

**Answers to
Your Questions About**

**Dependency
&
Neglect**

**Excellence in Customer Service
Colorado Judicial Branch**

<http://www.courts.state.co.us>

March 2001

Dependency & Neglect (D&N) cases are ones of abuse or neglect of children. Unlike a criminal case, parents involved in a D&N case are not prosecuted for a crime. A D&N case is a civil case that does not involve the criminal prosecution of parents. Instead, parents who are involved in an allegation of physical, emotional, or sexual abuse of their children are held responsible for making positive changes in their families for the benefit of children's best interests and safety. Children involved in a D&N case are placed under the jurisdiction of the juvenile court for their safety and protection.

When is a child considered DEPENDENT or NEGLECTED?

- A parent or guardian abandons, mistreats, or abuses the child.
- A parent or guardian allows another person to mistreat or abuse the child or does not take steps to stop the abuse or prevent it from happening again.
- The child lacks proper care through the actions or inactions of the parent or guardian.
- The child's environment is unsafe.
- The parent or guardian does not provide the child with necessary education or medical care.
- The child is homeless or without care through no fault of the parent or guardian.
- The child has run away from home or is beyond the control of the parent or guardian.

Who might play a role in your dependency and neglect case?

All parties, including the parents and children, are entitled to a lawyer at all stages of a dependency and neglect case. In addition, a CASA volunteer may be assigned by the court. The following provides a brief description of each party and his or her role in the case.

- **Your Lawyer.** As a parent, a dependency and neglect case may lead to the termination of your parental rights, so it is important for you to get a lawyer. The court process is complicated; a lawyer will advocate for your rights at every stage of D&N proceedings. This can include helping you obtain access to resources you may need to resolve your case. If you cannot afford a lawyer, the court will review your financial records to determine whether or not you are eligible for a lawyer to represent you as the parent, free of charge.
- **Your Caseworker.** One of the first people you will meet is a caseworker or social worker from your county's department of social services (or Department of Human Services). He or she has the job of providing and coordinating services on your case and keeping in contact with your family. The caseworker will be in court and will make recommendations about what kinds of services should be provided to your family. During the case, it is important that you and your attorney keep in contact with the caseworker.
- **Guardian Ad Litem (GAL).** The GAL is the lawyer who legally represents your child's best interests. The GAL is responsible for investigating the allegations presented in your case, interviewing all of the professionals working with you in your case, and making a recommendation to the court regarding what is in your child(ren)'s best interest. The GAL will visit you, your child, and other persons involved in your case.
- **County Attorney.** The county attorney represents the caseworker from the department of social services and is responsible for initiating the D&N case. The county attorney works with the caseworker in your case to make recommendations to the court regarding your child(ren)'s best interests.
- **Court-Appointed Special Advocates (CASA).** CASAs are trained community volunteers who are appointed by a judge to gather as much information as possible about your child(ren) and to provide the judge with recommendations so that the judge can make informed decisions about your child(ren). The CASA volunteer's only role is to advocate for the best interests and safety of your child(ren). The CASA volunteer is not required to be an attorney.
- **D&N Case Coordinator.** In some courts, a case manager will work with you, your family, and the professionals involved in your case to communicate and discuss ways to help you and your family resolve the issues in your case. The case coordinator works for the court and provides reports to the judge on your case.

What is the court process in dependency and neglect cases?

A dependency and neglect case begins with the filing of a petition by the county attorney or, in Denver, the city attorney. Parents who are listed in the D&N petition are referred to as “respondents.” You are required to appear in court and at that time, you may deny the allegations against you and demand that the case then be heard at trial by a jury of six people, by a judge, or by a juvenile magistrate. You may also admit to the allegations in the petition and move forward to the treatment phase of your case.

The major stages of a dependency and neglect case are described below. The law requires the court and the department of social services to follow specific time frames for holding court hearings. In addition, some courts have special time requirements for cases involving children under the age of six; this is called an “expedited permanency planning” (EPP) case. At each stage, the court can order that the child be returned home, with or without supervision by the department of social services, or be placed in foster care.

The case may be referred to mediation. If so, the mediator will assist the family and professionals to reach an agreement for the treatment and best interests of the child(ren) and family involved in the case. A mediator is a neutral third party who is not affiliated with the court or social services but is a professional who provides a service to the court and the department of social services.

- **Preliminary Protection Proceeding.** At this hearing, the judge or magistrate must decide if your child should be temporarily removed from the home because the home is unsafe. The court may order your child(ren) to take physical and mental health tests. This hearing must take place **within 72 hours** after placement, excluding Saturdays, Sundays, and court holidays.
- **Filing a Petition.** The petition states the Department of Social Service’s position on the facts of the case.
- **Adjudicatory Hearing.** At this hearing, the court decides if the child is dependent or neglected. This is called an adjudication. If the court makes this decision, the child can be ordered to remain in the custody of the Department of Human Services. The hearing should be held **within 60-90** days of the date of service of the petition. If your case is an EPP case, adjudication must occur **within 45 days** of service of the petition.
- **Disposition.** If the court finds that your child is neglected or abused, the court will then approve a **case treatment plan** for you and your family. The caseworkers, GAL, your attorney, and you are responsible for developing a recommendation to the court regarding your case treatment plan. If you do not follow the requirements of the case treatment plan, the court may order that a motion for the termination of your parental rights be filed. The law also includes other factors for the court to consider moving forward with a motion for the termination of parental rights. At the disposition, the court may order any of the following as a part of the case treatment plan:

- The court may place your child in the custody of a relative or the department of social services or change the custodial relationship of parents.
- The court may order your child to receive medical and mental health evaluations and treatment.
- The court may order you, other parents, guardians, and others to undergo evaluations and treatment.
- The court may order you to provide the department of social services with the names and addresses of other family members and relatives who have an interest in your child(ren).

The court may order you and your family to participate in mediation or other types of meetings to discuss the issues in your case.

- **Reviews.** The court will review your case regularly as long as your child remains in the custody or supervision of the department of social services. At each review hearing, the court is respon-

sible for determining whether or not you are following the requirements of your case treatment plan and whether or not the department of social services is assisting you in meeting the requirements of your case treatment plan. **You are required to attend each of the review hearings** and provide information to the department of social services, your attorney, and GAL, and others as needed.

- **Permanency Plan.** If your child(ren) remains in an out-of-home placement, the court is responsible for holding a permanency planning hearing **within 12 months** of your child(ren)'s removal from the home. If the court decides that your child(ren) cannot be returned home or to a relative, within a reasonable amount of time, the court is required to adopt a permanent plan for your child(ren). If you are involved in an EPP (Early Permanency Planning) case, the court must approve a permanent home for your child within 12 months. If there is a failure to comply with, or successfully complete your case treatment plan, the court may terminate your parent-child relationship. Permanent plans include any of the following:
 - The court may order the child to be returned home.
 - The court may order the filing of a motion for termination of parental rights and that the child be placed for adoption.
 - The court may order long-term placement for your child in a foster home or with a relative.
 - The court may grant a legal guardianship for your child.
 - The court may decide that your child can live independently.

In the event that parental rights are terminated, a parent has the right to appeal. NOTE: Due to the uniqueness of the dependency and neglect area, some judicial districts may combine court proceedings.

Can parents be charged with child abuse for disciplining their child(ren)?

In every case, a department of social services investigator considers the disciplinary methods accepted in the child's culture. Child abuse **does not** include any **reasonable** means of discipline.

As a parent, you need to know that the following people are legally required to report child abuse or neglect:

- Physicians, hospital employees, and other medical professionals.
- Social workers, law enforcement officers, firefighters, and victim's advocates.
- Private or public school personnel.
- Any commercial film or photographic print processors who, within their professional capacity, observe materials depicting sexual conduct involving children.
- Caretakers of children, such as day care or foster care.

Any person listed above who does not report a case of child abuse **commits a class 3 misdemeanor**. However, any person may report known or suspected conditions that may reasonably lead to child neglect or abuse.

How is child abuse reported?

A person who has reason to believe a child has been abused or witnesses a case of child abuse should immediately contact a law enforcement agency. If that person is required to report the case, that person must file a written report with the agency. The agency will provide the person with the necessary requirements of the report. Anyone reporting suspected abuse in good faith who is not a perpetrator, co-conspirator, or an accessory **cannot be fired or held liable in a civil or criminal court**.

**This brochure is published as a customer service
by the Colorado Judicial Branch.**