

Child Protective Services (CPS) and Dependency Actions

Should I read this?

Yes, if:

- You are a parent involved with CPS, but there is no court case. The first half of this publication will help.
- **CPS has filed a court case to take your child from you.** The most important part to read starts with “Do I Need a Lawyer.”

❖ **If you or your children are domestic violence survivors** and CPS is investigating you because of the domestic violence, talk to a lawyer right away. [The Washington State Coalition against Domestic Violence’s Know Your Rights When CPS Comes Knocking](#), available at wscadv.org, can help.

What is Child Protective Services (CPS)?

It is a state government agency. CPS has caseworkers and social workers. The state Attorney General’s office represents CPS.

What does CPS do?

When someone reports child abuse or neglect, CPS must investigate. If there is immediate danger, CPS must start investigating within 24 hours of getting a report. If there is no immediate danger, CPS has up to 90 days.

❖ CPS must notify both parents about the investigation, if they can find both. CPS must try to find both parents.

What is child abuse?

Any of these:

- physical abuse
- neglect
- sexual abuse
- bad treatment putting the child in danger

Can CPS talk to my child without my permission?

Yes, even if you are not the suspected abuser. During its investigation, the CPS caseworker can interview your child and anyone else with useful info. The interview can be at any suitable place, like school, home, or daycare. They do not need to ask or to notify you. CPS can talk to the child alone or with a third person. The caseworker can take pictures of the child.

Can I get info from CPS?

You have the right to see records and info CPS has collected about your child. There are some exceptions. See [RCW 13.50.100](#).

❖ RCW stands for [Revised Code of Washington](#). This is Washington's state law.

Ask a CPS caseworker how to ask for these records. CPS must

- give you the needed info
- help you get the records

Will CPS give me all its info?

They might “black out” info they believe is confidential, like names of foster parents or the person who called CPS. CPS does not have to give you witness statements or other parts of the record that would tell you who called CPS.

What happens after the investigation?

CPS has 90 days from the date it gets a call to finish its investigation. It must then do one of these:

- end the investigation and close the file
- file a dependency case in court
- start a Family Assessment Response

What is a Family Assessment Response (FAR)?

The CPS worker who gets a report about your child may decide the abuse allegations do not need investigating. They can offer you an alternative to an investigation called a Family Assessment Response (FAR).

FAR workers do not investigate or make findings about abuse or neglect. They make safety assessments and safety plans when they find safety threats.

The FAR lets you and CPS work to come up with a plan for services and support to keep your child safe in your home. If you sign an agreement with the FAR worker, your family can get services for up to 90 days.

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- ❖ You do not have to take part in a FAR. If you do not agree to do the FAR, CPS will investigate.
 - ❖ Even if you take part in a FAR, CPS could re-open the investigation of your case if they learn something new leading them to believe your child is at risk.
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How should I work with CPS?

Make sure you understand

- the entire agreement
- what the caseworkers say

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- ❖ CPS will give you an interpreter if you need one.
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When meeting with a CPS caseworker, try to speak calmly and clearly. Ask to have a trusted friend or relative with you. That person must not interfere with or be involved in the case.

Generally, you should

- ask caseworkers questions
- ask them to repeat what they have said
- restate important issues in your own words so there is no misunderstanding
- take notes
- write down dates and times of all your calls to CPS
- write down how you have tried to do what you agreed to in the FAR agreement

What if I feel CPS is treating me unfairly?

Write down every time you call CPS. If CPS does not call you back within several days, try to reach the caseworker's supervisor. If you still do not hear from the caseworker, call the DSHS regional manager.

Can Office of the Family and Children's Ombudsman (OFCO) help me?

Yes. OFCO is a voice for families under CPS supervision due to allegations or findings of abuse or neglect. If it is not in your family's or child's best interest to go to CPS with your complaint, or you went to them but did not get a good response, contact OFCO. The end of this publication has contact info.

OFCO can

- look at your CPS files

- ask officials or CPS management to investigate your complaint and make sure someone does something

Do I need a lawyer?

In general, at the start of an investigation, or when you have a FAR agreement, you can deal with CPS caseworkers yourself. If CPS or the court takes the children, or a caseworker files a dependency court case, get a lawyer. See “What are my rights in a dependency action”, below.

Parents can hire one lawyer to represent them both. If you are not living together, or are in different situations, you may each want your own lawyer.

Do I have to pay for a lawyer?

Maybe. The court will review your financial situation to see if you are eligible for a free court-appointed lawyer called a **public defender**.

What is a dependency action?

It is a Juvenile Court case the state starts to protect a child from harm within the family. Filing a petition (written request) claiming the child is “dependent” starts the case.

What is a dependent child?

A dependent child is one of these:

- abandoned, abused, or neglected by their parent, guardian, or custodian
- has no parent, guardian, or custodian able to take good care of them, so there is a danger of serious damage to the child

Who can file a dependency action?

Anyone, including a relative, can file. Usually, CPS files.

What will happen and when?

See the chart at the end of this publication.

Can CPS get a court order to take my child right away?

Yes. They can file a dependency petition when the child is still in your home. If they think your child is in danger, they will ask for a court order letting them place the child in temporary care.

You might not be there when they take your child. CPS must try to serve a copy of the petition on you to notify you they have taken the child. They must try to place the child with a relative or other suitable person requested by you.

Can they remove my child from me without a court order?

Yes. Law enforcement can do this if they believe both of these are true: a child

- is abused or neglected
- will be hurt if not removed immediately

❖ Hospitals and health care workers can hold children they think have been abused or neglected, even if the parents object.

What is a Shelter Care - 72-Hour Hearing?

There must be a shelter care hearing within 72 hours of CPS removing the child from your home. If CPS does not take the child, there must be a hearing within 72 hours of filing the dependency petition.

At the 72-hour hearing, the judge decides both

- if CPS should have taken the child
- if it is safe for the child to return to or stay in the home

❖ Judges rarely dismiss a case at this hearing.

If the child is to stay out of your home, the judge decides where the child will live until there is a later, more in-depth hearing. The judge will ask CPS what it has done to try to place the child with a relative. The judge decides

- if the parents should visit the child
- what social services you should get
- whether to order medical, mental health, or drug or alcohol evaluations

❖ The judge focuses on protecting the child and offering the parents services to help them.

The judge cannot make you take exams, be evaluated, or use services. You must agree to those. BUT the court can remove your child if you do not agree.

What happens at a Shelter Care – 30-Day Hearing?

There is a second hearing 30 days after the 72-hour hearing. The judge checks to see if the situation has changed. CPS cannot place your child in shelter care for more than 30 days without a court order.

What is a case conference?

There may be a case conference after the 30-day hearing. They must offer you a case conference **unless one of these is true:**

- You do not want one.
- You did not go to the 72-hour hearing.

At a case conference, you meet with your lawyer, the CPS social worker, and anyone else involved in the dependency. You talk about

- the service plan
- if or how you can settle the case
- anything else that would help the case move forward in a positive direction

Will there be a trial?

Maybe. The court will set a trial date for no later than 75 days after the filing of the petition. Trial dates often are delayed.

CPS and parents agree to settle most dependencies. If you settle, there is no trial.

If you do go to trial, you and CPS can give testimony and evidence. There may be more hearings after the trial, before the judge makes a ruling.

What is a dispositional order?

The settlement agreement or judge's ruling, if there is a trial, will state if the child is dependent. If so, there will be a "dispositional order" stating:

- where your child will live
- what social services you must complete to keep or get back your child
- how CPS must help you

The goal is to reunite you with the child. If the child is staying in the home, the goal is to get rid of risks to the child's safety.

In the dispositional order, the judge usually lets you visit the child regularly, unless visits are harming the child. The judge might order supervised visits. Relatives may supervise. Generally, the judge cannot limit your visits to punish you for not following court orders or using services. The judge will only think about limiting your visits when the child's health, safety, or welfare is at risk.

The child is not in my home. Will I have to pay child support?

Maybe. If you have a very low income, the Division of Child Support may delay collection.

What is an Initial Progress Review Hearing?

The court must review your case 90 days after the dispositional order OR six months after CPS or the court removed the child from the home, whichever is sooner. At this hearing, the judge decides if you and CPS have made progress towards completing the dispositional

plan. The judge will return the child to you only if the reason the child was removed no longer exists. The judge must also schedule a date to enter a “permanency plan of care.”

What is a Permanency Planning hearing?

It is the final result of this process. When CPS or the court removes a child from the home, the court must enter a permanency plan as soon as possible, no more than twelve months from the time CPS or the court removed the child, if possible.

What does a permanency plan say?

It could say one of six things:

- 1) **Dismissal** –all issues are addressed. The child goes back to you. The judge dismisses the case.
- 2) **Guardianship**, also called Minor Guardianship or [Title 13 RCW Guardianship](#) – The court places the child long-term with a guardian like a relative or foster parent. The guardian is legally responsible for the child’s care. The court does not terminate (end) your rights. When the court enters a guardianship order, it dismisses the dependency. CPS stops providing services.

Any party to a dependency can ask the court to appoint a guardian for a child in foster care. The hearing to decide if the child will get a guardian is part of the dependency. Usually all parties must agree to the guardianship. The court forms for guardianship are at

<http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=83>.

❖ In the past, courts did not dismiss dependencies after appointing a guardian. CPS kept providing services. This has changed. Courts can now only continue existing dependency guardianships or change them into guardianships on request and dismiss the dependency.

- 3) **Permanent Custody Order** –A relative or other person can file a nonparent (third-party) custody case asking for legal custody. If you agree this person should have custody, the judge may order this and dismiss the dependency. Read [Nonparent Custody FAQ](#).
- 4) **Long-Term Foster Care** –This is usually when the child is near 18 and needs to live outside your home. The court does not dismiss the dependency. The child grows up in foster care. This can also happen when the child has serious disabilities and needs long-term medical or therapeutic care outside the home.
- 5) **Termination** – In serious cases, the judge may end (terminate) your rights to the child. You lose your rights and responsibilities. This frees the child for adoption.

- 6) **Independent Living** –The judge can emancipate the child. The child no longer has to live with you or a guardian. Read [Emancipation of Minors in Washington State](#) available at washingtonlawhelp.org.

What if I am in jail or prison?

Under the [Children of Incarcerated Parents Act](#), you have these rights:

- To take part in a case conference to agree to a plan for services. You can take part by conference call or videoconference if you cannot meet in person.
- Where possible, the plan will include treatment options at your facility.
- The plan must provide visitation, unless visits are not in the child’s best interests.
- Usually, a court must consider ordering CPS to file for parental rights termination if the child has been out of the home for fifteen of the last 22 months since the filing of the dependency. If your incarceration is a major reason the child has been in foster care for this time, you still have a real role in the child's life, **and** CPS has no other reason to terminate your rights, the court can consider your circumstances.
Example: You are in jail. This causes you to have trouble keeping in contact with the child.
- If you face a **long-term** sentence, keep a meaningful role in the child's life, **AND** it is in the child’s best interest, CPS should consider a permanent placement like guardianship so you can keep a relationship with the child.

What is a GAL or CASA?

The judge can appoint a guardian ad litem (GAL) or court-appointed special advocate (CASA) for the child. The **GAL** represents the child’s best interests. This might be different from what the child wants. The GAL does not have to be a lawyer. **CASAs** are volunteer GALs from the community. Read [How to Work with GALs and Parenting Evaluators](#) available at washingtonlawhelp.org.

Does my child get a lawyer in a dependency?

A child can ask the court to appoint a lawyer to represent them in a dependency. The court will look at the child’s age, if the child is in the State’s custody, if the child's interests are aligned with others in the case, if the child disputes the facts, and if the child presents complex argument against the State's proposed action. [In re the Dependency of E.H. and S.K.-P.](#), WA. Sup. Ct. decided October 4, 2018.

What if my child is Native American?

Special rules apply to Native American children in dependencies under the federal [Indian Child Welfare Act \(ICWA\)](#). The ICWA defines an “Indian child” as an unmarried person under age 18 who is one of these:

- A member of an Indian tribe
 - Eligible for tribal membership and the biological child of a tribal member
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- ❖ The court checks if the Indian Child Welfare Act applies at the 72-hour shelter care hearing.
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The case may have to be in tribal court, not state court. It depends on the child’s tribe. The tribe must get notice of the case. It may have the right to get involved.

The ICWA makes it harder to remove an Indian child from their home. It makes it harder to take custody from you or terminate your parental rights. It says the court must place an Indian child with relatives or in Indian foster care approved by the child’s tribe, unless there is good reason not to.

❖ [Indian Child Welfare Act](#) has more info at washingtonlawhelp.org.

What are my rights in a dependency?

You have the right to have a lawyer represent you. If you cannot pay for one, tell the judge. The judge may appoint you one or direct you to the public defender’s office.

If you can pay for a lawyer, you must hire one. [How to find a Lawyer](#) has phone numbers for lawyer referral services statewide.

You have the right to information. CPS must try to notify you as soon as possible

- that they have taken your child into custody
- why they took the child
- what your legal rights are

The notice must be understandable, considering your primary language, education, and cultural issues.

You have other rights:

- To info about your child’s health, progress in school, and behavior
- To work with CPS in making plans for you and your child
- To know what CPS expects you to do before they will return the child

- To see CPS' records and info on your child, with some exceptions - [RCW 13.50.100](#)

You have the right to services to help your family. DSHS provides some free services directly. They might send you to an agency that charges for services. Your CPS worker may be able to help you find housing, clothing, financial help, medical care, childcare, job services, parenting classes, family planning services, transportation services, mental health services, drug or alcohol abuse programs, and/or domestic violence or sexual assault programs.

What are my responsibilities in a dependency?

It is your responsibility to support your child. The judge and CPS expect you to contribute to the cost of your child's care if your child is placed outside your home. You should also provide your child clothes and personal items so they are comfortable in someone else's care.

How else can I help my child and myself?

Try to get other kinds of support. Try to form a network of family, friends, and community professionals who care about you and your family and who can help out, if needed. It can help to have family, friends, church members, counselors and others tell the judge good things about you and your family.

Keep records showing:

- your family's medical and dental care
- any services you are using
- how you are following court orders
- any other proof showing how you are caring for yourself and your children

Follow advice and use services of teachers, medical providers, and counselors working with you and your children whenever you can.

Keep in touch. Try to visit your child regularly, as the court order allows. If you cannot make a visit, tell the caseworker **beforehand**.

Keep in regular contact with your lawyer and caseworker. Tell them about changes in address, phone number, job, income, or living arrangements. If you cannot keep an appointment, let them know beforehand.

Where can I learn more?

[Office of the Family and Children's Ombudsman \(OFCO\)](#)

By phone: (206) 439-3870; 1-800-571-7321; (206) 439-3789 TTY

[Children's Administration Case Services Policy Manual](#) - has the written agency rules CPS must follow when investigating a case or providing services.

Services for Parents

- Washington State Domestic Violence 24-hour Hot Line 1-800-562-6025 (Voice/TTY)
- **Parent Trust:** Free or low-cost classes, workshops and coaching for parents statewide
- **[Family Help Line:](#)** 1-800-932-4673 weekdays 9-5
- **Substance Abuse & Mental Health Services Administration, U. S. Dept. of Health**
Treatment Referral Helpline: 1-800-662-HELP (4357) or 1-800-487-4889 (TDD).
Free and confidential info in English and Spanish if you or a loved one faces substance abuse and mental health issues. 24 hours a day, seven days a week.
- **[Child Care Resource and Referral Network](#)**
By phone: (206) 329-5544 or toll-free: 1-877-512-3948 - King County (Seattle, Redmond, Kent)
(425) 591-4213 - Snohomish County
(253) 591-2025 - Pierce County
1-800-446-1114 - Washington State

For referral to social services such as counseling, parenting classes, daycare assistance, and employment assistance, **dial 2-1-1**, anywhere in Washington State.

What if I need legal help?

- **Apply online with [CLEAR*Online](https://nwjustice.org/get-legal-help)** - <https://nwjustice.org/get-legal-help>
or
- **Call CLEAR at 1-888-201-1014**

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays 9:15 a.m. - 12:15 p.m.
- **King County:** Call 211 for info and referral to an appropriate legal services provider weekdays 8:00 am – 6:00 pm. You may also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County at www.resourcehouse.com/win211/.
- **Persons 60 and Over:** Seniors age 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. Seniors in King County may call 2-1-1.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Northwest Justice Project gratefully acknowledges the work of Legal Voice, whose original publication we largely adapted here.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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JUVENILE COURT DEPENDENCY PROCEEDINGS				
Shelter Care Hearing	Fact-Finding Hearing	Disposition Hearing	Initial Progress Review Hearing	Permanency Planning Hearing
Time Frame: Within 72 hours of placement	Time Frame: Within 75 days of filing of petition	Time Frame: At Fact-Finding or within 14 days of Fact-Finding	Time Frame: 90 days after the entry of the dispositional order or six months from out-of-home placement, whichever is earlier.	Time Frame: Between 9 to 18 months (depending on child's age) after child's out-of-home placement
Issues: <u>Placement</u> <ul style="list-style-type: none"> • Home • Relative • Responsible adult • Foster care • Group care <u>Visitation</u> <ul style="list-style-type: none"> • Supervised • Unsupervised • Frequency <u>Parent Choices:</u> <ul style="list-style-type: none"> • Agree/cooperate • Compromise/negotiate • Disagree 	Issues: <ul style="list-style-type: none"> • Determine facts as alleged in petition • Determine legal sufficiency <u>Parent choices:</u> <ul style="list-style-type: none"> • Agree/cooperate • Compromise/negotiate • Disagree/go to trial <u>Types of dependency:</u> <ul style="list-style-type: none"> • In-home with services • Out-of-home with services 	Issues: <u>Placement</u> <ul style="list-style-type: none"> • Home • Relative • Responsible Adult • Foster care • Group Care <u>Visitation</u> <ul style="list-style-type: none"> • Supervised • Unsupervised • Frequency <u>Example of Services:</u> <ul style="list-style-type: none"> • Evaluations • Parenting classes • Counseling • Substance abuse counseling • Anger management • Domestic violence classes • Sexual offender treatment • Victim/survivor treatment 	Issues: <u>Progress & compliance with court order</u> <ul style="list-style-type: none"> • Progress & compliance with court order • Services • Placement • Visitation if not returned home • Continue Dependency or dismiss 	Issues: <u>Permanent Plan determined by court:</u> <ul style="list-style-type: none"> • Continue Dependency • Dismissal • Return home • Long-term foster care • Permanent (third party) • Custody order • Proceed with Guardianship