

CALUMET COUNTY'S PARENT GUIDE TO THE JUVENILE COURT CHIPS PROCESS



Introduction

This guide has been prepared to help parents gain a better understanding of what to expect in Juvenile Court Child in Need of Protection and/or Services (CHIPS) proceedings (Chapter 48 – Children's Code) when there has been an allegation a child has been abused, neglected or requires special treatment. This is general information and not intended to cover everything that can happen in Court. When used as a guide, this information will help explain what has happened, what to expect, and what you can do. It is not intended to take the place of an attorney. We believe it is important for parents to understand this information so everyone can work together, both in and out of the courtroom setting.

This guide has been prepared by the Calumet County Child Welfare Collaborating Team.

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Do I Need an Attorney?

Parents have the right to hire their own Attorney for all court hearings. The Court can appoint an Attorney to represent a parent should the parent be unable to pay for one. If you want an Attorney, you will need to hire one on your own or ask the Judge if an Attorney can be appointed for you. You are not required to have an Attorney with you in Court.

The following information will help you prepare for Court:

Read the Petition

Before going to Court, make sure you have read the petition. This is the paperwork that provides the information about what allegedly happened, and the reason the child is in need of protection and/or services. If you have a hard time understanding what it means, ask someone for help. It is very important for you to understand what is written in the petition. You will receive a copy of the petition in the mail. If you do not have a copy, ask your Attorney or Caseworker for one.

Be on Time

Be on time for scheduled court hearings. Once you get to where you are supposed to be, make sure someone knows you are there. You will want to know how cases are scheduled, what you need to do when you arrive for your hearing, and where you should wait. This information can be provided by your Caseworker, your Attorney, or the Register of Probate office.

Bring Your Papers

Each court hearing is scheduled to do something different. It could be an "Initial Hearing," a "Status Conference," a "Fact Finding Hearing," or a "Disposition Hearing." Some counties have a "Change of Plea Hearing." There may be a "Pre-Trial Conference" or a "Motion Hearing." You will know what type of hearing you are scheduled for because you will have received your written Notice (papers) from the Court. Bring your papers with you to court. If you do not understand where you are supposed to be or what the hearing is about, it is much easier for someone to help you if he/she can look at your court papers.

Courtroom Behavior

A courtroom is very similar to being in a school classroom. If you do not understand something or disagree with something, ask for permission to speak. Even though you may not like or disagree with what you are hearing, do your best to control yourself. Losing control in a courtroom could make matters worse.

Courtroom Accommodations

Calumet County is committed to ensuring people with disabilities can present their case to the Judge. Should you need any courtroom accommodation for a disability and/or need an interpreter, please inform your Caseworker or the Court prior to any scheduled hearings.

Does My Child Need an Attorney?

Your child will be represented in court either by an Attorney called a Guardian ad Litem or by another Attorney often referred to as advocacy or adversary counsel (generally a Public Defender). The Guardian ad Litem is normally used for children under the age of 12, and a Public Defender is normally used for children 12 and older. The Guardian ad Litem is there to let the Court know what is in the best interest of for your child. The Public Defender is there to let the Court know what your child wants. In either case, they are representing your child, not you.

Indian Child Welfare Act (ICWA)

The Indian Child Welfare Act is a United States federal law that governs jurisdiction over the removal of Native American children from their families in custody, foster care, and adoption cases. The law gives Tribal governments exclusive jurisdiction over children with Native American heritage. The Department will work to notify, and work in collaboration with, the identified Tribe. The Tribe will then be a party to the case for the duration of the court order.

How Does a Case Actually End Up in Court?

Investigation

First, someone makes a report stating s/he suspects a child has been abused, neglected, or a special circumstance existed, which resulted in the child being in need of protection and/or services. The report is made to either Human Services or the police.

If it appears possible abuse or neglect occurred or a special circumstance exists, there will be an investigation. The very first thing a police officer or Caseworker needs to determine is whether the child is safe.

If the investigator believes the child is unsafe, the child may be removed from his/her home (or someone else may need to leave the home). This process is called "Taking and Holding in Custody" [taking "Temporary Physical Custody" of the child or "TPC"].

If the investigator believes the child can remain in the home, a Safety Plan will be developed with the parents for the child. However, the case still might be referred to Juvenile Intake. (Please refer to the section that applies to your case.)

Taking and Holding Child in Custody/Temporary Physical Custody

Who can take a child into custody?

- Police Officer (Law Enforcement)
- Caseworker/Juvenile Intake Worker

A child can be taken into custody for the following reasons:

- Child suffering from illness, injury or other danger
- An order has been issued by the court to take the child into custody
- There is a belief the child may harm him/herself
- Violation of terms of court-ordered supervision
- Violation of conditions of temporary custody order
- Serious health risk to unborn child
- Relinquishment

What happens when a child has been taken into custody?

The Caseworker/Juvenile Intake Worker makes a decision to either release the child to his/her parents, a guardian or other relative or to place the child in non-secure custody or secure custody.

Where can a child be held on non-secure custody?

- The home of a parent, relative or guardian
- A licensed foster home, treatment foster home, group home or shelter care facility
- A hospital or licensed treatment facility

Where can a child be held in secure custody?

- Juvenile detention facility
- Jail (should no other juvenile detention facility be available or the child is at substantial risk of physical harm in a juvenile detention facility)

Custody Hearing/Temporary Physical Custody (TPC) Hearing

Within 48 hours of the TPC, a Temporary Physical Custody hearing will be held (not counting weekends and holidays). The TPC hearing will be held in front of a Judge. The Court will decide whether or not your child should remain in custody. If you object or disagree with the decision to place your child outside of your home, you can address your concerns and disagreements during this hearing.

The main purpose of a TPC hearing is for the Court to decide where your child should stay while the case is pending in court. The Judge (or Court Commissioner) can place your child in the same places as the Caseworker/Juvenile Intake Worker. The Judge (or Court Commissioner) can also order conditions for you to follow as a part of the custody order. This is a temporary order. There will be other court hearings to decide other issues.

At the TPC Hearing, Corporation Counsel or the District Attorney will either file a petition or be given 72 hours to file a petition. The petition is a legal document, which contains an explanation of what happened to make your child in need of protection and/or services and what led to the decision to place your child under custody. You will be sent a copy of the petition when it is filed with the Court.

The Judge will tell you what the next hearing will be about and when it will be held. You will also receive a Notice from the Court telling you the time, date, and place of that hearing. If you do not understand something, ask for help from your Caseworker/Juvenile Intake Worker, Attorney, or the Court.

Juvenile Intake

Following the investigation by the Caseworker, the case may be referred to Juvenile Court Intake. An Intake Inquiry is where the Juvenile Intake Worker will make a decision as to whether the case should be closed, handled informally or referred to Corporation Counsel or the District Attorney's Office for a petition to court.

In many cases, there will be an Intake Conference. This is an informal meeting between the parents and Juvenile Court Intake Worker, and child, if age appropriate. The purpose of the meeting is for the Juvenile Court Intake Worker to review the information and assessment done by the Caseworker, and to decide how the case should be handled. Parents cannot be ordered to attend the Intake Inquiry, but if they do not, it makes it much more difficult to resolve matters informally, which increases the likelihood the case will be referred to court for formal action.

At the Intake Inquiry, the Juvenile Court Intake Worker will explain what rights you have, what supposedly (allegedly) happened, and the possible outcomes of the Intake Inquiry. The possible outcomes include the following: closing the case, an Informal Disposition Agreement, and a referral to court. You can bring an Attorney to the Intake Inquiry if you want to, but the law does not require it. As noted above, this is an informal meeting to assist the Juvenile Court Intake Worker in making a decision as to what should happen next. If the Juvenile Court Intake Worker decides to recommend formal court action, he/she will make a request to Corporation Counsel or the District Attorney for a formal petition.

Reviews of Request for Legal Action

If the Juvenile Court Intake Worker has made the decision to refer the case for formal court action, all information about the case will be sent to Corporation Counsel or the District Attorney. The Corporation Counsel or District Attorney will review all the information and make a decision as to whether or not there is enough evidence to petition the Court. If there is not enough evidence, the case will be closed or sent back to the Juvenile Intake Worker for more information.

Corporation Counsel or the District Attorney will be looking for information to show how the child was abused, neglected or emotionally damaged. Corporation Counsel or the District Attorney will also be asking the question, "Can I prove this in court with clear and convincing evidence?" Corporation Counsel or the District Attorney will look at all available information, police, medical, and Caseworker reports and any pictures, which may have been taken. What the parents said or did will also be considered. If Corporation Counsel or the District Attorney believes there is enough evidence, a CHIPS Petition will be filed with the Court.

CHIPS (Child in Need of Protection and/or Services) Petition

A CHIPS Petition is a formal legal document sent to the Juvenile Court asking a hearing before a Judge to be scheduled and the court get involved with a family. The petition describes what events are believed to have occurred. It is extremely important you take the time to carefully read the petition. The Judge will ask you whether you admit or deny the information in the petition.

The petition being filed is a request to the Court to determine whether your child is in need of protection and/or services and to enter a court order for services, if it is found protection and/or services are needed. That is why it is called a Child in Need of Protection and/or Services (CHIPS) petition. Unless caretakers have been charged in criminal court, they are not on trial.

After the petition is filed with the Court, a Notice (letter) will be sent to both parents telling them the time, place, and date of the court hearing and what kind of hearing is scheduled. Both parents will get notice even if they are divorced or even if one of the parents has not been involved for a long time. **IT IS IMPORTANT FOR PARENTS TO ATTEND COURT HEARINGS.**

It is important to let your Caseworker know your current address and telephone number so you can be informed of court hearings and other things that may be happening with your child. You should tell your Caseworker and Attorney immediately, if your address and/or telephone number changes.

Normally, the first hearing scheduled is called a "Plea/Initial Appearance Hearing."

Plea/Initial Appearance Hearing

The Plea/Initial Appearance Hearing is set for you to either admit or deny the allegations in the petition. What this means is if you agree with all of the information in the petition, you will **admit** to the Judge you agree with all of the information in the petition. If you do not agree with all of the information in the petition, you will tell the Judge you **deny** (or contest) the petition. This is not the same as pleading guilty or not guilty. Those are terms used in criminal court and not in juvenile court. It is possible for one parent to admit and for the other parent to deny. The attorney for the child will also enter an admission or denial to the petition.

Admit

If all parties admit to the petition, the Judge will schedule a "Disposition Hearing." Sometimes the Judge will go right to the Disposition, if everyone agrees. In most counties, a separate hearing is scheduled. This hearing is required to be held within 30 days of the petition being filed.

You may be asked if you are willing to waive the time period. What this means is, the Judge can schedule the hearing past the stated time limits, if it is okay with you. You are not required to waive these time limits if asked to do so. The choice is up to you. The Court will set a date for the "Disposition Hearing." You will receive a notice in the mail stating the time, date, and place of the hearing.

Deny/Contest

If anyone denies (contests) the information in a petition, the Court will schedule a "Fact Finding Hearing," often referred to as a trial. The "Fact Finding Hearing" has to be held within 30 days of the Plea Hearing. You may be asked if you are willing to waive the time limits. As stated above, the choice is up to you.

After the "Plea/Initial Appearance Hearing" when there is a denial, a "Status Conference" may be scheduled. This is a meeting with Corporation Counsel or the District Attorney prior to the "Fact Finding Hearing" (trial). The purpose of the "Status Conference" is to discuss the case outside the formal courtroom. This gives Corporation Counsel or the District Attorney the opportunity to talk with others involved in the case. In some situations, agreements can be made, which are acceptable to everyone involved. There may no longer be a need for the trial.

Fact Finding Hearing (Trial)

When someone denies (contests) the information in the petition and no agreement can be reached, the Court will schedule a "Fact Finding Hearing" (trial). There are two types of trials in Juvenile Court. One is a trial by Judge. The other is a trial by jury.

A trial by Judge means the Judge will listen to all the information and make a decision. This is when witnesses are brought to court to tell the Judge what did or did not happen. This is the hearing where the case has to be proven by Corporation Counsel or the District Attorney. At the end of the hearing, the Judge will decide whether the child is in need of protection and/or services.

A trial by jury means six or twelve people from the community will listen to all the information and they will decide if the child is in need of protection and/or services. If the information does not show the child to be in need of protection and/or services, the case will be dismissed.

If the Judge or jury finds the child to be in need of protection and/or services, the case will then be scheduled for a final hearing called the "Dispositional Hearing."

Disposition Hearing

This is the final hearing at which time the Judge orders what will happen with your child. The Caseworker will make recommendations to the Court. It is up to the Judge to make the final decision. The Judge has several options available. He or she can order one or any combination of the following:

- Counseling services for the child, parent and/or guardian
- Order the child to be under the supervision of a child welfare agency or responsible adult with rules and conditions the child and parents need to follow
- Place the child (in-home or out-of-home)
- The child welfare agency to provide certain services to the child and child's family
- Supervised independent living (17 year olds only)
- A specific educational program for the child
- Outpatient drug/alcohol treatment services

You are strongly encouraged to talk to the Caseworker before going to court so you know what is being recommended at the hearing. Most often, you will have been a part of the planning and will already know what to expect. The Judge is not required to follow the recommendations being made.

If someone disagrees with the recommendations, it is up to the Judge to decide what happens. Sometimes an additional special hearing will be set, which allows enough time for people to state their objections. The hearing could involve formal testimony where people get on the witness stand to state why they think the plan is reasonable or not. The Judge has the final say.

Court Order

At the hearing, the Judge will enter an order that tells you what you need to do (conditions) to keep your child safe within your home or to have your child returned home, if the child is living somewhere else.

If your child remained in your home, court orders can be in effect for up to one year. If your child is placed outside of your home with someone other than you, court orders can be in effect for the later of:

- The date the child reaches his/her 18th birthday or
- The date the child reaches his/her 19th birthday, if the child is enrolled full time in a secondary school or vocational or technical equivalent, and are reasonably expected to complete the program prior to age 19.

Court orders will include what you need to do (conditions) before the child can return to your home; these are called the Conditions for Return.

The Court order will also tell you what the “Permanency Plan” is for your child. The Permanency Plan is the long-term plan for where your child will live. It outlines where your child is placed, what services your child and your family need, and what needs to happen for your child to come back home or to make a safe permanent home for your child somewhere else. Usually the Permanency Plan is either to return to a parental home (Reunification), Guardianship with a relative or other person, or Termination of Parental Rights and Adoption. The Permanency Plan must be reviewed at least every six months and the Judge can change the plan at a hearing.

The court order will also very likely contain Termination of Parental Rights warnings, if your child is placed with someone else. These are reminders to you that you must work quickly to meet the conditions of the court order or the court may choose someone else to permanently care for your child. If you do not meet the conditions within a certain amount of time (as soon as six months after the Disposition Hearing in some cases), the Court could order your parental rights be terminated so someone else can raise your child. This is why it is important to meet the Conditions for Return as quickly as possible. The Court will probably also read these warnings to you at the court hearing, if your child is not living with you at the time of the hearing.

Because of a law called the Adoption and Safe Families Act that went into effect in 1997, parents may have less time to meet the Conditions for Return. This law says if a child has been living outside their parent’s home for 15 of the last 22 months, a Termination of Parental Rights Petition **MUST** be filed unless some exception exists. These exceptions are:

1. If the child is with a relative.
2. If the court determines it is not in the child’s best interest to terminate parental rights.

3. If the agency responsible for providing services to the family has not made reasonable efforts to assist the family.

It is up to the Court to determine whether an exception to filing a Termination of Parental Rights Petition exists. Due to the fact there is so little time before the Court could consider termination of parental rights, it is extremely important to immediately begin working on the court-ordered conditions. Failure to do so could result in the Court taking additional action.

Court orders can be in effect for up to one year. The Court or a panel will review the permanency plan within six months for children placed outside the home. This may be called an Administrative Review or Permanency Hearing. Within 12 months, there may be an extension hearing to determine whether there will be continued court involvement. You will be sent a written copy of all court orders. If you do not have a copy of the court order, ask your Caseworker or attorney for one. If you do not understand what the court order asks you to do, you should also talk with your Caseworker or Attorney.

Conclusion

There is a lot involved when a case goes to court. This guide was developed to help you learn some major points so it is not so confusing. Do not be afraid to ask questions. You have a right to know what is happening. If you do not understand, you need to ask. The more you understand what is going on, the better it is for you and for the court. Please re-read the sections, as you need them. You are an important part of the court process.

Definitions

Adjudication	A legal word meaning "decision of the court."
Allegations	Things someone claims to be true, but have not yet been proved. In child welfare cases, someone may make "allegations" a child has been mistreated or needs special help.
Administrative Review others	A meeting between parents, Caseworkers, and in cases where children are placed outside of the parental home. The meeting reviews the progress the parents are making to meet the conditions for return.
Adoption and Safe Families Act (ASFA)	Adoption and Safe Families Act (ASFA) is a Federal Child Welfare Law with a focus on safety and permanence for children.
Chapter 48	The part of Wisconsin law which tells about children and how they are protected. It is another name for the Children's Code.
Children's Code	Another name for the part of Wisconsin law, which tells about children and how they are protected. It is another name for Chapter 48.
CAN	Child abuse/neglect.
Child	A person under the age of 18.
CHIPS	Child in Need of Protection or Services.
Conditions of Return	What a family must do so a child, who has been placed outside the home, can be returned home.
Corporation Counsel	The attorney that serves the collective safety and welfare of the residents of its county by providing civil legal services including enforcement, counsel, and referrals to county departments and the County Board.

Court Order	A court order is a written report, which tells what a Judge has decided.
Criminal Court	A court, which handles cases where an adult or 17 year old has been charged with a crime.
Department of Human Services	In some counties, this is the name of the part of county government, which is responsible for child protection. This is where child welfare Caseworkers work.
Dispositional Report	A court-ordered report written by a county Caseworker, which tells the Judge about a family and makes the recommendations to the court what services the family needs.
Disposition Hearing	A hearing at which time a Judge decides on a plan to help a child have a safe home.
District Attorney (DA)	An attorney who represents the State; also can be referred to as DA. In some Wisconsin counties, district attorneys prosecute or try to prove, allegations of child abuse and/or neglect. In other counties, this is done by the Corporation Counsel.
Emotional Damage	The child is severely anxious, depressed, withdrawn or outwardly aggressive and the parent or guardian does not get help for the child.
Extension Hearing	A hearing, which happens if county Caseworkers believe a child or family needs continuing help after 12 months or at the end of the period of supervision.
Fact Finding Hearing	A hearing at which time a Judge or jury decides whether claims a child has been mistreated or needs special help are true.
Guardian ad Litem (GAL)	An attorney, who is appointed by the court to tell the Judge what is in the best interest of the child. This does not always mean telling the Judge what the child, the family, or the child welfare agency wants. It means telling the Judge what the Guardian ad litem (GAL) feels is best for the child.

Group Home	A licensed home that can serve four to eight children.
Indian Child Welfare Act (ICWA)	The Indian Child Welfare Act is a United States federal law that governs jurisdiction over the removal of Native American children from their families in custody, foster care and adoption cases. It gives tribal governments exclusive jurisdiction over children with Native American heritage.
Jurisdiction	A hearing early in a case at which parents learn about their rights and tell the Judge whether they agree or disagree with the things the petition says.
Juvenile Court	A court, which handles cases involving children under the age of 18, for child protection issues, and under 17 for children having committed a crime.
Juvenile Intake Worker	A person who works for the juvenile court. In child welfare cases, Juvenile Intake Workers make important decisions when children are first taken into custody.
Neglect	Failure to provide food, clothing, shelter, a safe living environment, medical or dental care, which seriously endangers the child's physical health. Some examples would be: broken glass laying on the floor, electrical wires a child can touch, dog and cat waste laying around the house, drugs or alcohol left where a child can reach them, no food, no home to stay in, or a failure to protect the child from neglect.
Non-secure Custody	A temporary order placing a child in a protective setting.
Notice	A legal word meaning a letter or form, which tells people when and where a hearing will be held.
Out-of-Home Placement	This is also called "alternate care" or "substitute care." It could be a shelter home, a foster home, a group home, a residential treatment center, or a relative placement.

Permanency Plan	A plan which talks about where a child is placed, what services the child and his/her family needs, and what needs to happen for the child to return home or to make a safe, permanent home for the child somewhere else.
Petition	A formal request for the court to take legal action. The petition gives the court information as to why a child is in need of protection and/or services. The petition is the paperwork that starts the formal court process.
Physical Abuse	Physical injury to a child, which is not an accident. The injury need not be severe. It is also considered abuse when a parent knows his/her child is being abused and fails to protect his child.
Physical Injury	Includes, but is not limited to cuts, bruises, fractured or broken bones, internal injuries, welts from being hit with an object or hand or burns; the injury need not be severe.
Plea/Initial Appearance Hearing	A hearing early in a case at which parents learn about their rights and tell the Judge whether they agree or disagree with the things the petition says.
Prosecutor	An attorney who tries to prove things in a petition are true. In child welfare cases, either Corporation Counsel or the District Attorney is the "prosecutor."
Sexual Abuse	Sexual intercourse or sexual contact with a child. Children under the age of 16 cannot legally give consent.
Sexual Contact	Any intentional touching of another's intimate parts either directly or through clothing by use of any body part or object.

Termination of Parental Rights (TPR)

A legal phrase meaning ending the legal the relationship between a parent and a child. Sometimes, a parent volunteers to do this to free a child for adoption. Sometimes, a court uses its power to make this happen when the parent fails, after a great deal of help, to make a safe home for a child.