

NOTICE TO CLIENTS WHO HAVE LOST CUSTODY OF THEIR CHILDREN TO DSS

(This notice is not a substitute for the advice of your attorney and is only a guide to assist you in preparation for trial and for consulting with your attorney)
Created by New Hanover County Public Defender's Office 2015

WHAT HAPPENED/FIRST COURT DATE: The Department of Social Services (DSS) has filed a petition to take legal custody of your children. They have presented this petition to a District Court Judge, and the judge has signed a temporary order allowing DSS to place your children in a foster home or possibly with family members. You will have a non-secure hearing before a judge within the next seven (7) days to determine if your children will remain where DSS has placed them, or if possibly you could get your children back. You are entitled to have a lawyer represent you during this process, and if you cannot afford to hire a lawyer a lawyer will be court-appointed to represent you. If you want to ask for a court-appointed lawyer you must appear and fill out information regarding your income, debts and assets to determine if you qualify for court appointed counsel. This lawyer is not necessarily a free lawyer; you may have to pay the state back for any fees. You will also receive a green booklet, which explains this process in great detail. Each parent will have their own attorney, even if you are married.

If you are interested in participating in this case, it is very important that you attend **ALL** court dates and that you are in contact with your lawyer. *It is also important that you are dressed appropriately in court. You should not wear anything too short, see-through, tank tops, shorts, clothes with curse words/beer/drug logos, etc.* At this first hearing, you will have the opportunity to challenge DSS's decision to remove your children from your custody. You will also be able to suggest a placement for your children – please come to court prepared to provide the Court with information regarding any relatives or close friends whom you believe could provide a safe home for your children. If the Court decides to keep your children in DSS custody, then you will need to prepare for the next hearing called the Adjudication/Disposition.

ADJUDICATION/DISPOSITION: Between 30 - 60 days after the last non-secure custody hearing, the Court will hold a hearing to decide if the information in the petition filed by DSS is true or not. You have two options in deciding how to handle that hearing – 1) if you don't agree with any of the facts DSS put in the petition, you can have a trial; or 2) you agree with some or all of the facts put in the DSS petition you can agree/consent/stipulate to certain facts in the petition and we don't have a trial. If we have a trial and the Judge disagrees with DSS, then the case will be dismissed and your children will return home. If the judge agrees with DSS, then your children will be adjudicated abused, neglected and/or dependent and you will need to enter into a case plan to get them back. You need to consult the green booklet and your lawyer for additional information about the hearing and to determine the best way to handle your case.

PEOPLE WHO ARE INVOLVED: A social worker from DSS will be assigned to your case. You may have already been working with a DSS social worker, but once DSS takes custody you will get a new social worker who will work with you on getting your children back home. There will also be a volunteer Guardian Ad Litem (GAL) assigned to work with you and your children on this case, and their job is to tell the court what they feel is in your child's best interest. The GAL does not work for DSS; they are members of the public who volunteer their time. It is vitally important that you have a working phone number so that DSS, the GAL and your lawyer will be able to contact you. Consult your lawyer for more information on working with DSS/GAL.

COURT REPORTS: At the Adjudication hearing, you will receive court reports prepared by your social worker from DSS and the volunteer GAL. These reports will have information on your progress in getting your children back. We can also prepare a report to give the Judge, detailing all of your progress on your case plan. It is important that you speak with your lawyer prior to court so that you can be prepared for court.

MEETINGS WITH DSS: The DSS social worker and GAL will set up meetings with you to develop a case plan to get your children back, and to review your case plan during the case. You are entitled to have your lawyer present during these meetings but you need to let your lawyer and social worker know in advance if you want them present.

VISITATION WITH YOUR CHILDREN: During this case, you should be given the opportunity to visit with your children on a regular basis. Visitation usually starts off supervised once a week at DSS, but the visitation can increase if you are making progress on your case plan. It is so important that you attend each and every visit, and that you are focused on playing and interacting with your children. Put away your cell phones, technology, etc. and make the most of your time with your children.

CHILD SUPPORT: Once DSS has custody of your children, they will likely make a referral to the Child Support office so that you and the other parent will have to pay child support. If you enter into an agreement with child support, try your best to set up a payment that you can afford.

YOUR CASE PLAN AND SERVICES: The plan to get your children back will likely involve you participating in services like mental health treatment, parenting classes, substance abuse treatment, etc. If it is part of your case plan, the judge will likely order DSS to pay for these services. If you choose to participate in services, make sure you follow through and attend all appointments timely and with appropriate behavior. Once you start any of these classes or counseling sessions, please sign a release so that we can get records on your behalf to provide to the judge and also speak to the service provider about writing a letter so that we can present it in court. DSS and the GAL will also ask you to sign releases so that they may verify your participation and compliance with a provider. Consult your lawyer if you have any questions regarding any release.

FUTURE COURT DATES: You will have court dates about every 3 – 6 months to review your progress on your case plan, and to determine whether your children will be able to come home. The goal in this court is to reunify parents with their children within one year. If there is not enough progress made during that time, the judge will start to look at other options including adoption, guardianship, and custody with other people, among other options. Consult the green booklet, and discuss with your lawyer to learn more about each hearing.

BOTTOM LINE: If your goal is to reunify with your kids, you need to work closely with your lawyer to make sure you are following any court orders and meeting any goals the judge gives you. Make sure you keep your lawyer updated with your activities, phone number and address.

COURT INFO: The address for the courthouse is 138 N. 4th Street, Wilmington, NC 28401 – located on 4th street between Princess and Chestnut