visits, and finally unsupervised overnight or weekend visits. The pace at which the judge increases visits depends on the reason the child was removed from the home, the progress the parent is making in correcting the conditions that caused the child to be placed in foster care, and the parent’s behavior during the visits.

Regular visits with your child are very important. They help your child feel close to you, even if he or she is living someplace else. They also help you to know that you are still a part of your child’s life. They make your child’s return home easier.

It is important to remember that the purpose of your visits is for you to spend time with your child. Discussions with your caseworker should take place before, after, or on another day – not during your visits with your child. You should not bring other parties to your visitation. This is your time with your child. Depending on where your visits take place, you may want to take with you things to share with your child, such as nutritional snacks, games, toys, books, crayons or art activities. Plan ahead for activities that you and your child can do during the visit.

Ask your caseworker to schedule visits at the same time each week. For example, every Friday at 4:00 p.m. This will allow you to plan for other services or employment and prevent conflicts with your visitation time.

Tell your caseworker that you want to stay involved in your child's life. This might include taking your child to buy some new school clothes, or to an appointment with the doctor or dentist or for a school conference. You can also ask to be told about sports, plays, and other activities your child is in. Tell your caseworker that you want to go to these events, especially if your child wants you there. You might ask your caseworker to have the foster parents send school papers, report cards and art work to the visits. That way you can keep up with your child's development and interests.

When you visit with your child. Be sure not to make any promises to your child that you cannot keep.

If a visiting plan is made, but you do not visit your child, the State might seek to have your parental rights terminated. If the Judge determines that you show no interest in your child or are not fit to care for him or her, your rights as a parent will be terminated and you will no longer be the legal parent of the child.

You and Your Child's Foster Parents

It is helpful to your child if you and your child's foster parents get along well. Some children are returned home faster because parents and foster parents work together.

Ask your caseworker to arrange for you to meet your child's foster parents.

You might tell your child's foster parents that you want to stay involved with your child and ask for their ideas about how they can help.

You might also tell your child's foster parents that you would like to get your child's school papers and report cards, and maybe even have a picture of the child's room.

You may also tell them that you would like to talk to your child on the phone during the week.

How Can You Get Your Child Back In Your Care?

1. Work hard to correct the conditions that caused your child to be placed in foster care. Be sure that you are doing everything you can to achieve this goal.
2. Visit your child as often as possible
3. Follow the Service Plan your caseworker makes with you.
4. Keep in touch with your caseworker and lawyer.
5. Attend your court hearings. Be on time and dressed appropriately.
6. Tell your lawyer if you have any serious problems with your caseworker or with any service that is supposed to help you.

IV. TERMS YOU MAY WANT TO KNOW

This section contains words or phrases that may be unfamiliar to you. These are terms that you may be exposed to as you are involved with the child welfare system.

Adoption:

This is when children, who will no longer live with their biological parents, become full and permanent legal members of another family. Sometimes they also maintain contact with their birth family. This is called an “open adoption.”

Allege:

When someone claims something happened (for example, child abuse) without having to prove it. An “allegation” is what you call the claim someone has made.

Appeal Process:

The process parents can use when they do not agree with an agency or a court decision. There are two types of appeals. This first is at the agency level and is sometimes referred to as a “grievance process.” The grievance process is for families who do not agree with a decision about services; for example, when a service is denied, when there is a failure to take into account a family’s choice of service, or when the family is not satisfied with the quality of the service being provided. The agency should have a process. Those who do not agree with decisions made in court regarding themselves or their children can appeal the decision with the help of a lawyer.

Assessment:

This is a process to find out a family’s strengths, needs, and resources. When these strengths, needs and resources are known (that is, when they are “assessed”), the information is used to plan services and supports. When a family becomes involved with the child welfare agency, the worker will first do a “safety assessment” to find out if a child is in any immediate danger. Next, he will do a “risk assessment” to determine the likelihood that a child might be abused or neglected in the future. A full “family assessment” will also be done. This finds out what the family’s

strengths are and what families need so that their children can remain at home. If a child is removed, then the assessment determines what is needed for the child to return home.

There are other kinds of assessments that children and parents participate in. For example, when a child goes to a doctor, his physical health will be assessed. If he goes to see a counselor, his emotional health may be assessed. This is done to find out what the child needs, how well he is doing, and what can be done to help.

CASA (Court Appointed Special Advocate):

This refers to a specially-trained person chosen by the juvenile or family courts. This person is usually a volunteer. The CASA's job is to ensure that the needs and best interest of children who have been abused or neglected are addressed during the court process. The CASA usually meets with the child, his parents, and often others involved with the family. The CASA reports to the Judge about how a child is doing.

Child Abuse Report:

The call that is received by the child welfare agency to report an incident of abuse or neglect or concern about risk of abuse or neglect of a child. The information is written down and some kind of follow-up takes place.

Child and Family Teams:

The child and family team comes together to develop family Service Plans. The team is usually made up of the providers and agency representatives who are working with the family, extended family members, and other support persons, such as neighbors or ministers. The family approves all team members. The team reviews each family's strengths and needs. Then it identifies the services and supports that will be put in place. Family members are active partners in the planning for their children.

Child Protective Services ("CPS"):

An array of services and supports that are set up to assess and address the safety of a child. These services and supports are provided when it is determined that the child is at risk or has been abused or neglected.

Court Order:

A legally binding document that describes the judge's instructions or directions. All parties to a court order must follow it.

Custody:

A judge grants this to an adult or an agency so that they have the legal right to care for a child. The custodian has the power to make major decisions regarding the child.

Emergency Shelter:

This is a type of out-of-home placement. It is a temporary, short-term place where children and youth who are taken into State custody stay. It may be a family home or a group facility. It is set up to provide an immediate safe environment while decisions are being made about where a child will live.

Guardian ad Litem (GAL):

This is a lawyer appointed by the judge, who meets with a child and tells the judge what the GAL believes is best for the child.

Kinship Care Placement:

This is a type of out-of-home placement where the full-time care of a child is provided by relatives, godparents, step-parents, or other adults who have a kinship bond with the child. This could include a close friend, a neighbor, or a member of a child's tribe. This is also called "relative placement." Children may be placed formally in homes of relatives by the courts. This is also known as kinship foster care. They also may be placed informally on a voluntary basis by the parent or guardian. A subsidy (or financial support) is generally not provided by the child welfare agency unless relatives are licensed foster parents.

Reasonable Efforts:

These are the steps child welfare agencies must take to prevent children from being removed from their homes and to help children who have been removed to return home. States must also make reasonable efforts to help children find other permanent homes if they cannot return to their own families. Federal legislation requires that reasonable efforts be

made, but it does not define what efforts or services are considered as “reasonable.” Individual states have the flexibility to define this.