

**A GUIDE FOR PARENTS
IN
CHINS* CASES:
WHAT TO EXPECT FROM YOUR
LAWYER
AND THE COURT**



Being involved in a child abuse and neglect case can be very confusing and stressful for a family. Not knowing what to expect can make it even harder. This booklet will help you to understand what to expect from your lawyer and the court.

*CHINS means CHILDREN IN NEEED OF
CARE OR SUPERVISION

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What is "CHINS"?

- "CHINS" is a term that means a **CH**ild **I**n **N**eed of Care or **S**upervision.
- It refers to a child who may be:
 - Abandoned
 - Abused
 - Neglected (not adequately cared for)
 - Beyond the parent's control
 - Absent from school many times without a good reason

In these situations, the job of the Family Court is to keep your child safe and to help you create a safe home for your child. The judge must decide what is best for your child, based on information that you and others provide to the judge.

Why Do I Have to Go to Family Court?

Someone is concerned about your child. Someone might have called the Child Protection hotline to report a concern. When that happens, a Family Services social worker looks into the matter. If the social worker has concerns about your child's safety or well-being, the social worker contacts the State's Attorney (prosecutor).

- The Department for Children and Families (DCF – Family Services) may have talked with you and other people who know you and your family.
- The State's Attorney filed a ***petition*** (form) in Family Court with an ***affidavit*** (written statements) describing why your child may need care or supervision. The statements can be from DCF, a police officer, or the concerned person.
- As the child's parent or guardian, you have a right to be at court hearings and to know what is going on.

What Happens Once the Court is Involved With My Family?

- You will receive a copy of the paperwork, including the petition and affidavit, that have been given to the court.
- A hearing will be held. You are entitled to a lawyer.
- The judge can require that you and your family get help.
- The judge can order that your child be temporarily placed in the custody of the Department for Children and Families (DCF – Family Services).
 - This means that DCF would be legally responsible for your child.
 - DCF can make decisions about where your child will live **and**
 - what you need to do before your child can return home.
- The judge will review steps taken by DCF Family Services to keep your child safe.
- The court will keep you informed of its decisions. You will receive copies of any Orders issued by the judge.

How Do I Know if I Need a Lawyer?

- You will receive a notice telling you when you must appear in court. This is called a “Notice of Hearing.”
- If the Notice says that you have the right to a lawyer, you can ask the court to appoint one for you.

If you cannot afford to hire a lawyer, you can apply for one at the courthouse.

What Does My Lawyer Do? – Working with My Lawyer

Most often, you will meet your lawyer for the first time at the courthouse before the hearing. (If your lawyer cannot be present for the first hearing, you will meet with him or her sometime after the hearing.)

- Your lawyer will:
 - Talk with you about what happened with your child
 - Help you understand your rights
 - Answer your questions
 - Tell you about the hearings you will attend
 - Tell you what to expect at each hearing
 - Speak for you in court
 - Explain to you what happened after each hearing
 - Keep you informed of future hearing dates
 - Return your phone calls.
- If you have a court-appointed lawyer who does not do these things, you can tell the judge during any hearing. You can also tell the Defender General, because that office oversees your lawyer.

Defender General's Office
6 Baldwin Street
Montpelier, VT 05663-3301
(802) 828-3168

If you have not heard from your lawyer, call him or her as soon as possible. If you have questions or problems, call your lawyer.

Lawyers are often busy in court so it may take a day or two for your lawyer to get back to you.

It is your responsibility to let your lawyer and the court know if your phone number or address changes.

Others Who Will Be Involved with the Case

The State's Attorney (Prosecutor)

This lawyer has to prove why your Child is in Need of Care or Supervision. The State's Attorney works closely with the DCF Family Services social worker.

The Social Worker

The DCF Family Services social worker works with children and families on the problems that brought them to court. The social worker gathers information to help the judge make decisions about the case. The social worker should give you a booklet called "A Guide For Parents with Children in DCF Custody." If you were not given this booklet, ask for it.

Your Child's Lawyer

The court will appoint a lawyer to represent your child in court.

The Guardian Ad Litem

The court will appoint a Guardian ad Litem (G.A.L.) to look out for the best interests of your child. G.A.L.s are volunteers. Their job is to meet with you, your child, and others, and then tell the court what they think is best for your child. The G.A.L. works closely with your child's lawyer.

When Will I Have to Go to Court?

You will be asked to attend several court hearings and other meetings so that the judge and others can listen to all sides and decide how to help your family. **It is very important that you attend the hearings and meetings.**

It is also important that the court and your attorney be able to get in touch with you, so make sure you let them know if your address or phone number changes.

Remember: the purpose of juvenile court proceedings is to provide for the care, protection, education, and healthy development of your child. The court is concerned with your child's safety and need for a stable, permanent home. The judge's decision is guided by what is best for your child.

Basic Steps in a CHINS Case

Each hearing has a different purpose. Most court cases follow these basic steps:

- Emergency Care Hearing (in emergency situations)
- Temporary Care Hearing (within 72 hours if a child is taken into emergency custody)
- Preliminary Hearing (if no emergency exists). This takes place 15 days from the filing of a Petition
- Pre-trial Hearing (15 days later)
- Merits Hearing (60 days from the start of the case)
- Disposition Hearing (35 days after Merits Hearing)
- Post-Disposition Review Hearing (2 months later)
- Administrative Review (not held in court; this happens every 6 months if a child is in foster care)
- Permanency Hearing (12 months after a child is placed in foster care)

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What Happens in Court

1. Emergency Care Hearing

- You may not know about the **Emergency Care Hearing** because it is done quickly, in response to an emergency. The judge may be contacted over the phone by a police officer if the officer believes that your child needs to be taken into immediate emergency custody. Or, the hearing may take place in court before you are able to get to the courthouse.
- If the judge believes that your child is in immediate danger, the judge may issue an **Emergency Care Order** to protect your child's well-being. If this happens, there will be a Temporary Care Hearing in court within 72 hours to decide if the child can safely return home and what will happen next.
- During those 72 hours, the child could be temporarily placed in foster care or with a relative. The DCF Family Services worker will gather information to present to the court at the next hearing.

If the case does not begin as an emergency, it will likely start with a Preliminary Hearing after the State's Attorney files a Petition with the court. The next hearing would then be a Pre-trial Hearing (see page 9).

Temporary Care Hearing

- This hearing will be held within 72 hours of the **Emergency Care Hearing** (not counting state holidays).
- At the **Temporary Care Hearing**, the judge will decide who should have temporary custody of your child. The judge may decide that your child should be returned to your care, or may temporarily transfer custody to DCF Family Services or another person, like a relative. If custody is transferred to Family Services, that doesn't mean that your child will never return home. Most children eventually return home once the family has worked out its problems.
- If the judge gives temporary custody of your child to DCF, DCF will decide where your child will live for the time being.
 - If that happens, you should let your lawyer or social worker know if there are any relatives or close friends who can provide a safe home for your child.
 - You and your lawyer will talk to the social worker about setting up a schedule for you to see and/or talk with your child.
 - The judge can order Family Services to provide visits for you and your child.
 - The judge can require Family Services to provide services to your child or to refer you to services.

3. **Pre-Trial Hearing**

- This hearing is held 15 days after the **Temporary Care Hearing** or the **Preliminary Hearing**.
- The purpose of the **Pre-Trial Hearing** is to discuss whether you will admit or deny the allegations (accusations) in the petition. This means that you will have to decide whether to admit (agree) or deny (disagree) that your child is in need of care or supervision.
- Before the hearing, you and your lawyer will talk so that you can make a decision. This is an important decision, because it affects what will happen with the rest of the case. Be sure that you understand your choices, and what they mean. Be sure that your lawyer explains this to you.
- **Next Steps:**
 - If you admit to the allegations in the petition, it is called reaching the “merits” of the case. The next step would be the **Disposition Hearing**.
 - If you deny the allegations in the petition, the next step is the **Merits Hearing**.

A **Status Conference** may be held at any stage of the case. It is a court hearing that allows the judge and other parties to learn what is going on with the case.

If your child is in foster care, DCF Family Services has 60 days to file a written **case plan**. Family members should be part of the planning process. The case plan lists the services that the social worker thinks will be good for you and your child. That plan should be available to you and your lawyer around the time of the Merits Hearing (which occurs 60 days from when a child is removed from home).

4. Merits Hearing

- If your child has been placed in temporary custody of DCF, the court should have the **Merits Hearing** within 60 days of when your child was removed from your home.
- If your child is living at home, the **Merits Hearing** should be held in a timely manner according to your child's best interest.
- Your lawyer will meet with you before the hearing to listen to your side of the story and talk with you about how your story will be presented in court.
- Your lawyer will talk to witnesses (people who know you and your child), and may have them come to the hearing to tell the judge what they know about you and your child. This is called "testifying."
 - If you will be testifying, your lawyer will go over the questions you will be asked, and the questions that the State's Attorney may ask you.
- Your lawyer will research the legal parts of the case, and look over the DCF Family Services file and any important paperwork.
- At the hearing, the State's Attorney ("the State") must prove that your child is a "Child in Need of Care or Supervision" (CHINS).
 - Witnesses will testify for the State, and your lawyer will ask them questions to challenge what they say.
 - Your lawyer may have witnesses to testify for you, and the State will question those witnesses.
- After listening to all of the witnesses, the judge decides whether your Child is in Need of Care or Supervision.
 - If the judge decides that your child is **not** CHINS, the case is dismissed and your child returns home.
 - If the judge decides that your child **is** CHINS, a **Disposition Hearing** will be held within 35 days.

5. Before the Disposition Hearing

Before the **Disposition Hearing**, the Family Services social worker prepares a **Disposition Case Plan**.

- The purpose of the Case Plan is to help you and your family work out your problems.
- It describes your child's needs and a plan of "services." Counseling is an example of a service that might be recommended.
- If your child is in DCF custody, the plan may require that your child remain in DCF custody for the time being

or

- The plan may be for your child to return home when it is safe to do so.
- If your child is over 16 years of age and has been placed in DCF custody, the case plan should include services from the Department of Education and agencies in the community.
- Family Services must file the Case Plan with the court and make it available to your lawyer 28 days after the judge decides your child is in need of care or supervision.
- The Case Plan also recommends a long-term goal for your child, such as returning home or living with someone else.
- Your lawyer should discuss the **Disposition Case Plan** with you. If your lawyer does not contact you to discuss the Plan, call him or her.
- If everyone agrees to the Plan, the judge will likely approve it.
- If the Plan is **not** agreed to, there will be a **contested Disposition Hearing**.

6. *Disposition Hearing*

- The **Disposition Hearing** should be held within 35 days after the **Merits Hearing**.
- If everyone agrees with the Case Plan, the judge will likely approve it.
- If there is disagreement with the Case Plan, a contested Hearing is held.
 - You and your lawyer must discuss the social worker's and the court's concerns about the safety and well-being of your child.
 - Your lawyer may present a different plan to the court. Your lawyer might have witnesses testify for you at the hearing.
 - The judge will decide who will have legal custody of your child and what you, and possibly your child, must do.
 - If your child is placed outside of your home to live, the judge will decide if you may visit with your child.
 - The judge can also order visits between your child and other people who are important to your child.
- The judge will issue an **Order** based on the **Disposition Case Plan** that will guide how this matter is handled for the coming months and what the goal for your child should be.
- You need to work with DCF Family Services and **follow the court's order** about fixing the problems in your family.
 - You might need to participate in counseling or take a class on how to be a better parent.
 - If you do not follow the order, it could take longer for your child to be returned to you, and you could even lose your rights to your child forever.
- After the Disposition Hearing, let your lawyer know every month how the plan is working out for you. **If the plan is not working, your lawyer needs to know.**
- Your lawyer will tell you about your right to appeal the judge's decision. This means that you can ask the Vermont Supreme Court to review the judge's decision if you do not agree with it.

7. Post-Disposition Review Hearing

- This hearing is held 60 days after the Disposition Order.
- At this hearing, **the court checks the progress** that you and your child are making.
- It is important that you talk to your lawyer before this hearing.

8. Administrative Review

- If your child is placed in DCF custody, then every 6 months from the time that your child first came into custody, an **Administrative Review** will be held at the DCF office.
- DCF Family Services will send you a letter inviting you to this meeting. Your social worker and others involved with the case will be there.
- The plan for your family will be discussed.
- The person in charge of the meeting will talk about:
 - the goal for your family,
 - whether you and DCF Family Services are doing what you are each supposed to do, and
 - how your child is doing.
- Changes to the case plan may be made.
- You may challenge certain parts of the case plan through an administrative process.
- Your lawyer may be present for this meeting, particularly if you do not agree with the case plan, or if DCF Family Services is not following the case plan.
- Since this is not a court hearing, your lawyer might not plan to attend. **You must let your lawyer know of the date** if you want to be represented at this Review meeting.

If the **Review** happens before a Permanency Hearing, decisions may be made that will be presented to the court at the Permanency Hearing. It is important that your lawyer know about these decisions before the Permanency Hearing. It is important that you talk with your lawyer before each hearing.

9. Permanency Hearing

- If your child is in DCF custody, there will be a **Permanency Hearing** in court at least once a year. (These hearings can take place sooner if the child is under age 6.)
- The purpose of this hearing is for the court to make sure that your child has or will soon have a permanent home.
- About a month before this hearing, DCF will file an updated Case Plan, called a **Permanency Plan**. Your lawyer should talk with you about what the plan says.
- DCF will present this plan at the hearing. You have the right to disagree with the plan. If you disagree with the Permanency Plan, the court could schedule a contested hearing. At this hearing, your lawyer may ask witnesses to testify on your behalf.
- The court may accept or reject the Permanency Plan. The judge will issue a **Permanency Order**. Your child could be placed in your home, or the court could consider another permanent home for your child. Examples of this are adoption or Permanent Guardianship.
- In making its decision, the court will look at many things, including:
 - Whether you have done what you are supposed to do according to the case plan;
 - Whether DCF has made efforts to reach the permanency goal for your child.
- The judge's decision is guided by what is in your child's best interest.

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Notes:

	Date	Time
Preliminary Hearing	_____	_____
Temporary Care Hearing	_____	_____
Pre-Trial Hearing	_____	_____
Merits Hearing	_____	_____
Disposition Hearing	_____	_____
Post-Disposition Review Hearing	_____	_____
Administrative Review	_____	_____
Permanency Hearing	_____	_____

This booklet is intended to provide a basic overview of what to expect from your lawyer and the court. It is very important to talk with your lawyer about anything happening in your case that you do not understand.

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