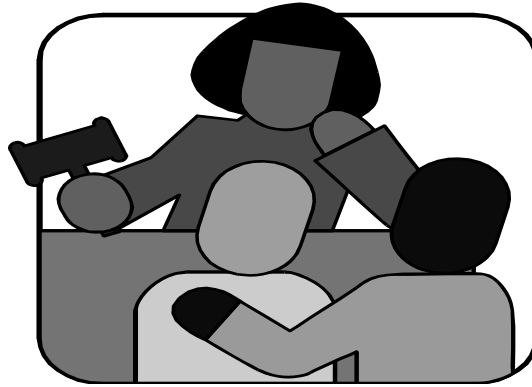


**NORTH CAROLINA JUVENILE COURT:
Child Protection Hearings**



**A HANDBOOK FOR PARENTS, GUARDIANS, CUSTODIANS
AND CHILDREN**



INTRODUCTION

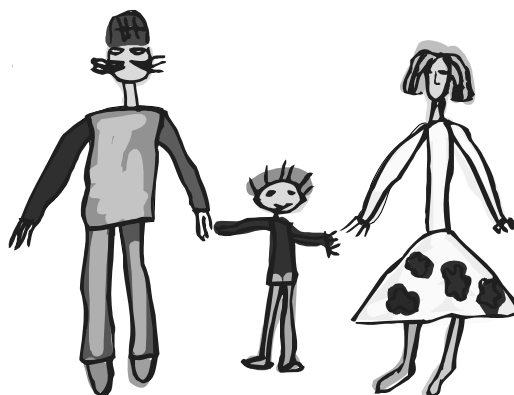
This handbook will explain the court process and the people helping you with your case. Being involved in a child abuse and neglect case can be very confusing and stressful for a family and the children involved. Not knowing what to expect can make it even harder. This handbook will help you understand what will happen. Keep this handbook with you so you can write down the names of the people who will be helping you and the dates of meetings and court hearings.

Why Do You Have To Go To Court?

- The purpose of Juvenile Court is to keep children safe and to help families create a safe home for their children.
- The judge can require you and your family to get help. Also, the judge can order that your child be temporarily placed in the custody of the Department of Social Services (DSS). This means that, for the time being, DSS is legally responsible for your child and with the approval of the Court, can make decisions about where your child should live and what you need to do to have your child returned to you.
- The same problems that brought you to the Court could result in criminal charges against you, your partner, or someone else in your family. In that case, you may have to go to another court and see another judge. This handbook does not deal with criminal cases. It is about proceedings (meetings and hearings) in Juvenile Court.

What Happens After Your Child Is Removed From Your Home?

- If your child is removed from your home, you will be notified in writing and you will receive a copy of the paperwork that has been filed with the court. One of the forms you will get is called a petition. The petition was written after a report was received and investigated by DSS.
- The petition names you as a "respondent." This is the term used by the Court for the parent or guardian in a child abuse and neglect case.
- The petition lists one or more allegations, which are statements of what is believed to have happened, and reasons why your child needs to be in the State's custody. There will also be a summons attached which tells you the date and time and place of the hearing and tells you that you have a right to have an attorney represent you. If you are unable to pay for an attorney, the court will appoint one for you.
- If you do not understand the petition or any other paperwork, talk to the social worker or to your attorney.



WHO WILL BE INVOLVED IN THE COURT PROCESS?

The Judge:

There is no jury for this type of hearing. It is up to the judge to hear all the information and make a decision about what is needed to protect and provide for your child.

The Attorney for the Parents, Guardian or Custodian:

You may have an attorney appointed or hire your own. Your attorney will make sure that you understand what to expect at hearings and will represent your rights and interests. You want to have regular contact with your attorney so that he or she can be well prepared to represent you in court.

The Guardian ad Litem and the Attorney Advocate:

The Guardian ad Litem is a specially trained person appointed by the court who volunteers his or her time to investigate the facts of a case, and makes recommendations to the court on what is in the best interest of your child or children. An attorney advocate is appointed with the Guardian ad Litem to ensure that the child's or children's legal interests are protected. The Guardian ad Litem will talk and visit with many people, including the child/children. Both the Guardian ad Litem and the Attorney Advocate usually remain on the case until a safe and permanent plan is approved by the court for the child/children.

The DSS Social Worker and DSS Attorney

Whether or not your child is removed from your home, you will be given the name and phone number of a social worker from DSS. The social worker will contact you to give you more information and ask you some questions; visit you and your child regularly, help you understand the problems that brought you to court, and help you work on your treatment plan, which lists the steps you will need to take to have your child returned to you. It is important to have a working relationship with the social worker on your case. You do not have to wait for him or her to call you. If you have questions or problems, you can make the phone call. An attorney for DSS presents the case to the court for the social worker.

Court Employees:

There will be one or more bailiffs in court to make sure the courtroom is safe and business is done in an orderly way. The clerk of court makes sure that a record is kept of all the information presented to the court. You may also have the right to have an interpreter if you do not speak or understand English, or if you are deaf.

CONTACT INFORMATION FOR THESE KEY PEOPLE IN YOUR CASE:

Attorney for the Parents, Guardian or Custodian

Name:

Address:

Phone:

Best Time to Call:

Guardian ad Litem and the Attorney Advocate:

Name of Guardian ad Litem:

Name of Attorney Advocate:

GAL office Address:

GAL Phone:

Best Time to Call:

DSS Social Worker:

Name:

Address:

Phone:

Best Time to Call:



When Will You Have to Go to Court?

You may be asked to attend several court hearings and other meetings so that the judge and others can listen to all sides and decide how to help your family. Most child abuse and neglect cases have at least eight different court hearings and meetings during the first year. After a year, if little or no progress is made to remedy the causes of abuse and neglect and the child's interest would be best to be placed in an adoptive home, an additional hearing called Termination of Parental Rights may occur.

The Types of hearings you will attend:

- Non-Secure Custody Hearing or a Day One Hearing
- Pre-Adjudicatory Hearing
- Adjudicatory Hearing
- Dispositional Hearing
- Review Hearing
- Permanency Planning Hearing
- Termination of Parental Rights -- this is a special hearing to determine if the parents can keep their rights to parent their children or if the children should be legally free to be adopted by others.

Court Hearings

After a petition is filed for abuse, neglect, or dependency, there are several different types of court hearings that may take place. Some types of hearings are required by law at certain times. Each court hearing and meeting has a different purpose. They are all described here in this handbook, so that you know what to expect at each hearing or meeting, when and where it will be held, and why it is important for you to attend. These descriptions are meant to give you an overview and do not contain all of the detailed requirements of the law.

At each hearing, all of the parties and their lawyers should be present (the DSS attorney, the Guardian ad Litem (GAL) attorney, the parent(s) and the parent(s) attorney). The judge, a court clerk, social workers, a GAL, and a law enforcement officer will also be present. The child who is the subject of the case is considered a "party," but the child may or may not be present depending on the child's age, maturity level, and whether it is in the best interest of the child to attend. Other persons who may be present include any witness that a party intends to call, foster parents, people from various agencies, and other people waiting for their case to be called in court.

Nonsecure Custody Hearing *(a hearing to decide who will be responsible for caring for the child until the time of the adjudication hearing)*

When a child is removed from home, a nonsecure custody hearing must occur within seven (7) days after removal. As long as a child remains outside the home, nonsecure custody hearings must continue to be held until adjudication. The second nonsecure custody hearing must be held within 7 days after the first. Other nonsecure custody hearings must be held at least every 30 days until the adjudication hearing takes place. "Nonsecure custody" means that the child is temporarily placed outside the home pursuant to court order. The word "nonsecure" is confusing. "Nonsecure" is just the opposite of "secure" which refers to a locked facility where adolescents charged with crimes are sometimes sent.

At a nonsecure custody hearing, the judge must make a determination as to whether the child should be returned home or remain placed outside of the home. If the judge decides the child should not be returned home, the judge must decide whether

the child's current placement is satisfactory. A nonsecure custody hearing is not a formal trial, but parties can present evidence, testimony, and make recommendations to the judge. Nonsecure custody hearings are also a chance for parties to talk to each other and the judge about how they can help the family and the child. In addition, the judge may consider setting appropriate times and circumstances for parents to visit their children if the children are to remain outside the home.

The Adjudication Hearing *(a hearing (like a trial) where the judge hears about the facts stated in the petition and determines whether a child is abused, neglected, or dependent.)*

The adjudication hearing is the part of the case where the judge must decide whether the allegations in the petition have been proven - whether the child is, in fact, an abused, neglected, or dependent child. This hearing is required by law to be held within 60 days of the date of the filing of the petition unless the judge decides there is a good reason to delay it. The adjudication is a formal trial where parties present evidence, examine witnesses, and make arguments to the judge. If the judge decides that the statements in the petition have been proven, the child will be adjudicated abused, neglected, and/or dependent. If the judge decides that the statements have not been proven, the judge will dismiss the petition and the case will be over. If the statements are proven, the judge will have to decide whether to proceed immediately to the disposition hearing or to set the disposition hearing for a later date.

A full adjudication hearing may not take place if the parties all come to an agreement as to what the court should order. If the parties come to an agreement, the judge does what is called a "consent order" which reflects the agreement of the parties, and there is no need for a trial.

Disposition Hearing *(a hearing where the judge considers a plan of care for the child including where the child should live, how to meet the child's needs, and what the parents can do to improve the situation.)*

The disposition hearing is the part of the case where the court decides what should happen to the child who has been adjudicated abused, neglected, or dependent. This is not a formal trial, but parties do present information to the court about what

needs to happen in order to achieve a safe, permanent home for the child within a reasonable period of time. In making its decisions, the court must focus on the best interests of the child. Part of determining the child's best interest is deciding what the parent(s) would have to do or have to change in order to be able to properly care for the child.

In the disposition hearing, issues that may come up include placement of the child, visitation with parents or siblings, medical care needed by the child or the parents, and mental health or substance abuse evaluations needed by the child or the parents. There will be discussions about how to address any and all of the circumstances that led to the removal of the child or the petition for abuse, neglect, or dependency in the first place. The court will also look at whether DSS made reasonable efforts to prevent removal of the child or whether DSS should not be expected to make such efforts because they would not accomplish anything. All parties will make recommendations to the court about what should happen.

After the disposition hearing, parents should have a clear idea of what the judge expects them to do in order to get their child returned home. In some cases, however, the judge may determine it is unlikely the child will be returned home and may instead focus on the best out-of-home placement for the child and how to make sure the various needs of the child are taken care of.

Review Hearing *(a hearing where the judge determines whether the plan of care for the child is working, whether it should be changed, and whether parents are making necessary improvements.)*

Review hearings are just what they sound like - a chance for the court to review how the case is going. The law requires that a review hearing be held within 90 days of the date of the disposition hearing. After the first review hearing, review hearings must be held at least every 6 months. Although there are circumstances under which the court may determine that review hearings need not be held this often or at all, they are usually held, and sometimes they are held every three months. In addition to the review hearings that are required at certain times by law, any party may ask the court to conduct a review hearing at any time if they have an issue they believe the court needs to hear about.

A review hearing is a lot like a disposition hearing. It is not a formal trial and the court considers the same issues it considered at disposition. In a review, the court must determine whether the plan that was made during disposition is moving along as it should, whether changes to that plan need to be made, and whether there are any new issues to deal with. The court will be presented with information regarding what the parent has been doing, how the child is doing, and whether any member of the family has needs that need to be addressed. The court will hear recommendations about what needs to happen next in order to get the child into a safe, permanent home within a reasonable period of time.

Permanency Planning Hearing *(a hearing to decide on the best permanent plan of care for the child.)*

A permanency planning hearing is required within 12 months after a child is removed from home. This kind of hearing is also required within 30 days of a judge's decision that efforts to reunify the family are not required or shall stop. Permanency planning hearings must be held at least every 6 months.

At this hearing, parties present information to the judge so that the judge can develop a plan to achieve a safe, permanent home for the child within a reasonable period of time. The judge will decide whether the plan is to return the child home, to give a suitable person custody or guardianship of the child, to move toward termination of parental rights so the child can be adopted, or to keep more than one of these options open. The judge must enter an order as to the best plan of care for the child and may order DSS to take specific steps to carry out the plan.

Termination of Parental Rights Hearing *(a hearing to decide to end a parent(s) rights to take care of their child)*

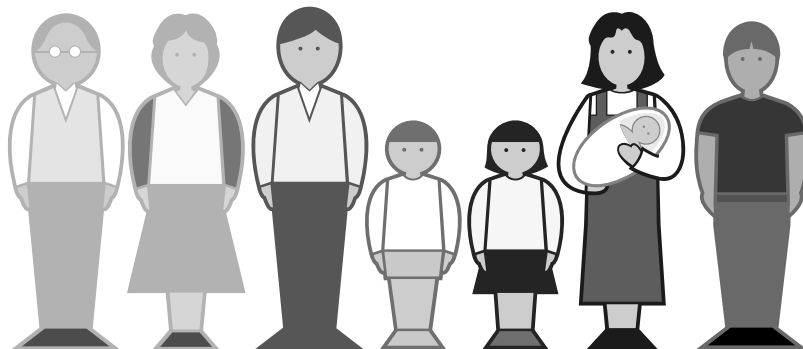
The law allows certain people to ask the judge to terminate parental rights when certain circumstances exist. These circumstances are called "grounds." At a termination of parental rights hearing, which is a formal trial, the person requesting termination of parental rights (called the "petitioner") must prove to the judge that grounds exist for termination. The petitioner will attempt to do this by presenting evidence and arguments to the court, and other parties have the opportunity to examine witnesses, present evidence, and make arguments. If the judge determines

that grounds do not exist, the judge will dismiss the case. If the judge determines that grounds do exist, the judge must examine whether it is in the child's best interest to terminate parental rights.

The "adjudication" phase of the case is when the court decides whether grounds exist. The determination of whether it is in the child's best interest to terminate is called the "disposition" phase of the case. In some courtrooms, the hearing is clearly divided between the adjudication phase and the disposition phase and new evidence may be put on during the second phase of the case. In other courtrooms, the two phases are not divided and the judge simply moves from a determination of grounds directly to a determination of best interest, based on the evidence already presented in the adjudication phase of the case. If the judge decides it is not in the best interest of the child to terminate parental rights, the judge can dismiss the case even if grounds for termination exist. If the judge finds it is in the best interest of the child to terminate (after finding that grounds exist), the judge will order termination of parental rights.

Post-termination of Parental Rights Placement Court Review Hearing

This kind of hearing is required within 6 months of the date of termination of parental rights and at least every 6 months after that until the child is adopted. This is not a formal trial, but parties will present evidence and make recommendations to the court. The parent whose rights have been terminated does not participate in this hearing because after termination, the parent is no longer a party to the case. The purpose of this hearing is to examine the plan for permanent placement of the child, to make sure the plan is adequate, and to make sure appropriate efforts are being made to carry out the plan.



Juvenile Court Checklist

This chart may help you keep track of your court dates

COURT EVENT	DATE	DATE of NEXT HEARING or EVENT
Day One Conference (DOC):		
Nonsecure custody (NSC) Hearing		
2 nd NSC Hearing:		
3 rd NSC Hearing:		
Pre-Adjudication Conference (30 days within filing of the petition)		
Adjudication Hearing (45-60 days from filing of petition)		
Dispositional Hearing (right after adjudication or 30 days thereafter)		
1 st Review Hearing (within 90 days of Disposition)		
2 nd Review (within 6 months after 1 st review)		
3 rd Review (every 6 months)		
Permanency Planning Hearing (within 12 months of NSC)		
Permanency Planning Hearing (30 days after order ceasing reasonable efforts)		
2 nd PPR (within 6 months)		
Subsequent PPR- (every 6 months)		
TPR Petition Filed (if necessary)		
TPR Hearing (if necessary)		

Remember, the purpose of Juvenile Court is to keep children safe and to help families create a safe home for their children. If you do not understand the purpose of any of the hearings you are asked to attend, talk to your attorney.



Prepared for the Children and Families in North Carolina

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