



**A HANDBOOK FOR
PARENTS & LEGAL GUARDIANS
IN
CHILD PROTECTION CASES**

March 2009

Introduction

Child protection proceedings are heard in the Maine District Court. The purpose of these proceedings is **to keep children safe** and to help families make a safe home for their children. A protective custody proceeding is not meant to punish parents.

A judge can require you and your family to get help. Also, a judge can order that your child be placed in the custody of the Maine Department of Health and Human Services (the “Department”). This means that, for the time being, the Department 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.

Your children are important to us. We hope this booklet will help you to understand the court process, as well as your rights and responsibilities. We encourage you to keep this handbook and write in the name and phone number of your attorney and the dates of court hearings.

Prepared by the
Maine Court Improvement Project

Printed by the
Administrative Office of the Courts

March 2009

The Beginning of the Case

The Department may prepare a **petition** and file it with the court after receiving and investigating a report about your child.

The petition will list one or more **allegations** – statements of what is believed to have happened and reasons why the Court should be involved in your family to protect the child.

The petition will name you as a **respondent**. This is the term used by the court for the parent or legal guardian in a child protection case.

When filing a petition, the Department may also file a **Request for a Preliminary Protection Order**. A Request for a Preliminary Protection Order (also known as a request for a PPO) asks a judge to order the immediate removal of your child from your home because the child is in **immediate risk of serious harm**. This request will be given to a judge right away. If a judge orders the removal of your child from your home, you will be told in writing.

You will get a copy of all the paperwork that is filed with the court. The paperwork will tell you when you need to go to court and also who your attorney is. If you do not understand the petition or any other paperwork, talk to your attorney.

Your Attorney

At the time the petition is filed, the court will assign you an attorney and also assign an attorney to the other parent or legal guardian named in the Petition, if the Petition has an address for that person. Every parent and legal custodian who is assigned a lawyer must file a sworn statement about their income with the court. There is a form available at the court clerk's office. The judge will then decide whether or not the court will pay for some or all of the cost of the assigned attorney. Parents or legal custodians who do not file the form may lose their court-appointed lawyer. Your lawyer will:

- Meet with you before hearings and speak for you and your interests in court;
- Help you to understand your rights and tell you about the hearings you will attend and what to expect at each hearing; and
- Present evidence and advocate on your behalf at court hearings.

You should make sure your lawyer knows how to reach you by giving him or her your address and phone number. When your lawyer calls or writes you, you should answer promptly. If you do not keep in touch you may lose your court-appointed lawyer.

If you have any questions about your case, call your attorney.

Your attorney's name, address, & phone numbers are:

Name: _____

Address: _____

Phone: _____

Others who may be involved in your case:

Your Child's Representative – the Guardian ad Litem (GAL)

Your child will have a person named by the Court to look out for his/her best interest. This person is called a **Guardian ad Litem (GAL)**. The judge may appoint a **Court Appointed Special Advocate (CASA) or an attorney** to act as the GAL. The GAL's job is to investigate the facts by reviewing records and reports, talking to your child, and talking to you and others who have cared for or treated your child. The GAL will write a report that includes recommendations about what is in your child's best interest. The GAL must tell the Court what your child's wishes are.

The Department's Attorney

The Department also has a lawyer, called an Assistant Attorney General. The Assistant Attorney General helps the Department present its evidence about why the Court should be involved in your family to protect your child.

When will you have to go to Court?

You may be asked to attend several court hearings and other meetings at which the judge will listen to all sides and decide how to help your family.

- Summary Preliminary Hearing
- Case Management Conference
- Jeopardy Hearing
- Judicial Review
- Permanency Planning Hearing
- Termination of Parental Rights

Each court hearing and meeting has a different purpose. They are all described in this handbook, so you will know what to expect and why it is important for you to attend. Space is provided for you to write down the time and place of each hearing and meeting.

The Summary Preliminary Hearing

If the Court has entered a Preliminary Protection Order without giving you a chance to answer the Department's allegations, it must schedule a hearing on that order within 7-14 days. That hearing is called the **Summary Preliminary Hearing**. At court, you may agree to allow the temporary Order to remain in effect or the judge will hold a hearing on the matter. If there is a hearing, the judge must decide if the temporary Order will remain in effect until a full trial is held.

The Assistant Attorney General will present the Department's case to the judge. Your lawyer will also provide information on your behalf, and you will have a chance to testify. It is very important that you speak to your lawyer before the hearing and that you attend. If you do not show up, the Preliminary Order will remain in effect until a full trial is held.

If your child is in the Department's care, the Department must develop a plan to reunify you and your child, unless the judge finds an aggravating factor in your case and tells the Department it does not have to prepare a plan.

In addition, the Court will order the Department to schedule visitation within 7 days of issuing the Preliminary Protection Order, unless there is a compelling reason not to schedule visitation.

.....
The time and place of the Summary Hearing is:

Date & Time: _____

Place: _____

Case Management Conference

A Case Management Conference will be held about 30 days after the start of the case.

At the Case Management Conference, you may reach an agreement with the Department and the Guardian ad litem on what should happen to your child. If you do reach an agreement, everyone will present that agreement to the judge so that she or he may ask questions about it and speak to you about it. If everyone does not agree on what should happen, the judge will meet with you and the other parent or legal guardian to discuss the case. At that time, the judge will find out from the lawyers how much time is needed for trial and who will be called to testify. A date for the trial will be set.

It is very important that you attend the Case Management Conference so that your ideas about what is best for your family and what can be done to make sure your child is safe can be heard.

.....
The time and place of your Case Management Conference is:

Date & Time: _____

Place: _____

The Jeopardy Hearing

You have the right to a trial before a judge on the allegations listed in the petition. The trial is called the Jeopardy Hearing or Hearing on the Petition. The trial must be completed and the judge's decision made within 120 days from the date the Petition was filed.

At the Jeopardy Hearing the judge will listen to all the evidence and decide if your child is in **circumstances of jeopardy to her/his health or welfare**.

If the judge decides no jeopardy exists, your child will remain in your custody or be returned to your custody. If the judge decides that your child is in jeopardy, a Child Protection Order will be issued. The judge must decide what should be done to reduce or remove the risk of abuse or neglect; this is called the *disposition*. Among other things, the judge may order that your child be placed or remain in the Department's care, that you or another member of your household receive evaluations or services, or that you not allow certain people to have contact with your child. The judge will require the Department to work toward reunifying you and your child, unless the judge finds an aggravating factor in your case. The disposition of the judge is outlined in a written child protection order which will be given to your lawyer and you. If your child is placed in the Department's custody, the court may also enter findings about whether you can pay child support, and if so, how much you should pay.

It is very important for you to attend the Jeopardy Hearing.

.....

The time and place of your Jeopardy Hearing is:

Date & Time: _____

Place: _____

Judicial Reviews

Once a judge issues a Child Protection Order, the Order must be reviewed at least every six months.

You and the other parent or legal guardian, your attorney, the Department worker, the Assistant Attorney General, and the GAL should attend the Judicial Review. At that hearing, the judge reviews what has occurred in the case over the last months and decides what should happen next. The judge may make changes in what is required of you or the Department and may even decide that the case should be dismissed or that the Department does not have to work on reunifying you and your child any longer.

Permanency Planning Hearing

The court must conduct a permanency planning hearing for your child within 12 months of your child's entry into foster care. At the permanency planning hearing, the court must decide whether your child should be returned to you, placed for adoption, referred for legal guardianship or placed in another planned permanent living arrangement. Often the permanency planning hearing will be joined with a Judicial Review hearing.

Termination of Parental Rights

If you fail to resolve the risk of abuse or neglect in a timely fashion (usually between 12-15 months), the Department may ask the Court to terminate or end your parental rights so your child may be placed in a safe, permanent home with a relative, foster parent, or adoptive parent.

These are your rights:

- You have the right to an attorney. If you cannot afford to pay for an attorney, one will be appointed for you by the court.
- You have the right to admit or deny the allegations made about you and your family and to present evidence to the court.
- You have the right to be notified of all court hearings and to attend them.
- You have the right to an interpreter in court if you do not understand English or other assistance if you suffer from a disability.

These are your responsibilities:

- Take this seriously.
- Attend court hearings and meetings.
- Stay in touch with your attorney. Be sure he/she always has a current address and telephone number for you.
- Be sure you understand what the judge orders you to do and then do it. It could make the difference in whether your child is returned to you or not.