

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 1

Your Rights and Responsibilities

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

Guide 2: How to work with your lawyer

Guide 3: Your role in court

3.1: The court process

3.2: Who will be in court

3.3: Common court terms

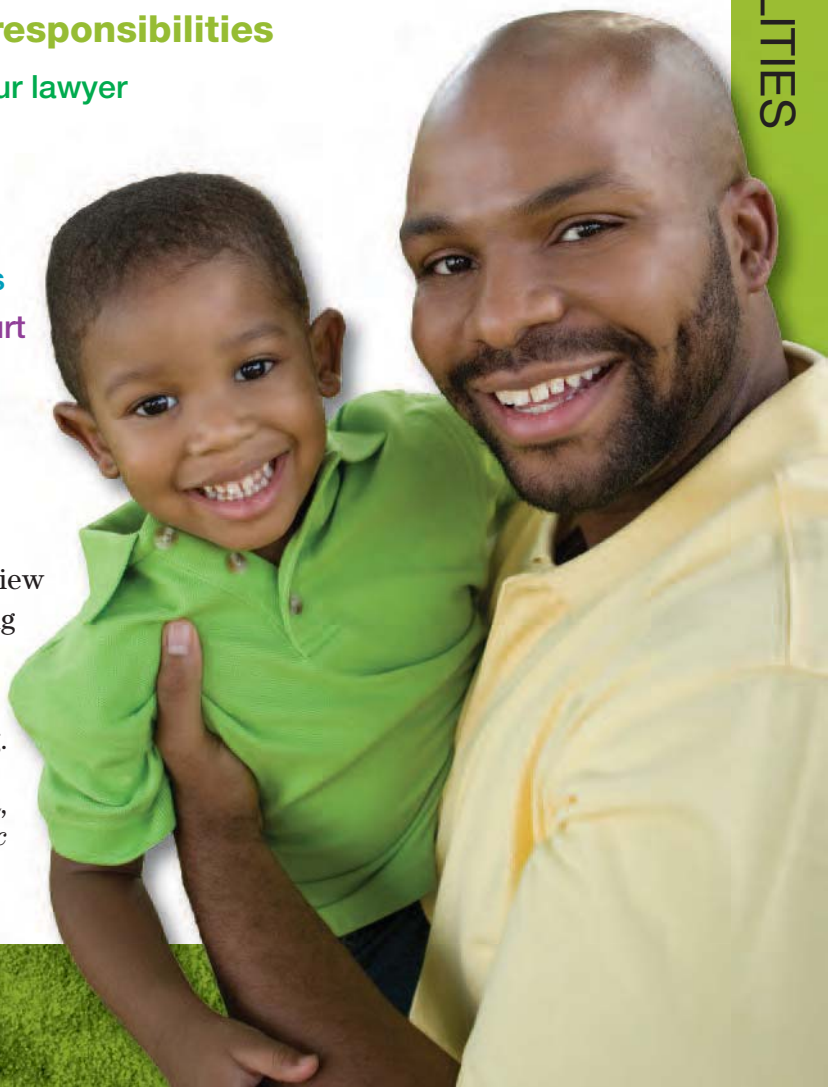
Guide 4: Your role outside court

Guide 5: When you owe child support

Guide 6: If you are or have been in prison

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This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



Your Rights and

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. This guide helps you understand your rights and responsibilities. Even if you weren't your child's caretaker, or don't see your child often, there are many things you and your relatives can do to ensure your child is safe and returns to live with family quickly.

Why this is important

Your child's court case will move fast.

Important decisions will be made early about:

- where your child will live,
- what services your child needs, and
- who your child gets to visit or contact.

You must know how to help your child through this process and protect your rights to your child.

When you will need this guide

- ✓ Use it to **help you recall your rights and responsibilities in the court process.**
- ✓ Review or take it with you to each court hearing or meeting.

Proving you are the father

Knowing you are the child's father does not mean the court will recognize you as the father and automatically give you these rights. You may have to prove you are the child's "legal" father. How you do this depends on your state's law. When you first learn about your child's case, it is your responsibility to find out about your state's requirements to prove you are the legal father. To prove you are the father, you may have to sign a document under oath affirming you are the father (called an affidavit), and/or take a paternity test.



Responsibilities

Your Rights

As a parent, you have rights in child welfare court cases. If you are the child's legal father, you have the same rights as your child's mother, including the right to:

- **Notice**—advance notice of all court hearings.
- **Contest allegations**—a chance to admit or deny any allegations of abuse or neglect that are made against you.
- **Court participation**—an opportunity to attend, participate, and be heard in all court hearings. Assistance should be available so your participation can be meaningful, such as an interpreter if you do not understand English or are hearing-impaired.
- **Representation**—a lawyer to protect your legal interests. (Note: In some states you may have to hire your own lawyer and in others you may be able to get one for free if you don't have a lot of money. If the government seeks to terminate your rights to your child, most states will give you a lawyer for free if you can't afford one.)
- **A fair trial**—a few states offer jury trials, while in others the judge makes final decisions. You have a right to a judge who is not biased.
- **A relationship with your child**—a right to ongoing contact with your child unless the court or agency finds it is not in your child's best interest or may harm him or her. You also have the right to ask for custody of your child.

Your state may give you more rights. Check with your attorney or caseworker to see what other rights you may have.



Exercise your rights

If you are given these rights, use them to your advantage. For example:

When you are...

Be sure to...

notified of future court hearings	➤ prepare for every hearing in advance
appointed a lawyer	➤ contact your lawyer regularly and be sure your lawyer tells the court and parties what you want
permitted to see your child	➤ visit your child as much as you can
unable to attend or be on time for a meeting or hearing	➤ contact your lawyer or caseworker as soon as possible to let them know

Protect your rights

Sometimes you have to fight for your rights.

GETTING LEGAL HELP

If you have a lawyer

- Ask your lawyer to explain how you can protect your rights.

If you don't have a lawyer

- Ask the court for a lawyer.
- Contact your local legal aid office to ask about hiring a low-cost or free lawyer depending on your income.
- Find out if the court has a help center that can provide information and advice.
- Ask if the agency or court has a handbook for parents or other information about child welfare law in your state.
- Look online for free information on your state's child welfare laws and parents' rights.

PROTECTING YOUR RIGHTS

If you think your rights are not being protected

- Tell the judge at the next court hearing and request an order requiring the agency or other parties to protect them.

If you think the judge is not being neutral because you know him or her from a previous association

- Contact the administrative offices of the court to find out how or if you can switch judges.

Your Responsibilities

In the end, this is not a battle between you and the judge, caseworker, or child's mother. It is about your child's future and well-being. The following charts help you stay focused on your child and your duties in the case.

YOUR DUTIES OUTSIDE COURT

Contact your lawyer often.

- Why** Your lawyer can help you understand the court process and will advocate for what you want.
- What to do**
- Let your lawyer know how things are going with you and your child. This will help him or her stand up for your rights and advocate for you at each court hearing and meeting.
 - If your phone number or address changes, let your lawyer know immediately.
 - Always leave the number where you can be reached so your lawyer can contact you quickly.
 - If your lawyer does not respond, call again or send a letter.
-

Keep in touch with the caseworker.

- Why** So you know what is expected of you.
- What to do**
- If your phone number or address changes, tell the caseworker immediately.
 - If you have issues to discuss or are unclear about what the caseworker expects, always call. Don't assume he or she will contact you if there is a problem.
 - By calling and being involved, you show the caseworker you are committed to your child and the case.
 - Call again or write if you get no response and leave a message and/or follow up with an e-mail as evidence of your contact.
 - If you still do not hear back, contact the caseworker's supervisor.
-

Complete your case plan tasks.

- Why** The caseworker may give you a list of tasks the agency wants you to do to gain custody or stay involved in your child's life. This list is part of your case plan and includes services the agency thinks you need. The agency should develop this plan with you and your lawyer.
- What to do**
- Read the plan with your lawyer and make sure you understand it and can do everything it says. If not, ask that it be changed.
 - Work with your attorney or caseworker to make sure the agency pays for the services you need, or helps you find free or low-cost services.
 - Once the case plan is final, you must complete all tasks required of you. If you don't, you might not be allowed to see or take custody of your child.
-

YOUR RESPONSIBILITIES TO THE COURT

Attend all court hearings and meetings.

- Why** It ensures you have a say when important decisions are made about you and your child's future. Plus, the judge and caseworker will see you are interested in your child.
- What to do**
- If you can't go to a meeting or court hearing, always tell your lawyer or caseworker in advance.
 - Ask if you can participate by phone or if the hearing or meeting can be rescheduled.

Obey all court orders.

- Why** The judge and caseworker expect you to follow the court's orders. If you don't, you could lose the chance to visit or reunify with your child.
- What to do**
- If the court orders you to do something that does not make sense in your situation, or you cannot because of money or transportation barriers, tell your lawyer or the caseworker immediately!
 - Don't let the court give an order without finding out if you can do what the order says. Sharing your concerns may change the judge's mind.
 - Make your argument before the court makes its final decision. Once the judge decides, you must follow his or her orders or the judge could stop you from seeing your child.

YOUR RESPONSIBILITIES TO YOUR CHILD

Contact and visit your child often.

- Why** Your child needs your support during the court process. If the court allows, call and/or visit your child as often as he or she is available. Your child may be confused and scared about what has happened. If in foster care, your child may feel disconnected from family and familiar things. Regular contact can help get your child through this difficult time.
- What to do**
- If it makes you more comfortable during visits, ask the caseworker if your wife or significant other, parents, or relatives can join you on visits.
 - Be consistent with your visits, always be on time, and don't miss any.
 - If something comes up, tell the child and caseworker in advance that you have to reschedule. It can upset the child if you don't show up. If you don't visit or miss some visits, the court and agency may believe you aren't interested in your child's life.

Consider requesting custody of your child.

- Why** Even if you haven't been your child's primary caretaker, you have a right to ask for custody of your child. If you were not the reason your child entered the court system, some courts will let you take custody of your child quickly.
- What to do**
- If you are unsure if you want custody, or what it would involve, speak with your lawyer, caseworker, and family about it.

Ask relatives how they can support your child.

- Why** Parents, sisters, brothers, aunts, uncles and other relatives may be interested in visiting, sending gifts, calling the child, hosting the child during holidays, or taking custody of the child if you cannot. Being with family is usually better than being in a stranger's foster home.
- What to do**
- Ask family members how they can help.
 - Share information about relatives with your lawyer and caseworker.

Be the best dad you can be.

- Why** Your child needs you now, maybe more than ever.
- What to do**
- Keep in touch with your child's caseworker.
 - See your child often and participate in all court-ordered services.
 - Services may require that you be drug free, find housing, or get a job. Your caseworker and lawyer should help you achieve these goals.

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Guide 2

How to Work with Your Lawyer

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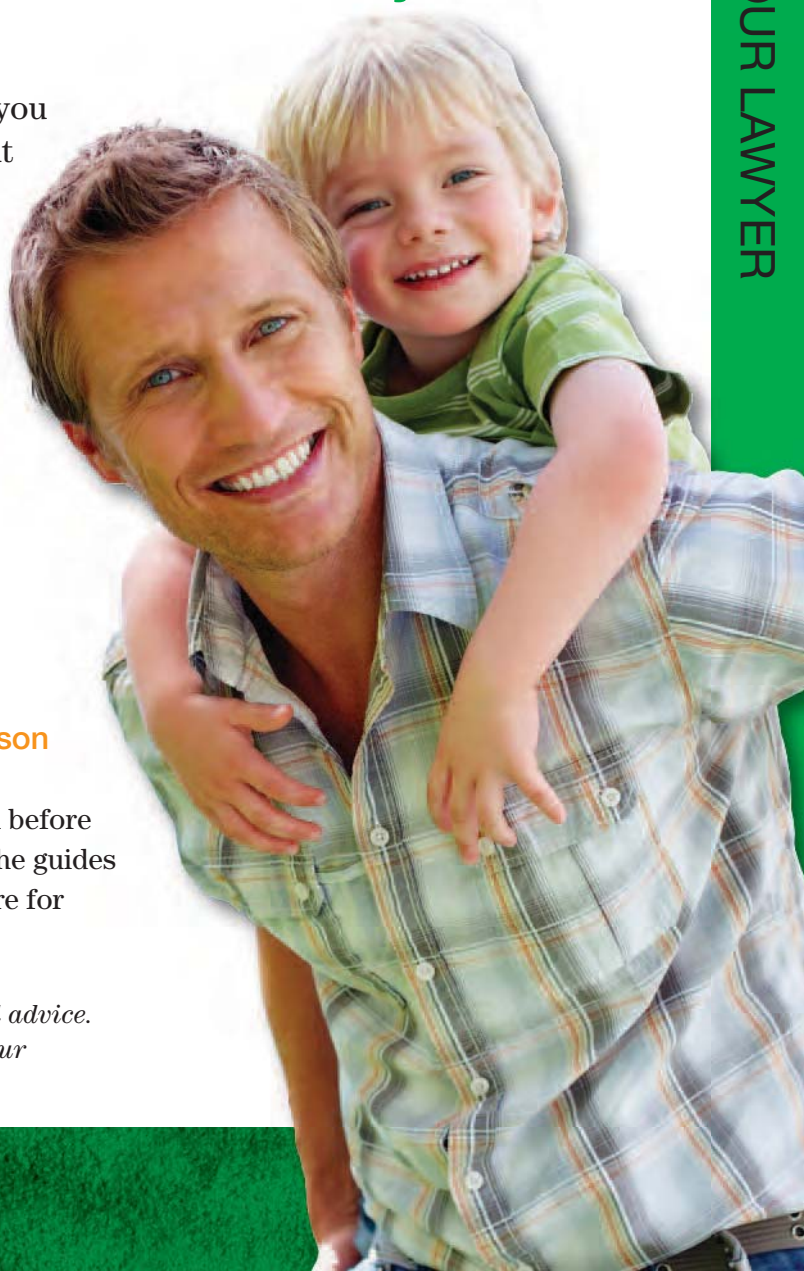
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How to Work with

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. Even if you weren't your child's caretaker, or don't see your child often, there are many things you and your relatives can do in court to help keep your child safe and ensure he or she is reunited with family quickly.

A good relationship with your lawyer is key to helping your child through this process and protecting your rights to your child.

When you will need this guide

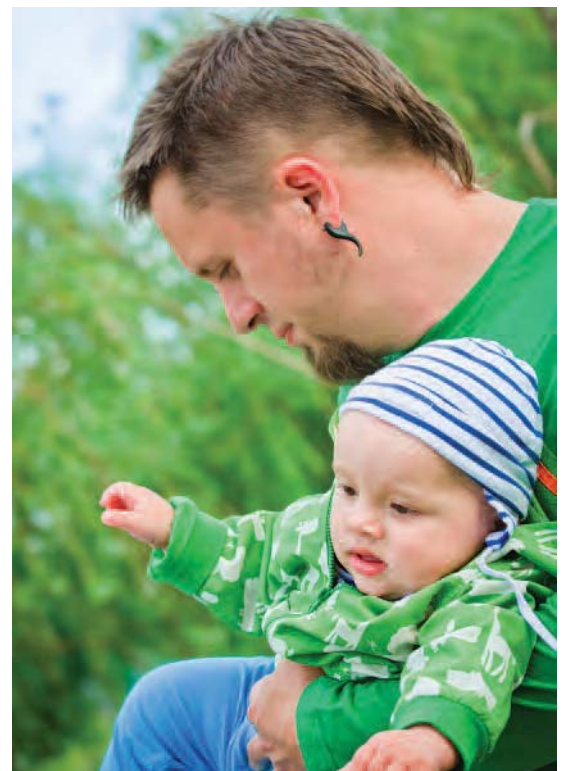
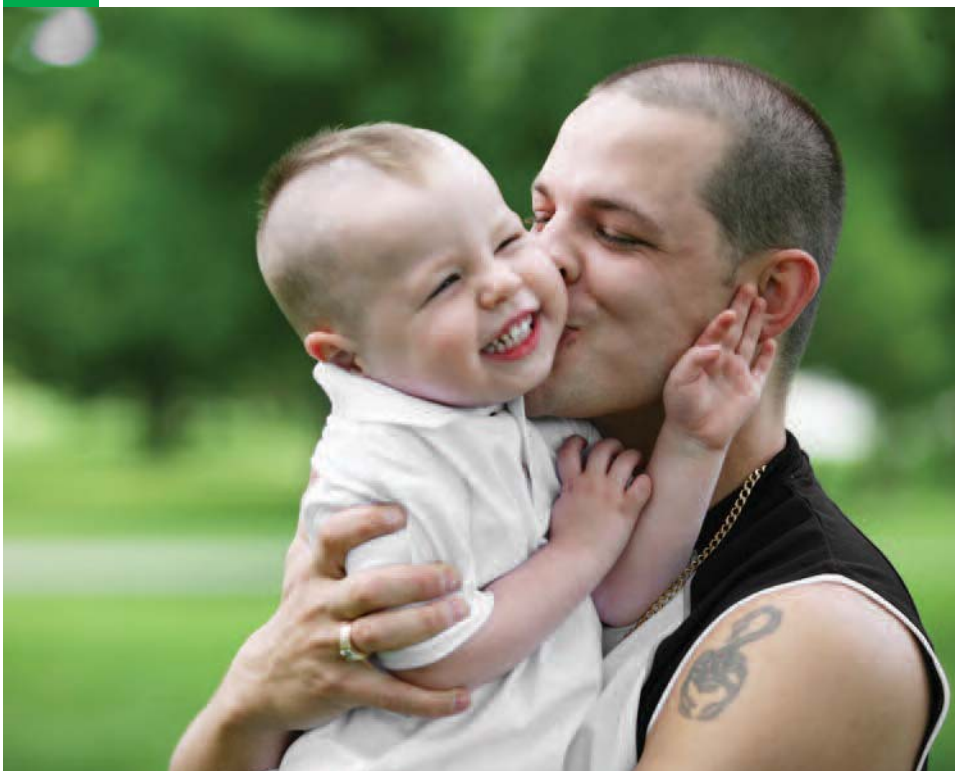
- ✓ Use it to **create a good relationship with your lawyer and to know what to expect during the court case.**
- ✓ Review this guide before you meet with your lawyer.

If you don't have a lawyer

Ask the court for one (some courts may provide one if you can't afford it).

If you can't get a lawyer (because you can't afford it or the court won't appoint one):

- tell the judge in court about your concerns;
- tell the caseworker about your concerns; and
- contact your local legal aid office to ask whether you can hire a low-cost or free lawyer, depending on your income.

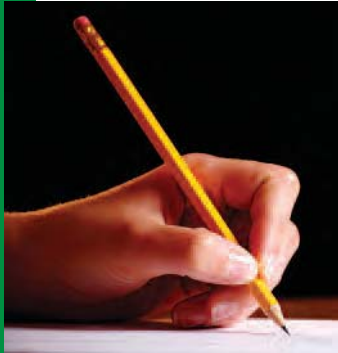


Your Lawyer

How to Work with Your Lawyer

- **Be honest:** Your lawyer cannot tell *anyone* what you share with him or her unless you agree. Don't be afraid to be open and honest with your lawyer. Tell your lawyer everything that happened in your case, good and bad. This helps your lawyer give you the right advice and make the best case for you.
- **Be prepared:** Take notes on the events that brought your child into the system and what happens during your case. Share them with your lawyer so he or she knows what is happening and can advocate for you. Each time before you meet with your lawyer, write down questions or issues you want to discuss. This helps your lawyer understand what is going on and what you want. Your lawyer is busy, so writing things down before you meet ensures you cover everything.
- **Tell your lawyer what you want:** Your lawyer's job is to help you get what you want from the court and agency. This can include:
 - who you want your child to live with;
 - how often you want to visit your child;
 - what help your child needs.Think about what you want for you and your child. Share these goals with your lawyer. Your lawyer will ask about your goals and tell you how to achieve them. She or he will also tell you whether your goals can be met and, if not, what else you should try.
- **Ask questions:** Ask your lawyer if you don't understand something. The court and child welfare systems can be confusing. It is important that you understand these systems so you can get the result you want for you and your child.
- **Discuss options:** Your lawyer will analyze the law and the information you provide to give you legal advice on what you should do in your case. Listen carefully and decide if you want to follow this advice. Your lawyer has your best interests in mind, but if you don't agree with his or her advice, tell your lawyer why, so you can talk about your options.
- **Keep in touch:**
 - Write down your lawyer's name, phone number, and address.
 - Contact your lawyer when there are new developments in your case, or when you have questions or concerns.
 - Try to meet with your lawyer before each court hearing to update him or her on your case, your case plan progress, and what you want to happen during the court hearing.
 - Share documents you have received from other parties since your last meeting.
 - Make sure your lawyer has your contact information (address, cell phone, e-mail address), and let him or her know of any changes.
- **Keep your own file and share key documents:** Keep copies of *all* papers you get from anyone involved in your case. These include:
 - court orders,
 - papers from your lawyer, and
 - documents from the agency or service providers (e.g., substance abuse program, parenting class, or job training program). Get a written record of your progress in classes or programs and share it with your lawyer.

What to Bring When Meeting with Your Lawyer



- **List of questions** or issues.
- **Your notes** about the case since you last spoke with your lawyer (these may cover progress in finding housing, contact with your children, attendance at agency meetings and treatment sessions, and other case activities).
- **Case documents** you have received since you last met with your attorney (e.g., parenting class certificate, letter from caseworker, etc.)
- **Calendar** to confirm upcoming meetings and court hearings.

What to Expect from Your Lawyer

As your advocate, your lawyer should:

- **Work quickly to protect your rights:** These cases have tight timelines. Within a year, the judge will ask where your child should live permanently and if he or she should remain with family or be adopted. You and your lawyer will have to work quickly to ensure you keep your rights to and maintain a relationship with your child.
- **Help you achieve your goals:** If you are seeking custody of your child, you will have to assure the caseworker and court that you can take on this responsibility. You need to have a good relationship with your lawyer to achieve your goals.
- **Provide effective legal representation:** Your lawyer needs to know what is happening in your case so he or she can advocate for what you want. During this process, you should expect your lawyer will:
 - respond to your calls and requests for assistance and information within a reasonable amount of time;
 - be on time and prepared for every court hearing;
 - promptly file all documents and motions in support of your position;
 - be available to advocate for your positions in out-of-court meetings (*see Guide 4, Your Role Outside Court*);
 - make arguments and statements in court that support what you want.

If your lawyer is not meeting your expectations, discuss your concerns with him or her. If your concerns are not resolved, consider asking your lawyer to withdraw so the court can appoint you a new lawyer.



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Guide 3 Your Role in Court

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Your Role in Court

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect.

Even if you weren't your child's caretaker, or don't see your child often, there are many things you and your relatives can do in court to help keep your child safe and ensure he or she is reunited with family quickly.

You have an important role to play in the court process. By coming to court and participating in the hearings, you can help your child and protect your rights.

When you will need this guide

- ✓ Use it to **remind you of your role in court and how to advocate for (stand up for) yourself.**
- ✓ Review it before court hearings.



How to Act in Court

The courtroom is formal. When coming before the judge, you must be respectful by acting and dressing a certain way. If you don't, the judge and others may take you less seriously, which may affect your rights and relationship to your child. Follow these tips on how to behave in court. They will help you achieve your goals. If you bring family or friends to court, they should follow these tips also:*

- **Focus on your child.** Remember, this is about the health and safety of *your* child. Help the caseworker and court find ways to make sure your child gets the best care and assistance.
- **Be on time or early for court hearings.** The courtroom may change at the last minute.
- **Attend all court hearings.**
- **Dress well.** Wear neat, clean clothes. Dress for success: wear a suit and tie if you have them.
- **Don't eat or drink.**
- **Turn off electronic devices**—your cell phone, pager, or videogames.
- **Don't speak when someone else is speaking.**
- **Show respect.** Address the judge, attorneys, and other people in the courtroom respectfully. Refer to the judge as “Your Honor,” “Sir,” or “Ma’am.”
- **Control your emotions.** Being in court and hearing things about you can make you angry, particularly if something is untrue. If you disagree with something, say so, but do not raise your voice or yell. Doing so will make you look bad in front of the judge and caseworker who may then think you can't control your anger or emotions.
- **Bring all documents and information** that your attorney has asked you to bring. If you don't have a lawyer, bring all information you need to advocate for yourself and prove your points.
- **Pay attention in court** and let the judge and lawyers know if you don't understand something or need something repeated.
- **Set a positive example.** If your children are in court, keep them in mind.

* Adapted from *Bringing Back the Dads: A Model Program Curriculum for Non-Resident Father Engagement: Dads as Part of the Juvenile Court Process: Legal Advocacy and Court Etiquette*. “Tips for Dad in Court—The Basics.” April 2008.





What to Do Before, During, and After Court

Ask for a lawyer.

It is **always** in your best interest to have a lawyer. If you **don't** have a lawyer, ask to have one appointed at the earliest possible court date. If your request is declined, ask the judge where you can find a lawyer. If you have little money, ask where you can find a low-cost or free attorney. You may be able to find one at your local legal aid program, through a local law school clinic program, or through the local or state bar association.

Meet with your lawyer.

If you do have a lawyer, meet with him or her a week or so before your court hearing. If you can't meet in person, try to speak by phone. Ask your lawyer what will happen at the court hearing. Share your opinion about where your child should live, visitation, and services.

Know when and where the next court date will be.

Confirm the date, time, and location of your next court hearing.

- **For the first court hearing**, you should be notified by the agency or court about when and where the hearing will be and its purpose. If you were not notified, you may be able to request another hearing or challenge any decisions the court made about you.
- **For later hearings**, you will often find out when the next court date is at the end of each court hearing. Take a calendar or something to write on so you can jot it down.

If you are unsure when a court hearing will be, ask your lawyer or the caseworker. If you can't reach them, call the judge's office and ask the judge's assistant.

If you cannot attend a hearing in person, talk to your lawyer or caseworker, or call the judge's offices to ask to participate by phone or postpone the hearing.

Get copies of reports.

Make sure you receive copies of reports or motions that will be discussed at the court hearing. Getting copies a few days before the hearing gives you time to review them.

Often the child welfare agency will write a **progress report** informing the judge how things are going in your child's case. You have a right to a copy of this report and to review it before the court hearing begins. Ask your lawyer or the caseworker for a copy if you haven't seen one a few days before the hearing.

If you are repeatedly not getting copies of reports before hearings, tell the judge.

Prepare your arguments.

Once you know the focus of the court hearing, gather any paperwork or documents that support what you are saying or requesting in court. Stay organized by keeping all of your documents in a file, arranged by date. For example:

If...

Then you should...

the caseworker asked you to complete a class or training and you recently finished it.

➤ bring your certificate of completion or other paperwork to prove you completed the task.

you have had several good visits with your child.

➤ be prepared to share these positive experiences in court.

you met with someone to discuss job opportunities, housing, or other services that would help you maintain or strengthen your relationship with your child.

➤ share this and provide paperwork where possible.

you have concerns about your child's health, safety, school, living situation, etc.

➤ be prepared to discuss these concerns.

you are not permitted to see your child or are not getting help to maintain a relationship or obtain custody.

➤ talk to your lawyer and caseworker about your concerns. If they are not resolved, be prepared to raise these issues in court.

Share where you want your child to live.

If you...

Then you should...

want custody of your child.

➤ discuss this with your lawyer early.

➤ ask what steps you must take to achieve this goal.

➤ share your progress with the judge at every court hearing.

don't want custody, but have relatives who may be able to care for your child.

➤ tell your lawyer and caseworker immediately.

➤ ask your lawyer to tell the judge this in court.

➤ if possible, ask those relatives to attend court hearings.

If you hit roadblocks, ask the judge to help you.

The judge may be able to help overcome barriers. For example, if you can't move forward because you haven't heard from the caseworker or can't get into a program, the judge may be able to help.

Leave the hearing knowing what decisions were made.

Before each hearing ends, make sure you understand what decisions have been made, what is expected of you, and the timeline for doing things. If you agree to be responsible for certain parts of the plan, you must follow through. It is better to talk about what may be hard up front with the judge than to say yes and disappoint your child or anger the caseworker or judge by not following through.

Learn what happened early on in the case if you get involved late.

You may not learn about your child's case until several months after it began (or even longer). If that happens, find out what decisions have already been made and how they affect your relationship with your child. Your lawyer can help you find out what happened before. If you don't have a lawyer, ask the caseworker where you can review and make copies of the court's file so you can get up to speed. If you disagree with decisions that were made, talk to your lawyer or caseworker about challenging those decisions.

Get ready for trial.

If your next hearing is a trial where the parties can call witnesses and submit documents, take these steps:

PREPARING FOR TRIAL

- **Find out the type of trial.**
 - **Adjudication**—determines whether your child was abused or neglected.
 - **Issue-specific trial**—decides an issue in your case, such as a service someone says you need, or your right to visitation.
 - **Termination of parental rights**—determines whether you should keep your parental rights to your child.
- **If you don't have a lawyer, ask for one (even if you have asked before).**
 - If you face losing your rights as a parent, most courts will give you a lawyer for free if you can't afford one.
 - If it is a trial where you don't have a right to a lawyer, ask if the court has a program that helps people prepare for hearings and trials when they don't have a lawyer.
- **Identify and dispute claims.**
 - Find out what (if any) claims are being made against you.
 - Dispute claims by submitting documents to the court or bringing witnesses to testify for you (e.g., if the issue is whether you can visit your child, bring witnesses who have observed you with your child and can describe positive interactions).



Know when you can appeal the court's decision.

If the court makes a decision you do not agree with, you may be able to ask a higher court to review the decision. Discuss this option with your lawyer. If you don't have a lawyer, see if you can get one for free or at a low cost to help with the appeal. If you can't, ask if the court has a program that can help individuals without lawyers prepare appeals.

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Guide 3.1 The Court Process

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The Court Process

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. **The following chart walks you through the court process.** It explains the court hearings and what happens at them so you can prepare. Many things happen outside court as well. Although the judge must decide where the child should live or who the child should visit, the judge can change his or her mind when circumstances change.

Removal and/or Petition to Court

The agency asks the court to open a court case because it:

- removed a child from home because of concerns over the child's immediate safety;
- wants to ask to remove a child from his or her home; or
- has other concerns about a child's safety at home.

First Court Hearing

The judge will decide:

- whether the child is unsafe at home;
- if there is enough evidence to support the child's emergency removal until trial; and
- if the agency tried to prevent the child's removal (referred to as "making reasonable efforts").

If you attend this court hearing and make less than a certain amount of money, many states will appoint you a free lawyer. If you don't meet the income requirements or your state doesn't appoint lawyers for parents, you may try hiring someone. Ask the court for a list of lawyers who you could hire or ask where you can find free or low-cost legal help.

Case Closes

- Judge finds the agency lacks enough evidence to remove the child or be involved in the family's life.
- Agency may offer voluntary services to you and your family.
- Child is returned to the parent from whom he or she was removed.

Case Stays Open

- Judge finds the agency had enough reason to remove the child or remain involved in the family's life.
- Child remains or is placed in foster or kinship care, or stays home. The court and agency continue overseeing how things are going.
- Judge may order:
 - contact between the child and parents
 - evaluations or services for parents or child
- Attorneys may be appointed for each parent and an attorney, guardian ad litem and/or court appointed special advocate (often called a "CASA") may be appointed for the child (if they haven't been already).

Pretrial Conference/Mediation/Stipulation

(not used everywhere)

- Parties (e.g., parents, child, attorneys, caseworker) try to settle case without going to trial.
- One or both parents may be asked to admit they abused or neglected their child to reach a settlement agreement.
- The parties may create a basic care plan for the child.

Agreement

- Parties present settlement agreement to the judge for approval.
- If the judge accepts the agreement, the case moves to the **disposition hearing** and does not go to **trial**.

No Agreement

- Court sets a **trial** date.

Trial (Adjudicatory Hearing)

- Judge decides if there is enough evidence to find the child was abused or neglected.
- Lawyers present evidence to the judge supporting their clients' positions. Evidence includes documents and witnesses. Parents and child may be asked to testify.

If "YES"

- The court takes control of child's situation and decides where the child will live, with whom the child can visit, and services for the child and parents.
- The court sets a date for the **disposition hearing**.

If "NO"

- Court case closes.
- Agency may offer voluntary services to you and your family.
- Child returns home (to the parent from whom he or she was removed).

Disposition Hearing

- The judge orders services for parents to help them reunite or remain with their child (e.g., counseling, drug treatment, evaluations).
- The judge determines what improvements the parents must make and by when so the child can go home.
- Child could return home at this hearing with the requirement that the parents participate in certain services. The child may also stay in foster or kinship care if the judge believes the parents are not ready to care for the child.
- The judge could set multiple placement goals for the child (called "concurrent planning"). The first goal may be to live with the parent from whom the child was removed. The second goal may be to live with the other parent or a relative.

Review Hearings

(every 6 months or sooner if the judge decides it's necessary)

- The judge evaluates case progress.
- Parents' case plans may be changed, if case circumstances change (if progress has been made, court expectations may be easier; if not, they will probably get stricter).
- The judge could set multiple placement goals for the child (called "concurrent planning"). The first goal may be to live with the parent from whom the child is removed. The second goal may be to live with the other parent or a relative.

Permanency Hearing

(approximately 12 months after the case began, or earlier if the abuse or neglect was severe)

- The judge evaluates case progress.
- The judge looks at whether reunification with the parent is still appropriate. If not, the judge will consider changing the permanency goal to **termination of parental rights** and **adoption, guardianship** (permanent placement with a relative) or **another planned permanent living arrangement** for the child.
- If the parents have not progressed towards meeting the goals set by the judge at earlier hearings, the judge may change the focus of the case from helping the parents reunite with the child to finding the child another permanent home.

Termination of Parental Rights

- The parent may request a trial or agree to terminate his or her rights to the child. If the parent doesn't want his or her rights terminated, the judge must hold a hearing where each party's lawyers can present evidence to the judge supporting their clients' positions. Evidence will include documents and witnesses. The parents and the child may be asked to testify.
- The judge will review the case history, how long the child has been in foster care, and what the parents and caseworkers have or have not done to try to reunify with the child.
- The evidence must meet a high standard before the judge can terminate parental rights.

Termination Denied

- The child may stay in foster care to give the parents more time to meet the court's requirements.
- The child may return home immediately.

Termination Granted

- Parents lose their rights to their child.
- Agency looks for a home to adopt the child or pursues permanent guardianship or another planned permanent living arrangement.

Permanent Guardianship

(placement with a relative)

- The judge decides at the **permanency hearing** that reunification with the parent is not possible, but believes the child may be able live with a relative.
- At a later hearing, the judge gives the relative custody of the child, but the parent's rights are *not* terminated.
- Case closes after the guardianship arrangement is final.

Another Planned Permanent Living Arrangement

- This is the least favored option for children and youth.
- At the **permanency hearing** or a later hearing, the judge decides the parents cannot take custody of the child, the child can't or doesn't want to be adopted, and there are no relatives available to care for the child.
- The judge will look for other long-term living arrangements for the child.
- The parents' rights may or may not be terminated.
- An older child will probably move to an independent living program that prepares the child to live independently.
- The court case will likely stay open and the child will continue to receive services from the agency until he or she is an adult and the court case closes. (Some states keep the case open until the child is age 18, others may keep the case open until the child is 19, 20 or 21).

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 3.2 Who Will Be In Court?

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

Guide 2: How to work with your lawyer

Guide 3: Your role in court

3.1: The court process

3.2: Who will be in court

3.3: Common court terms

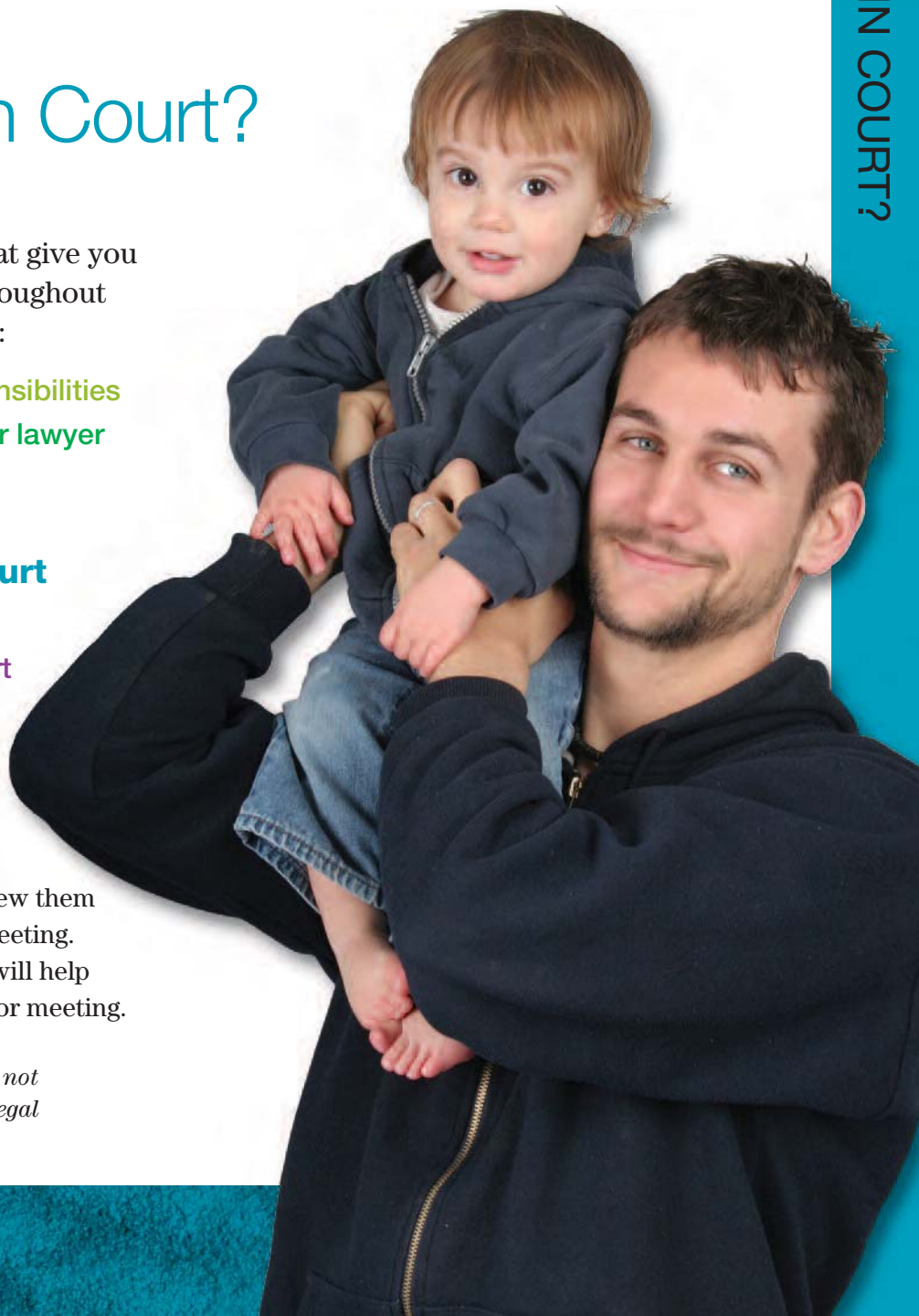
Guide 4: Your role outside court

Guide 5: When you owe
child support

Guide 6: If you are or have
been in prison

Keep these guides in a safe place. Review them before you attend a court hearing or meeting. Check the guides to see which one(s) will help you as you prepare for that court date or meeting.

This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



Who Will Be In Court

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. Even if you weren't your child's caretaker, or don't see your child often, there are many things you and your relatives can do in court to help keep your child safe and ensure he or she is reunited with family quickly.

When you will need this guide

- ✓ Use it to **help you recall who will be in court and what they are supposed to do.**
- ✓ Review this guide before court hearings.

Who Attends Court Hearings and What Do They Do?

JUDGE/MAGISTRATE (sometimes called a referee or master)

Role	Oversees and is in charge of the court hearings.
Duties	• Must be objective and neutral (not biased). • Makes decisions about your child's placement, services for you and your child, and who your child visits. • Decides whether your child will live with you, the child's mother, a relative (yours or the mother's), or in foster care. • Decides the plan for your case so you (and your relatives) can maintain a relationship with your child and possibly obtain custody. • Decides where your child can permanently live and whether you can keep your rights as his or her parent.



LEGAL ADVOCATES

Your lawyer

Role Tells the court and parties what you want. Attends all court hearings.

Duties

- Explains to you your rights and responsibilities.
- Argues for what you want in court and in meetings.
- Spends time with you before court hearings.
- Explains what is happening in court and what to expect next in the process.

Mother's lawyer

Role Represents your child's mother just as your lawyer represents you.

Duties

- Performs all duties listed above for the *mother*, not for you.

Agency's lawyer

Role Represents the government's position in your child's case.

Duties

- Represents the caseworker.
- Argues for the caseworker's positions in court and in meetings.

Child's advocate*

Role Advocates for your child.

Duties

- A **guardian ad litem (GAL) attorney** advocates for what is in your child's best interest.
- A **court appointed special advocate (CASA) (called a GAL volunteer in some states)** argues for what is in your child's best interest and is a volunteer from the community who is probably not an attorney.
- A **child's attorney** will argue for what your child says she or he wants, unless the child is too young to carry on a conversation or is not developmentally able to share his or her opinions about the case, in which case the child's attorney will argue for what is in your child's best interest.

* In some cases the child may have:

- an attorney and a court appointed special advocate (CASA),
- just an attorney, or
- just a CASA.

What type of attorney is assigned to the child, or whether the child gets a CASA or some combination of court-appointed representation, depends on your state's laws and policies.



ATTORNEY AT LAW

CASEWORKER

- Duties**
- Arranges and oversees all services you and your child receive.
 - Develops a case plan for you and your child to maintain a relationship or for you to obtain custody of your child, including timelines and who will provide or pay for services.
 - Arranges for visits between you and your child.
 - Finds a place for your child to live if he or she can't be with you or the child's mother.
 - Discusses the case with you and how your child is doing.
 - Reports to the court on how your family's case progresses.
 - Recommends to the court what should happen in the case regarding your child's placement, services, and visitation.

COURT STAFF

Court clerk

- Duties**
- Sits in the courtroom and assists the judge during the hearing.
 - Receives all documents, petitions, and motions to place in the court file.
 - Helps schedule future court dates.

Court reporter

- Duties**
- Records everything said during court hearings so the judge and parties can review and use it later.
 - If there is no court reporter, the courtroom may have a system that records all courtroom conversations.

Court bailiff/deputy

- Duties**
- Protects the peace and ensures order in the courtroom.

OTHER COURTROOM PARTICIPANTS

Other people may also attend some hearings. They may only participate as witnesses at trials. At other hearings, they may provide information about how the case is going. They include:

- **Service providers**—individuals working with you, your child or the child's mother, such as therapists, mentors, tutors or caseworkers providing a specific service to you or your child (e.g., job counseling, anger management, or parenting skills).
- **Child's caregivers**—your child's foster parents or current caregivers.
- **Relatives**—your relatives or the mother's relatives, particularly if they are seeking custody of the child.
- **Your significant other**—if you request it and the court allows it.
- **Child's mother's significant other**—if she requests it and the court allows it.

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 3.3 Common Court Terms

About the guides

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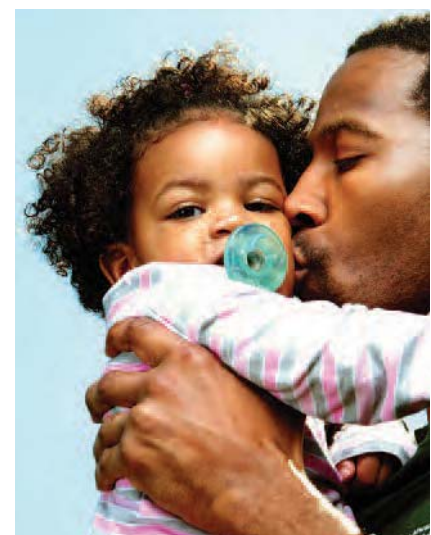
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Common Court Terms

- **Adjudicatory Hearing:** At this hearing the court decides if there is enough evidence to prove the child was abused or neglected. The government, parents and often the child's representative (lawyer or GAL) can call witnesses and present documents to help the judge make a decision.
- **Adoption:** This is when a child becomes the permanent, legal member of another family and no longer lives with his or her biological parents. Sometimes the child keeps in touch with his or her biological family if the adoptive parents approve (called *open adoption*).
- **Allege** (or *allegation*): When someone says something happened, but they do not have proof.
- **Another Planned Permanent Living Arrangement (APPLA):** This living arrangement is made when a child (usually a teen over age 16) does not return home to live with biological parents or relatives and is not adopted. The child may live in a foster home or be enrolled in an independent living program that helps the child prepare to live on his or her own. The child will stay in this living arrangement until the case closes sometime between ages 18 and 21 (depending on state law).
- **Appeal:** This is what a party can do if they don't like a decision the court or the agency made. A party who doesn't agree with the court's decision can ask a higher level court to review the decision and overrule it. If he or she doesn't agree with an agency decision, the party can ask for a higher level person (like a supervisor or agency administrator) or team to review it. If you want to appeal something, talk to your lawyer, caseworker, or the caseworker's supervisor about doing so. If you don't have a lawyer, find out if the court has a help center that can assist you with this process.
- **Court Appointed Special Advocate (CASA):** This community volunteer (usually not an attorney) is trained to serve as a court-appointed advocate for the child throughout the court process. The CASA conducts their own assessment of the case and reports to the judge what they believe to be in the child's best interests. In some states the volunteer is referred to as a guardian ad litem (GAL).
- **Case Plan** (or *Service or Treatment Plan*): This written agreement between the parent and agency describes why the family is involved in the system, the family's needs, and the goals for the child. It lists actions the parent must take to reunify (or stay unified) with the child (e.g., taking classes, participating in treatment, or making changes in the home). The judge reviews the case plan and includes it in the court order, usually at the **disposition hearing**.



- **Concurrent Planning:** The court and the agency may prepare two possible plans for a child's future living arrangement and they work towards achieving both at the same time:

1. Often the preferred plan is for the child to return home and live with the parent he or she lived with before the case started.
2. If that doesn't work out, the second plan could be to let the child live with a different relative or to find the child an adoptive home.

By planning for the first and backup plans at the same time, the agency can shorten the time the child remains in foster care. There are laws that require the agency to take action within set times so children don't stay in foster care for too long. Your lawyer or caseworker should tell you what the first and second plan are, and what the deadlines are for the plans to work out.

- **Court Order:** This document explains the judge's directions or instructions. Failure to follow the court's orders may prevent parents from maintaining a relationship with their child and/or could result in other sanctions.
- **Disposition Hearing:** At this hearing, which is usually held after the **adjudicatory hearing**, the judge reviews and approves the **case plan** (or *service plan*). This hearing lays out a plan to meet the child's future needs and sets goals for the parents to reunify or stay unified with their child. Usually parents are given about a year to meet these goals and complete the services required in their case plan.
- **Emergency Placement/Removal:** The agency temporarily removes a child from his parents' or caregivers' care. The child is then placed with a relative, in a foster home, a group home, or an emergency shelter for abused or neglected children. The agency will remove a child from home when it is worried about the child's safety. Before or right after the removal, the agency must get a judge to approve the removal at a court hearing, which both parents should be told about and encouraged to attend.

- **Founded** (or *indicated* or *substantiated*): When the agency learns that a child may be abused or neglected (often as a result of a "report" made over the telephone) it conducts an investigation. After the investigation, the agency decides if there is enough information to believe the child was abused or neglected. If there is enough information, the agency will say the **allegation** of abuse or neglect was founded (indicated or substantiated). If this happens, the parent's name may be placed on a child abuse and neglect **registry** and the agency may seek to remove the child from the parent's care and/or file a **petition** to have a judge hear the case.
- **Guardian ad Litem (GAL) Attorney:** A GAL who is also an attorney will be representing your child in court proceedings and advocating for what he or she believes is in your child's best interest.
- **Guardianship** (or *permanent kinship placement*): This is when a court gives legal authority of the child to one of the parent's relatives, and the relative then has all the rights a parent would have. This can be done without legally terminating the parents' rights, but the relative becomes the child's permanent legal caretaker. When the agency gives the relative financial assistance to care for the child this is called a "subsidized guardianship."
- **Indicated:** see **Founded**.
- **Kinship Care:** This is when a child, who would otherwise be in a foster home, is placed with a relative. It is usually temporary until the case is resolved and a permanent living situation for the child is found. In many states, there is a legal preference for kinship care rather than foster care placements.
- **Mediation** (or *pretrial conference*): A trained outside person helps the parties in a case decide or resolve problems. This person is called a "mediator" and is not directly involved with the family or the agency. Sometimes mediation is held before an **adjudicatory hearing** to see if the parents and the agency can agree whether the child was abused or neglected.

- **Permanency Hearing:** This hearing is usually held a year after the child enters foster care (it can be held much earlier if severe abuse or neglect has occurred). At this hearing, the judge assesses the parents' progress in meeting their **case plan** (also called *service plan*) goals and decides where the child should live permanently. Usually, up to this point, the goal has been to reunify the child with his or her parents. However, if the judge does not believe the parents have made sufficient progress, the judge may change the goal from reunification with the parents to **adoption, guardianship or another planned permanent living arrangement (APPLA)**.
- **Permanency Planning:** The agency and court go through this process to ensure each child has a permanent home.
- **Petition:** This is the document the agency files with the court **alleging** facts to support its belief that the child was abused or neglected. The agency will seek to prove the **allegations** in the petition at the **adjudicatory hearing** to convince the judge to find that the child was in fact abused or neglected.
- **Placement:** This is where your child lives during the court process. He or she could live with a parent, relative, nonrelative foster parent, or in a group home or other facility. Many children experience multiple placements during the length of the court process.
- **Pretrial Conference:** This is a meeting where the parties decide whether they can agree on the facts in the **petition**. If they can, the parents usually sign forms saying they agree that the child has been abused or neglected. If this happens the court will probably not hold an **adjudicatory hearing** and instead goes straight to the **disposition hearing**. This meeting may also be called a **mediation** session or stipulation.
- **Reasonable Efforts:** These are steps the agency must make to (1) prevent a child from being removed from his or her home, or (2) help a child return home after removal. At many court hearings the judge must decide whether the agency made reasonable efforts to achieve these goals. If the court finds the agency has *not* made reasonable efforts, the agency loses federal money to support the child's placement. If there has been severe abuse or neglect, the agency may not have to make "reasonable efforts" to reunify the family.
- **Registry** (or *child abuse registry* or *central registry*): This is a list or database the agency keeps of names of people who have committed child abuse or neglect. How long a name remains in the registry varies by state. Being listed on the registry can affect a person's ability to get a job working with children or become an adoptive or foster parent.
- **Review Hearing:** The court has review hearings every few months after the **disposition hearing** to find out how the child is doing and what progress has been made on the **case plan** (or *service plan*). Depending on how things are going, the case plan could change and/or the court could create **concurrent planning** goals for the case.
- **Service Plan:** see **Case Plan**.
- **Substantiated:** see **Founded**.
- **Termination of Parental Rights (TPR):** A judge decides to end all rights of the biological parents to their child. When a parent's rights to his or her child are terminated, the child is legally free to be adopted. The biological parent may still be able to maintain contact with the child, but this is usually up to the child's new caregiver or the child after he or she is 18 years old.
- **Unfounded** (or *not indicated, unsubstantiated*): When the agency learns a child may be abused or neglected it conducts an investigation. After the investigation the agency decides if there is enough information to find the child was abused or neglected. If there is *not* enough proof, it will say the **allegation** of abuse or neglect was unfounded (not indicated or unsubstantiated). If this happens, the agency may close the case and offer the parents optional services. The agency will likely keep a record of the investigation.
- **Unsubstantiated:** see **Unfounded**.

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 4

Your Role Outside Court

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

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This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



Your Role Outside

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. Even if you weren't your child's caretaker, or don't see your child often, there are many things you and your relatives can do outside of court to help keep your child safe and increase the likelihood he or she is reunited with family.

When you will need this guide

- ✓ Use it to learn **what is expected of you outside the courtroom and when to advocate for yourself.**
- ✓ Review it before meetings and planning conferences being held about your case.

Participating In Case-Related Meetings

Much of the work on your child's case happens outside court. Important decisions are made by the caseworker and child welfare agency and other service providers relating to your relationship with your child, your ability to see your child, and what is expected of you.



e Court

CASE MEETINGS YOU SHOULD ATTEND

Case plan or treatment plan meetings

- **What happens:** The agency develops a plan for how you and/or your child's mother can reunite with your child. The plan usually includes services or tasks you must complete to live with, or have more contact with your child and to have your child's court case closed.
- **Why they're important:** Not complying with the case plan may affect whether the agency (and ultimately the court) supports your interest in having custody of, or more frequent contact with, your child.
- **What you should know:** Although some agencies develop these plans on their own, most should work with you to create the plan or at least show it to you for your comments and approval.

Agency review meetings

- **What happens:** The agency meets several times a year to talk about progress in your child's case and discuss problems and identify solutions to overcome them.

Family group conferences

*(or family group
decision making,
or family team
meetings)*

- **What happens:** The agency and family meets to discuss what should happen in your child's case.
- **Who attends:** The meetings should include you, the child's mother, and relatives like grandparents, cousins, aunts, uncles, etc.
- **What you should know:** Ask that your family be included and give the agency names and phone numbers of relatives you think should attend. In some cases, the agency lets you and your family meet alone to discuss what should happen and where the child should live. It then uses your decisions to create a plan. Not all states have these meetings, but many do.

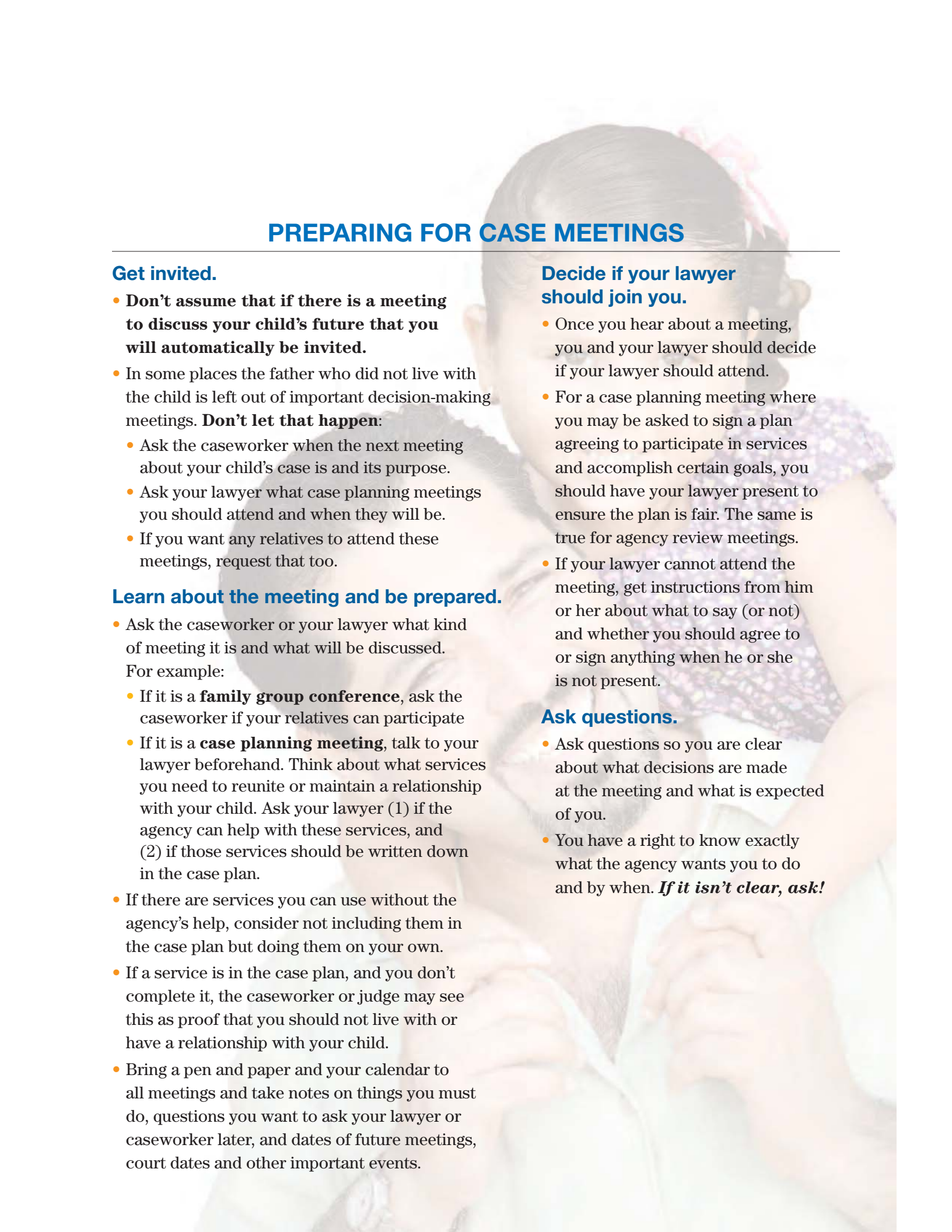
WHY ATTEND CASE MEETINGS?

Participating is important so you...

- understand what is happening in your child's case;
- can share with everyone your opinion regarding your child's care and case;
- know what the agency and court expects of you.

If you don't participate...

- decisions may be made based on incorrect assumptions about you or your family.
- you may also find yourself in a position where you must do things you cannot do or don't think are right for you or your child.



PREPARING FOR CASE MEETINGS

Get invited.

- **Don't assume that if there is a meeting to discuss your child's future that you will automatically be invited.**
- In some places the father who did not live with the child is left out of important decision-making meetings. **Don't let that happen:**
 - Ask the caseworker when the next meeting about your child's case is and its purpose.
 - Ask your lawyer what case planning meetings you should attend and when they will be.
 - If you want any relatives to attend these meetings, request that too.

Learn about the meeting and be prepared.

- Ask the caseworker or your lawyer what kind of meeting it is and what will be discussed. For example:
 - If it is a **family group conference**, ask the caseworker if your relatives can participate
 - If it is a **case planning meeting**, talk to your lawyer beforehand. Think about what services you need to reunite or maintain a relationship with your child. Ask your lawyer (1) if the agency can help with these services, and (2) if those services should be written down in the case plan.
- If there are services you can use without the agency's help, consider not including them in the case plan but doing them on your own.
- If a service is in the case plan, and you don't complete it, the caseworker or judge may see this as proof that you should not live with or have a relationship with your child.
- Bring a pen and paper and your calendar to all meetings and take notes on things you must do, questions you want to ask your lawyer or caseworker later, and dates of future meetings, court dates and other important events.

Decide if your lawyer should join you.

- Once you hear about a meeting, you and your lawyer should decide if your lawyer should attend.
- For a case planning meeting where you may be asked to sign a plan agreeing to participate in services and accomplish certain goals, you should have your lawyer present to ensure the plan is fair. The same is true for agency review meetings.
- If your lawyer cannot attend the meeting, get instructions from him or her about what to say (or not) and whether you should agree to or sign anything when he or she is not present.

Ask questions.

- Ask questions so you are clear about what decisions are made at the meeting and what is expected of you.
- You have a right to know exactly what the agency wants you to do and by when. ***If it isn't clear, ask!***

Performing Other Key Tasks Outside of Court

There are other tasks you should work on during your child's case to help yourself and your child. Many of them require regular contact with your lawyer and caseworker. Keep good notes on your progress and the efforts you make in the case. **You and your lawyer should work as a team and work closely with the caseworker.** If you do not have a good working relationship with the caseworker, see *Working Well with the Caseworker*.

OUT-OF-COURT ACTIVITIES

CONTACT YOUR ADVOCATES

Contact the caseworker regularly.

- Call when you have questions, concerns, information to share, or want updates on your child or the case. *Don't wait for the caseworker to call you.* The caseworker has many cases and may not think to call you when things happen that you may want to know about.
- If the caseworker is not there, leave a message and write down the date you called.
- If you don't hear back in a day or so (or sooner if it is urgent), call back. If you still can't reach the caseworker, call his or her supervisor.
- You can also contact the court appointed special advocate (CASA) or guardian ad litem (GAL) to discuss your wishes and the progress you are making on your case plan. But remember, the CASA or GAL is your child's advocate, not yours, and you should not tell him or her anything you would not want the judge or other parties to hear.

Keep in touch with your lawyer.

- **You don't have to *only* speak with your lawyer at, or just before, court.** In fact, the more your lawyer knows *before your court date* about your case and what is going on, the better he or she can advocate for you in and out of court.
- Call when you have questions or there are new developments in your situation or your child's case.
- Check in with your lawyer a few days or even a week before each court date.
- If you call your lawyer and don't hear back, you can e-mail or write a letter to follow up. If you still don't receive a response, you can call his or her office and ask if there is someone else you can speak with about your case.

STAY INVOLVED IN YOUR CASE

Take notes on what is happening.

- One good way to share information with your lawyer is by taking notes on things that happen in your case. For example, write down:
 - efforts you have made to find a job or a house;
 - how many times you have called the caseworker or service providers before getting return calls;
 - how often you visit your child and how the visits go.
- If you are not sure if something is worth documenting, assume it is and write it down!

Don't miss visits and be on time.

- You have a right to visit your child regularly (unless the court or agency finds it would be harmful or not in your child's best interest). Don't miss this chance.
- Always be on time and don't miss any visits.
- If something comes up and you cannot attend, call the caseworker immediately and try to reschedule.
- **If you are late or don't show up, the caseworker may think you are not committed to maintaining a relationship with your child and share this belief with the court.**

Complete your case plan tasks.

- **If you don't complete your case plan successfully you may lose your rights to your child.**
- If you have problems and feel you can't complete certain tasks tell your lawyer immediately so you can decide together how to overcome these issues.
- If you don't have a lawyer, discuss your concerns with the caseworker. Don't just fail to complete your obligations.

PLAN FOR YOUR CHILD'S PERMANENT HOME

Keep your relatives in the loop.

- If you are seeking custody, your relatives may be able to help.
- If you are not seeking custody, ask your relatives whether they want to care for your child. Be sure to share this information with your lawyer and caseworker. If they cannot care for your child, they may be able to offer support by visiting or talking to your child on the phone. Talk to your lawyer and caseworker about making this happen.

If you want your child to reunify with his or her mother, help make this happen.

- This may include:
 - encouraging the mother to work with the agency;
 - helping her find housing or other services; and/or
 - providing her financial or emotional support.

WORKING WELL WITH THE CASEWORKER

The caseworker is an important decision maker in your case, but the judge ultimately decides what happens. If you do not have a good relationship with the caseworker, ask your lawyer how it can be improved. You may want to talk to the caseworker directly about the problem. This may include a conversation about:

- How you can improve your working relationship
- When the best times are for you to regularly talk or meet each other to discuss the case
- What the caseworker expects of you
- What you expect from the caseworker

If things don't improve:

Consider addressing the issue with the caseworker's supervisor, and the judge, when necessary.



Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 5

When You Owe Child Support

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When You Owe C

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. Even if you weren't your child's caretaker, or don't see your child often, you may be responsible for providing child support. This guide helps answer common questions fathers have about child support in child welfare cases.

When to use this guide

- ✓ Use it to help you recall **what is expected of you and what rights you have when you are dealing with child welfare and child support issues.**
- ✓ Read it **if you are paying, owe or may owe** child support.

What Is Child Support?

Child support is money that you pay to the person who has custody of your child when you live apart from the child. Payments are usually made either once or twice a month to help cover the costs of raising the child. This assistance can be critical to your child's upbringing because it will help pay for important things in his or her life.



Child Support

Paying Child Support Is Important

Making child support payments helps pay for items your child needs, like food, doctor's appointments, clothes, and school supplies. Providing this support, even if it's not a lot, can make a difference for your child and help you become closer to him or her.

FINDING A LAWYER

How a lawyer can help

Having a lawyer in your child support case can help you:

- protect your rights;
- file papers with the judge;
- possibly get the monthly amount of support payments, or arrearages owed, reduced;
- request appropriate assistance, hearings and a trial, if appropriate; and
- request a change in your support obligations, particularly if they make it hard for you to participate in and seek custody of your child in the child welfare case.

Where to find a lawyer

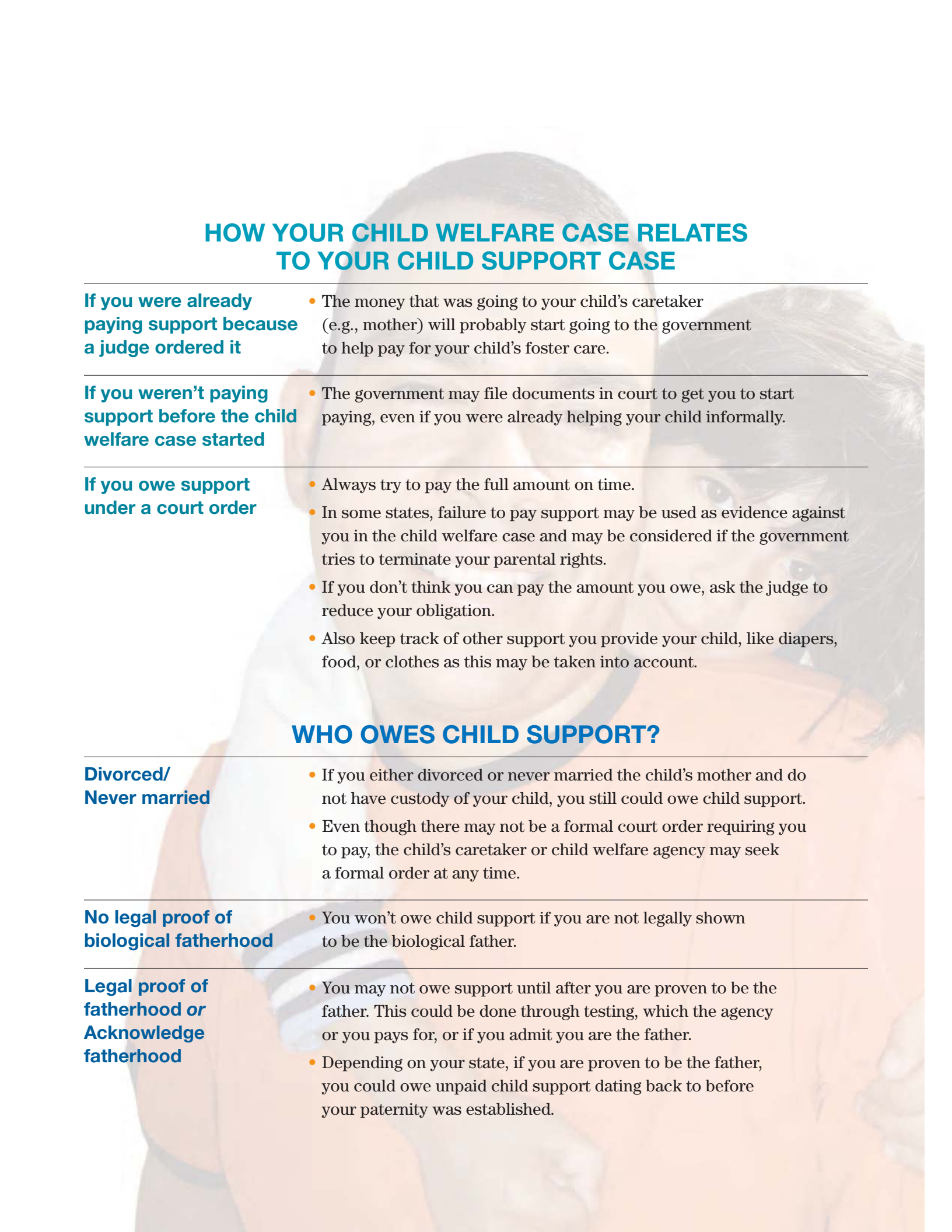
- You may already have a lawyer in your child welfare case. This lawyer may represent you if child support issues arise, or refer you to another lawyer.
- Some lawyers, such as those at legal aid, the local bar association, or an area law school clinic, may be able to represent you for free or at a low cost. If you don't have a lawyer in your child welfare case, ask your caseworker for help finding a lawyer for your child support case.

If you cannot afford or find a free lawyer

- The court may have a self-help legal center to help you manage your case.

GETTING OTHER HELP

Many states have support programs that help you find a job or enroll in vocational training or other services to help you parent your child (such as parenting classes). This assistance helps you maintain a good relationship with your child and provide for him or her without struggling to make ends meet. Ask your lawyer or caseworker what programs or fatherhood support groups are near you.



HOW YOUR CHILD WELFARE CASE RELATES TO YOUR CHILD SUPPORT CASE

If you were already paying support because a judge ordered it

- The money that was going to your child's caretaker (e.g., mother) will probably start going to the government to help pay for your child's foster care.

If you weren't paying support before the child welfare case started

- The government may file documents in court to get you to start paying, even if you were already helping your child informally.

If you owe support under a court order

- Always try to pay the full amount on time.
- In some states, failure to pay support may be used as evidence against you in the child welfare case and may be considered if the government tries to terminate your parental rights.
- If you don't think you can pay the amount you owe, ask the judge to reduce your obligation.
- Also keep track of other support you provide your child, like diapers, food, or clothes as this may be taken into account.

WHO OWES CHILD SUPPORT?

Divorced/ Never married

- If you either divorced or never married the child's mother and do not have custody of your child, you still could owe child support.
- Even though there may not be a formal court order requiring you to pay, the child's caretaker or child welfare agency may seek a formal order at any time.

No legal proof of biological fatherhood

- You won't owe child support if you are not legally shown to be the biological father.

Legal proof of fatherhood or Acknowledge fatherhood

- You may not owe support until after you are proven to be the father. This could be done through testing, which the agency or you pays for, or if you admit you are the father.
- Depending on your state, if you are proven to be the father, you could owe unpaid child support dating back to before your paternity was established.

WHEN YOU MUST PAY CHILD SUPPORT

Paying child support helps your child. This is why many states have strict laws about paying child support and say that **you must still pay child support** even if you are:

In prison

- In many states, you will still owe the same amount, even if you are in jail. To change this, you will have to ask the judge to modify the order.

In school

- You must still pay child support if you are enrolled in school.

Out of work

- You will still owe support if you don't have a full-time job, lose your job, or receive unemployment or disability benefits. The court may change the amount you owe, but only if you ask.

In the military

- You must still pay child support if you are in the military.

Not married to the child's mother, but she is married to someone else

- Only if the stepfather adopts the child will you no longer owe support.

Married to someone else and have or are planning to have children with your current spouse

- You may be able to get a court to lower the amount you owe because you have or will have more children to care for.

Kept from seeing your child

- If the child's mother or other caregiver won't let you see your child, even if it goes against a court's order, you still need to pay. If this happens, however, go to court and ask the judge to require the caregiver to follow your visitation agreement or make a new visitation order.

HOW MUCH IS DUE AND FOR HOW LONG?

How much?

- Each state has its own system for determining how much child support you owe. In almost all states the amount you owe is based partly on your income. In some places the amount you owe is also based on your child's needs.

Do I pay for my child's medical insurance?

- Part of your child support obligation may include helping to pay your child's medical bills. For example, if you have health insurance, you may be required to add your child to your health insurance plan.

Can the support amount change?

- The amount you owe may change, but *only* if the judge changes the amount. So, if you lose your job or your income is decreased make sure you get a court hearing soon to address whether the amount you owe can change.

How long?

- How long you have to pay child support varies from state to state.
- Even though your child may be considered an adult at 18, if he or she has not graduated from high school, you may still owe child support until he or she graduates.
- A few states require parents to pay child support for longer—until the child turns 21.
- If you didn't pay child support when it was owed, even if your child is too old now, you will still have to pay back what you owed.

Do I pay if my child is legally emancipated?

- You will not owe support if your child becomes a “legal adult” through a court process called “emancipation,” even if the child is under age 18 at the time.
- You will also stop owing support if your child is adopted.

WHAT HAPPENS IF YOU DON'T PAY?

Not paying the amount you owe on time can have serious consequences. The child support agency or court may...

- use this as evidence against you in the child welfare case;
- put you in jail for a limited time;
- put you on probation;
- suspend your driver's license until you pay, as well as professional or recreational licenses (like hunting or fishing licenses);
- report your name to credit agencies, which will make your credit score go down and make it harder for you to get loans;
- add interest to the amount that you owe, so that you owe even more in child support than you did before;
- take your property or any money you make when you sell that property;
- take money directly from your paycheck or benefit checks (if they are not doing that already);
- deny your passport application.



Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 6

If You Are or Have Been in Prison

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

Guide 2: How to work with your lawyer

Guide 3: Your role in court

3.1: The court process

3.2: Who will be in court

3.3: Common court terms

Guide 4: Your role outside court

Guide 5: When you owe child support

Guide 6: If you are or have been in prison

Keep these guides in a safe place. Review them before you attend a court hearing or meeting. Check the guides to see which one(s) will help you as you prepare for that court date or meeting.

This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



If You Are or Have

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. If you are in prison now or were in the past, you are still an important person in your child's life. You and your family can be involved in your child's court case and be a resource to your child.

When you will need this guide

- ✓ This guide is important **if you are or have been in prison.**
- ✓ Use it to **help you recall what is expected of you and what rights you have** to be involved in your child's life and participate in his or her court case.

You Have the Same Rights

Even though you are or have been in prison, you still have a right to maintain a relationship with your child during his or her child welfare case. This includes visiting your child or becoming his or her caretaker. In both instances, you still have a right to:

- **Notice**—advance notice of all court hearings.
- **Contest allegations**—a chance to admit or deny any allegations of abuse or neglect that are made against you.
- **Court participation**—an opportunity to attend, participate, and be heard in all court hearings. Assistance should be available so your participation can be meaningful, such as an interpreter if you do not understand English or are hearing-impaired.



Been in Prison

- **Representation**—a lawyer to protect your legal interests. (Note: In some states you may have to hire your own lawyer and in others you may be able to get one for free if you don't have a lot of money. If the government seeks to terminate your rights to your child, most states will give you a lawyer for free if you can't afford one.)
- **A fair trial**—a few states offer jury trials, while in others the judge makes final decisions. You have a right to a judge who is neutral (not biased).
- **A relationship with your child**—a right to ongoing contact with your child unless the court or agency finds it is not in your child's best interest or that contact with you may harm him or her. You also have the right to ask for custody of your child.

PROTECTING YOUR RIGHTS WHILE IN PRISON

If you are in prison it will be hard to protect these rights, especially your right to participate in court hearings, visit, and seek custody of your child. You must advocate strongly for yourself by keeping in contact with your lawyer and caseworker and requesting:

That you be allowed to attend court hearings.

- Ask for this well before each court date so the agency and prison have enough time to make arrangements.
- If you can't go to court, ask to participate by phone or ask for a lawyer (if you don't already have one) who can participate for you and then let you know what happened.
- Make sure you tell the lawyer what you want before the hearing regarding your child's placement, services, and visits with family.

Regular visits with your child.

- You may not be able to see your child every week, but you should still be allowed to have some kind of contact with him or her unless the court finds it would harm the child.
- Even if you can't see each other regularly, there are other ways to keep in touch:
 - **“Virtual visits” through videotape or teleconferencing** where you can see your child (and he or she can see you), but you are in different locations—Ask your lawyer or caseworker to help set up in-person or virtual visits.
 - **Writing letters or recording your voice** reading stories or talking to your child. Work with prison officials to make sure you have access to pens, papers, envelopes, stamps and a recording device.
 - **Talking to the child by phone**—Make sure prison officials allow access to a phone and it is clear who will pay for the call (i.e., the agency arranges to have your child's foster parent or caregiver accept collect calls from you).

Information about your case plan and services.

- The agency may have developed a case plan that requires you to complete certain tasks to maintain a relationship with your child.
- Completing case plan tasks while in prison can be hard. You will need to contact your caseworker and lawyer to find out what is expected and ask them to work with the prison to offer you the required services.
- Many prisons offer parenting classes, GED classes, drug treatment, or job training. If your prison keeps a list of available classes and services, ask for a copy to give your lawyer and caseworker.

PROTECTING YOUR RIGHTS WHEN OUT OF PRISON

If you are out of prison, it still may be hard to participate fully in your child's court case, especially if others don't think you should because of your criminal history. If that is the case, you may need to prove you are a positive influence in your child's life and that you have successfully re-entered the community.

Show you are a positive influence.

- Attend all of your child's court hearings.
 - Know how your child is doing and ask questions about where he or she lives, his or her health, and progress in school.
 - Visit your child regularly. Keep in touch by phone and/or send cards or letters. If other parties oppose visits, with your lawyer's help, fight to maintain contact. Continue doing positive things to help your child (e.g., sending letters or maintaining contact with his or her caretakers to see how the child is doing).
 - Help your family keep in touch with your child.
 - Become involved in your community's recreational activities, church, or other organizations that are family and child friendly.
 - Participate in services that will help you better parent your child (e.g., parenting classes).
-

Prepare for success after prison.

- Participate in services that will help you overcome the issues that led to your imprisonment, if you haven't already. For example, if you were in jail for assault, enroll in a class to help you manage your anger. If you were in jail for drugs, join narcotics anonymous or another treatment program or support group.
- Request housing or job assistance. If you lack stable housing, see if you are eligible for public housing and how your caseworker can help. If you are seeking custody of your child, there may be programs to help you locate an affordable place to live. If you are out of work, ask the caseworker for help finding a job or enrolling in a job training program.

