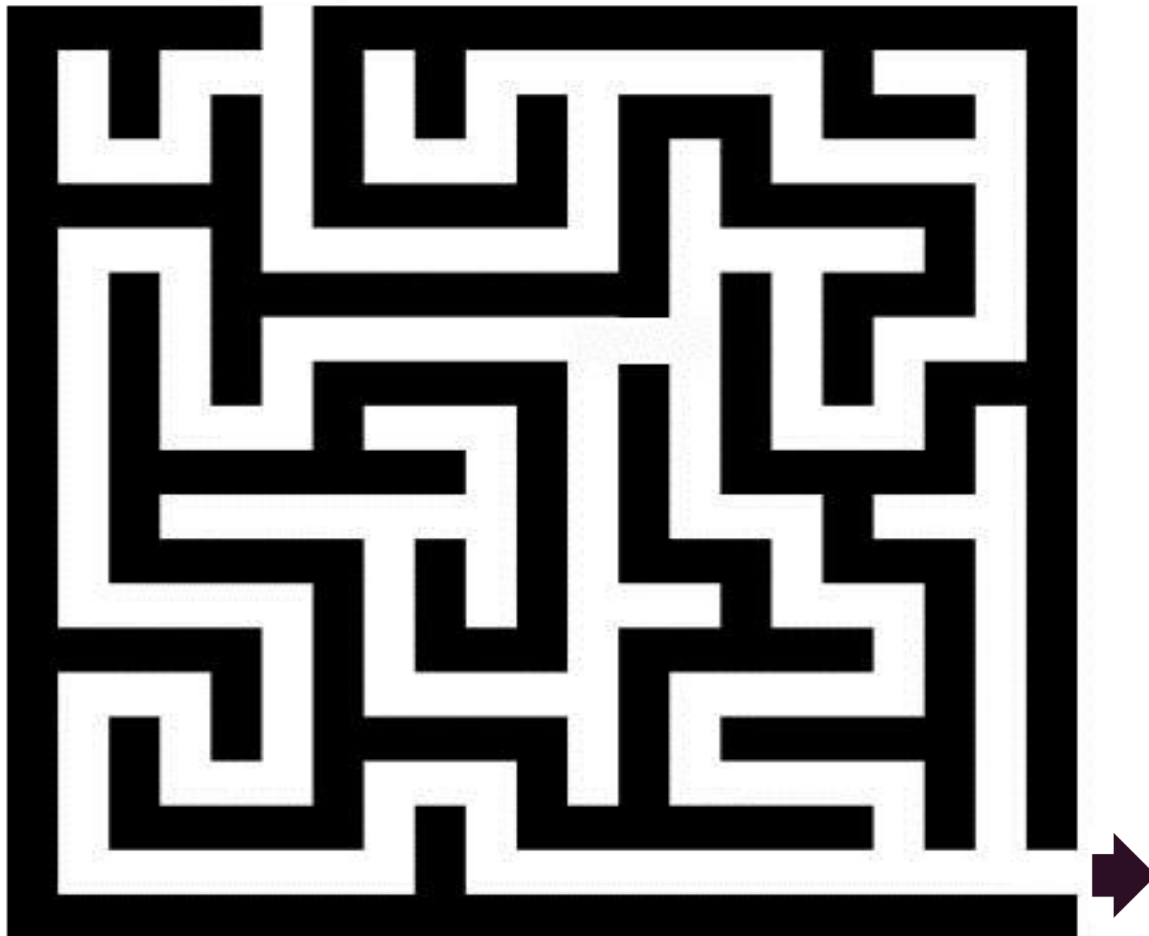


Know Your Rights:

What to do if your child is detained by the Los Angeles Department of Children & Family Services (*DCFS*)



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Download this guide: <http://everymothernetwork.net/how-to-fight-your-case/>

Know Your Rights: What to do if your child is detained by DCFS

(The Los Angeles Department of Children and Family Services)

Prepared by: Every Mother is a Working Mother Network and DCFS Give Us Back Our Children

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This booklet is dedicated in memory of Ruth Todasco (April 7, 1931 – Feb. 2, 2015) of the Wages for Housework Campaign and Global Women's Strike, a fearless fighter for the rights of mothers and children including their right to be together. Ruth helped to coordinate this project when it first began and helped to shepherd it along.

DCFS Give Us Back Our Children is a multiracial self-help group of mothers, other family members and supporters organizing against unjust removal of children, for resources to help families stay together, and for policy change in LA's child welfare system.

Every Mother is a Working Mother Network works to establish that raising children and other caregiving is real work, essential and productive work with economic value to society that warrants recognition in access to welfare, other resources and a living wage.

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Know Your Rights: What to do if your child is detained by DCFS

(The Los Angeles Department of Children and Family Services)

Tips for parents

- ✓ Keep a log of all information related to your case in the order in which the case develops. Include: the name, phone number and email of all social workers and/or case workers, and lawyers; the name of the judge and department number at Children's Court; your case number; notes on all conversations with your social worker and other officials with the date, etc. **Keep all documents** from your case together safely in date order - official letters, forms, the cards of all the lawyers involved in your case, copies of all court documents including the minute report of each hearing, etc. Make sure your lawyer gives you a copy of everything. A binder notebook can be useful so you can add in new documents as you get them.
- ✓ Keep a list of mandatory or voluntary classes, counseling or other court-ordered 'services,' all dates/times you attended, costs to you and proof of completion. If you're not able to enroll, document the date you tried and the reason you were not able.
- ✓ Using email is a way that allows allow you to have a written record of communications with your social worker, lawyer and others as well as their responses. If you don't have email, you can get one set up at your local public library and go there to send and/or check on your emails. You can also work with a friend or advocate who could help you with emails.
- ✓ Remember everything you say can and may be used against you, even if the social worker or others seem friendly. And though you might not agree with what social workers and others involved in your case say or like how they talk to you, losing your temper will likely be used against you. Better to write a formal complaint rather than having a verbal confrontation.
- ✓ Do a short written summary of your case – date the social worker came, when child was taken, child's age, what are the charges and what's the truth, key injustices, upcoming court hearings, court orders, deadlines. This is useful for all kinds of situations where you have to explain yourself and to get support.

If you have been unjustly accused, you are not alone. If you never abused or neglected your child, repeatedly tell that to social workers, lawyers and the judge, and ask them to produce evidence of their claims against you.

Don't give up. Inform yourself, get support, be patient, determined and ready for the long haul.

Introduction

Experts are increasingly shining a light on a fact long-known by families who have experienced it. Significant harm is caused to children by separating them from their mothers and families. The American Academy of Pediatrics, the American College of Physicians and the American Psychiatric Association have all issued statements against family separation at the US border, citing catastrophic psychological and physical damage to children (Washington Post, July 18, 2019).

The relationship between child and mother, or other primary caregiver, who is the first provider of physical and emotional security and protection, is crucial to a child's welfare. Despite this and while claiming to act "in the best interest of the child," child welfare laws are often applied in ways that disregard or undervalue that relationship and how separation is deeply painful with lifelong consequences for children. Indeed, evidence shows that even in "troubled families," the majority of children do better when families get needed support and resources to stay together.

This booklet was created by DCFS Give Us Back Our Children (DCFS-GUBOC) and the Every Mother is a Working Mother Network which coordinates DCFS-GUBOC. Women in our network, particularly but not only women of color, have had cases with the Los Angeles child welfare system which all too often unjustly removes children from families not because of abuse but because of poverty.

For those caught up in the child welfare system, navigating the Department of Children and Family Services and Children's Court is like a maze, and information when it does exist is difficult to follow. Mothers and grandmothers who had been investigated and/or had children taken by DCFS pointed out there is not much of anything that gives them clear and useful information on how to navigate LA's child welfare system, and good legal help is hard to come by.

Know Your Rights: What to Do if Your Child is Detained by DCFS was created to address the desperate need for information. Mothers and others who have gone through and/or who have had experiences fighting to get their children back developed the list of questions families caught in this system need answers to, and, as a self-help group, also drafted answers based on their practical experience; the answers were then checked by lawyers familiar with the system. When finished it was translated into Spanish.

LA has the **third highest** rate of removing children from families among the biggest cities in the US; only Philadelphia and Phoenix rank higher. At the same time, unjustly removing children results in a system overload in which children who are in need of protection often don't get it.

While the LA Department of Children and Family Services (DCFS) is supposed to prioritize family reunification, often either no or token efforts are made to reunify children with their mothers/families, or insurmountable roadblocks stand in the way of reunification. Those most affected are single mothers, Indigenous families and other families of color, mothers with disabilities or in domestic violence situations, and low-income families. Many lose their children to foster care or adoption by strangers.

For decades, the federal government spends far more helping states keep children in foster care than it does on safe, proven alternatives to foster care. Two Clinton-era laws made things worse. The so-called Adoption and Safe Families Act of 1997 encouraged states to rush to terminate

parental rights, and the so-called welfare “reform” bill of 1996, allows some states to take funds that should go to low income families and use the money on child abuse investigations and foster care.

We hope this booklet will be a tool in the hands of mothers, grandmothers and other caregivers who are struggling to keep their children or grandchildren safe and together. Diverting funds to helping families not hurting them, recognition of and resources for the valuable work that caregivers do, housing for families who are homeless or victims of domestic violence, access to decent and accountable legal assistance are all measures that can help to ensure that resources are truly prioritized to keep families together rather than to build a growing foster care and adoption system.

The purpose of this booklet is to provide general information about what can happen and what your rights are if your child is detained by LA County DCFS, which is always subject to change. *This brochure is not intended to provide nor should anyone consider that it provides legal advice, it is based on the information we have been able to gather and on practical experience.* Good to consult a lawyer if you can, to discuss the particular facts and circumstances specific to your legal problem. We worked to make the information contained in this brochure, at the time of printing, as timely and accurate as possible.

Chapter I: When DCFS Gets Involved

1. *If a DCFS worker comes to my house to investigate a complaint, do I have to let them in? What happens if I don't?*

Answer: If DCFS receives a complaint, they legally have to make a 'wellness check' on the child/children. If you don't cooperate, it likely will be used against you. According to DCFS policy, social workers are supposed to make the wellness check. The reality is that if you refuse to let the social worker in or insist they get a warrant to enter your home, you unfortunately stand a greater chance of your child being detained, that is taken from you by DCFS. You should ask to see the social worker's ID and can say you want to audio-tape your interactions with the worker so you have a record. It's not against the law or DCFS policy for you to audio-tape, but the social worker can refuse in which case you are not allowed to audio-tape. If you have someone close-by that can witness the visit, you might also want to have them there with you for support. Police will come with the social worker if there is an allegation of physical or sexual abuse and may come even if there is not. Some families report they have let the police in but not the social worker to check that the children are all right. Refusing access into your home to DCFS does not make the investigation or case go away. If you refuse entrance to DCFS and the police have to break in, it becomes a criminal matter.

2. *Under what circumstances can a child be detained, or taken from their mother or primary caregiver?*

Answer: DCFS policy says a DCFS employee must investigate if they observe, suspect, or receive a report of abuse, neglect, caregiver absence/incapacity, or exploitation. California law defines child abuse as non-accidental physical injury done to a child by someone else, sexual abuse or emotional abuse. The definition of neglect, 'failure to provide necessary care and protection' even when no injury to the child has occurred, is so vague and broad that all sorts of things can be defined as neglect. The reality is that poverty is all too often confused with neglect.

Children have also been taken from their mother when she is, herself, the victim of domestic violence. Rather than providing help and resources to keep women and children safe, mothers are and children are penalized. The blame is placed on the woman rather than on the abuser - a cruel practice that punishes and further traumatizes children and survivors. It also discourages reporting domestic abuse for fear of losing one's children.

3. *Does DCFS have to tell me who reported alleged abuse or why they are taking my child?*

Answer: No, they are not required to notify you or tell you who reported you. They may give you a general idea why they are there. If they do open a case, you may not see the accusations until your first court date; then your lawyer is supposed to show you the charges against you. DCFS doesn't have to take your child from you while they investigate, but they can determine that they will take your child based on what they claim the charges are.

4. *Is it legal for a DCFS social worker to speak with my children without me being present?*

Answer: DCFS social workers do have the right to speak with your child without you being present. You can ask the social worker for another adult to be with your child and/or that interviews be recorded - the social worker may or may not agree, the decision is made by the social worker. It is legal for these interviews to take place at the child's school without your knowledge (see Question 5). In one recent case the mother and her lawyer were allowed to listen to the child being interviewed in an adjoining room where the child could not see them. The exception is a 'forensic interview' where there is a charge of sexual abuse or what DCFS considers to be serious physical or emotional abuse and where a specially-trained interviewer (often a doctor) questions a child. Legally this must be recorded by the agency conducting the interview. They say they do this to avoid the child having to repeat painful experiences over and over, but also the recording is turned over to law enforcement in potentially criminal cases.

5. *Can I or someone my child is comfortable with be with my child when they are physically examined?*

Answer: If the social worker takes your child to the doctor to be physically examined, the child is supposed to have an adult they know present, and you should request this. Another action you may want to consider if your child is still living with you is to take your child to be examined by your doctor, and have your doctor give a written report to DCFS. If you take your child to your doctor this should be done immediately, to avoid allegations that you are trying to get around the system. If there is a long wait period before you can see your doctor, try getting an earlier appointment by letting the doctor know it is urgent and explaining why it is.

6. *What if the DCFS social worker comes to my child's school?*

Answer: It is up to the school administration to decide whether to allow the social worker to pull your child out of class and be interviewed at school without parental consent. One action you could take if you suspect or know that

DCFS will be contacting the school is to write to your child's school saying you do not want your child interviewed without your consent, and you will hold the school responsible. You can also request that another adult the child knows be present with your child while they are being questioned.

7. *Can DCFS take my child just because I don't have a permanent address?*

Answer: DCFS is not supposed to take your child if you don't have a permanent address, as long as you are providing the 'necessities of life' (for example food and water, safety, affection). Neither should having the electricity or water shut off in your home/apartment alone be the basis for removing your child. The reality is that children are taken when, for example, the family is living in a car, although that is not supposed to happen if not having a permanent address is the only charge. It may be helpful to show that your child is attending school and is up to date on medical and dental care, and that you (or your emergency contact) are reachable.

8. *If my child is taken or 'detained' by DCFS, can they be placed with family members?*

Answer: According to federal (national) law, DCFS must first try to place your child with relatives before placing them with strangers. The social worker is supposed to ask you for contact information of relatives at the time they take your child. Ask the social worker right away to place your child with a relative of your choice. Let the social worker know that you are aware that by law they are supposed to place children with relatives as a priority. Providing contact info for a relative caregiver at the time your child is detained is supposed to mean that the children will be placed with your relative hopefully by the time you go to court. As this may make placement with a family member happen faster, be sure to give that info to the worker right away, even if s/he doesn't ask.

Make a note in your notebook that you have given the information to the social worker and include the names that you gave. DCFS is required to do a background check and home inspection on relatives who could care for your child. **However, often attempts are not made by child welfare agencies to find family members, and sometimes even if they are, children are still placed in foster care with strangers; by law this is not supposed to happen and should be challenged.** If your child is placed in foster care, a private agency may oversee the foster care and assign a caseworker of its own. Also DCFS is supposed to make an effort to keep brothers and sisters together, but often when there are several children they are split up; be sure to ask for brothers and sisters to stay together.

9. *Do I have to sign paperwork that's part of my DCFS case? What if I don't agree or understand it?*

Answer: You are not required to sign papers by law, but we have heard of cases where the social worker gave wrong information and said or implied that people had to sign. *Read everything you are asked to sign. If you don't understand the document, ask for it to be explained to you. If the paperwork is not in the language you speak or are comfortable in, ask for it to be translated. Ask for a copy that you can take with you. You can say you need to go over the papers with your lawyer, especially but not only if they say you did something you did not do. If you are unsure about the document, you may want to write on it that you don't understand it or that you're signing under protest or that you do not agree. It is good to check off or underline the parts you don't agree with, with a note that you don't understand or agree.*

The unfortunate reality is that if you do not eventually sign, that likely will be used against you. But, if you signed something you didn't understand or was not translated for you or that you did not agree with, when you go to the first court hearing explain to your lawyer and the judge that the social worker pushed you to sign documents that you did not understand and/or agree with and that you signed because you were afraid of what would happen if you did not.

10. *How do I let foster caregivers know about my child's medical needs or other essential information?*

Answer: If your child has a medical condition, takes medicine or has other special needs, it is urgent to give that information and the medicines to the social worker when they take your child. If you are not able to do that, call the worker, or on the weekend the DCFS hotline (213-639 4500) - keep a log of your calls with names and dates, etc. When possible, document your attempts by sending and/or reporting them on email to your social worker, copying the worker's supervisor and your lawyer. If that doesn't work, bring the medicines/information to court and give them to the judge at your first hearing along with a copy of your log or email history listing when/how often you tried to get this information to DCFS.

11. *If my child/children are detained by DCFS, how can I find out where they are?*

Answer: Currently nothing in law says you must be told where your child is. When DCFS places your child in foster care with strangers, the only contact information you will be given until your first hearing at Children's Court is the phone number of the Emergency Response Social Worker who took your child. Social workers are supposed to answer calls on weekdays. On weekends call the DCFS hotline 213-639 4500 – there is no guarantee the hotline staff will give you information about your child. Indeed we have found that children detained on a Friday, family members may not find out where

that child is until the beginning of the following week. This further traumatizes children, particularly but not only very young children who may think they are being kidnapped or abandoned by their family.

12. How can I get copies of all the documents I signed, and all the papers I need? When do they have to give them to me?

Answer: Your social worker is supposed to give you a copy of every document you sign when you sign it. However, they may not, so be sure to ask for your copies. Ask the social worker if they have two copies of the document before you sign, or if the worker doesn't give you a copy, you can take a picture of the one you signed if you have a cell phone or a camera. If you are not given a copy, call your workers' supervisor. Your lawyer is also supposed to have one (and a copy of all your other paperwork) and can also give you copies, but best that you request them - if you don't ask for them you may not get them. And putting your request in writing via email or fax is a good idea, so that you have a written record.

When you go to court, ask for a copy of all documents given to lawyers, including your own lawyer, and to the judge. Parents, legal guardians and de facto parents (see question 21 for more on de facto parents) also have the right to look at and make copies of any documents in your case file. If your lawyer or social worker doesn't give you copies, you can get a copy from your case file. To get these documents go to the Clerk's office on the 2nd floor at Children's Court. You fill out a short form called WIC 827 - you'll need to include your case number. You must look at the documents while you are at the Clerk's office. Copies cost \$.50/page, **but if you are low-income and your case is open, you can ask at the Clerk's office for the form requesting that the fee for making copies be waived.** (If your case has already been closed there is no fee waiver, so you have to pay to get copies of your documents). It's important as well to keep a copy of court reports and Minute Orders. A Minute Order is the summary of the court's rulings, and copies can also be gotten from the Clerk's Office. Keep all copies together in your binder.

For anyone who is not a parent, de facto parent or legal guardian, to view Children's Court files you need to file forms JV 570, 571 and 569 and follow the process and time limits in those forms; unfortunately the process can take several weeks.

13. What if I and/or my child are Native American?

Answer: The Indian Child Welfare Act of 1978 (ICWA), a federal law that seeks to keep Native American children with Native American families, says that if your child is Native American, both the parents and the child's tribe are supposed to be given the opportunity to be involved in decisions affecting the child. ICWA includes requirements about removal and placement of Native American children and allows the child's tribe to take action to protect the child.

A parent or tribe can also petition to transfer the case to tribal court, though this is not automatic. **United American Indian Involvement (UAI)** of Los Angeles provides information on ICWA including to families dealing with DCFS, see Resources List at the end of the booklet. Additional info can be found in the self help guide 'What is the Indian Child Welfare Act' put out by California Indian Legal Services; it's available online at <http://www.calindian.org/selfhelppdfs/SelfHelpICWA.pdf> (if you don't have internet access at home you can go to your local library or some coffee shops and get access there). There's also an "American Indian Unit" located within the Department of Children and Family Services.

Important to let your social worker know your child is Native American as soon as possible. The social worker is required complete and fill the Indian Child Inquiry Attachment (ICWA-010) form. **You will be required to provide evidence that your child is a member of a federally-recognized Indian tribe in the US or is eligible for membership, and is the biological child of a member of a federally-recognized Indian tribe.** To see the form yourself, ask the worker for a copy or you can get it on line at <http://www.courts.ca.gov/documents/icwa010a.pdf>. The 'Information Sheet on the Indian Child Inquiry Attachment and the Notice of Child Custody Proceedings for the Indian Child' (ICWA-005-info, <http://www.courts.ca.gov/documents/icwa005info.pdf>) gives additional info on this process. You can also get the forms from the Clerk on the second floor at Children's Court. LA Children's Court has a division specifically dedicated to the Native American families and ICWA cases.

You will also need to let the child's tribe know immediately about being involved in a DCFS case. At the same time, you can ask them for written proof that your child is a member of the tribe if you need it or ask if your child is eligible for tribal membership and how to apply. If you don't know the location/address of the tribe, a directory which lists all Federally-recognized tribes, and another directory which gives the leader and address of each tribe, can be found at <http://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/>. Or contact the Secretary of the Interior in Washington, DC, (their contact info is included in ICWA 005-info) for the Federal Register. Whether a child is eligible for membership in a tribe is at the discretion of that tribe.

If your social worker is not following through with documenting that your child is Native American, contact the worker's supervisor. Note that the process of establishing tribal membership can take some time. If your family has no documentation stating the child is a member of a recognized tribe, parents tell us they face a choice: to continue trying to get tribal membership despite staying longer in the DCFS system, or to not pursue tribal membership but try to get out of DCFS jurisdiction as soon as possible.

If your child is Native American and is taken by DCFS, under ICWA the first preference is for the child to be placed with a member of the child's extended family. If that's not possible, the second choice usually is with other members of the child's tribe. The third choice is other foster care approved/specified by the child's tribe, usually with other Native American families. The court is supposed to

show 'good cause' if it does not follow this order when placing a Native American child with someone other than the child's parent or Native American custodian.

Chapter II: Going To Children's Court, Also Called Dependency Court

14. If DCFS takes my child, what happens next? What should I expect at my first court hearing?

Answer: A court hearing is supposed to be held within a few days of when they take your child. The social worker should tell you when you need to appear at Edelman Children's Court (located at 201 Centre Plaza Dr, Monterey Park, CA 91754) for the first court hearing called the 'detention' or 'removal' hearing. Someone from the court (from their Intake Detention Control) is supposed to call you the day before your hearing to tell you what Department (courtroom) your case will be heard in so you'll know where to go. If you don't have the Department/courtroom number, the Clerk's office on the second floor of Children's Court can tell you. It is important to not miss any hearings and to get there by 8:30am; if you miss hearings or are late, this can be used against you.

If you don't have or cannot afford your own lawyer, one will be assigned to you on the first day you come to court; you will meet him/her in the waiting room before you go to see the judge.

If you want to hire your own lawyer specializing in juvenile dependency or family law you can also do that; it will probably be costly. Some lawyers offer a free first consultation where you can meet them and see what you think, let them know about your situation, and get an estimate of what they will charge.

Your lawyer is supposed to show you the paper that lists the allegations or charges DCFS is making against you (known as the petition) – ask to see it and ask your lawyer for a copy. If you don't understand what it says, ask your lawyer to explain it. Let your lawyer know if any or all of the charges are untrue.

Your children will be assigned their own court-appointed lawyer who will be different from yours; likely you won't see your children's lawyer until you go into court. DCFS will also have a lawyer presenting their case against you.

The first hearing is only for you to be informed of the charges, it is not for you to challenge the charges. The next hearing(s) are supposed to address whether the charges are supported by the evidence or not.

- *When you go in to this first hearing, the judge will decide if your child can come home with you or will continue to be detained until the court makes further decisions. Being detained means your child is sent to live with someone other than you. The decision is made based on DCFS' investigation. **If the charges made against you are untrue and/or unjust, your lawyer can request a 'contested hearing' which is supposed to be held the next day; the judge can deny that request and set a trial within 15 days.***
- *The judge will also set the date for your next hearing. **Be sure to give your lawyer an address where you can get mail, as this is the way the court will notify you of future hearings; if it is a post office box, best to check your mail each day the post office is open. If you don't have a stable address but can get email, you can get notified by email by filling out form EFS-005-CV, the Consent for Electronic Service (you can get it on line at <https://www.courts.ca.gov/documents/efs005cv.pdf> , print it and fill it out). If you miss a notification and don't show up in court, it will be used against you. And the court can proceed without you.***
- *Be sure you get the business card for your lawyer, as well as cards for all social workers involved, including yours and the social worker for the foster care agency, with their address, phone numbers and email. **Ask for their cards when you first meet them, try not to leave until you get them, and keep them in the notebook where you keep all material related to your case. You receive the children's lawyer's information only if the children are home with you. Otherwise, the person who gets your child gets the children's lawyer's card and by law you are not to contact anyone besides your own lawyer.***
- ***Note: at your first court appearance you, or the lawyer representing you, can disqualify a judge believed to be prejudiced against you or your case and request a new judge.**– this has to be done in writing or orally under oath before your hearing starts and is the only time you can ask to change your judge in Children's Court. However, you can request a different judge every time a new child becomes involved in the case.*

15. *Can I have an advocate or support person that I choose go with me into court? Can advocates speak in support if I would like them to?*

Answer: Bringing an advocate and/or supporters with you to court can show the court that you have family and/or other community support. While they may or may not be allowed inside your hearing it is useful to have advocates and other supporters with you. An advocate is someone on your side who can help you make your case and back you up with your lawyer, DCFS and in court. They should sign in when you sign in with the bailiff outside the courtroom. The judge may acknowledge your advocate and allow them to speak but it is up to the judge. **If your lawyer tries to discourage you, but you still want your advocate/s to speak, let your lawyer know that is what you want.** If your advocate/s are to be called as

a witness they might not be allowed in the courtroom until called to testify. Remember that what's said will become part of the court record and may be used by DCFS, so best to discuss testimony ahead of time. The lawyer for DCFS or the lawyer assigned to represent your child can object to the presence of an advocate in court – if they do the judge then has to make the decision.

The court can appoint a county-contracted advocate or a social service agency to provide support and/or what they call 'wrap around services' (including a multiagency team planning which is supposed to include family members for children/youth with urgent mental health problems or on probation). This may be in addition to an advocate of your choice. You will be asked to sign a form that you agree to work with the court-appointed advocate, agency or multi-agency team. **If you disagree or want to get services from another advocate agency of your choice, you will need to let the judge know and tell the court why.**

16. If I don't speak English, do they have to translate the documents? Are translation services provided for meetings and court appearances?

Answer: DCFS is required by law to communicate with you in a language you understand; they are supposed to have a system to meet the needs of parents who speak languages other than English. *Do not sign any language form that says it is OK for them to communicate with you in English if you aren't comfortable in English.* **Most DCFS and court documents, however, are only in English and they are not legally required to be in another language, but you do have a right to have them translated for you.** Ask your social worker to provide translation so that you understand what the documents say. **Your worker may just summarize documents; let them know you want the whole thing translated word for word so you know exactly what it says before you get to court.** You may also want to ask a friend to translate your copy.

- **When you are in the Children's Court building, a language interpreter/ translator is supposed to be provided for all meetings with your lawyer and each session with the judge.** Ask for a translator/interpreter if one is not provided.
- Your lawyer can ask the court to order DCFS to provide you with court-mandated services in the language you speak, for example classes – insist that your lawyer ask for this. Please note that unfortunately classes in some languages may be some distance away from where you live.

17. *What can I bring with me to court to help me get my children back?*

Answer: You should bring documentation of counseling, classes, etc. you have been taking as well as letters of support from family, teachers, clergy, neighbors, friends, elected officials, therapists and others who say positive things about you and/or can counter what DCFS is saying about you. If the DCFS social worker offered you 'voluntary services' (classes or counseling they suggested you take before you have to come to court) and you have followed up with those services, bring documents, letters, showing what you have done. **Unfortunately, you may have to pay for some of the services - ask if there are resources that can help you to pay and also if there is a sliding scale.** If possible, you may want to take the 'voluntary' class or service because, because once your case comes to court, having declined voluntary services may be used against you and the court process makes things much worse for families

If your children were placed in foster care with strangers, also bring to court the names and contact information for relatives who can care for your child, including the ones you had already given the social worker and any additional family members you want to add to that list.

18. *How do I give letters, certificates of completion, other documents to the judge? How many copies should I bring?*

Answer: In order for any documents to be given to the judge you must also bring copies for all the lawyers involved in the case. As things that are submitted to the court may be used against you, you may want to ask your lawyer whether he/she thinks what you want to submit can harm your case if submitted. Make the copies before your hearing date as there are no copy machines available to the public at Children's Court. **Bring seven copies;** give six to your lawyer to give to the judge and to the other lawyers. Keep a copy also for yourself, write on it the date you gave it to the court, and keep it in your binder as part of your records. Get a clear answer from your lawyer that the documents will be distributed.

If you're having trouble getting your lawyer to agree to distribute the documents to the other lawyers and the judge, you can ask the bailiff, the court officer you sign in with, to distribute them instead. Know that if you have a lawyer, clerks and judges can reject these papers, and may tell you to contact your lawyer to file them. The exception to this rule is if you use a relative information form (JV-285) or caregiver information form (JC-290), which are designed to be submitted by parents/relatives or other caregivers themselves.

You can also write to or email the judge, along with all the lawyers (see Question 12). If you write to them you have to *attach a note that says: 'I have served all the lawyers on this case' and list the name and address of each lawyer. This is called 'proof of service'.* If you don't have addresses you should be able to get mailing addresses from the Clerk

on the second floor of the court building. Your advocate can also write to the judge in your support.

19. How can I get what I am supposed to get from my court-appointed lawyer?

Answer: It's important to contact your lawyer every time you have questions or something happens which you think may affect your case. Good to email or hand write a letter (as opposed to telephoning) as both you and your lawyer have a paper record. Some lawyers are more likely to answer an email. **If you don't have access to the internet, you can go to a local library or a free internet hotspot.** In the letter include your name, case number and the date. It can help to make specific requests, and to organize your letter by issue if there is more than one – for example with headings like "Problem with Visitation" or "Social Worker Not Replying." If you hand write a letter be sure to keep a copy for yourself. If you have a court-appointed lawyer, mail with the lawyer's name to: Los Angeles Dependency Lawyers, 901 Corporate Center Drive Suite 520, Monterey Park, CA 91754. You can also telephone your lawyer.

You may have to call or email several times - be persistent. You can also ask your advocate to call as well so your lawyer knows you have support.

Request that your lawyer speak with you by phone *no later than the day before* each hearing, and bring motions in writing to court – for example to change where your child is placed or change to unsupervised visits. Requests you make to your lawyer in writing may be more likely to be followed up.

Good also to check with and refer to your lawyer when the DCFS social worker asks you for information or to meet with you. You can tell the social worker, for example, "I'll see if my lawyer wants to discuss this with you," "I'll ask my lawyer if I should discuss that with you," or "I'll let my lawyer know that you were asking." Then follow up with your lawyer and ask for her/his help and advice.

If you have a court-appointed lawyer and your calls/emails/letters, questions are not being answered, call your lawyer's Law Firm Director whose name and number are on your lawyer's card – it may say 'Law Office Of ...' If you don't have the card, use your phone or go where you can have access to a computer (ie your local public library) - go to the website of Los Angeles Dependency Lawyers - <http://www.ladlinc.org>. At the top click on 'Law Offices' which lists the names of all the Law Firm Directors. Click on each name to get the list of all lawyers working in that office – when you find your lawyer's name you can get both her/his email and phone number, and also the name and email of the Law Firm Director for that office. If you can't get through or are dissatisfied with how your lawyer is representing you, put it in writing and email to his/her Law Firm Director or mail to LA Dependency Lawyers, 901 Corporate Center Drive Suite 520, Monterey Park, CA 91754. Good to have in

writing and keep a copy in your log of what the lawyer did not do, or if they lawyer did something he/she was not supposed to do.

20. Can I change lawyers and if so, how?

Answer: Yes, you have the right to change your lawyer. For court-appointed lawyers, ask the judge for a new lawyer by requesting something called a Marsden Hearing, which is a meeting between you, your present lawyer, and the judge. If the judge agrees, he/she will set this up. In preparation for a Marsden Hearing, it's a good idea to write down the reasons you want to change your lawyer and give specific examples. In the Marsden Hearing, say why you want to change your lawyer. If the judge agrees he/she will appoint a new lawyer.

*21. How can I be sure that the judge hears my side of the story?
How do I get to speak in court on my own behalf? What can I
do if I am not allowed to speak?*

Answer: In your court hearing you can raise your hand and request to speak on your own behalf, or you can ask your lawyer to request for you to speak. It's up to the judge if s/he will allow you to speak; we hear some judges are more likely to allow it if you raise your hand yourself. Remember that what you say will be part of your permanent court record, and may be used for or against you, so think carefully about what you are going to say and how you are going to say it. You also have the right to give or email written information or a written statement to the judge (see question 16).

*22. What is the process for getting a change in a judge's ruling?
What is the appeal process?*

Answer: To try to get a judge's order changed, you or your lawyer can file a request JV180, also sometimes called a 388 Petition; *the request needs to show that circumstances have changed and it is in child's best interest that the judge's order be changed.* If that request is denied, you have the right to appeal and you should ask your lawyer to do this for you – your request is taken to Court of Appeals to determine if Children's Court made an error. In an emergency, or if reunification services are stopped by the court (the step before termination of parental rights), your lawyer's office can file a 'writ,' a short-term request to the Court of Appeals to stop a judge's order because something was not done correctly in the Children's Court process – you should get a reply in about 10 days.

23. *How can grandparents, aunts or others who have been a child's primary care-giver but are not the biological parent request to be legally recognized as being part of a case at Children's Court?*

Answer: A grandparent or other primary caregiver (other than the biological parent) can ask the court to be recognized as a De Facto Parent any time after the 'jurisdictional' or second court hearing (see Question 29). It is critical that a grandparent or other primary caregiver file this as soon as possible after the second hearing because it gives you standing in the court. If you also want temporary or permanent custody of the child, one of the first things you should do is apply for De Facto Parent status. De Facto Parents have the right to be notified of all Children's Court hearings, to participate in hearings with the judge, and they may be able to get a court-appointed lawyer, so it is an advantage to file this early. No law says exactly what is required to be considered a "de facto parent," but in general you need to be or have been taking care of the child every day, have been acting as the child's parent, and be meeting (or have met) the child's needs for food, shelter, clothing and overall care.

- To apply to be De Facto Parent you need to fill out two forms, called JV 295 (JV295s in Spanish) requesting to be recognized as a De facto Parent by the court, *and* JV296 the De Facto Parent statement. You can get both forms at the Clerk of Court's office. You can also get the forms online <https://www.courts.ca.gov/documents/jv295.pdf>. Although the form says the address of foster parents is confidential, you don't need to be a foster parent to apply.
- Additionally, you can ask for form JV299 (JV 299s in Spanish) that requests an informational pamphlet on what it means to be a De Facto Parent. These forms are also available at the Clerk's office.
- Take the completed forms back to the Clerk of the Court. Clarify with the Clerk how this request to be a De Facto Parent will get to the court.
- The judge makes the decision. Filing does not mean you will automatically be granted De Facto Parent status; if you are denied, you can file a form JV180, the request to change a judge's order.

24. *What is the new Resource Family Approval (RFA)?*

Answer: Another potential barrier to placing children removed from their parents with other relatives is Resource Family Approval. As of January 2017, a California program was put in place which requires **everyone who's providing a home for a child who was removed from their parents by DCFS to go through a process called Resource Family Approval (RFA). This includes grandparents, other family members, or close family friends** (referred to as relative caregivers or resource family parents) as well as foster parents. With RFA, all caregivers, both relatives and non-relatives, must 'meet the same standards' as foster parents. **Even grandparents**

who have been providing a home for a child/children for 10 years must now get Approval.

If a child is taken by DCFS and placed with a relative caregiver as an Emergency Placement, the caregiver must file an RFA application within five days of the time the child comes to live with you. If you have a child already living with you, or if you want a child in your family who's currently in foster care to come live with you, you need to file the RFA application as soon as possible.

The Approval process involves meeting a list of requirements including: a home inspection, DCFS checking criminal records of all adults in the household, a medical report, caregiver training including in first aid and CPR, three 'psychosocial interviews' with a social worker, and more. The Resource Family Approval process can make it more difficult for low-income caregivers who take relative children in, but it is important that relative caregivers not give up.

To get information on what the requirements are and how to meet them, there is a *Resource Family Approval Guide* or toolkit. Ask the social worker for a copy; it's also on-line at <http://stepupforkin.org/rf toolkit/>, or you can get a copy at Edelman Children's Court from Grandparents as Parents (office just off the cafeteria) who also offer other help. Another group offering support for relative caregivers is Kinship in Action at the Community Coalition in Los Angeles (see Resources section). If your approval is denied, you have the right to appeal at something called a state hearing.

Once a relative caregiver/resource parent fully completes the approval process, those who had gotten CalWORKS (welfare) for the child's care will be paid a higher monthly payment by DCFS equal to what the state pays to care for a child in licensed foster care.

25. What if the relative I want to look after my children has a criminal record?

If the relative you want as your child's caregiver has a criminal record, they may face barriers to being approved by DCFS, but they do have options. Once you give the social worker your relative's name, the worker will run a background check and give your relative an 'assessment packet.' If your relative has a record, depending on the type of convictions they have, they can request a "Criminal Record Exemption" form from the social worker if it's not included in the packet. (See below about convictions that are not exemptible). They should fill this form out.

With their request for an exemption, family members will be required to submit an explanation of the context of their convictions, as well as letters of reference. Good for your relative to ask for a copy of their rap sheet directly from the social worker (they are entitled to it). **Note that, even if a conviction is expunged, it will still appear on your rap sheet (though there will be a note that it was expunged) and DCFS is permitted to consider it for the purpose of the assessment.**

Additionally, some may qualify for a “Simplified Exemption,” if their record consists only of exemptible felonies that are 8 years or older, misdemeanors older than five years, and if they have had no misdemeanors for rape, lewd conduct, or elder/dependent abuse.

Unfortunately, there are some convictions that will never be exemptible under any circumstances, in which case your relative won’t be approved. The list of California’s non-exemptible convictions can be found using a computer and going to: https://calswec.berkeley.edu/sites/default/files/rfa_bag_rev.3-14-18.pdf Section 111.

Chapter III: Visiting With Your Child

26. *Who decides when and how often I can visit my child? How soon after my child is detained can I or other family see them?*

Answer: At your first court hearing, if your child is not allowed to come home with you, the judge will determine whether you can visit, how often and for how long you can see your child. This is called visitation. The judge will also decide whether you can be alone with your child or if the visits need to be monitored, where a person approved by the court is with you when you visit your child. It is important to know whether the judge orders a minimum or maximum number of visits. What’s the difference between minimum and maximum? *Minimum* number of visits means you can visit at least that many times/week and more - every day if you are able (if monitored visits are ordered, your approved monitor needs to be present for each entire visit). *Maximum* means that number of visits is the most you can visit with your child each week.

You should be able to have your first visit within a few days, but it’s set up by the social worker and often takes longer than a week. It’s important to ask for this visit to happen as soon as possible. The judge also sets restrictions on which family members can and cannot visit. You may be able to get help with transportation costs to get to your visits; ask your social worker, and ask your lawyer to ask the judge to order transportation assistance.

The judge will often start off ordering monitored visits with a DCFS-approved monitor. You can offer suggestions for who the monitor can be – a relative, a friend, someone from your church, etc. DCFS must approve the monitor of your choice. Monitors cannot have a criminal record. Sometimes foster parents are themselves monitors for visits. You can also have a monitor that you pay for; ask your social worker for a list of approved agencies that provide monitors. Though most court-ordered monitors charge on a sliding scale depending on the income of the parent or family, this can get expensive.

Monitored visits can also take place at DCFS in the social worker’s office; if they do, DCFS will pay for transportation to their office for those visits. Monitors may be asked by the social worker to describe how you interact with your children.

Good to keep a log of your visits with your child in your notebook or binder, including date/time/place, how your child seemed, what activities you did together, who the monitor was, how you feel the visit went. Also keep track of any issues with visits, such as if the foster parent cancels visits, or the monitor seemed hostile and non-cooperative.

If your parental rights are terminated, and the judge gives legal custody of your child to another person, the judge can still order that you can visit your child (see question 32).

27. How can I get to see my child more often?

Answer: Ask to visit as often as possible and be sure to show up on time for each visit, this is a plus for you in the eyes of the court. You can request and may be able to get more visits between scheduled dates if the social worker and person caring for your child agree. Your lawyer can ask the judge to order that changes can be made in visitation between hearings if all parties agree. **You can also file a 388 Petition asking the court to change your visitation; it's good to ask your lawyer to help you fill this out.** Remember to keep a record of your visitation requests. If DCFS cancels a visit for any reason, write and/or email immediately the DCFS supervisor documenting that you are not getting your court-appointed visits and asking for a make-up visit and send a copy of that email to your lawyer.

To get non-monitored visits:

The change from monitored to non-monitored visits is important as it can mean the court is moving in the direction of you getting your child back. If you have monitored visits, ask your social worker and have your lawyer ask the court to change them to non-monitored visits and to schedule when this change can happen. The court is supposed to make its decision based on whether you're able to do all the required classes and activities ordered by the court as well as if DCFS gives you a good report (whether you agree with DCFS' allegations and the judge's orders or not) – see questions 26, 28 for more. You can also ask for your visits to be in a community location rather than a room at a DCFS-related agency. After getting non-monitored visits you can request that you be able to take your child home for overnight, and after that request weekend visits. These changes can take some time, but be calmly persistent. Losing your temper is often used against you. All of these requests should be made in writing in addition to being made verbally. *These kinds of steps in visitation are supposed to be key to getting your child home for good.*

28. Who makes decisions about my child's education, their healthcare, including being given behavior modification drugs, etc.?

Answer: Parents have the right to be informed of all health and education decisions being made about your child. If your child has been detained, *you don't*

automatically have a right to be active in your child's healthcare. Let your social worker know you want to be informed about and be involved in your child's medical care; for example you want to go with your child and the foster parent to appointments with the doctor or dentist, or to the hospital. Be persistent, even if you have to ask the worker several times - keep your own record in writing, but know also that each request must be logged in by your social worker.

Let your lawyer know as well that you want to be actively involved with your child's healthcare and what you have requested from your social worker. Ask your lawyer to request that the judge rule that you can, for example, go to doctors' visits with your child – your lawyer can use the social worker's records to document your interest in being involved. **If your child needs surgery or other medical treatment, parents must give their consent.**

If your child is detained and a doctor prescribes a medication called a psychotropic drug (drugs that affect the mind, emotions and behavior - often used to treat what they consider to be psychiatric conditions), you are supposed to be notified and asked for your consent until the court gives temporary custody of your child to another person. *If you don't want your child on this drug, be sure to reply within FOUR days and say why.* You may also want to request a second opinion on whether or not it is beneficial to your child to be given these drugs. If the court signs off on your child being given the drug anyway, you should tell your lawyer you want to lodge an objection and put it in writing.

Most parents have the right to take part in your child's school and education planning, unless educational rights are limited by the court. For example, while your child is in DCFS custody, she/he can't be moved to a new school without your consent.

Chapter IV: The Court Process Continued

29. What happens at the second court hearing?

Answer: At your second hearing the judge decides if she/he thinks DCFS's allegations are true, and if your child will become a 'dependent of the court'. This is called the 'jurisdictional' hearing, meaning the court takes over authority to make decisions about your child. This second court hearing is often combined with something called the 'dispositional' hearing which decides who your child will live with, who will have temporary custody.

Remember the social worker was required to ask you for the names/contact information of family members you want to care for your child, and family members are by law supposed to be prioritized. Ask your lawyer to push for a family member of your choice to be given custody if they aren't going to give the child back to you, or raise your hand and when the judge calls on you ask for

this yourself. You can say for example, ‘My aunt is willing to take the children and I would like them placed with her. I gave her information to the social worker, why haven’t they been placed with her?’ You can also put this in writing to the court, bringing six copies (plus one for your records).

Having an arrest record (see question 25) does not disqualify a relative unless it’s for something like child molestation or abuse, so don’t be afraid to request a family member even if they have a record.

30. What legally do I have to do so the court will let my child come home?

Answer: The second hearing is also when the judge will order what parents need to do to get your child back. These are called ‘reunification requirements.’ They become part of what’s called your ‘case plan.’ Examples include parenting classes, anger management classes, drug testing, *which you may have to pay for (see below).* **Your social worker is supposed to help you get these services, but they may just give you a list of referrals.** You might want to ask around about professionals/classes that are sympathetic to parents who are low-income, such as a good therapist or psychologist, and unbiased parenting or anger management classes.

Problems with getting required classes and services:

LA is one of few counties in the US that doesn’t pay for the classes and services that parents are required to take, and few are free. If you cannot afford to pay for the classes or services, let your social worker know and ask for help. It is good to put this request in writing as well, keeping a copy for yourself. *Your transportation costs to court-ordered services as well as to visits with your child may be covered in the form of a monthly bus pass, bus tokens or taxi vouchers. Ask your lawyer to ask the court to order this.*

Under the Affordable Care Act (Obamacare) some mental health care, treatment for drug dependency and other services are currently covered; a Department of Public Social Services (DPSS) office has been opened on the second floor of Children’s Court where you can sign up.

If you’re having trouble getting the required classes and your social worker is not helping you, contact the social worker’s supervisor and let your lawyer know, put this in writing.

Keep a written record in your log with the date of every effort you make to get services, each appointment you keep and class you complete in order to show that you are trying to do what the Court has required of you in order to get your child back. This is important as there is a shortage of some required services in LA County, even the ones you have to pay for. **We have heard of cases where a parent was penalized for not getting services she was unable to find or could not get into.** But we also

know of cases where a parent was granted additional time because she gave her lawyer DCFS' list of referrals with a notation beside each one of the date the parent called, whether for example the program was full, closed, priced outside of what she could pay.

31. Can I request to get my child back more quickly? Can I request a jury?

Answer: You have the right to ask to speed up getting your child back if you have completed all the court-ordered reunification requirements; your lawyer should know procedures for doing this, requesting what's called an expedited hearing. In LA County it may be difficult to get a hearing sooner than your next scheduled court appearance, but that should not discourage you from requesting it. **You cannot request a jury; all cases are heard by a judge or hearing officer.**

32. How often does the court review my case and how long does this go on?

Answer: Review hearings are held usually every 6 months for as long as your child is under DCFS' and the court's jurisdiction. The first review hearing is important for determining how soon you can get your child back. The court looks at:

1. What you and your family have done to address the situation that led to the court detaining your child (whether you agree with DCFS' allegations and the judge's orders or not);
2. What you are doing to complete the reunification requirements;
3. What obstacles you've come up against to meeting those requirements.

You are supposed to be given a copy of the report DCFS is submitting to the court at least 10 days before your next hearing, but often don't get it till the day before or in court. Ask for the report 10 days ahead and read it all before the hearing. Tell your lawyer if you didn't get the report in the legal timeframe. Also tell your lawyer if you don't agree with the report. *And remember to bring six copies (plus one for you) of your log pages documenting all your visitation, the classes, counseling etc. you've taken, as well as certificates of completion - this can help your lawyer prove you've done what the court asked or to press for more time if you need it.*

33. What can I do if my parental rights are terminated?

Answer: Termination of parental rights is a court order that permanently takes away a person's rights as a parent, and the parent no longer is allowed to raise the child. If your parental rights are terminated you have the right to appeal that decision within 60 days in the Court of Appeals. If you are on a low income, your

court-appointed lawyer will refer your case to the California Appellate Project/LA, and a lawyer specializing in appeals will be appointed to represent you.

If your parental rights are terminated and your child is placed for adoption, you might be able to reach a voluntary agreement with the adoptive parents that will allow you to continue visiting your children. But if they don't agree, then your lawyer will have to ask the judge to allow ongoing visits.

An alternative to adoption in which you keep your parental rights can be legal guardianship in which a guardian is appointed to be the caregiver for your children for a specific period of time (for example if you are incarcerated). Discuss this option and what it would mean with your lawyer. Your lawyer would let the court know this is your preference, the children's caregiver is asked what they want, DCFS makes a recommendation and the judge makes the decision.

34. What is Fast Track Adoption?

Answer: If your child is under 3 years of age at the time s/he was removed from your care, a parent is only given 6 months to complete reunification requirements before you can lose your parental rights, and your child can be adopted by someone else. This time limit was a result of the 1997 *Adoption and Safe Families Act* under President Clinton. That law set time limits for all states but also pushed states to make those limits even more strict – and that is what California did. If you're making progress at the time of the six-month court review, that is, you have managed to do everything the court has ordered you to do, the judge can extend the time limit.

35. Why is "hearsay" allowed as evidence in dependency court?

Answer: By state law,* social workers' reports – including hearsay – are admissible and count as 'competent evidence' in Children's Court. Hearsay is considered an out-of-court statement that's being offered as the truth. Your lawyer can request the social workers' notes and look for discrepancies between the notes and a social worker's final report. In contrast, while hearsay by social workers and others is admissible, it is up to the judge whether or not you can speak in your own defense!

**(California Welfare and Institutions Code Section 355)*

Chapter V: Parents Who Are Incarcerated

36. *Can DCFS take my child if I've been arrested?*

Answer: Yes, DCFS can take your child after you've been arrested, so in order for your children not to be put in foster care with strangers or up for adoption, you need to arrange for a family member or friend to care for them while you are in jail or prison

It is important to know that if you are the main caregiver of minor children and you are arrested, **you have the right to make 2 phone calls immediately upon being booked, and no later than 3 hours after you're arrested, to arrange for family or friends to care for your children** (in addition to calls to your lawyer, bail bondsman and family member, making a total of 5 calls). *Request these two phone calls to arrange care for your children in order to avoid having your children put in foster care with strangers by DCFS.* The calls are free if they're local (you pay if out of the local area) and are supposed to be allowed to be completed, which means until someone answers.

Once DCFS takes your children after you have been arrested, it's more difficult for family to get them back. **And if you are the child's main caregiver and are in prison or jail for 12 months after the child enters foster care, you can lose your parental rights, and your child can be put up for adoption. The time is generally only 6 months if your child is under 3 years old. However incarcerated parents can get extensions up to 24 months, depending on the situation, so good to ask for an extension.**

The family member you want to place your child with can live out of state. You will be required to make what's called an appropriate plan. This can be a letter to the relative stating you want them to care for your child, including giving written authorization with the necessary forms to allow your relative to get medical care and provide for your child's education while your child is in their care. Ask your lawyer for the right forms. As the law stands now, and as has been the court practice, it is best if the family member doesn't have a criminal or child protective services record, has space in their home for your children and can provide for your children without government assistance. DCFS may run a background check, but don't be afraid to request a family member even if they have a record (see question 25). If your relative does not meet all of the above requirements but can make a case for caring for the children (ie arrest or child protective services record are old or were dismissed) you can still try to have your children placed with that relative. Some progress is being made and efforts continue to win more resources for relative caregivers.

37. *How can I stay in touch with my child if I'm in jail or prison?*

Answer: If you are incarcerated and you have not lost your parental rights, you have the right to visits with your child – age or distance alone are not sufficient reasons to deny you visitation.

You can also request the court to order collect phone calls between you and your child on a regular basis and other services. Try to stay in contact with your child even with all the obstacles put in your way.

Visitation is considered an important part of reunification, and parents in prison have the right to visitation under Welfare and Institutions Code (WIC) Section 361.5 unless the court finds it to be “detrimental” or harmful to the child. What’s detrimental is based on specific factors listed in WIC, the judge can’t deny visitation based solely on the DCFS worker’s opinion.

Unfortunately, WIC 361.5 does not specify who is responsible for making sure the visits happen. Therefore, good to ask your lawyer to request that court orders regarding visitation are specific about who will be responsible for facilitating visitation, that is helping make sure visits take place (social worker, caregiver, etc...), and when they should happen. The more specific these order can be to make sure visitation is enforced, the better.

Keep a written record of all of your efforts by writing down the time and date of everything you do: every phone call and visit with your child, your child's caregiver, the social worker, copies of letters, classes you take etc. (writing material is supposed to be available for purchase at the jail or prison store). Keeping this log is important to your being able to reunify with your child. If you are unable to keep such a log, ask for help from a friend or family member to keep it for you

Important to also keep a record of all barriers to being able to follow your reunification plan while inside, for example waiting lists, classes not offered, absence of therapist, caregiver being unable to afford to bring your child for visits. If you’re doing all you can to work with the reunification plan but face barriers, you may be able to get timeline extensions under CA law up to 24 months and you should ask your lawyer to request this. Unfortunately, this is still often not long enough for parents inside who are doing all they can but have long sentences - this is where, if possible, placement with family as guardians can be used in order to keep parental rights during the time you’re inside (see also question 31).

For more information, a resource is the *Incarcerated Parents Manual* put out by Legal Services for Prisoners with Children. (www.prisonerswithchildren.org, see below).

38. *If I am an undocumented parent, what can I do to be sure I won't lose my children if I am detained by ICE (US Immigration and Customs Enforcement)?*

If you are undocumented and fear what may happen to your children if you are detained by ICE, it's important to make a plan to care for your family.

Unless you have arranged for someone else to care for your minor child/children, child welfare will be called and your child placed in foster care. If you are deported and your child remains in the US you may lose parental rights and your child may be placed for adoption.

In making a plan, the person you select to be the caregiver for your children if you are picked up can be a spouse or child's other parent, your mother or other relative, or a close family friend. They do not have to be a US citizen or permanent legal resident. Before finalizing your plan be sure the potential caregiver/s know about your plan and are ready to agree to care for your children. If they agree, you as the parent need to fill out and sign guardianship papers or a caregiver affidavit so the children will be given to that person if you are detained. Contact information for immigrants' rights organizations in the LA area who can provide more information and help you with the paperwork or connect you with legal assistance is included in the Resources List at the end of the booklet.

Chapter VI: Fighting DCFS Bias, Illegality and Racism

39. *If I am a parent with a disability and DCFS becomes involved with my family, what support can I get?*

Answer: It's illegal for DCFS and Children's Court to discriminate against people because they have a disability. The Americans with Disabilities Act (ADA) defines disability broadly - this includes physical disability, mental distress, learning disabilities, invisible disabilities. The law says your rights are protected and you are entitled to services so you can fully take part in interactions with DCFS.

Title II of the ADA says the welfare of children and families must be protected in a way that also protects the civil rights of parents with disabilities. Government agencies are supposed to ensure that these rights are protected when dealing with child welfare and children's court, more at https://www.ada.gov/doj_hhs_ta/child_welfare_ta.html

You have the right to understand all DCFS actions from the first time they contact you -- for example you have the right to hear and understand what the social worker is proposing to happen next, and know exactly what's in the documents you are asked to sign and what it means for the future.

You may want to have an advocate of your choice accompany you through every step dealing with DCFS, including during an investigation or evaluation, as well as in Children’s Court. They can, for example, help you keep a written record of interactions with social workers, your lawyer and others.

The Resources section at the end of the booklet lists several groups that serve families with disabilities and can provide more information, including “*The Child Protective Services/Dependency Court Experience: a Guide for Parents with Disabilities and Their Advocates*” by Ella Callow, JD, available at <http://www.lookingglass.org>.

40. Can DCFS take my child because I have a disability? What resources and accommodations must be made available to people with disabilities so we can understand and participate fully? What can I do if they are not?

If DCFS does take your child and your case goes to Children’s Court you have the right to have the whole process made fully accessible to you -- for example, to have documents in large print or to record hearings if you are partially-sighted, blind or unable to write notes, to have a sign-language interpreter if you are deaf, or in other ways have the court provide you with the access assistance you need.

When you first meet with your lawyer it’s important to let him/her know about your disability, especially if it is not visible, and to request that your lawyer also ask for the accommodations you need specific to your disability from the beginning so you can understand what’s going on and take part.

Although it is illegal, disability has been used against some parents to label them as ‘unfit’ and take their children – be sure to also let your lawyer know if you believe this is being used against you, and that you need his/her help challenging this discrimination. You and/or your lawyer may want to contact the legal department at *Through the Looking Glass* and the *National Resource Center for Parents with Disabilities* for technical assistance at <http://www.lookingglass.org>. Both DCFS and Children’s Court are supposed to have ADA coordinators; you may also contact them and ask for help and services you need and are entitled to, as you fight to be reunited with your child.

Court-ordered visitation must also be accessible and manageable for parents with disabilities, for example if you need transportation to be able to see your child, as well as covering the cost of that transportation. Again let your lawyer know if you’re having problems with visitation and ask that this be raised with your social worker and in court.

If you are being/have been discriminated against due to your disability, it’s important to say that in court for the record. This is needed if you want to appeal termination of parental rights or to sue DCFS. **But don’t wait until it looks like your parental rights are being terminated** - courts have not allowed

discrimination under ADA to be used as a defense when it had not been raised before a family reaches the termination of parental rights stage.

41. What is the process if I want to change my social worker?

Answer: You can file a complaint against your social worker. Complaint forms are supposed to be available at DCFS offices and also at the court, but they are sometimes hard to find so you may have to ask for one. **You also have the right to ask to change your social worker.** The first step is to write to or email your social worker's Supervisor (SCSW) saying why you want a different social worker; it is good to write so you have an exact record of what you said and their reply. If possible, it may be helpful to get and include a letter from your lawyer supporting your request for a new social worker but this is not required. The SCSW makes the decision. If this is not successful, write or email directly to the Director of DCFS, sending a copy of your letter to your Assistant Regional Administrator, the Regional Administrator, the Deputy Director, and also to your Supervisor on the LA County Board of Supervisors (see Government addresses below). Good to follow up with phone calls and also try to get help from your supporters.

42. What if I've been the victim of illegal or negligent actions by DCFS, or discriminated against due to race/ethnicity, sex, economic background, disability, sexual preference, etc?

Answer: If you've been the victim of DCFS negligence, illegality or discrimination, you should request and fill out a DCFS internal complaint form. Your complaint is reviewed by other social workers in the DCFS office. Even if DCFS doesn't acknowledge they did something that harmed you or your child, the fact that you filled out the form can be useful later in court or on appeal, showing that you took action as soon as you knew you were subject to illegality or discrimination. Good to also write to your local elected official with your complaint.

43. What is the California Child Abuse Central Index (CACI)? How do I know if DCFS's investigation has resulted in me being listed on the Index? If I'm unjustly on the Index, how can I get my name removed?

Answer: An investigation by DCFS can result in your name being put on CACI, the statewide database of people suspected of child abuse or severe neglect. The charges are supposed to have been investigated and verified by the agency submitting the report, and CACI depends on the accuracy of the agency's report. CACI is available to law enforcement, and to some agencies who use the information to help screen applicants for licensing or employment in childcare, schools, foster homes, as well as in background checks for adoptions and more. **Even if your children are returned to you, even if the court rules the charges against you were false, your name**

can still remain on the Index which will block your chances for employment in fields involving children, in being able to adopt, etc.

DCFS is supposed to send you a letter telling you that you've been put on this list. If you feel the charge is unjust you need to request a grievance hearing from DCFS **within 10 days**. Hearings are held before a judge at Children's Court. If you want witnesses called to support you, you will need to give their names to the DCFS hearing officer. The judge will hear your grievance and decide if DCFS' finding is justified – if the judge decides that the charge against you is either 'inconclusive' or 'unfounded,' your name is supposed to be removed from CACI.

To find out for yourself whether or not your name is on the CACI list, go to <http://oag.ca.gov/childabuse/selfinquiry>. Some people don't receive a letter, and don't know they have been put on CACI. You can also do a self-inquiry by mail. Send a notarized letter asking if your name is on CACI - the letter must include: all names you have used; your date of birth; social security and driver's license/ID numbers; current address; previous California residences. Mail to: Department of Justice Bureau of Criminal Information & Analysis, Child Abuse Central Index Attention: Record Review Unit, P.O. Box 993387, Sacramento, CA 94203-3870. If you find you have been put on the CACI list without being informed, **you have 30 days from the time you find out to ask DCFS for a grievance hearing.**

44. What if I want to sue DCFS?

Answer: If you want to sue DCFS, you must first file a claim with the LA Board of Supervisors within 6 months from the date your case is closed. A Claim for Damages to Person or Property form is available online <http://bos.lacounty.gov/LinkClick.aspx?fileticket=is-2e0Isl1U%3d&portalid=1>. **If that claim is refused, they send you a 'right to sue letter.'** You must then file your suit within 6 months of receiving that letter – it will take 3-4 years to get through the courts.

If you need to Contact DCFS or government bodies, here is contact info

LA Department of Children and Family Services (DCFS)

Bobby Cagle, Director
425 Shatto Place, Los Angeles, CA 90020

To contact your DCFS Regional Administrator call the DCFS office in your region, or if you have access to a computer they are listed on the DCFS website <https://dcfs.lacounty.gov/> - under 'Contact Us' choose 'Regional Offices,' click on Office you want to get the address and phone number.

Edelman Children's Court

201 Centre Plaza Drive
Monterey Park, CA 91754
323-307-8000

To reach the Clerk of Court's office, call and select "Case Information" from the recorded list, then "Juvenile Dependency" and finally "Records."

Los Angeles Dependency Lawyers

1000 Corporate Center Drive , Suite 308
Monterey Park, CA 91754
Phone: (323) 262-0472
www.ladlinc.org

LA County Board Of Supervisors

213-974-1411

To find your supervisor: <http://bos.la.co.ca.us/#> and click on 'Find your District'.

LA City Council

To find your Councilperson and their phone number

<http://council.lacity.org/Directory/index.htm>

California state representatives

To find your assembly member or state senator <http://findyourrep.legislature.ca.gov/>

US Congressional representatives

Find your member of Congress

<http://www.house.gov/representatives/find/>
(202) 224-3121

Find your US Senator

http://www.senate.gov/general/contact_information/senators_cfm.cfm

Resources

Social Services & other Resources in LA:

The Peoples Guide To Welfare, Health and Other Services

To get a copy email Hunger Action LA at info@hungeractionla.org, or look up information and/or download the booklet at www.hungeractionla.org/peoplesguide

Immigrants Rights organizations:

CHIRLA, Coalition for Humane Immigrant Rights

2533 West 3rd St.
Los Angeles, CA 90057
213-353-1333
info@CHIRLA.org www.CHIRLA.org

CARECEN, Central American Resources Center

2845 W 7th St.
Los Angeles, CA 90005
213-385-7800 www.carecen-la.org

IDEPSCA Instituto de Educación Popular del Sur de California

1565 W. 14th Street
Los Angeles, CA 90015
(213) 252-2952, idepsca@idepsca.org

Pilipino Workers Center

153 Glendale Blvd. # 2nd,
Los Angeles, CA 90026
(213) 250-4353; www.pwcsc.org/

Inland Coalition for Immigrant Justice

521 N Euclid Ave
Ontario, California 91762
<https://ic4ij.org/>

Legal information domestic violence:

(For info and possible referrals)

A New Way of Life Reentry Project

Battered Women's Resource Center

-Voices of Women Organizing Project

PO Box 20186, 1860 S. Normandie Blvd, Suite 101, Los Angeles, CA 90004
New York, NY 10001 and/or expunge their
criminal record, you need to call to
www.vownow.org info@vownow.org

323.563.3575, info@anewwayoflife.org

If your case involves allegations of drug

use

Youth Justice Coalition free legal clinic

2nd and 4th Saturdays of each month, 10am-12

National Advocates for Pregnant Women

875 6th Avenue, suite 1807

New York, NY 10001

Phone: 212-251-9352

www.advocatesforpregnantwomen.org

for info: 323-235-4243, info@youth4justice.org

Resources for Relative Caregivers of

Child Caretakers by DCFS

Children

Kinship in Action Oakland, CA 94608

Community Coalition

8101 S. Vermont Ave, LA 90044g

(323) 750-9087 www.kinshipinaction.org/

Self-Help Advocacy:

For info if you or your child is

Every Mother is a Working Mother

Network works to establish that raising

children is a family responsibility at

work and family presence on welfare, other

resources and services for families who are

at risk of losing custody of their children and

for DCFS & Probation referred families who

have reunited with their children.

DCFS Give Us Back Our Children

125 W. 14th Street, Los Angeles, CA 90004

Phone: 213-251-9370

www.family.org members and supporters

organizing against unjust removal of children,

California Indian Legal Services together, and

for help guide in LA's child welfare system Act

www.calindian.org/selfhelppdfs/SelfHelpICWA.pdf

Phone: 323-760-9833

la@allwomencount.net individual cases. They

can also be reached at 760-746-8941.

Notes

