

NORTH CAROLINA JUVENILE COURT: A HANDBOOK FOR PARENTS



IN ABUSE, NEGLECT AND DEPENDENCY HEARINGS

INTRODUCTION

Being involved in a child abuse, neglect, or dependency case can be very stressful for a family. Not knowing what to expect can make it even harder. This handbook tries to explain the court process and the people involved in your case, but it is only a general explanation. You should always discuss your case with your lawyer.

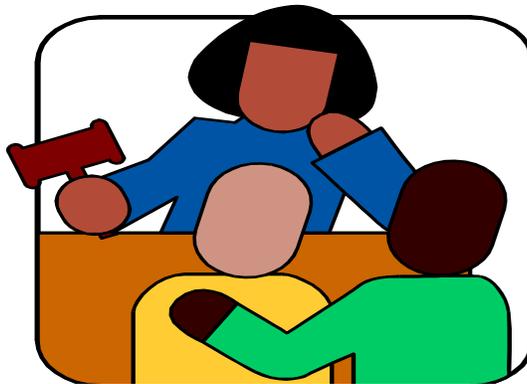


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Juvenile Court Checklist

This chart may help you keep track of your court dates. A brief description of each court events is found on page 10, 11, 12, and 13 of this handbook.

COURT EVENT	DATE	NOTES
Child Planning Conference (CPC)		
Nonsecure Custody Hearing		
2nd Nonsecure Custody Hearing:		
3rd Nonsecure Custody Hearing:		
Pre-Adjudication Conference (30 days from filing of petition)		
Adjudication Hearing (45-60 days from filing of petition)		
Dispositional Hearing (right after adjudication or within 30 days)		
1st Review Hearing (within 90 days of Disposition)		
2nd Review (within 6 months after 1st review)		
3rd Review (every 6 months)		
Permanency Planning Review Hearing (PPH) - (within 12 months of Nonsecure Custody Hearing or 30 days after order ceasing reunification efforts)		
2nd PPH (within 6 months)		
Subsequent PPH (every 6 months)		
TPR Petition Filed (if necessary)		
TPR Hearing (if necessary)		

THE COURT PROCESS

BASIC INFORMATION ON ABUSE, NEGLECT AND DEPENDENCY CASES

- In North Carolina, each county has a Department of Social Services (DSS). Reports of child abuse, neglect, or dependency are received by DSS. If DSS finds evidence of abuse, neglect, or dependency, DSS must decide whether to file a petition, the paperwork that starts the court's involvement in your family.
- When DSS files a petition, it may ask the court for an order to remove your child from the home if DSS has determined that removal is needed to keep your child safe.
- When a petition is filed, you must receive a copy. The petition names you as a "respondent." This is the term used by the Court for the parent, guardian or custodian in a child abuse, neglect and dependency case.
- In the petition, DSS describes what information it used to decide that your child needs protection or assistance. These are called allegations.
- A summons is attached to the petition and tells you the date, time and place of your first court hearings. The summons tells you that you have a right to have a lawyer represent you, and it will give you the name and phone number of the lawyer appointed for you. This is a temporary appointment. This temporary appointment will end unless the judge finds that you want a lawyer but can't pay for one. You should contact your lawyer as soon as possible.
- If DSS asked that your child be removed from the home and the judge agreed to do so, there will be an order telling you who has custody of your child. Usually, this will be DSS. Having custody makes DSS legally responsible for your child and DSS can decide, with the approval of the court, where your child will live.
- This is not a criminal case. You cannot be put in jail or face any other criminal penalty if the court decides that your child was abused or neglected.
- The District Attorney may file a separate criminal case against you based on the same facts that started this case. If that happens, you may end up with two lawyers—one for the abuse, neglect, or dependency case and another for the criminal case. Make sure your lawyer in this case knows about the criminal case and make sure the lawyer in the criminal case knows about this case.

COURTROOM BASICS

- **Arrive on time.** You should plan to arrive at the courthouse at least 30 minutes before each scheduled hearing. If you are late or don't appear, the judge may decide your case without you there.
- **Dress appropriately.** Do not wear halter tops, torn jeans, short skirts, hats or t-shirts with printing and/or logos to your hearing.
- **Turn off all electronic devices.** Before you go into the courtroom, be sure to turn off cell phones and other electronic devices.
- **Do not bring food or drink into the courtroom.**
- **Take it seriously.** Show the judge respect. Address the judge as "judge" or "Your Honor." Don't curse or show anger in the courtroom. If you're unable to control your temper, ask your attorney to ask the judge for a break.
- **Listen carefully.** Don't interrupt others when they are speaking. Don't guess at an answer. Don't lie. If you don't understand a question, ask the judge or your attorney to explain it to you. Do not answer the question until you understand.
- **Children in court.** If you have children with you, arrange for someone to care for them during your hearing.
- **Don't leave without understanding what the judge has ordered.**

WHO IS INVOLVED IN YOUR CASE?

The Judge:

The judge is the person who conducts the court hearings. In some districts, you will have the same judge throughout your case. At each hearing, the judge listens to each side and makes a decision based on the law and the evidence he or she hears.

Your Lawyer:

You will get a lawyer appointed to represent you when DSS files its petition. This is a temporary appointment. To continue receiving these legal services, the judge must determine that you want a lawyer but can't pay for one. Some judges may enter a judgment against you for the cost of the lawyer.

The Guardian ad Litem and the Attorney Advocate:

The Guardian ad Litem (GAL) is a specially trained volunteer appointed by the court to investigate the facts of a case and make recommendations to the court on what he or she thinks is in the best interest of your child. The GAL will talk and visit with many people, including you and your child. Talk with your lawyer about what to discuss with the GAL. The Attorney Advocate is appointed with the GAL to ensure that your child's legal interests are protected. Both the GAL and the Attorney Advocate usually remain on the case until it is over. While you may talk to the GAL, you should not talk about your case with the Attorney Advocate without your lawyer present.

The DSS Social Worker

Part of the social worker's job is to provide services to you and your child and to help you and your family. The social worker also attends court hearings and tells the judge what he or she thinks should happen in your case. It is important to keep in touch with your social worker and to develop a strong working relationship.

The DSS Attorney:

The DSS attorney presents the case to the court for the social worker. While you may talk to the social worker, you should not talk about your case with the DSS attorney without your lawyer present.

Relatives:

The law in North Carolina states that if your child cannot be in your home or the home of the other parent, the judge must decide if there is a relative of the child that can provide a safe home. As early as possible, you should tell your social worker the names, phone numbers, addresses and any information you have about your child's relatives. The social worker will contact them and ask if they can help care for your child.

Court Employees:

There will be one or more bailiffs, typically a sheriff deputy, in court to make sure the courtroom is safe and business is done in an orderly way. The clerk of court makes sure that a record is kept of all the information presented to the court. You may also have the right to have an interpreter if you do not speak or understand English, or if you are deaf.

Note: The child who is the subject of the case is considered a "party," but the child may or may not be present depending on the child's age, maturity level, and whether it is in the best interest of the child to attend. Other persons who may be present include any witness that a party intends to call, foster parents, people from various agencies, and other people waiting for their cases to be heard.

WHEN DO I GO TO COURT?

After DSS files a petition that begins a case in juvenile court, several types of meetings and court hearings may take place. These include

- Child Planning Conference
- Nonsecure Hearing
- Adjudication Hearing
- Disposition Hearing
- Review Hearing
- Permanency Planning Hearing
- Termination of Parental Rights
- Post Termination of Parental Rights

The descriptions on the following pages are meant to give you an overview of these hearings and do not contain all of the detailed requirements of the law. If you have questions about your case, including the people involved, talk to your lawyer.

Before you go to court you may be asked to attend a **Child Planning Conference (CPC)**. This is not a hearing, but a meeting where families and others (social workers, DSS attorney, GAL attorney advocate, parent attorney, court personnel, and service providers) identify issues, resolve problems and develop action plans. People at the meeting share information, make recommendations, and try to reach agreement about where the child should live, visitation for the parents, any services that are needed, and paternity and child support. Judges do not attend CPCs and do not hear confidential information shared in the CPC.

Nonsecure Custody Hearing

When a child is removed from home, a nonsecure custody hearing must occur within seven (7) days. As long as a child remains placed outside the home, nonsecure custody hearings must continue to be held until the disposition hearing is finished, unless you and your attorney agree to waive them.

At a nonsecure custody hearing, the judge does not decide if what DSS states in the petition, the allegations, are true. The judge decides if keeping your child out of your home is necessary. If the judge decides it is, the judge also decides if your child should stay where he or she is currently placed.

At every nonsecure custody hearing, the judge must ask certain questions:

- What is the identity and location of both parents?
- Has paternity been established?
- Are there relatives that can care for your child?
- Is it safe for the child to return home?
- What visitation is in the child's best interests?

The Adjudication Hearing

This hearing must be held within 60 days of the date the petition was filed unless the judge decides there is a good reason to delay it. At this hearing, DSS must prove by clear and convincing evidence that the allegations in the petition are true. If the judge decides that the allegations have not been proven, the judge will dismiss the petition and the case will be over. If the judge decides that the allegations have been proven, the judge will decide if the child will be adjudicated abused, neglected, and/or dependent.

Instead of having an adjudication hearing, the parties and their attorneys may agree on what the court should order. If this happens, the judge will enter a "consent order."

Disposition Hearing

The disposition hearing may occur on the same day as the adjudication hearing or may be up to 30 days later. Disposition hearings are often less formal than adjudication hearings and all parties give information to the court about what they want to happen.

In the disposition hearing, the judge decides what the best plan is for your child. The judge will decide where your child will live, whether there are any relatives that can help take care of your child, what type of visits you will have with your child, and what services you and your child may need. The judge may also order each parent to receive certain services such as substance abuse treatment, parenting classes, or domestic violence counseling.

The goal for most families is to reunite the parent and child but in some cases, the judge may decide that there should be another plan for your child.

Review Hearing

The first review hearing must take place within 90 days of the disposition hearing. After that, there must be a review hearing every 6 months but often they occur more frequently. In addition, any party can ask for a review hearing at any time, if an attorney files a motion with the court.

At each review hearing, the judge is given information about what each parent has been doing, how the child is doing, and whether there are any needs that haven't been addressed. The court must decide if the plan that was made during disposition is working and if any changes are needed.

Permanency Planning Hearing

A permanency planning hearing is required within 12 months after a child is removed from home. It may be held earlier if the judge decides that efforts to reunify the family are not required or will stop. Permanency planning hearings must be held at least every 6 months.

At a permanency planning hearing, the parties present information to the judge so the judge can order a plan to achieve a safe, permanent home for the child within a reasonable period of time. The judge will decide whether the plan is to return the child home, to give a suitable person custody or guardianship of the child, to move toward termination of parental rights so the child can be adopted, or to keep more than one of these options open, sometimes referred to as concurrent planning.

Termination of Parental Rights Hearing

A termination of parental rights (TPR) hearing is divided into two stages, adjudication and disposition. At adjudication, the party requesting TPR must prove to the judge by clear and convincing evidence that grounds exist for termination. If the judge decides that grounds do not exist, the judge will dismiss the case. If the judge decides that the grounds do exist, the judge moves to the disposition stage and must decide whether TPR is in the child's best interest.

Post-Termination of Parental Rights Review Hearing

These hearings are required if the child is in the custody of DSS or another agency when the parent's rights are terminated. The first post-TPR review hearing must be held within 6 months of the TPR hearing and at least every 6 months after that until the child is adopted. The parent whose rights have been terminated does not participate in this hearing because, after termination, the parent is no longer a party to the case. The purpose of this hearing is to examine the plan for permanent placement of the child, to make sure the plan is adequate, and to make sure appropriate efforts are being made to carry out the plan.

YOUR RELATIONSHIP WITH YOUR LAWYER

Your relationship with your lawyer is very important. You should make every effort to make the relationship with your attorney work to your advantage.

- 1. BE HONEST WITH YOUR LAWYER.** Keep your lawyer fully informed of your case and your progress. Remember that the conversations you have with your lawyer are **confidential**.
- 2. SHOW ALL DOCUMENTS TO YOUR LAWYER.** Share any documents that are important to your case (evaluations, case plans, visitation schedule) with your lawyer.
- 3. REVIEW COURT DOCUMENTS WITH YOUR LAWYER.** Take time to discuss and review the petition filed in your case and any orders with your lawyer.
- 4. MAINTAIN CONTACT WITH YOUR LAWYER.** Make sure that your lawyer has your current contact information. Return calls from your lawyer as soon as possible. Make and keep appointments.
- 5. ASK YOUR LAWYER TO EXPLAIN.** If you have any questions about your case ask your lawyer to explain.
- 6. DISCUSS YOUR CASE WITH YOUR LAWYER.** Talk to your lawyer about how you would like your case to be resolved.
- 7. ALWAYS TALK TO YOUR LAWYER.** Before signing any documents, make sure you have discussed the papers with your lawyer.

YOUR RIGHTS AS A PARENT

You have the right to an attorney. If the judge determines you want a lawyer, but can not pay for one, the court will appoint one for you.

You have the right to admit or deny the allegations made in the petition.

You have the right to be notified of all court hearings and to fully participate.

You have the right to a language interpreter or a sign language interpreter if you need one.

You have the right to talk to your caseworker and attorney.

You have the right to have your attorney ask questions of the witnesses in court.

You have the right to have your attorney present evidence, including having witnesses testify or testify yourself about the allegations of child abuse, neglect, or dependency.

You have the right to know what is in your court file and what is in most of the reports that are given to the court.

You have the right to see your child if he or she has been placed outside your care, unless the judge determines that visitation is not in your child's best interests.

You have the right to approve non-emergency surgery and major medical care for your child.

In most cases, you have the right to services and assistance to prevent the removal of your child from your home, or to make it possible for the child to be returned to the home. Your attorney can also ask the judge to order needed services if they are not provided in a timely manner.

You have the right to be given a copy of the judge's written decisions.

You have the right to appeal certain rulings or decisions of the judge if you do not agree with what the court ordered.

YOUR RIGHTS AS THE NON-REMOVAL PARENT

If your child was not removed from your care, you are the non-removal parent. You usually will have the right to have your child come and live with you. If that is not possible, your relatives should be identified and considered as possible resources for the child.

Non-removal parents have all the same rights of parent previously listed, including the right to a court-appointed attorney.

YOUR RIGHTS AS THE PARENT OF AN INDIAN CHILD

The judge has the responsibility to determine if your child is a member of or eligible for membership in a federally recognized Indian tribe.

Upon the judge's determination, the tribe must be notified. The tribe may get involved in the case or request transfer of the case to the tribal court.

The judge must make sure that the parents and custodians of an Indian child get notice of any court hearing that involves the child and know of their right to intervene. The notification must be made by certified or registered mail with return receipt requested.

The grounds for any case under the Indian Child Welfare Act (ICWA) must be proven at a higher standard than for non-ICWA cases.

The parents of an Indian child have all the previously listed rights of parents, including the right to a court-appointed attorney.



8 STEPS TO HELP YOU REUNIFY WITH YOUR CHILD

1. Get treatment or other help the court requires as soon as possible!
2. Visit your child as often as the court allows. If you have to miss a visit, tell your social worker in advance.
3. Go to every court hearing.
4. Call your lawyer every week or as often as you and your lawyer agree. If your lawyer is not available when you call, leave a detailed message about how your visits and court ordered services are going.
5. Call your social worker every week. If your social worker is not available when you call, leave a detailed message about how your visits and court ordered services are going.
6. Make sure your lawyer and your social worker always know how to reach you.
7. Follow all court orders.
8. Keep a journal of important dates and notes.



Portions of this handbook were excerpted, with permission, from the 2001 Handbook for Parents, Guardians, Custodians and Children developed by the NC Court Improvement Project's Services/Resources Sub-Committee; the Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina Manual developed by the University of North Carolina's School of Government and the North Carolina Court Improvement Program; the Guide for Parents supported by the Nebraska Court Improvement Project; and the Family Court Calendar developed by the Family Court of the Superior Court of the District of Columbia

For more information about the North Carolina Court Improvement Program (CIP), contact the CIP staff at the NC Administrative Office of the Courts, 919-890-1222

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