

## Special Topics

*This Guide is for all parents who have (or have had) CPS involved with their family. Sections 1-12 deal with many issues that face almost any parent in this situation. CPS investigations or court hearings can look pretty much the same no matter how or why your child came into care.*

*But some parents have issues that make their CPS cases a little different. For example, parents who have special physical or intellectual needs or who live with a mental illness. Fathers, especially fathers who don't see their children, teenage parents, or parents who are in prison may also have questions specific to their situation. This section includes information to address these more individual issues.*

### A. Parents with Disabilities or Special Needs

The Americans with Disabilities Act (ADA) applies to CPS cases. So, if you know (or think) you have a disability or special need, then you need to tell your lawyer so she can tell CPS and the court.

Examples of conditions that **may be considered** a disability include:

Back or spinal injury, psychiatric or mental impairments such as depression or post-traumatic stress disorder, migraine headaches, epilepsy, diabetes, vision and hearing impairments.

The ADA does not give a list of all the possible disabilities or special needs. Instead, the law covers "physical or mental impairment that substantially limits one or more major life activities."

Temporary conditions, such as a broken leg, usually are not covered. Disorders resulting from the current illegal use of drugs also are not covered. The condition must "substantially limit" a major life activity. Ask yourself: How serious is my condition? How long have I had this condition? How much does the condition interfere with my daily life?

## **WHAT DOES IT MEAN FOR MY CASE IF I DO HAVE A DISABILITY OR SPECIAL NEED?**

CPS caseworkers must take reasonable steps to make sure that parents understand what is going on in their case. This is especially true for parents with special needs who may require “**accommodations**” – in other words, a different kind of service, or even extra services – to give them the same chance as any other parent to work their service plan and try to get their children back home.

Parents with disabilities or special needs are more likely than other parents to become involved with CPS and they are more likely to lose their parental rights. To avoid this happening in your case, you need to convince CPS that you can keep your children safe, even if you maybe do things differently than other families. Think about ways that your disability might benefit your children – teaching them patience or independence, for example, rather than something that needs to be fixed or overcome. In the end, it will be up to you and your lawyer to teach your caseworker and the court about your disability and how it affects or does not affect your ability to be a safe parent.

## **WHAT DOES IT MEAN IF CPS SAYS I AM “NOT ABLE TO CARE” FOR MY CHILD?**

These are called “Inability to Care” cases (ITC). CPS can argue ITC in many different situations, including everything from severe intellectual disability to a single mental health diagnosis of depression or bipolar disorder.

For an ITC case, CPS must prove:

- You cannot care for your child’s physical, emotional, and mental needs because you have a mental or emotional illness or a mental deficiency
- You probably will not be well enough to care for your child’s needs before your child turns 18 years old
- CPS has been caring for your child for at least six months
- CPS has made reasonable efforts to return your child
- Terminating your parental rights is in your child’s best interest

Every parent in an ITC case has the right to a lawyer as soon as CPS files its petition in court; you do not need to be indigent (too poor to afford to hire a lawyer) or even opposed to CPS removing your child. **Under Texas law, the CPS case cannot continue until the parent is given a lawyer.** If you are a parent in an ITC case, you cannot be forced to speak with CPS about the case or go to court without a lawyer to help you.

### **ARE THERE ACCOMMODATIONS TO HELP ME WITH MY SERVICE PLAN?**

Yes. CPS must make “reasonable efforts” to help you keep your children safe at home or, if your children are removed, to help you get your children back. For parents with a disability, reasonable efforts must consider the parent’s situation. Depending on your needs, you could ask for special one-on-one services, transportation, special therapies, or anything else that would help you to work your service plan. Simply offering you the same list of services that CPS offers to every parent may NOT be enough.

### **ARE THERE ACCOMMODATIONS TO HELP ME BE MORE ACTIVELY INVOLVED IN MY CASE?**

Yes. The ADA requires that CPS and the court make whatever modifications are needed to allow you to participate fully in your case, including any court hearings, mediation, visitation, and services. So, for example, if you have a hearing disability then you have the right to a sign language interpreter or other help every time you go to court. If you are blind, you could ask for all notices and court orders to be in braille or audio recorded.

### **I HAVE BEEN DIAGNOSED WITH A MENTAL ILLNESS. IS THERE ANYTHING SPECIAL THAT I SHOULD BE THINKING ABOUT?**

A mental health diagnosis can be especially challenging because of the time that may be needed for treatment and the risk that symptoms can come back. It is extra important for you to focus on the one year deadline for completing your service plan – work to get treatment and other services in place as quickly as possible to give yourself the most time to get healthy and stable.

Ask for psychological testing to be done in a way that makes it easier for you and help you do your best. For example, maybe you feel less anxious when you are in your own home or have a pet with you. Or maybe the medicine you are taking makes it harder for you to do testing in the morning, but you feel better by the afternoon. You want to be sure that testing gives CPS and the court a true picture of how you live, including those things that are part of your life and help you to manage your illness.

## B. Non-Offending Parents

Sometime parents are named in a CPS petition, but are not suspected of having abused or neglected their children. These are called “non-offending parents” and are included in the petition *only* because they are one of the child’s parents.

### **WHY WOULD I WANT TO GET INVOLVED IN A CPS CASE IF I AM A NON-OFFENDING PARENT?**

First, if you are a non-offending parent who does not live with the parent who is accused of neglecting or abusing your child, your child might be able to live with you or one of your family members during the CPS case. You might even be able to ask for custody of your child. However, if you live with the parent who is accused of neglecting or abusing your child, you may not be considered as a non-offending parent by CPS because you may be viewed as allowing abuse or neglect to occur without taking steps to protect your child.

Second, if you do not get involved and the court ends up terminating the other parent’s rights, your parental rights may also be terminated and you will no longer have a legal relationship to your child. So, if you have any interest in having contact with your child in the future, then you need to protect your rights now!

***For these reasons, get involved! If you know that a CPS case involving your child is going on but you have not heard anything from the court, let CPS know that you want to be involved!*** Call the CPS office in the county where your child lives or write them or the court hearing your case a letter. Make sure CPS or the court knows how to reach you; ask for your child to be placed with you or a person you know.

**AS A NON-OFFENDING PARENT, WHAT ARE MY RIGHTS?** A non-offending parent has all of the same rights as any other parent named in the petition. You have the right to a lawyer and you have the right to put on evidence and to ask questions at the hearing. See page 15 for a more detailed description of your rights.

### **AS A NON-OFFENDING PARENT, DO I HAVE TO COOPERATE WITH CPS?**

Yes. A non-offending, non-custodial parent has the right to have their child placed in their care by the court unless the court finds that placement with the non-offending, non-custodial parent (or a relative) is not in the best interest of the child. The court might decide that it is in your child’s best interest for you to go through the same process as the parent accused of having abused or neglected your child. For example, you may need to have a home study done before CPS will release your child to you.

**AS A NON-OFFENDING PARENT, DO I HAVE TO WORK A SERVICE PLAN?** Maybe. CPS could require you to work a Service Plan or do certain things before you can get custody of your children. So, most of the information in the Guide that applies to the offending parent could also apply to you. Ask for a lawyer as soon as possible, and ask your lawyer to let the court know you are a non-offending, non-custodial parent who can keep your child safe and will be protective against the offending parent.

**AS A NON-OFFENDING PARENT, DO I HAVE TO GO TO THE COURT HEARINGS?** Yes. To protect your rights you need to attend all of the court hearings and do everything the court and CPS asks of you. If you live far away from where the court case is happening, you may be able to join court hearings by telephone or video. Ask your lawyer for more information.

**DO I NEED TO DO ANYTHING IF MY CHILD COMES TO LIVE WITH ME?** Yes. If you are awarded custody of your child during the CPS case and you have been paying child support, you need to tell the Attorney General's Office of the "change in status." And that you have a court order granting you legal custody. Contact the Office of the Attorney General Child Support Office at (800) 252-8014 for more information.

***Remember anything you tell CPS can be used against you! There is no confidentiality between you and the CPS caseworker or anyone else involved in the case, other than your own lawyer.*** (See page 29 for information on confidentiality and page 79 for information on working with your lawyer.)

## C. Fathers

Sometimes a child's biological father is unknown. You might not even know you have a child. Or, you may know you have a child, but you've never seen or met the child. Or maybe the mother says you are the father, but you don't think that's true. This section tells you how a court decides if you are a child's "legal father" and what that means in a CPS case.

**WHAT IS A LEGAL FATHER?** A child can only have one legal father. This means that a court will need to make sure that YOU are in fact the child's legal father before including you in the process. Step-fathers are a legal father only if they adopted the child.

Being a child's legal father brings both rights and responsibilities. A legal father has the right to make certain decisions about his child and to see his child, but he also is responsible to help pay for his child's care. A legal father can also leave benefits to his child, such as inheritance, Social Security, insurance, and veteran's benefits.

**HOW DO I KNOW IF I AM A CHILD'S LEGAL FATHER?** If the parents are married when a baby is born, the husband's name usually is put on the birth certificate and he is the baby's legal father. This is called a "presumed father" and it happens automatically unless the father says he is NOT the child's biological father.

If the parents are not married when a baby is born, the father's name is NOT put on the birth certificate unless the parents do something to show the man is the child's legal father or, in other words, establish paternity. The parents must do one of the following:

- Sign a form called an Acknowledgment of Paternity (AOP) and file it with the State Vital Statistics Unit at the Department of State Health Services
- Go to the Child Support Office and sign an Agreed Order establishing paternity and setting a child support amount
- File a Paternity Petition in court, asking that an alleged father be named the legal father
- If you are in court, ask the judge to order a paternity test

## **I AM NAMED AS AN “ALLEGED FATHER” IN A CPS PETITION, NOW**

**WHAT?** An “alleged father” is a man who the mother thinks could be the biological father of her child. This happens a lot where a father has not had contact with a child or maybe does not even know that a baby was born.

If you are named as an alleged father, the CPS court will need to be sure you are the biological father before making you part of the CPS case. To find out if you are the biological father, the judge will order a simple test (a DNA test) where samples of spit are taken from your mouth, the child’s mouth, and the mother’s mouth. The DNA on each sample is compared to see if you and the child are related.

The child’s CPS caseworker will help you set up a time and place to do the DNA test. The Office of the Attorney General is the agency that does the test. When the results are back, the CPS caseworker will tell you if you are the child’s biological father. If you are not the biological father, you will not be part of the CPS case.

To find out more about establishing paternity, you can contact the Vital Statistics Unit at the Department of State Health at 1-888-963-7111 or the Office of the Attorney General at 1-800-252-8011 or [www.oag.state.tx.us](http://www.oag.state.tx.us).

## **THE COURT SAYS I AM A CHILD’S LEGAL FATHER, BUT I DON’T THINK**

**I AM.** If this happens, you should ask the court to order a DNA test. The court will need to be convinced that mistakes were made in establishing your paternity or see some other evidence that proves you are not the father. This can get complicated, so talk to your lawyer, if you have one.

## **DO I GET A LAWYER EVEN IF I AM NOT A LEGAL FATHER?**

In Texas, the court must appoint you a lawyer if you cannot afford to pay for one yourself and you are the legal father. The court will also appoint a lawyer if you are an alleged father to make sure that CPS does everything it needs to try to find you. If a DNA test is needed to establish paternity, you will not get a court-appointed lawyer to assist in a CPS case unless the DNA results show you are the biological father.

In a case where CPS does not know how to find you, a lawyer will stand up in court to say if CPS has done a good job trying to find you. After that, the court usually dismisses the lawyer because his job is done. If CPS finds you, and you turn out to be the father, the court will appoint you a lawyer and you will want to get involved in the case to let CPS and your lawyer know what you want to have happen.

**WILL I HAVE THE SAME LAWYER AS THE CHILD'S MOTHER?** Depending on where you live, if you and the child's mother are both getting court-appointed lawyers and you live together, you probably will have the same lawyer unless there is a conflict between you. If you and the mother are not together and you both want full custody of your child, then a conflict exists and the same lawyer cannot represent both of you.

In some parts of Texas, parents almost always have their own lawyers, even if they are married and living together. Because court practices differ, you should always ask the court for your own lawyer at the start of a case. Even if you and the mother get along, conflicts can come up at any point and it is better not to have to bring a new lawyer into the case later.

## **PATERNITY REGISTRY**

*If you do not stay in contact with the mother of your children, you should register with the Texas State Paternity Registry. This is a list that will tell the court who you are and how to contact you, if CPS ever files a case involving your child. You register by filling out a Notice of Intent to Claim Paternity. Call the Vital Statistics Units at (888) 963-7111 for more information. If you do not register, the court can terminate your rights without even trying to find you.*

## **D. Teenage Parents**

Parents who are under the age of 18 can be involved in CPS cases in two ways – as a child, if you are being abused or neglected by your own parents, and also as a parent, if CPS alleges you abused or neglected your own child. Teenage parents can be involved with CPS as a child, as a parent, or as both.

Teenage parents are responsible for keeping their children safe, just like any other parent. If someone files a report with CPS saying that you are abusing or neglecting your child, CPS will investigate and could remove your child. Everything in this Guide applies to you as a parent and you should take the time to read it so that you understand what is going on.

Being a child in your own CPS case should never be the only reason you are investigated by CPS as a parent. If you think this is what is happening, you need to talk with your lawyer about how to deal with the second case.

Because you are a teenager, your lawyer can ask for special kinds of help. For example, you might be able to get help finishing school, home services so that you can care for your baby while working your Service Plan, or one-on-one help from people who are trained to work with teenagers. Other help might include things like getting your driver's license, opening a bank account, getting transportation to visit with your child, or finding housing. In the end, even though you are a parent, you're also still a kid and that means you may need more or different kinds of services than older parents.

Finally, if you are a teenager who is involved with CPS, as a parent AND as a child, you can ask CPS for birth control, if that is something you want or need. This is your right; you do not need the consent of your parents, your caseworker, your foster parents, or anyone else. The most common birth control is called Depo-Provera, also called a "depo" shot, which is a shot that you get every 3 months (but this might not be what is available where you are living). Your CPS caseworker is supposed to get you birth control right away; if that doesn't happen ask your lawyer to help.

*Remember that you have a right to a lawyer. Ask the court for a lawyer, if you do not have one already. For more information about how to get a lawyer and how to work with your lawyer, see page 79.*

*If your parent is hurting you or your child, you need to get help. You should immediately call the police. You can also contact CPS at 1-800-252-5400. If you do not protect your baby from your parents or others, that can be a reason for the court to terminate your parental rights. As long as there is a place where you both can go and your child is safe in your care, then your child should be able to stay with you.*

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***"Addiction left me so weak and my disease was so powerful."***

*– Parent Collaboration Group Parent Liaisons*

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## E. Parents who are Former Foster Youth

Many parents who get involved with CPS grew up or spent part of their childhood in foster care. Sometimes adults who experienced abuse or neglect as children grow up to be parents who do not understand how to care for and keep their own children safe. It is a difficult cycle that can be hard to break.

If you are a parent who used to be in foster care when you were a child, here are three tips to keep in mind as you work to get your own children back home.

- **CPS's role in your case TODAY is very different than when you were a child.** Today, CPS's goal is to protect your child, not to protect you. This means that while you do not want to lie or mislead CPS, you also don't have to tell them about all of your problems or concerns. Because you cannot expect CPS to keep what you tell them confidential or not use it against you if what you tell them leads them to believe your child is not safe, you should try to talk with your lawyer BEFORE you talk with CPS, if possible.
- **CPS may have information about you from when you were a child in foster care and may try to use this information now.** For example, CPS might say that your experiences as a child make it harder for you to safely parent your own children today. If you think this is happening to you, you want to talk with your lawyer about ways to stop CPS from using this information to harm you as an adult.
- **Do not leave your children with anyone who has been found to have abused or neglected you or other children.** These are not people you or your children should live with or your children should visit, especially if the visits are unsupervised. Do not ask these people – even family or close friends – to watch your children while you are in school or at work.

As a former foster youth, you also have the right to an "After Care Case Manager," at least until you turn 21 years old (and sometimes later than that). Your After Care Case Manager can help put you in touch with services for housing, employment, job training, public benefits (health care or food stamps, for example), education, and other community resources.

If you need help getting after care started, contact the CPS Preparation for Adult Living (PAL) office and they will refer you for case management. To get started, call the state PAL office at 512-438-5442 or go to [http://www.dfps.state.tx.us/Child\\_Protection/Youth\\_and\\_Young\\_Adults/Preparation\\_For\\_Adult\\_Living/PAL\\_coordinators.asp](http://www.dfps.state.tx.us/Child_Protection/Youth_and_Young_Adults/Preparation_For_Adult_Living/PAL_coordinators.asp). **DO NOT discuss your case or give details of CPS's investigation or case against you to the PAL office, which is part of CPS; say only that you want case management services.**

## F. Incarcerated Parents

Generally, incarcerated parents have the same rights and duties as parents who are not incarcerated.

Although being in jail or prison may stop you from being part of your child's case as much as you could be if you were not incarcerated, you must still be:

- Notified of any court hearings
- Interviewed so you can provide information about whether your child is safe at home
- Provided information about where and who your child lives with
- Given any services that are available where and while you are incarcerated
- Included in any plans developed about your child as much as possible
- Allowed to provide the names of relatives and close friends who may be able to take care of your child
- Given a copy of the plan about what will happen to with your child
- Given updates about the case on a regular basis

If you are in a facility that is close to where your child was living when CPS got involved, your child's caseworker might be able to come and meet with you in person. If not, the caseworker will probably keep in touch by mail.

### **CAN CPS PLACE MY CHILDREN IN CARE JUST BECAUSE I AM IN JAIL OR PRISON?**

A court can terminate parental rights if a parent's arrest or incarceration leaves a child without appropriate adult supervision or living in a home that is not safe. In other words, it is the risk to your child that comes from your incarceration that can cause problems with CPS.

### **WHAT CAN I DO TO HELP MY CPS CASE?**

Make a list of every person in your family and circle of friends who would be willing to care for or would like to have regular contact with your child. Give their name and contact information to your lawyer so that your lawyer can give the information to CPS and to the Court. This will increase the chances of your child being placed with your family or friends. This is something every parent should do, but it is especially important for parents who are incarcerated, especially if it will be a long time before you are released and able to care for your child.

Depending on where you are incarcerated and the charges against you, you may be able to take part in programs while incarcerated that will meet the requirements of your CPS case. Programs may include parenting classes, drug and alcohol abuse treatment, job skills training, and group counseling programs like CHANGES. Sign up for every program offered to you and tell your lawyer and caseworker!

Stay on top of your case. Be sure to read and return all correspondence that you receive from CPS, the courts, and your children. Keep a copy, if that is possible, of anything that you send out. Just like any parent, you will want to keep track of all of the dates and deadlines in your case!

**ARE THERE SPECIAL ISSUES RELATED TO MY CRIMINAL CASE THAT I NEED TO THINK ABOUT?** If the reason for the incarceration is the same as the reason for the CPS case, your CPS lawyer should advise you about the risks of participating in certain CPS services (sex offender evaluation, individual therapy, etc.) and may suggest limits in what you agree to talk about or what you agree to let be released to CPS.

Always remember that CPS's lawyer will probably know or talk with the lawyer prosecuting you for any criminal charges!

**WILL I BE ABLE TO TALK TO OR VISIT WITH MY CHILD?** Your child's CPS caseworker will take into account your child's safety and well-being in deciding how much contact you can have with your child. If the reason you are in jail is because you have abused your child, the caseworker will be less likely to allow any contact. But simply being incarcerated should not prevent some contact with your child.

There are different options for contacting your child, depending on the rules where you are incarcerated and your caseworker's decision. For example, you might be able to see your child in person, write letters, talk by phone, talk online using video chat, or share photos.

It may be difficult to visit with your child in person if you are in a facility far from where he or she is living. Even if you are close, the court or CPS may not allow visits. If your child is with a family member you may have a better chance of getting visits.

If your child is going back to the other parent, you need to work with your lawyer to get the best visitation schedule possible after your release, even if that date is after the case closes.

### **WHAT CAN I DO TO IMPROVE MY CHANCES OF GETTING VISITS?**

There may be programs in your facility to help you to prepare for visits. MATCH/PATCH, which stands for Mothers And Their Children/Papas And Their Children, for example, helps parents improve parenting skills. You must apply to be a part of this program. If you are accepted, you have to attend classes during the week and stay on good behavior, and you will be allowed to visit for an hour with your child. Many of the facilities have programs like MATCH/PATCH that are designed to help with parenting and visitation. Ask what is available in your facility and sign up as soon as possible.

### **CPS HAS ALREADY REMOVED MY CHILDREN. CAN THE COURT NOW TERMINATE MY PARENTAL RIGHTS JUST BECAUSE I AM IN JAIL OR PRISON?**

It depends. Your parental rights could be terminated if any of the following applies:

- You have been convicted or are on community supervision for causing the death or serious injury of a child or for committing certain other serious crimes
- You are convicted and imprisoned for two years or more from the date of the filing of the CPS petition
- You murdered the child's other parent or hired someone else to do so

With each of these grounds, the court must also find that terminating your parental rights is in your child's best interest.

If this is not your situation, then you need to talk with your lawyer as soon as possible about what options exist to keep your parental rights.

**WILL I BE ALLOWED TO GO TO THE CPS COURT HEARINGS?** It varies county to county. Some counties issue a bench warrant that allows you to leave the jail and travel to court. You need to let your lawyer, CPS, and the court know as soon as possible if you want to come to court so they have time to make the needed arrangements.

Even if you are not able to attend the hearing in person, you always have the right to participate by telephone. Talk with your lawyer about making the needed arrangements.

## G. Parents Who Do Not Speak English As a First Language

Parents who do not speak English as their first language have the right to an interpreter every time they go to court. Your CPS caseworker must also take reasonable steps to make sure that you understand what is going on in your case at all times.

CPS can call a special phone number and a translator will be provided for the phone call. They also have translators for meetings like Permanency Conferences or Family Group Conferences. This will be a translator, though, not a certified interpreter.

If you are not given an interpreter in court, your attorney should point this out to the judge. The hearing should not happen until an interpreter is present. **Do not rely on family or friends or your lawyer; always insist on a certified interpreter.**

Even if you speak a language that is not very common in the U.S. and an interpreter is hard to find, the court must still find you someone who speaks your language before the case can go forward.

## H. Parents Who Are Undocumented Immigrants

**WILL I BE DEPORTED?** Not by CPS. CPS is not an immigration agency and does not deport people. Children and families who are involved with CPS are entitled to services whether or not they are here legally. U.S. Immigration and Customs Enforcement (ICE) is the only government office that can start deportation proceedings.

**WILL PEOPLE IN MY HOME COUNTRY FIND OUT WHAT'S GOING ON WITH CPS?** Yes. CPS is required to notify the home country whenever a child who is not a U.S. citizen comes into CPS custody. The only time this law does not apply is when a child is a citizen of both the U.S. and some other country. In all other cases, whether the child is undocumented or has permanent resident or some other legal status, CPS must give notice to the home country.

**I'M WORRIED THAT SOMETHING I SAY WILL BE USED TO DEPORT ME OR MY CHILD. WHAT CAN I DO?** Remember, CPS does not deport children or families. It is important to always give accurate and true information to CPS, even if you or your child are undocumented. You want to be sure that you and your child receive all of the benefits and services to which you have a right.

## I. Parents With Native American/Indian Heritage

The Indian Child Welfare Act (ICWA) is a federal law that protects the best interests of Indian children. The goal of ICWA is to preserve Native American families and culture. There are special rules that CPS must follow if your child is a member of an Indian tribe or eligible for membership in a tribe.

Indian Child and Custody Proceedings have specific definitions under federal law. If you know (or think) your family has any Native American or Indian heritage tell your caseworker right away and tell the judge at the very first hearing or until it is addressed by the court! If your tribe confirms that you or your child are members or even if your child is only eligible to be a member, ICWA applies.

Your tribe can choose to get involved in the state court case or ask for the case to be transferred to a tribal court. You have the right to be notified of any proceeding that involves your child in tribal court. You also have the right to object to the case being transferred to a tribal court, but the tribe's decision to transfer the case trumps the parent's objection.

There are special protections for children under ICWA. Before removing your child, CPS must take extra steps to try to avoid breaking up the family, and must do so in a way that takes the family's culture into account. If your child still must be removed, CPS must try to place your child with extended family or a foster family that is approved by the Indian tribe. There are also special protections in place if you want to consent to foster care placement or consent to termination of your parental rights.

A non-Indian parent of an Indian child has the same rights as an Indian parent, if the child is considered a member or eligible for membership in an Indian tribe. An "alleged father" must admit paternity or be declared the child's "legal father" before being recognized as a parent for purposes of ICWA.

## J. Victims of Domestic Violence

**CAN MY CHILDREN BE REMOVED EVEN IF THEY ARE NOT BEING HARMED BY THE DOMESTIC VIOLENCE?** Yes. Domestic violence is a safety risk factor for children and not protecting your child from that risk is a type of neglect. "Abusers" are people who commit domestic violence and they are more likely to abuse their children as well. Children may suffer emotional and mental harm if they witness or live in a home where someone is abusing a parent or caregiver. Children can also get hurt if they are present during a fight or try to protect a parent from violence. As a parent, it is your responsibility to protect your child from these dangers. Your CPS caseworker can refer you to services and talk to you about options that may help.

**CAN MY PARENTAL RIGHTS BE TERMINATED IF I AM NOT WILLING TO BREAK-UP WITH MY ABUSIVE SPOUSE, BOYFRIEND, OR GIRLFRIEND?**

Yes. If you do not leave an abusive partner or take steps to “kick out” an abusive person from your home, CPS and the court may take it as a signal that you are not willing or able to protect your children from the violence.

**WHAT CAN I DO TO KEEP MY CHILDREN SAFE FROM THE VIOLENCE?**

Here are some general strategies to consider for keeping your family safe:

- Make a safety plan and share it with your children if it is appropriate and will help them to stay safe; you can call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) for help in creating a plan
- Find a safe space away from the abusive person; this may mean going to a shelter for victims of domestic violence, staying with a trusted relative or friend, or taking steps to remove the abuser from your home; you can discuss these options and the emergency shelter resources available in your community with your CPS worker
- Consider getting a protective order to limit the abuser’s access to your house and/or your children, or custody orders that keep the abuser from having unsupervised contact with your children
- Find supportive services for yourself and your children, such as counseling, parenting classes, and positive bonding activities, to help you heal from the abuse
- Make sure that anyone caring for your children is able and willing to keep the children safe and not let the abuser near them; this includes anyone who is caring for your children, even grandparents and other family members

**WILL CPS BECOME INVOLVED WITH MY FAMILY IF WE ARE IN A DOMESTIC VIOLENCE SHELTER?**

No. Going to a shelter does not lead to an “automatic” report to CPS. CPS will get involved with your family only if someone reports abuse or neglect that affects your children. Seeking shelter in a domestic violence program is a good step to protect your child.

Staying in the shelter may be the best way to protect you and your child. Working with shelter staff and using community resources is a good sign that you can protect your child. If CPS is involved, your caseworker may offer services or resources to help you as well.

**WHAT HAPPENS IF I ALREADY HAVE AN OPEN CPS CASE WHEN I COME TO THE SHELTER?** Tell your CPS caseworker that you have moved to the shelter and let them know how to get in touch with you. Your caseworker, as well as shelter staff, will help you. They are concerned about your safety and your children’s safety.

**WILL CPS TELL ANYONE ELSE WHERE WE ARE?** No. By law, CPS must tell both parents when an investigation is started, but CPS does not need to tell the location of the investigation or where you or your children are staying. Talk to your CPS case worker if you are worried about the abuser having information about you or the investigation. Make sure you know when and what information will be shared with the abuser so that you can safety plan as needed.

**WHAT HAPPENS WHEN I LEAVE THE SHELTER?** When you leave the shelter, you will need a plan to protect yourself and your children. If CPS is working with you, discuss your options with your caseworker. Having a safety plan in place to protect you and your children is important. This might include getting a protective order from the court or taking other steps to keep the abuser away from you and your family.

## **K. Parents Who Are Not Able to Care For Their Child**

Some parents may find that they simply cannot care for their child. Maybe you are a young mother with no family support to help you care for a baby. Or maybe your child has serious medical or mental health issues, and you cannot care for the child now that he is bigger and stronger. Situations like these can lead to a “voluntary relinquishment of parental rights.” This means you are agreeing to have CPS take custody and for the court to limit or terminate your parental rights.

**MY CHILD SUFFERS FROM SEVERE EMOTIONAL DISTURBANCE AND NEEDS MORE HELP THAN I CAN PROVIDE. WHAT CAN I DO?** Some children have such severe needs – behavioral, emotional, or medical – that it can be difficult for families to give them the level of care needed to keep them safe at home. These children may need specialized care, such as staying at a Residential Treatment Center or receiving intensive outpatient services, which can easily cost more than most families can afford. In these cases, parents sometimes **“refuse to accept parental responsibility”** and CPS takes custody of their child so the child can receive necessary mental health services. There are also cases where CPS works with the Department of State Health Services (DSHS) to serve families so that parents are not forced to give up parental rights solely so that their children can get the services they need. You will need to talk with your caseworker and your lawyer about which options are available to you, if you are in this situation.

One challenge facing parents in this situation is that there are not enough agencies or services available to serve all of the children and youth who need help. Because of this, it is important that you do everything possible to learn what help is available and how best to advocate for your child. Here are some tips to help you get started:

**DOCUMENT EVERYTHING!** You should create a timeline of your child's behaviors and needs. Keep track of anything related to your child's needs, including, for example, hospital visits, residential treatment center stays, or police checks on your home.

**CREATE A SUPPORT SYSTEM!** Family, friends, neighbors, religious community – you need to create a support system for yourself and your family; don't try to go it alone.

**ASK QUESTIONS!** You will have to work with many systems. Try to figure out everyone's role in serving your child. If it's not clear or you don't understand what is happening, you need to ask questions.

**DON'T BE AFRAID TO SAY NO!** You know your child best. Don't be afraid to step in if you think the services offered are not right for your child.

**YOU ARE PART OF A TEAM!** You will be working with different systems and partners. Be respectful, patient, and remember that, in the end, you all share the same goals for your child.

**BE PATIENT!** Understand that this is a long process and will have many ups and downs. You will need to be patient at many steps along the way.

If you are a parent in this situation, visit [www.dshs.state.tx.us/mh/mh-child-adolescent-services/](http://www.dshs.state.tx.us/mh/mh-child-adolescent-services/) for more information about what services might be available. You can also connect with groups that work on behalf of this population, for example, Disability Rights Texas (<https://www.disabilityrightstx.org/>), for legal advice and advocacy training, or Texas Parent 2 Parent (<http://www.txp2p.org/>), for advocacy and support.

## L. Parents With a History Of Drug/Alcohol Use

Using drugs or alcohol can affect your ability to parent in lots of ways. This is true even if you don't use every day or you are careful not to use when you are around your children.

Here are just a few examples of the way that you can harm your child if you choose to use drugs or alcohol:

- Exposing an unborn baby to harm by using drugs or alcohol while you're pregnant
- Exposing them to harm through breast milk, second-hand smoke, or drugs/alcohol left lying around the house in reach
- Exposing them to harm by your being in a drug stupor or drunk; dangers from impaired decision-making include children drowning, children being smothered by their sleeping parent, or children who wander away from the home or are left unsupervised
- Spending money on drugs, rather than on food, housing, or other household needs
- Getting arrested or locked up, which can result in large fines and can cause you to lose your job or housing, or to get kicked out of school
- Using your time to find drugs or ways to pay for drugs, rather than spending time with and caring for your children
- Making your home unsafe by hanging out with other drug users and dealers who want to sell you drugs

Your Service Plan needs to address only the problems that you are actually experiencing. You need to be sure that you get the services and treatment programs that YOU need to address the concerns that lead CPS to remove your children in the first place.

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***“Why am I like this? What’s wrong with me?  
What happened to my life?”***

*– Parent Collaboration Group Parent Liaisons*

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**WHAT WILL CPS LIKELY ASK ME TO DO IF DRUGS/ALCOHOL ARE PART OF MY CASE?**

CPS will ask a lot from you if drug/alcohol use are part of the reason why CPS is involved with your family. This is true whether or not you are using now. Examples of what you may need to do to show CPS that drugs/alcohol are not a concern, include:

- Unannounced drug testing
- Talking with your caseworker about why you use drugs/alcohol and how your use affects your parenting; the conversations may be hard, but they will be necessary if you want to get your children home
- A Drug and Alcohol Assessment to make sure that you receive the appropriate treatment for your addiction; the caseworker will expect you to follow the recommendations of that evaluation even if it recommends that you enter an inpatient facility
- Supervised visits with your child so that the caseworker can pay close attention to your behavior when you are around your child and to make sure that you are not under the influence of drugs or alcohol during the visit

**CAN MY CHILD STAY WITH ME WHILE I AM IN DRUG/ALCOHOL TREATMENT?**

Probably not. Whether your child can stay with you during treatment will depend on the program and where you live. A few counties have family drug courts that allow parents and children to live together at a recovery facility. Otherwise, it is unlikely that this will be an option.

Ask your CPS caseworker what is possible and let her know how important it will be for your long-term success to be able to keep your child with you during treatment.



***“I did the best with what I knew;  
the problem was that I didn’t know much.”***

*– Parent Collaboration Group Parent Liaisons*

