



Your Rights as a Parent When Dealing with Child Protective Services

With permission from, and appreciation to, Christie Marra, Esq., Virginia Poverty Law Center, who prepared the following information.

Child Protective Services (CPS) will conduct an investigation when they receive a report that your child is being neglected or abused. They will take steps to do what they think is necessary to keep your child safe. One of the things they may do, even before taking the case to court, is to try to persuade you to give up the care of your child to a friend or relative. If you agree, this usually delays the time when you'll get to appear before a judge to present your side of the story.

Under Virginia law, a CPS worker CANNOT REQUIRE you to give up the care of your child to a friend or relative. However, the worker CAN SUGGEST you find a friend or relative to care for your child outside of your home if she believes your child cannot safely stay with you.

IF YOU REFUSE TO GIVE UP CARE OF YOUR CHILD:

- You have the RIGHT to REFUSE to give up care of your child to a friend or relative. If you refuse and the CPS worker believes your child will be unsafe with you, the worker can remove the child immediately and petition the court to enter an emergency removal order. The judge can give the worker an emergency removal order without notifying you first.
- If the judge enters an emergency removal order, you will get notice after the order is entered and your child is placed in foster care. That notice will tell you why the court has placed your child in foster care and when you can go to court about your child. The court date will be within a week (five business days) of when your child was removed from your home and placed in foster care. At the hearing, you have the right to appear in court and be represented by an attorney; the court will appoint an attorney to represent you if you cannot afford one. Your attorney can

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present witnesses on your behalf. You will also have an opportunity to testify and explain to the court why your child should not remain in foster care. If the judge finds that it's safe for your child to live with you, the judge will order CPS to return your child to your home.

- If the judge orders that your child must remain in foster care, the social services agency must provide you with services to help you get your child home. These services will focus on helping you eliminate or fix whatever made it unsafe for your child to be with you. For example, if you have a mental health or substance abuse problem that made you unable to care for the child, you will be offered mental health services or substance abuse treatment opportunities.
- The judge may order that you have visitation with your child while he or she is in foster care, although these visits may be supervised.
- There will be hearings held every few months, during which the judge will ask for evidence of how you are doing on meeting your goals. The goals will be set out in a plan (called a foster care plan) that you and the worker create during a Family Partnership Meeting (see below).
- When you have completed everything in the foster care plan to the judge's satisfaction, and the judge finds that it's safe for your child to be returned to you, your child can come home.
- The law gives you about one year to fix the problems that made it unsafe for your child to live with you. If the problems are not fixed by that time, the judge can order your parental rights terminated and place your child for adoption.

IF YOU AGREE TO VOLUNTARILY GIVE UP CARE OF YOUR CHILD:

- If you voluntarily allow your child to live with a friend or relative, your child will NOT be in foster care. However, the agency may still offer to provide you services. These services should be discussed at a Family Partnership Meeting (see below). However, because your child is not in foster care, the social services agency will not have any legal responsibility to provide services to help you get your child back.
- Unless the friend or relative gets a custody order from the court, you will keep *legal* custody even after you give up the care of your child to your friend or relative. As long as you have legal custody, you can make educational and medical decisions for your child, and you have the right to bring your child back home.
- If the friend or relative caring for your child decides to seek a custody order from the court, you will receive a notice from the court with the hearing date and time. You have a right to appear and testify at the hearing, and call witnesses on your

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behalf. You can be represented by an attorney at the hearing, but if you cannot afford to hire an attorney the court is not required to appoint one for you.

- If a judge enters an order giving your friend or relative sole custody of your child, you will no longer have the right to make medical and educational decisions for your child and you will lose the right to bring your child back home unless you go back to court and get an order returning legal custody of your child to you.

REQUESTING AND ATTENDING A FAMILY PARTNERSHIP MEETING:

- Family Partnership Meetings (FPM) are meetings held by the social services agency at various points during a case, including whenever a decision is being made on where a child should live. An FPM should be held after a child is removed from a home through an emergency removal order.
- A social services agency should also hold an FPM at the request of a parent who is involved with Child Protective Services. If a CPS caseworker asks you to give up the care of your child to a friend or relative, you should ask for a Family Partnership Meeting to be held as soon as possible, preferably BEFORE your child moves out of your home.
- The goal of an FPM is to involve the parent and his or her support system in decisions being made about the child. You can ask the caseworker to invite anyone you want to attend the FPM.
- An FPM is run by a facilitator who may work for the local agency but who is not the caseworker assigned to your case or his or her supervisor.
- You will have an opportunity at an FPM to discuss your strengths as a parent as well as what you need to better care for your child.
- The goal of an FPM is to create a plan for you and your child that everyone agrees with; however, sometimes this isn't possible.
- The most important thing about an FPM is that it provides you with a chance to tell the local agency what you want and need for your child. **SPEAK UP!!**

THIS INFORMATION IS NOT LEGAL ADVICE. Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.

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