

A Parent's Guide to Dependency Court (Child Abuse/Neglect Court)

If you have been told to appear in Family Court for allegedly abusing or neglecting your child, this booklet can help explain the hearing process.

Prepared for
The Eighth Judicial District Court
Family Division
Las Vegas, Nevada

Version 1.04
May 2007

This booklet is for general information only. To make it easy to read, a lot of details have been left out. If you have more questions, you should talk to your caseworker or lawyer.



The Court Process

The police and Child Protective Services (CPS) often receive reports that parents are harming their child or failing to care for them properly. Not all of these reports are true, but they are always taken seriously. An investigator looks into these claims, and if they appear to be accurate, the child may be temporarily removed from the home or otherwise placed under the control of the county.

This action, however, must be reviewed by a judge (or a "hearing master" who acts like a judge). The judge looks at the evidence and the actions of the investigator to make sure they conform with the law. The judge also makes sure that the parent is given a fair opportunity to respond to any accusations. In general, no major change will happen in a case without a court hearing (which the parent has a right to attend) and the approval of the judge.

All hearings regarding the safety and custody of your child take place in Family Court at Pecos and Bonanza Roads in Las Vegas.

Family Court is located about three miles east of downtown Las Vegas, and can be reached on CAT bus routes 111 and 215. By car, exit US-95 at Eastern Ave., go north one block to Bonanza, then go right on Bonanza for one mile to Pecos. There is plenty of free parking, but at busy times there may be a five-minute walk from your car to the entrance.

NOTE: Family Court is separate from the main courthouse downtown. The only issues handled in Family Court concern the well-being of children and families, not criminal charges.

All court hearings are governed by state law, which is called Nevada Revised Statutes (NRS). If you wish, you can look up the law at a public library or online. (Google "NRS 432B".)

Protective Custody Hearing

The first hearing in your case is called a Protective Custody Hearing. When a child is taken into custody, this hearing must be held within 3 business days. It will probably take place in Courtroom 15 or 19, on the first floor behind the information desk.

The purpose of this hearing is to determine whether the county has sufficient grounds to assert control over the child. The court will also determine where the child will stay until the matter is resolved.

You are expected to attend this hearing, but you will not be asked whether you admit or deny the accusations. (That will come later.) At this point, you remain "innocent until proven guilty," but the county can still take temporary measures to protect the child based on preliminary evidence and the approval of the judge.

You should try to arrive at the courthouse at least 30 minutes before your scheduled hearing. If you don't know your courtroom number, ask at the information desk.

When you get to the courtroom door, wait outside until the bailiff comes out, and tell him the name of your child. (It is important to let the bailiff know you are present.)

Sometime before the hearing is called, you will meet the CPS investigator assigned to your case. (If you haven't met them before, they will probably call out your child's name in the waiting area.) Before the hearing starts, they will discuss the accusations with you, ask you some questions and answer yours.

They may also ask you about any relatives who can care for the child. Whenever possible, the county

Some Things About Court in General

—Try to dress respectfully, but formal attire is not required. (The most important thing is to be there!)

—Your hearing will never happen earlier than it is scheduled, but it may sometimes be late. (Usually, there are several hearings scheduled for the same time.) Be courteous and patient.

—It is important to attend every hearing that concerns you or your child, but missing a single hearing does not mean that you have lost your child. If a hearing is called and you are not present, it will usually proceed without you. Contact your caseworker to find out what happened and what you need to do.

—At the end of most hearings, you will be given a piece of paper with the date and time of the next hearing. If you lose the date, you can get it from your caseworker or the court's Juvenile Calendar desk at 455-2346

wants to place children with family members rather than keeping them in shelter care.

Be sure to get the name and phone number of the investigator. (There is a place in the back of this booklet to write this information down.)

The Protective Custody Hearing is usually brief. In it, you will learn something about how the county intends to proceed and what the evidence against you is. You will also have an idea of where your child will be placed and how soon you can get your child back.

Some cases are resolved informally and do not proceed beyond this point. In that case, your child will be returned to you quickly. Other cases may take longer to resolve and could require several more hearings.

At the end of this hearing, you will receive a slip of paper with your next hearing date on it (if any). If your child remains in custody, you will be told when and where you can visit.

Plea Hearing

The second hearing in your case, if there is one, will probably be a Plea Hearing, which usually takes place about 10 days after the Protective Custody Hearing. This is your chance to admit or deny the accusations.

This hearing will probably be held in the same courtroom as the previous hearing. At least 3 days before it takes place, you will receive the written allegations against you, which are contained in a court document called a Petition. The Petition will summarize why the county feels it necessary to protect the child. You should read the Petition and make sure you understand it. If you don't understand something, ask the CPS investigator to explain it to you before the hearing.

At the hearing, you will be asked whether you admit or deny the allegations contained in the Petition.

If you DENY the allegations, a trial will be scheduled where the county must present its evidence to the judge and prove the charges against you.

If you ADMIT the allegations, the trial is skipped, and the next scheduled hearing will be the "R&D Hearing," where a plan is submitted for how you will regain your child.

If you DON'T UNDERSTAND the Petition, be sure to tell the judge.

Although this court is not concerned with criminal matters, county supervision can become a significant intrusion in your life, so if you believe the allegations are not true, you should not admit them.

If you deny the charges and cannot afford an attorney, you should ask the judge for one, since future hearings can be complicated.

"Do I Need a Lawyer?"

You are permitted to have a lawyer with you at every hearing. If you cannot afford one, the judge may appoint you one but is not required to.

During the Protective Custody and Plea hearings (the first hearings), most parents do not have lawyers.

Nonetheless, if you feel, at any hearing, that you need a lawyer, it does not hurt to ask the judge for one. The lawyers who are appointed by the court are very experienced in this field, and they are given to you without charge. They can help explain the court procedures to you and can usually represent your viewpoint to the judge better than you can.

If a judge denies your request for a lawyer at one hearing, it is okay to ask them again at the next hearing.

If you hire your own private attorney, you should try to choose one with experience in "dependency" matters in Family Court.

Adjudicatory Hearing (Trial)

If you DENIED the charges at the Plea Hearing, the next hearing is called an Adjudicatory Hearing. It is usually held about 30 days after the Plea Hearing.

The Adjudicatory Hearing is a trial. A Deputy District Attorney will present evidence and witnesses to try to prove that you are responsible for the abuse or neglect of your child alleged in the Petition. In turn, you or your lawyer have the right to cross-examine those witnesses and present evidence and witnesses of your own showing that you did not abuse or neglect your child.

Sometimes, CPS investigators make mistakes. Evidence can be misinterpreted, or a child may be taken into custody who does not really need protection. The purpose of the Adjudicatory Hearing is to make sure these mistakes are detected.

The judge in this courtroom does not have the power to convict you of any criminal offense. The only thing at stake in this hearing is whether your child is abused or neglected and "in need of protection" by the county.

The burden is on the county to prove the statements in the petition. You are not entitled to a jury trial. The judge alone will decide if the charges have been adequately proven based on the standards defined in the law.

If, after all the evidence is presented, the judge believes that the allegations in the Petition have not been adequately proven, the case is dismissed. After the hearing, you are immediately free to take full custody of your child, and the county no longer has any right to intervene. (The county could later act on any new allegations against you, but not the ones that were the subject of the hearing.)

However, if the judge believes that the allegations in the Petition have been adequately proven, the child is formally judged "in need of protection" and the process continues to the next step.

R&D Hearing

If you have admitted the allegations at the Plea Hearing or they have been proven at an Adjudicatory Hearing, the next hearing is an R&D Hearing. (R&D stands for "Report and Disposition.") This hearing is usually held 2-3 weeks after the previous one.

At this hearing, a case plan may be presented to the judge for approval. A case plan is a written document which describes the steps you need to take to regain full custody of your child.

The case plan is very important, because it will be the blueprint for all the activities that follow. If you complete all the terms of your case plan, full custody of your child will probably be returned to you. If you significantly fail the case plan, you may be at risk of losing your child permanently.

Before the R&D Hearing, you will have a chance to sit down with your caseworker and help design your case plan. You should think about each item, whether it is necessary and the burdens it is going to place on you.

For example, if the plan calls for parenting classes, you should ask where the classes will be held. You should think about how you are going to get there and how it might interfere with your work schedule. Once the case plan is approved by the court, it will be the standard by which you are judged, so now is the time to raise any concerns you may have about each item.

If you refuse to cooperate with the caseworker or the caseworker is unable to contact you, then a case plan will be presented to the judge based on the caseworker's best judgment. Unfortunately, if you have not participated in the design of the plan, it may not be the best one for your circumstances.

After the R&D Hearing, there may not be another court hearing for a few months. (You will be given the date at the end of this hearing.) In the meantime, in cooperation with your caseworker, you will be working to fulfill the requirements of your case plan.

"Should I Take the Drug Test?"

If you are ordered by the court or your caseworker to take a drug test, and you know it will be "dirty," should you still take it? This is a question you should ask your lawyer, if you have one, but the general answer is "yes," you should take the test.

Family Court is not criminal court. The aim of this court is not to punish you but to repair the problems that were endangering your child. Testing "positive" for drugs at least gives the court a baseline by which to judge your future improvements.

If a drug test is ordered, but you fail to take it, then the court assumes that it is "dirty." This may also send the message that you are not serious about quitting drugs.

If you quit drugs for a while but have a relapse, the caseworkers and court may still be willing to work with you, but they also expect you to take responsibility for your problem. Avoiding drug tests or trying to "cheat" them is not taking responsibility.

Judicial Review Hearings

After the R&D Hearing, the court is required to review your case at least every six months.

Judicial review hearings may be held in the same courtroom as the previous hearings (15 or 19) or in another courtroom on the 2nd floor. If you don't know your courtroom, check at the information desk.

Anyone who has an interest in the case is permitted to attend these hearings, including relatives, foster parents, friends, clergy, the children themselves and members of the public. Whether these people are allowed to speak, however, is at the discretion of the judge. (Historically, the court has been liberal in allowing anyone to speak who has something relevant to say. If you are in the audience and you wish to speak, you should indicate this by remaining standing at the beginning of the hearing.)

At each hearing, the judge reviews the progress made by the parents toward completing the case plan. The judge also reviews issues regarding the care of your child.

When a case plan has been successfully completed, custody of the child is usually returned to the parent (called "reunification"), the case is formally closed, and no further hearings are required. (Reunification generally proceeds in stages, and the child is usually returned to the parent long before the case is formally closed.)

If there is no significant progress toward completion of the case plan, the judge may direct the caseworkers and D.A. to proceed toward alternative plans for the child's upbringing.

Conflicts with Your Caseworker

Caseworkers are not hired or assigned by the court but by the Department of Family Services (DFS), the county's child welfare agency.

When you have issues with your caseworker or with how your case is being handled, you can contact the caseworker's supervisor. If the issues still are not resolved, you can bring up the matter at the next court hearing.

The judge is responsible for general oversight of your case and may be able to address problems that you raise. However, the judge is going to be equally concerned with how well you are fulfilling your own responsibilities.

Any failings of your caseworker are not an excuse for your own failings. If you have a case plan, you need to be working it to the best of your ability, regardless of what your caseworker does.

Termination of Parental Rights

If a parent makes no significant progress on their case plan for an extended period, the case may move toward "TPR" or Termination of Parental Rights. This is when the court decides, after a trial, that no reunification with the parents is possible, and the parents' legal right to the child is completely severed. This makes the child available for adoption by another family.

TPR is an extreme option that usually happens only when reasonable efforts at reunification have failed—usually a year or more after the case has started. (TPR can happen more quickly in exceptional circumstances, such as when a parent has had a previous abuse/neglect case or another child has died in the parent's custody.)

Every parent who is facing TPR proceedings is entitled to a court-appointed attorney. There must also be a trial during which the parent, through their attorney, has the right to challenge and refute any evidence against them.

If the TPR is granted, the parent loses all rights to see the child or participate in his or her upbringing. As far as the parent is concerned, the case has ended, and the county will make no further attempt to reunify parent and child.

Other Permanency Options

If a parent does not make significant progress toward completion of their case plan, the court and caseworkers start looking into alternative plans for the child. TPR followed by adoption is one plan, but there are others.

Another option is for the parents to voluntarily relinquish their parental rights. In this case, the parents agree in writing to an adoption of the child by a new family. Although the birth parents lose their parental rights as in TPR, they may be able to negotiate the right to see the child in the future or have ongoing information about the child.

The parents may also consent to a guardianship. In this case, control of the child is legally assigned to a relative or someone else who already has a bond with the child and who is deemed suitable by DFS. Such a guardianship is permanent unless the parent later petitions the court to have it dissolved. To do this, however, the parent has to show the court that they have addressed the problems that brought the child into custody.

Both of these options require the approval of the parents, the caseworkers and the court.

