

Guide to Child Protective Services (CPS) and dependency cases

Author

Northwest Justice Project

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Read this if you're involved with CPS in Washington State.

1. CPS basics

CPS is part of the Washington State Department of Children, Youth and Families (DCYF) (<https://www.dcyf.wa.gov/>), a state government agency employing caseworkers. CPS investigates reports of **child abuse or neglect**. The legal definition of child abuse in Washington State is physical abuse, sexual abuse or exploitation, failing to take care of a child, or bad treatment that puts a child in danger. (These last two are also called neglect.)

If you or your children are domestic violence survivors and CPS investigates you because of domestic violence, try to talk to a lawyer right away. When someone reports child abuse or neglect, CPS has 3 options:

- Do nothing, if the report doesn't meet the legal definition for abuse or neglect
- Investigate to find out if there is abuse or neglect, and who's responsible for it
- Offer an alternative to an investigation called a Family Assessment Response (FAR)

If CPS decides to investigate, they must try to find the children's parents to notify them. If there's immediate danger to the children, CPS must start investigating within **24 hours** of getting a report. CPS has up to **90 days** to finish its investigation.

During its investigation, the CPS caseworker can interview your children and anyone else with useful information. The interview can be at any suitable place, like school, home, or daycare. **CPS doesn't need to ask for your permission or notify you.** CPS can talk to the children alone or with a third person. The caseworker can take pictures of the children.

Any time you're being investigated for a crime, such as endangerment or abuse of a child, you should try to get criminal legal advice.

2. Family Assessment Response

Family Assessment Response (https://www.dcyf.wa.gov/publications-library?combine_1=CWP_0023&combine=&field_program_topic_value=All&field_languages_available=&field_languages_available=&field_languages_available=) (FAR) case workers don't investigate or make findings about abuse or neglect. They make safety assessments and safety plans when they find safety threats.

FAR is an assessment and an agreement between you and CPS for a plan for services and support to keep your children safe in your home. If you sign an agreement with the FAR case worker, your family can get services for up to **90 days**.

You don't have to agree to do a FAR, but CPS may investigate you or file a dependency case if you don't.

When working with CPS to get a FAR agreement, make sure you understand:

- What you need to do to satisfy CPS' concerns
- What you need to do to end the agreement correctly
- The length and terms of the entire agreement
- What the case workers are promising to do under the agreement and when they're promising to do it

3. Caseworker tips

When meeting with a CPS caseworker, try to speak calmly and clearly. Ask to have a trusted friend or relative with you for moral support only. That person must not interfere with or be involved in the case and shouldn't interpret for you.

If you have a hard time reading, speaking, or understanding English, ask CPS for an interpreter. You have the right to interpreter services with CPS at no cost to you. Generally, you should:

- Ask caseworkers questions.
- Ask them to repeat what they've said.
- Restate important issues in your own words so there's no misunderstanding.
- Take notes.
- Write down dates and times of all your calls to CPS.
- If you have a FAR agreement, write down how you've tried to do what you agreed to.

4. Records

You generally have the right to seek records and information that CPS has collected about your children. CPS records are held by DCYF. Ask a CPS caseworker how to ask for these records. CPS must give you the needed information or help you ask for the records.

CPS might turn down (deny) your records request altogether. There are some records that CPS doesn't legally have to release to you. Or CPS may "black out" information they believe they don't have to share, like names and addresses of foster parents or the name of the person who called CPS to report child abuse or neglect.

DCYF is supposed to destroy its records of "screened-out" reports of child abuse within 3 years of getting such report (<https://app.leg.wa.gov/RCW/default.aspx?cite=26.44.031>). **Screened-out** means CPS chose not to investigate a report (an allegation) of child abuse or neglect that someone made about you. If you find out that DCYF didn't destroy these records, you can take the agency to court to make them do it and maybe get them to pay you (pay you *damages*). Try to talk to a lawyer.

DCYF is also supposed to destroy its records of unfounded or (older) inconclusive investigations of child abuse or neglect within 6 years of finishing their

investigation (<https://app.leg.wa.gov/RCW/default.aspx?cite=26.44.031>) if there isn't a founded incident of child abuse or neglect within that time. If you find out that DCYF didn't destroy these records, you can take the agency to court to make them do it and maybe get damages. Try to talk to a lawyer.

5. Complaints

Write down every time you call CPS and the dates and details of the incidents where you're being treated unfairly. If CPS doesn't call you back within several days, try to reach the caseworker's supervisor. If you still don't hear from the caseworker, call the DSHS regional manager.

If it isn't in your family or children's best interest to go to CPS with your complaint, or you went to them but didn't get a good response, contact the Office of the Family and Children's Ombudsman (<https://ofco.wa.gov/>) (OFCO). OFCO can look at your CPS files to see if they're following their procedures. They can also ask officials or CPS management to investigate your complaint and make sure someone does something. Visit ofco.wa.gov/filing-complaint (<https://ofco.wa.gov/filing-complaint>), or call toll free 1-800-571-7321, TTY 206-439-3789.

6. Abuse or neglect findings

If CPS finds in its investigation that you're abusing or neglecting your children, they may start a **dependency** case in court. At the very first court hearing, CPS may ask for an order giving them temporary custody and allowing them to remove the children from your home if they haven't already.

If CPS decides to call law enforcement, law enforcement can take your children into protective custody without a court order for up to 72 hours if law enforcement believes that the children are abused or neglected and will be hurt if not removed immediately.

If the children are removed from your care, the court must hold a shelter care hearing within 72 hours, not including weekends and holidays.

Only doctors and certain other medical workers can refuse to release a child to their parent or parents by placing the child on a “**hospital hold**” for up to 72 hours, over the parent’s objection. Once a child is removed from their parents, a shelter care hearing must be held within that time.

CPS must try to deliver a copy of the dependency court papers to you (called serving court papers on you) to tell you they’ve taken the children. They or the police must try to place the children with a relative or other suitable person whom you suggest.

If CPS makes a finding against you, or the judge in a dependency case finds you abused or neglected your child, there’s a procedure you can try after 5 years have passed that might help you get a job despite your record.

7. Voluntary placement agreement

CPS might ask you to sign a Voluntary Placement Agreement (<https://opd.wa.gov/vpa>) (a VPA). Then you would turn your children over to CPS without them having to get a court order.

You **don’t** have to agree to a VPA.

Get legal advice before signing a VPA! Call the Voluntary Placement Agreement (VPA) Attorney Hotline at (833) 240-9746, 24 hours a day, 7 days a week, interpreters available.

The VPA Hotline gives parents, guardians, and legal custodians the chance to get **free** legal advice and consultation from a lawyer when DCYF proposes a VPA and there’s no pending dependency case. DCYF should tell you about the hotline when it offers you a VPA.

If more than one parent needs to speak to a lawyer at a time, the VPA Attorney Hotline is staffed with multiple lawyers at a time to address conflicts and cases with multiple parents needing legal help.

8. Dependency court

A **dependency** is a court case to protect children from harm within the family. Usually, CPS files dependencies, but anyone, including a relative, can start one. Whoever starts it files a petition claiming that your children are “dependent children.” The legal definition of a dependent child is a child who:

- Has been abandoned, abused, or neglected by their parent, guardian, custodian, or other adult who is responsible for them
- Has no parent, guardian, or custodian with a home situation free from danger of serious damage to the child’s physical or psychological development

CPS can file a dependency case in court at any time. There’s no deadline for them to do that.

9. Parents’ rights

You have the right to have a lawyer represent you at every hearing in a dependency court case. Dependency cases can last anywhere from 3 months to 2 years or more. If you can’t pay for one for the entire case, the judge must appoint a lawyer to represent you at public expense.

You have the right to keep your family together. You can ask the judge:

- Not to take the children out of your home
- To keep in touch with your children, including phone or video calls, and in person visits
- To family time
- To a reunification plan

You have the right to information. CPS must try to notify you as soon as possible that they've taken your children into custody, why they took the children, and what your legal rights are.

The notice must be understandable, considering the language you speak at home, your education, and cultural issues.

You have other rights:

- To take part in your children's health, in school planning, and in plans to support their behavior
- To take part in and talk to CPS to inform reunification plans for you and your children
- To know what the court has ordered you to do before it will return the children
- To see CPS' records and information on your children, with some exceptions
- To information about your children's health, progress in school, and behavior

You have the right to refuse services when the court hasn't ordered you to do them.

You have the right to services ordered by the judge to be completed so you can have your children back. DCYF will provide referral to public health insurance to cover the costs of healthcare services, including substance use disorder, therapy, and mental health supports, and to services that DCYF will pay for directly.

DCYF also might send you to an agency that charges for its services. If you can't afford to pay, you can work with your lawyer to ask the judge to order DCYF to pay for those services. You can access publicly funded services through 2-1-1.

Your worker may have funds to help you with housing, clothing, transportation services, and vouchers for other home goods. The worker may also be able to help you apply for medical care, social benefits, childcare, job services, parenting classes, family planning services, mental health services, drug or alcohol abuse programs, and domestic violence or sexual assault survivor programs.

10. Children's lawyer

Under state law, all children in dependency cases are entitled to a lawyer to represent their stated interests in the dependency court.

The judge may also appoint a Guardian ad Litem (GAL) or court-appointed special advocate (CASA) for the children. The GAL doesn't have to be a lawyer. The GAL represents the children's best interests. This might be different from what the children want. **This isn't the same as the children having a lawyer.**

11. Your responsibilities

If you can't keep an appointment with your lawyer or caseworker, tell them as soon as possible beforehand.

Make your home as safe and appropriate as you can to keep your children at home or have them returned to you. The law says parents are the first option for their children, before all other relatives. The main purpose of the dependency process is to make the parents' home or homes an appropriate place for the children to live and grow up.

Make sure CPS knows your preference for placement if the child can't be in your home. This could be another parent, relative, friend, or appropriate placement. CPS must follow the parents' wishes for placement, but the proposed caregiver must pass background checks. Relatives and family friends need only pass the initial background check (for WA state only) to receive immediate placement of the child. They can have the children in their home while they complete federal (fingerprint) background checks, which take longer. Background checks for relatives and family friends include everyone who is at least 16 years old who lives in the home.

Go to all your visits with the children. If there are any barriers to your being able to do this, you must let CPS and your lawyer know.

Support your children in your home and in your visits. You should provide your children clothes and personal items so they're comfortable in someone else's care. If you need financial help providing clothing, diapers, food, or other items in your visits, tell your caseworker.

Take part in any court-ordered services. The judge will hold a hearing to review if you're doing the services ordered and making progress to correct the reasons the children are removed or the court is involved with your family.

Keep in regular contact with your lawyer. Tell your lawyer about changes in your phone number, email, and mailing addresses. Your lawyer needs to know what's happening in your case and can help you plan for trial and for return of your children. You may need to update them about your living arrangements and supportive relationships who can help with placement or visits.

The DCYF caseworker must stay in touch with you. Tell them about changes in your phone number, email and mailing addresses, and your living arrangements if you want overnight visits with your children or for your children to be returned home.

12. Practical tips

Try to get other kinds of support. Reach out to your network of family and friends that will help you parent your children safely and well. If your current network won't help with this, create new connections. Engage with community professionals who care about you and your family and who can help, if needed. It can also help to have family, friends, church members, counselors and others tell the judge good things about you and your family.

Parents who have successfully navigated the dependency court process and provide peer support to parents going through the process may be able to help you. Contact the Parents for Parents Program (<https://www.childrenshomesociety.org/parentsforparents>) listed in your county.

Keep records showing:

- Your family's medical and dental care
- Your contact and visitation with your children
- Any services you're taking part in
- How you're following court orders
- Any other proof showing how you're caring for yourself and your children

Follow advice and use services. Listen to and get help from teachers, medical providers, and counselors working with you and your children whenever you can.

13. Court process

What is a Shelter Care–72-hour hearing?

There must be a shelter care hearing within **72 hours** (not counting weekends and holidays) of any of these:

- CPS removing the children from your home pursuant to a court order
- Law enforcement placing the children into protective custody
- A “hospital hold” refusing release of your child to your care
- CPS filing a dependency petition if the children aren’t removed from your home

At the 72-hour hearing, the judge decides if the children should be released to your home until the dependency trial. If the judge orders the children removed until trial, they must order what visitation and contact you and the children should have until the dependency trial hearing.

The law doesn’t allow the judge to dismiss a case at this hearing.

If the children are ordered removed from your home, the judge shall order placement of the children with a suitable relative or family friend. If there’s no suitable relative or friend, the judge may order a foster care placement if the judge finds that foster care is in the children’s best interests. The judge also decides:

- Where any school-age children should go to school
- What healthcare, social services, and supports the children should get
- What services you agree to do after consulting with your lawyer before the dependency trial

The judge focuses on whether there’s an immediate danger to your children in your care, and, if there is, making sure that DCYF is providing appropriate care to children removed from their parents.

At the shelter care hearing, the judge can only put in a court order that you will take exams, be evaluated, or use services if you agree to these things. The judge will focus on the conditions and situations in your home that relate to your children. The judge will look at whether there's a safety threat in your home, and if you and the other adults in your home can prevent that threat.

What happens at a Shelter Care–30-day hearing?

If your children are removed at the first shelter care hearing, the judge must decide whether to continue authorizing “shelter care” every **30 days** until the judge ends (dismisses) the case or enters an order of dependency after a trial. CPS can't place your children in shelter care for more than 30 days without a court order. The judge can review to see if the situation requiring the child's removal has changed. The judge should also review the previously ordered visitation.

You must work with your lawyer to make sure that, if things in your home have changed, you file the correct paperwork on time to have the judge consider returning your children home or, if your children aren't returned home, ordering more visitation.

What's a case conference?

This isn't a hearing. It's a meeting of all legal parties who must get together to discuss the case. You can have a case conference at any time. Some counties require the use of case conferences before the trial hearing. CPS must offer you a case conference **unless** you don't want one, or you didn't go to the 72-hour hearing.

At a case conference, you meet with your lawyer, the lawyer for the State, the GAL, the child's lawyer, and the DCYF case worker. You talk about

- Why the agency thinks it should be the temporary custodian of your children
- Why the agency thinks your children aren't safe in your care
- What services the agency wants you to complete to address child safety or other issues
- Whether you can settle the case without a trial
- Anything else related to your parenting or your children's safety

Will there be a trial?

You have the right to a type of trial called a **fact finding** within 75 days on whether your children meet the legal definition of dependent. Trial dates are often delayed.

You're also entitled to a **disposition trial**. This is where the judge decides where your children should live, visitation, and the reunification services plan.

Most cases don't go to trial at all. CPS and parents agree to settle most dependencies. If you settle, there's no trial. Or you can agree to have a dependency and go to trial on the disposition.

If you do go to trial, you and CPS can give testimony, bring witnesses, cross-examine witnesses, bring records and other documents to be used as evidence.

What is a dispositional order?

There will only be a dispositional order if the judge finds the children are legally dependent (after trial or by agreement). There are 2 ways this can come about:

- Parents, children, and CPS can settle by agreeing to a disposition without a trial. The order will reflect what everyone agreed to.
- When parents, children, and CPS don't agree on the disposition, The judge will hold a disposition trial to decide what should be in the dispositional order. The disposition trial must generally be held within 2 weeks of the dependency order being entered. It can be delayed for good cause.

The dispositional order will state:

- Where your children will live (with you, another parent, a relative or family friend, or foster care)
- The visitation schedule if your children aren't home with you. This should include visitation between siblings who are under the court's order.
- Which social services you must complete to keep or get your children living in your care or returned home
- Which social services you must complete to have the case dismissed
- What DCYF must do to care for your children while they're not living with you
- What DCYF must do to put social services in place

In the dispositional order, the judge usually lets you visit the children regularly, unless it wouldn't be in their best interests. The judge might have your visits supervised or monitored by a relative, friend, or a professional. The judge can't limit your visits to punish you for not completing services or for not following court orders. The judge must put the least restrictive conditions on your visits. The judge

may only stop your visits if the judge finds the visits are a danger to the children's health, safety, or welfare.

What is a first dependency review hearing?

The court must review your case within **90 days** after the dispositional order **or 6 months** after the children are removed from the home, whichever is sooner. This timeline includes the time the child was removed under a FAR agreement.

The primary plan for the family is supposed to be to get your children back to you (reunification). If it isn't, work with your lawyer to get that changed.

At the First Dependency Review Hearing, the judge reviews to see if the DCYF case worker and the parents are following the court order. The judge also wants to know if you've made progress at removing safety threats from your home and any other reasons for the dependency case.

The judge will return the children to you only if the safety reasons that caused the judge to remove them no longer exists. The judge must also schedule a date to enter a "permanency plan of care."

What is a permanency planning hearing?

DCYF will create a **permanency plan** within **60 days** of assuming "responsibility to provide services" or a fact-finding, whichever happens first. This plan may not be the same plan as the court's plan for your family.

A **permanency planning hearing** is a review hearing where the judge must order a permanent plan for your family. At this hearing, the judge will review any prior court-ordered permanency plan. The judge can (but doesn't have to) change the permanent plan. For example, DCYF can ask to change the permanent plan from reunification to adoption and make reunification the secondary plan. The judge in this example could decide to keep reunification as the goal.

If a permanent plan hasn't already been ordered, the judge must enter one at this hearing.

At the permanency planning hearing, the judge will consider information from DCYF and the parents. You must be in touch with your lawyer to give proof to the

court, in time for the judge to read it before the court hearing.

The permanency planning process continues throughout the dependency. The judge can review the plan at every review hearing with advance notice to parents, children, and DCYF, until you achieve a permanency plan goal, or the judge dismisses the dependency.

What does a permanency plan say?

It could list 1 or 2 of these possible goals or outcomes of the case:

- **Return home**—All the issues that brought about the dependency case are addressed. The children go back to you. The judge dismisses the case.
- **Guardianship**—The judge places the children long-term with a guardian. This can be a relative, foster parent, family friend, or anyone the judge agrees is appropriate. The judge doesn't end (doesn't terminate) your parental rights. When the judge enters a guardianship order, the judge also dismisses the dependency. CPS stops providing services.
- **Long-term relative or foster care**—This is usually only used for 16- or 17-year-olds who have no parents to go home to and no relatives or family friends who can take guardianship over them or adopt them. The dependency will stay open until the youth turns 18 or 21 years old, whichever the youth consents to. This can also happen when a child has serious disabilities and needs long-term medical or therapeutic care outside the home. All parents are dismissed from the case when the child turns 18 years old.
- **Adoption**—If the judge orders this as the permanent plan, DCYF must seek termination of parental rights through a new court case so the child can be adopted by someone else. If this happens, you're entitled to an lawyer if you can't afford one for the entire termination case. A judge must decide whether to order your parental rights to the children terminated. DCYF often seeks to terminate parenting rights even when the parent hasn't abused or neglected their children.
- **Independent Living**—This plan provides support starting at 15 years old for youth who have no living legal parents (who are legally free) and who will transition into adulthood without an adult caregiver. It isn't legal emancipation. DCYF is the youth's custodian. DCYF is responsible for the young person's care and education.

A judge can only order legal emancipation of the child if the child can prove that they can care for themselves without the help of any adults or DCYF. If ordered emancipated, the child is treated as an adult for most legal purposes. A legally emancipated minor no longer must live in an adult's care.

14. Jail or prison

A judge can't deny visits, family time, or contact between parents and their children simply because a parent is in jail or prison.

If you're a parent in jail or prison during your dependency court case, you have these rights under state law (<https://lawfilesexternal.wa.gov/biennium/2013-14/Pdf/Bills/Session%20Laws/House/1284-S.SL.pdf>):

- To demand that a case conference take place to discuss any case issues. The incarcerated parent has the right to take part by phone or videoconference.
- DCYF must create a case plan for all parents, and, where possible, the plan will include treatment options at your facility.
- DCYF's arrangement of services don't need to be provided by DOC or the jail, but must comply with DOC or jail rules.
- The plan must provide visits when the judge has ordered visits, even though you're incarcerated. As with non-incarcerated parents, any denial of visitation must focus on whether visits and other contact actually harms the children.
- The judge must decide whether to order DCYF to file a termination petition or if there's good cause not to make that order. The judge must consider this issue whenever the children have been living out of the parental home for 15 months out of the last 22 months. Under state law, parental incarceration is good cause to **not** order DCYF to file to terminate parental rights. **Example:** You're in jail. Because of this, you can't care for and provide safe and stable housing for your children. The judge could find good cause not to order DCYF to file for termination.
- You have the right to plan with DCYF for a long-term permanency plan for the children that isn't termination or adoption, such as guardianship.

15. Native American children

Special rules apply to Native American children in dependencies under the federal Indian Child Welfare Act (<https://www.law.cornell.edu/uscode/text/25/chapter-21>) (**ICWA**) and the state Indian Child Welfare Act (<https://app.leg.wa.gov/rcw/default.aspx?cite=13.38>) (**WICWA**). These laws define who an “Indian child” is and provide strong protections to Indian children and their families in this type of case.

Reporting any Native American ancestry early in the case makes it harder for CPS to remove Indian children from their homes or terminate parental rights.

Tell your DCYF case worker and your lawyer right away about any ancestry that may be a sign of tribal membership.

CPS must notify any tribes that may have a connection to the child about the dependency case. The tribes can choose to take part in the case or have the case transferred to tribal court.

Learn more about how the Indian Child Welfare Act may affect you.

16. Get legal help

If CPS or the court takes the children, or a caseworker files a dependency court case, you should ask the judge to appoint you a lawyer at public expense if you can’t afford to hire one. Tell the judge at the very first hearing that you need a lawyer appointed because you can’t afford one. The judge will appoint you a lawyer.

All lawyers appointed to parents in dependency court in Washington State are contractors with the WA State Office of Public Defense Parents Representation Program (<https://opd.wa.gov/find-legal-help-and-information/parents-representation-program>). Contact that office

with any concerns or challenges about those lawyers.

If you could pay for a lawyer for a few court hearings, but not for the entire case, you're still entitled to be appointed a lawyer by the court. In that situation, the court might ask you to contribute to the costs.

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

If you're pregnant, the partner of a pregnant person, or a parent of a newborn child, and you're involved with CPS in Skagit, Snohomish, King, and Pierce counties, a pilot program called the FIRST clinic (<https://thefirstclinic.org/>) provides lawyers to parents before a court case is filed.

If you live in King County and you're not represented by a lawyer, you can get on-call legal advice (<https://kingcounty.gov/en/legacy/depts/public-defense/How%20to%20obtain%20an%20attorney.aspx>) by calling (206)-296-7662 during business hours, or 206-477-8899, afterhours.

The Washington State Office of Civil Legal Aid Children's Representation Program (<https://ocla.wa.gov/about-us/programs/childrens-representation/>) (OCLA) is responsible for contracting with and training all the lawyers who will **represent children and youth in dependencies**. OCLA has been working to expand its program to all counties in Washington State.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.