

How Did I Get Here?

CPS is a part of the Texas Department of Family and Protective Services (DFPS) and is the state agency responsible for keeping Texas' children safe. CPS becomes involved with a family when a report is made that a child is being either abused or neglected.

What Is Abuse?

A child has been abused when that child is injured either physically, emotionally, sexually, or mentally. Even if a parent didn't injure the child, that parent may be considered "abusive." A parent has to take steps to prevent her child from being abused by others.

Child abuse can also include things you might not expect, such as encouraging a child to engage in criminal sexual conduct, taking sexual pictures of a child, using drugs around a child, or allowing a child to use drugs.

For the legal definition of abuse, go to Appendix C on page 151.

What Is Neglect?

A child has been neglected if that child's physical, medical or emotional needs are not adequately met.

The majority of CPS cases involve neglect, not abuse. Neglect is defined very broadly and can include anything from allowing a child to live in a dirty home, to leaving a child at home alone, to failing to take a child to the doctor. Neglect can often happen when a parent has a drug or alcohol problem and fails to pay enough attention to the child's needs.

"I didn't mean for this to happen to my family."

– Parent Collaboration Group Parent Liaisons

Even if only one child in a home has been abused or neglected, CPS may use this abuse or neglect as a reason to be involved with and potentially remove all the children in a home.

A parent can neglect her child in many different ways. For example:

- Leaving a child alone and in danger of being physically or mentally harmed and where the parent does not intend to return
- Putting or leaving a child in a situation where the child is too young or immature to make good decisions on their own and that could result in injury or risk of immediate harm to the child
- Failing to seek or follow through with necessary medical care for a child
- Failing to provide a child with food, clothing, or shelter
- Putting a child in or leaving a child in a situation where that child is exposed to a risk of harmful sexual conduct

For the legal definition of neglect, see Appendix C on page 151.

What Does It Mean That a CPS Report Was Made Against Me?

You may be told that CPS has received a “report” or a “referral” about you. This means that someone contacted CPS – usually by calling the child abuse hotline – and said that they believe your child is being abused or neglected. By law, CPS must investigate the call. CPS will try to collect certain information, such as your child’s name, your name, the name of any other parent or caretaker of your child, the kind of abuse or neglect suspected, and where your child lives or goes to school or daycare.

CPS IS REQUIRED BY LAW TO INVESTIGATE THE REPORT. Different reports are given different levels of priority. Very serious reports of abuse or neglect must be investigated within 24 hours. Reports that involve less immediate safety threats must be investigated within 72 hours.

Who Makes the Report?

EVERY PERSON IN TEXAS HAS THE DUTY TO REPORT SUSPECTED INCIDENTS OF ABUSE OR NEGLECT OF A CHILD.

Certain people, such as teachers, doctors, nurses, or child daycare workers, even lawyers involved in your case, are required to make a report within 48 hours of suspecting that a child is being abused or neglected. If they fail to make a report, they can be charged with a misdemeanor criminal offense. So, in many cases, even if a person is not sure whether you abused or neglected your child, he or she is still required to call CPS about it.

In most cases, you will not be able to find out who made the report. By law, CPS keeps that information confidential. This is so people aren't afraid to report abuse and neglect because the person they reported might get mad and try to get back at them.

What is CPS Looking For?

The first thing CPS needs to do after a report of abuse or neglect is made is to make sure that all of the children in a home are "safe."

YOUR CHILD IS "SAFE" IF:

There are no threats to your child's safety in the home.

— OR —

If threats do exist in the home, you are able and willing to take action to keep your child from being harmed by them.

In other words, even if CPS finds safety threats in your home, your child can live in your home as long as you can protect your child from those threats. The question, then, is how to decide if a child is safe **enough** to stay in the home?

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"I didn't think I was a bad mother as long as my kids had food, shelter, and I didn't use in front of them."

– Parent Collaboration Group Parent Liaisons

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How Does CPS Decide If a Child Is “Safe”?

To decide if your child is safe, CPS needs to answer two questions:

FIRST: Is there a present danger of serious harm to any child in your home?

The key words are “present” and “serious.” “Present” is asking about timing – is the child in danger of harm right now or is the injury from some past danger that is not likely to happen again? “Serious” is asking about the kind of harm – is the child at risk of a minor injury or something that could cause permanent injury or require medical attention?

Examples of “present dangers of serious harm” include:

- Your child was injured and it was not an accident
- When you discipline your child, your actions seem violent or out of control
- Someone in your home is doing something dangerous around your child, such as dealing drugs, leaving weapons around the house, or being violent toward you
- You or another adult in the home is abusing drugs or alcohol

SECOND: Are you willing and able to protect your child from serious harm? This is what CPS calls “protective capacity.” All children are exposed to risks; skilled parents know how to protect their child from those risks.

During an investigation, CPS will ask lots of questions to try and learn more about your “protective capacity.” For example:

- Do you know what your child’s needs are and how to meet them?
- Do you know how to feed your child, clean your child, and make sure your child gets enough attention?
- Are you willing to keep dangerous people away from your child? If you need help in doing this, are you willing to seek out services and legal protections if available?
- Are you willing to ask for help if you cannot meet your child’s needs (such as food and housing) by yourself?
- If you get upset with your child are you able to control your emotions?

- Are you able to provide a safe place for your child to live?
- If someone tells you that your child is not safe, will you take what they say seriously and try to fix the problem?

If CPS answers the first question **“yes”** (a present danger of serious harm exists in your home) and the second question **“no”** (you are not willing or able to protect your child from the danger), then CPS will take steps to protect your child.

Even when CPS decides a child is unsafe at home, however, the child won't always be removed. CPS has other steps it can take other than removing a child, such as helping parents to create a safety plan or asking parents to voluntarily and temporarily place children with a relative or friend (called a Parental Child Safety Placement (PCSP)). But if these other options aren't going to work, then CPS has no choice but to remove a child from her home.

It's My Child! Why Is the State Allowed to Get Involved?

As a parent, you are generally allowed to raise your child in the way you see fit. Our Constitution protects your rights to make most decisions for your child. However, children have rights, too, including the right not to be abused or neglected. So when a child is abused or neglected, the State is allowed – and expected – to take steps to protect the child. This can include removing a child from his or her home.

CPS will usually get a court order from a judge before removing your child, but in very serious cases of abuse or neglect, the State can take your child from your home without first asking for a judge's permission. To make sure that they did not remove your child for no reason, CPS will have to immediately file legal paperwork with the court and schedule a court hearing. At the hearing, CPS will have to convince the judge that they had reason to believe that your child was unsafe and needed to be removed. The judge will decide whether the reason is good enough.

If the judge gives CPS permission to keep your child, the court must watch the case very closely. There will be court hearings every few weeks or months. You should plan to attend all of these court hearings so that the judge can check in and see how you and your child are doing. If you can prove to the court that you are able to provide a safe home for your child, it is more likely your child will be returned to you.

A complete discussion of the court process is on page 64.

CPS CASES ARE CIVIL CASES, NOT CRIMINAL CASES!

Although people don't normally go to jail in civil cases, if a judge orders you to do something in your CPS case and you do not obey the court's order, the court can hold you in "contempt of court." You could be fined and you could be jailed, but it will not be because of the abuse or neglect— it will be because you disobeyed the judge. Also some rights that apply to criminal cases will not apply to you in a civil case.

In a criminal case, for example, the person accused of a crime has the right to remain silent (also called "pleading the fifth"). This means the person does not have to answer questions when talking to the police and cannot be forced to testify at trial. CPS cases are different. In a CPS case, you can be asked to testify and if you refuse to answer the questions, the judge or a jury can take your silence into account and hold it against you.

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***"My addiction still steals from my son's childhood –
even years after being clean."***

– Parent Collaboration Group Parent Liaisons

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