

Child Abuse, Child Neglect

What Parents Should Know If They Are Investigated

Written by South Carolina Appleseed Legal Justice Center
with editing and assistance from the Children's Law Center and the Foster Care Review
Board
June 2010

TABLE OF CONTENTS

LEGAL ADVICE AND REPRESENTATION	3
INTRODUCTION TO ABUSE AND NEGLECT CASES	3
INITIAL REPORT AND INVESTIGATION	4
EMERGENCY PROTECTIVE CUSTODY	7
THE PROBABLE CAUSE OR 72 HOUR HEARING	9
MERITS OR REMOVAL HEARING	10
INTERVENTION HEARING	12
PERMANENCY PLANNING HEARING	13
TERMINATION OF PARENTAL RIGHTS	15
GENERAL INFORMATION ABOUT COURT HEARINGS	17
GUARDIAN AD LITEM	20
THINGS TO REMEMBER	21

South Carolina Appleseed Legal Justice Center is a non-profit organization dedicated to advocacy for low-income people in South Carolina to effect systemic change by acting in and through the courts, legislature, administrative agencies, community, and the media, and helping others do the same through education, training, and co-counseling.

Children's Law Center of the University of South Carolina School of Law is a statewide resource center for attorneys and other professionals involved in judicial proceedings related to child protection and juvenile justice.

Copyright retained by South Carolina Appleseed Legal Justice Center. For permission to reproduce this brochure, contact SCALJC at P.O. Box 7187, Columbia, SC 29202.

This booklet is for information only. If you need legal advice about a child abuse or neglect investigation or charge, contact an attorney to represent you.

LEGAL ADVICE AND REPRESENTATION

Should I get a lawyer?

You can get a lawyer at any time during an abuse or neglect case, even if you are not fighting what the Department of Social Services (DSS) is saying. **If you are going to court, an attorney should always represent you.** A lawyer will help you understand what is happening and protect your rights.

Where can I find a lawyer?

Do not wait until your court date to get a lawyer. If you want to hire a lawyer and you do not know one, call the South Carolina Bar's Lawyer Referral Service at (803) 799-7100 or 1-800-868-2284. If you have little or no income and cannot afford a lawyer, go to the Family Court in the county in which your case is being heard and ask the Clerk of Court to appoint a lawyer for you for free. South Carolina law says you can get a free lawyer appointed in an abuse and neglect case if you cannot afford to pay for a lawyer.

What will a lawyer do for me?

A lawyer will help you through your hearings and explain your rights. DSS will be represented by an attorney in court, and in most cases so will the Guardian Ad Litem. You will not appear "guilty" or make DSS or the judge angry by getting help for yourself. If anyone tries to tell you not to get legal advice, tell your lawyer. This booklet is designed to give you information and not legal advice. You should do what your lawyer advises you to do.

Remember that anything you say to a DSS caseworker can be used in the proceedings or investigation of your case.

INTRODUCTION TO ABUSE AND NEGLECT CASES

One of the jobs of the Department of Social Services (DSS) is to protect children from abuse and neglect. If DSS gets a report that a child may have been abused or neglected, it will investigate. If DSS decides the child has been hurt, it will do different things to protect the child and make the family safe. DSS can help a family get services like counseling or financial assistance. Sometimes, the child will need to be placed away from the family to make sure the child is safe.

If DSS is investigating whether your child has been abused or neglected, many people will help to figure out how to keep your child safe and healthy. The case could end up in Family Court, where a judge will decide how to keep your child safe. If the case goes to court, a person called a Guardian ad Litem (GAL) will be involved. The GAL's job is to make a decision about what is best for your child and to tell the judge about that decision.

This booklet explains the different things that might happen in a case, and what can be expected along the way from DSS, the GAL, your lawyer and the court system. As this booklet is read, keep in mind that the steps in your case may not be the same as the order in this booklet. When a case moves to another step, DSS should tell you about it, and you can read about what will happen in that part of this booklet.

Be sure that you always understand what your rights are, and what information and help you should get, so that you can make the best decisions for you and your child. **Never sign any agreement if you do not understand what it says or what your choices are. If you have any questions, talk to a lawyer.**

INITIAL REPORT AND INVESTIGATION

Who reports people to DSS and to law enforcement?

Anyone who believes your child has been abused or neglected can make a report to the Department of Social Services (DSS) or to the police. Some people *must* make a report if they suspect abuse or neglect, like teachers and doctors.

What counts as abuse or neglect?

Abuse can be physical, like hitting too hard, or it can be mental, like saying mean things to your child all the time. Sexual contact with a child is abuse. Neglect is when you do not give your child enough food; clothing; shelter; education; medical care; or supervision, and you either have the money or are given the money to do so.

What happens if DSS decides to investigate?

If DSS thinks the report sounds like abuse or neglect, DSS must start its investigation within 24 hours of receiving the report, as they want to prevent any harm to the child. They may also be required to tell the sheriff or the police about the report or their findings.

During the investigation, DSS or law enforcement may interview your child who is named in the report, and any other child that lives with you. These interviews can be done without you being there. DSS or law enforcement should tell you about any interviews with your child unless telling you might not be safe for your child.

DSS may also interview other people who have been involved with your family. They may review copies of medical, school, or police records.

What should I do when the DSS caseworker calls me?

When a DSS caseworker calls you at the start of an investigation, you may wonder how to act. Always remember that the caseworker's main job is to protect your child, but the caseworker should also try to help you make your home safe for your child. You should cooperate with the investigation if you can, while trying to persuade the caseworker that you can provide a safe home for your child.

What if DSS thinks my home is not safe?

At any time, if the caseworker thinks it is unsafe to leave the child in your home, DSS can ask law enforcement or a judge to move the child to a safe place. Instead of removing the child from your home during the investigation, you and DSS can also develop a Safety Plan.

What is a Safety Plan?

A Safety Plan sets out what things must be done to protect your child. If you and the caseworker can agree on what to do to protect your child, you can sign a plan, which allows the child to stay with you. It is very important that you do everything you agree to do in the plan. **Let the caseworker know if you need any help to do the things required by the plan.**

What if the caseworker asks me to sign a statement about my child's abuse or neglect?

The caseworker wants to make sure you understand the Safety Plan and agree to what it says. Sometimes this means the caseworker will ask you to sign a statement that talks about how your child was neglected or abused. You should be aware that what you sign might be used later, to say you admitted abuse or neglect. For example, it might be used in a criminal case or in a proceeding to take your child away for good. Try to get the caseworker to write the plan about what you will do to make your home safe for your child, instead of talking about what has happened to your child in the past. Ask for a copy of anything that you sign.

What should I do if the caseworker wants to take my child out of my home?

Give the caseworker the names of relatives who can keep your child while the report is being investigated. If you have a suitable relative, DSS may place the child in the home of your relative rather than placing the child in foster care.

What if the caseworker does not call me after the investigation starts?

You have the right to call the caseworker and ask about what is happening in your case. You can also call the supervisor if you cannot reach the caseworker or if you are having problems with the caseworker.

What happens after the investigation?

DSS has to make a decision about the case within **45 days** of getting the report unless they get an extension of fifteen days. They will decide either that a report is "indicated" or "unfounded." If they say the report is "indicated," it means the facts show that abuse or neglect most likely occurred. If they say the report is "unfounded," it means abuse and neglect were ruled out, or they are not sure abuse or neglect occurred, or the investigation could not be finished.

What happens if DSS decides the case is unfounded?

If DSS investigates and decides the case is unfounded, nothing else will happen regarding that report. However, DSS can keep the records for five years.

What happens if DSS cannot complete the investigation?

If the investigation cannot be completed, it may be reopened later. If the investigation is reopened, DSS has 45 days to make a decision.

What happens if DSS decides the case is indicated?

If DSS decides that the case is indicated, the caseworker must tell you about the decision and give you a fact sheet explaining it. The caseworker should also tell you about how DSS will provide services to you and your child.

What kind of services can DSS help me get?

DSS may be able to refer you to parenting classes, counseling, and transportation. They may be able to help you with childcare and medical care.

Do I have to accept the services DSS offers me?

If you agree to the services DSS offers you, you might not have to go to court. If you do not accept the services, or if DSS still does not think your child is safe, they can take you to court. If DSS is going to take you to court, the caseworker should explain that to you. At court, DSS can ask the judge to take your child from your home and make you cooperate with services. These actions will be discussed later in this booklet.

EMERGENCY PROTECTIVE CUSTODY

What is Emergency Protective Custody?

A law enforcement officer may take your child into emergency protective custody without your permission if any of these emergency situations happen:

- ❖ Law enforcement thinks your child is in very serious danger because of abuse or neglect;
- ❖ You get arrested and there is no one else there to take care of your child. You can agree in writing that you want someone else to take care of your child.
- ❖ Your child is lost and needs to be with an adult, but law enforcement cannot find you.

Can law enforcement take my child away without giving me a hearing?

In emergency situations your child may be removed before the court hearing. In other cases, DSS and law enforcement will not remove your child from your home without a court hearing first.

Where will law enforcement take my child?

The officer will take your child to a DSS caseworker. The caseworker will temporarily put your child in a licensed foster home or shelter. DSS should tell you where your child is unless it is not safe to do so. Your child will not be taken to a jail.

What if my child needs emergency medical care?

If your child needs emergency medical care, the officer will take your child to a doctor or hospital and you will have to pay for the medical care. If a medical

examination is done only to determine child abuse or neglect, you will have to pay only if it is determined that child abuse or neglect occurred.

You can ask the officer to take your child to your family doctor if you want. This will make your child more relaxed, and your family doctor may be able to tell the officer important information to better understand your child's situation.

What happens after my child is taken into emergency protective custody?

DSS will usually do an emergency investigation within 24 hours of taking your child. DSS will try to figure out if it should take legal custody of the child, return the child home, or place the child with a relative. If possible, DSS will have a meeting with you, your relatives, and any other important persons to talk about the case. **Be prepared to explain why it would be safe to let the child go home with you or where the child could stay until your home is safe.**

What will DSS do after my child is placed into emergency protective custody?

When DSS has emergency custody of a child, there will be a probable cause hearing within 72 hours after the child was first taken into emergency protective custody. You should get an attorney if you can before you go to court. At this hearing, the judge will decide if there was probable cause to take your child from you and if your child should stay out of your care until the next hearing.

DSS will do an investigation. DSS will also fill out some papers asking the family court to have a "merits hearing," which is also called a "removal hearing." At this hearing, the court will decide whether your child should stay out of your home until you make your home safe.

If DSS has custody of my child, will I know where my child is?

DSS should tell you where your child is and arrange for you to visit your child, unless DSS thinks your child would not be safe if you knew where he has been placed.

What if DSS won't tell me where my child is?

Even if DSS says it is not safe for you to know where your child is, you should still ask to see and visit with your child. At the merits hearing, it will be good for your case if you have visited your child as often as possible. You can even ask DSS to arrange visitation so it is safe for your child. For example, you could visit your child at the DSS office, and a DSS caseworker could watch the visit.

THE PROBABLE CAUSE OR 72 HOUR HEARING

What is a Probable Cause Hearing?

At a probable cause hearing, the judge decides if there was a good reason for removing your child from your home. The judge will also decide if it is safe for your child to go back home.

If you do not have an attorney and cannot afford one, ask the judge to appoint one for you at this hearing.

What kinds of things will the judge look at in the probable cause hearing?

You and your attorney may give the judge affidavits that explain why your child should not have been removed and why it is safe to return your child to your home. Affidavits are statements written out and signed while you are under oath. You and your attorney can also ask DSS witnesses questions about removing your child. The judge will also look at whether DSS tried other solutions before taking the child away from you.

Under the law, you cannot call witness or testify at this hearing. You will be able to do that later, depending on how your case is worked out.

What happens after the judge makes a decision?

The judge might decide to return your child to your home but tell you to make some changes. You may have to keep working with DSS and go to classes or counseling.

If the judge thinks it is not safe for your child to return home, your child will remain in the legal custody of DSS.

The judge will appoint a Guardian ad Litem (GAL) for your child. Also, if you qualify and do not have an attorney already, one will be appointed for you. The judge will set the date and time of the next hearing, called the merits hearing, which is the hearing about whether to remove your child from your home long-term.

Where will my child stay until the merits hearing?

Your child will stay in a foster home or other places that DSS sends kids to keep them safe. Sometimes, the judge will place your child with one of your close relatives.

MERITS OR REMOVAL HEARING

What is a Merits Hearing?

A merits hearing, sometimes called a removal hearing, is a hearing to decide whether to remove your child from your home and take away custody of your child. Your child cannot be taken away unless the judge finds that DSS has proven your child was abused or neglected. The judge has to find that your child will not be safe in your home.

At this point in time, the judge can also place your name in the Central Registry of Child Abuse and Neglect (Registry). The Registry is a computerized list that DSS keeps. It has the names and addresses of people who have been found by a judge to have abused or neglected a child. If your name is on the list you may not be able to get a job working with children. Certain places like day care centers do not let people who are on the Registry work for or volunteer for them.

What if the judge decides to remove my child from my home?

If the judge removes your child from your home, a court order will be written. The order will say what services were offered to your family and why those services did not fix the problem. At this hearing, DSS may ask the court to stop its efforts to help your family reunify. This is referred to as “foregoing reasonable efforts”. This means that DSS does not believe it is in your child’s best interests to return to your home and DSS wants the court to terminate your parental rights so that your child may be adopted. Usually, DSS will only ask for this at the merits hearing under certain circumstances, such as cases where a child has been subjected to severe abuse and/or neglect. You will get a notice in the mail if DSS is going to ask the court to do this.

What if my child is going to stay in foster care?

If your child is going to stay in foster care, the judge will approve a placement plan. The placement plan is supposed to tell you exactly what you have to do to get your child back.

What is a placement plan?

The placement plan says what you and DSS have to do to make your home safe. It will also include objectives and treatment services for you to complete before your child can be returned to you. DSS has to give you a copy of the plan. DSS also has to tell your child about what the plan says, in a way that a child can understand.

Do I have to help make the placement plan?

DSS actually writes the plan, but you and your child should be involved in making the plan, too. Be sure to tell the caseworker what kind of help you need to fix the problems that caused your child to be taken from your home.

It is very important for you to work with DSS in coming up with the placement plan. If you do not, the court will not let you complain about the plan later.

Start working on completing the plan right away, because the law limits the amount of time you get to complete the plan.

The placement plan will include:

- ❖ Why your child was taken away, what changes you need to make to get your child back, and how much time you have to make these changes;
- ❖ The services that will be offered to you and other adults in your home;
- ❖ How often the caseworker will meet with your child who is in foster care;
- ❖ How much child support you have to pay while your child is in foster care;
- ❖ Visitation schedules for you and other relatives, if safe for the child;
- ❖ Where your child is staying, unless telling you would not be safe;
- ❖ Services offered to your child and the foster parents; and
- ❖ A notice reminding you that if you do not do what the placement plan says, your parental rights could be terminated.

Keep in mind that it is not enough to simply complete the plan. You must show you have remedied, or fixed, the condition that caused your child to be taken from you. For example, if alcohol or drug problems are part of the reason your child was taken away, the placement plan might tell you to go through a treatment program. You will also have to undergo random drug tests to show you are no longer using drugs or alcohol. Both of these have to be done, to the satisfaction of the Judge, before your child can be returned to you.

What if I do not agree with the placement plan?

If you think the plan won't work or DSS didn't include you in making the plan, you or your attorney should tell the judge at the hearing as soon as you can. If the plan is shown to the judge at the merits hearing, you or your attorney should object then.

If the judge at the hearing does not accept the placement plan, DSS will have to send a new plan to the court within 10 days after the hearing. You can ask for a hearing to discuss the plan. If you do not ask for a hearing, you will lose the right to object to the plan.

The placement plan will become a part of the court order from the merits hearing. If you fail to do what the placement plan tells you to do, you may lose your child for good.

You can appeal the judge's order if you are not happy and you believe there is a legal reason to appeal.

INTERVENTION HEARING

What is an Intervention Hearing?

If DSS decides in its investigation that your child can be left at home but you should be ordered to receive services, DSS will ask the family court for an intervention hearing. The hearing is supposed to be held within 35 days from the time DSS asks for the hearing. DSS should send you notice of this hearing, at least 72 hours before the hearing. You can get an attorney for this hearing if you want one.

What will happen at the Intervention Hearing?

Before the judge will order you to receive services, DSS has to prove your child was abused or neglected. They also have to prove you need services to help you protect your child. If DSS proves these things, DSS will make a treatment plan for you and your family. You can appeal the judge's order if you are not satisfied and you believe there is a legal reason to appeal.

Also, the judge may place your name in the Central Registry of Child Abuse and Neglect (see page 10 for information about the Registry).

What is a treatment plan?

A treatment plan is supposed to protect your child and help you so your child will be safe in the future. It will talk about what kinds of changes you need to make and which services will be provided to your family. Make sure you understand the treatment plan before you go to court. You can ask your attorney to look at it and decide if it is fair or helpful.

The judge will sign a court order after the intervention hearing saying what was decided. The court order will talk about the treatment plan and will set dates for when the things in the plan must be done. If the judge thinks there should be another hearing before the case is closed, the order will say when that hearing will be.

What if I do not agree with the treatment plan?

Show the treatment plan to your attorney. If your attorney does not think it is fair or helpful, your attorney should tell the judge at the hearing the reasons why you disagree with it and ask the judge to change it.

Will the court review the treatment plan later?

DSS has to schedule a review hearing in the family court at least once every 12 months. At the review hearing, the judge will look at whether the things that you were ordered to do have been done. If there are no more problems, the judge will close the case and stop the services. If there are still problems, the judge will decide whether you need more services and whether the treatment plan should be changed.

PERMANENCY PLANNING HEARING

What is a permanency planning hearing?

If your child is put into foster care, a permanency planning hearing must be held within one year. At this hearing, the judge will decide about a permanent, long-term plan for your child. You should get a notice about this hearing at least 10 days before the permanency planning hearing. You will also get a copy of the court papers and a report from DSS.

What information will the DSS report have in it?

The report will have the following information in it:

- ❖ What services DSS offered to you and how well you worked with DSS;
- ❖ How often you visited your child and how much child support you paid;
- ❖ How your child is doing;
- ❖ The recommended long-term plan for the child and a suggested schedule;
- ❖ Any reports of the local foster care review board.

The judge looks at the report to help decide what permanent plan is best for your child.

What kinds of things can the court decide to do?

The judge will do one of the following things after the permanency planning hearing:

1. The judge may let your child go home, if it is safe to do so. The court might order DSS to keep working with you and your child for up to 12 months after your child returns to your home.
2. The judge may find that you will be ready for your child to come home within 18 months of the date your child went into foster care.
3. The placement plan may continue up to this time period, if that would be the best thing for your child. After the time period, another permanency planning hearing will be held. If your child cannot go home at this time, the judge cannot give you any more time.
4. The judge may find that your child should never be returned to you. The judge might order DSS to file a complaint to terminate your parental rights and find a family to adopt your child.
5. The judge may find that your child should not be returned to you, but that adoption is not the best thing for your child. The judge might give responsibility for the child to a relative or someone else or make another permanent plan for your child.

If the judge finds your child should not be returned to you, permanency planning hearings will be held every year until your child is adopted or another permanent plan is made for your child.

It is important to know that you only have 12 months from the date your child went into foster care to make your home safe by completing your placement plan, unless the court gives you 18 months. The court can give you up to 18 months, if you are making good progress on your placement plan and trying to make your home safe for your child. If you do not successfully complete your placement plan, your child may never be returned to your home.

You can appeal the judge's order if you are not happy with it and believe there is a legal reason to appeal.

TERMINATION OF PARENTAL RIGHTS

What does Termination of Parental Rights (TPR) mean?

TPR means you lose all legal rights to your child forever. After your rights are terminated, you are not legally your child's parent anymore, and someone else can adopt the child.

What should I do if I am served with court papers to terminate my parental rights?

Talk to your lawyer right away. If you do not have a lawyer, it is important for you to find one as soon as possible. You may be eligible for a court-appointed lawyer, so contact the clerk of court in your county immediately.

What will the judge look at in a hearing to terminate my parental rights?

To terminate parental rights, the judge must decide that:

1. There is clear and convincing evidence that there is a reason for terminating your parental rights. This means the judge has to be very sure about the case against you.
2. Even if there is a reason for terminating your parental rights, the judge also has to find that terminating your parental rights is in the best interests of your child.

What are some of the reasons the judge may terminate my parental rights?

Here are the reasons the judge may terminate your parental rights:

- ❖ Your child, or another child, while living with you, has been subjected to severe or repeated abuse or neglect, and your home cannot be made safe within 12 months.
- ❖ Your child has been taken away because of a court order, your child has been out of the house for 6 months, and you have not fixed the problems that caused the child to be taken away.

- ❖ Your child has lived with someone else for 6 months, and during that time, you have not visited the child or have not given the child any financial support. If there is a good reason why you have not visited or supported the child, the court will look at this.
- ❖ You have a sickness or condition that has been diagnosed by a doctor or or counselor. This sickness or condition is probably not going to change over time, and it makes it very hard for you to be a parent and to take care of your child. Alcohol or drug addiction is considered one of the conditions.
- ❖ Your child has been abandoned.
- ❖ The presumptive legal father is not the biological father of the child, and it is best for the child to terminate the parental rights of the presumptive legal father. The presumptive legal father is the person who is married to the mother (at the time of birth), but is not the biological father of your child.
- ❖ Your child has been in foster care for 15 out of the most recent 22 months.
- ❖ You were convicted of or plead guilty to a criminal offense involving the death or hospitalization of your child or another child.
- ❖ You were convicted of or plead guilty to murdering the child's other parent.
- ❖ You had a child as a result of criminal sexual conduct (rape). (A conviction or guilty plea is required).

What will happen to my child if my parental rights are terminated?

The judge will place the child either in the custody of DSS or another child-placing agency for adoption.

Can I appeal the court's decision to terminate my parental rights?

Yes, you can appeal if you and your lawyer think you have a good legal reason to disagree with the decision.

What will happen if the judge decides NOT to terminate my parental rights?

The judge will decide whether to send your child back home with you or have the child continue to live somewhere else. The judge will do one of the following things:

1. If you asked for custody and the judge thinks your child would be safe at home, your child may be sent home. The judge may order DSS to keep working with you and giving you services for up to 1 year.
2. The judge may keep your child in foster care.
3. The judge may decide to place your child with a relative or someone else who is responsible enough to keep your child.

If DSS keeps custody of your child, the judge will have to work out a new permanent plan for your child or order a new permanency hearing. The new permanency hearing should be in front of the same judge, if possible.

GENERAL INFORMATION ABOUT COURT HEARINGS

What should I do if I receive a notice that the court has scheduled a hearing about the abuse or neglect of my child?

It is very important for you to talk to your attorney. Your attorney should help you get ready for your court hearing.

What will an attorney do for me?

An attorney will tell you what DSS is saying about how you take care of your child. An attorney can tell you what kinds of things other witnesses might say and what kinds of things the court can do if it does not think your child is safe. You and your attorney can talk about ways you can persuade the court that you can give your child a safe home.

How can I help my lawyer?

You should tell your lawyer everything you know about the case so there are no surprises. What you tell your lawyer is confidential; the lawyer will not tell anyone else without your permission. If you think a certain witness will say something bad about you, explain that to your lawyer. Be sure to tell the lawyer about any people who might be witnesses for you. When the lawyer or Guardian ad Litem has made an appointment or interview with you, try to be on time and to work with them.

Also, try not to interrupt your lawyer during the hearing, so that your lawyer can listen to what the witnesses and other lawyers are saying.

Who will be at the hearing?

The judge will be there to conduct the hearing. There will be a lawyer for DSS, your lawyer, and the Guardian ad Litem (GAL). There may also be a lawyer for the GAL. A DSS caseworker will be there to give their report and what they recommend. There may also be law enforcement officers if they were witnesses in the case. Other people may also be there as witnesses in the case. If other agencies or people, like foster parents, have been helping provide services, they may come to the hearing, too.

What will I have to do?

You may have to testify. This means you will be asked to take the witness stand and swear under oath that you will tell the truth. Your lawyer will ask you questions to let you tell your side of the story. Try to answer the question your lawyer asks, instead of telling your whole story at once. Your lawyer will give you a chance to explain what is important to your case. If you do not understand a question, or you do not know the answer to a question, just say so.

Other lawyers will have a chance to ask you questions also. This is called “cross-examination.” This could be very hard on you, because they may be trying to get you to admit things that you think are not true. Cross-examination may make you uncomfortable. Your lawyer will warn you about some of the hard questions they will ask, and you should just answer the questions as well as you can.

What should I do if other witnesses are not telling the truth?

At the hearing, you might get frustrated because you think other witnesses are lying or are not telling the full story. Your lawyer will try to deal with this. Your lawyer will ask the witnesses questions. If you think a witness is lying, and you know facts that will help your lawyer ask questions, be sure to tell your lawyer. Also, you and your witnesses will have a chance to tell your side of the story.

What will the Guardian ad Litem (GAL) do?

The Guardian ad Litem or his attorney will ask questions of the witnesses and the GAL may testify at the hearing. The GAL will give a report telling the court how the child is doing and what the GAL thinks is best for the child. The GAL’s report will be based on talks the GAL has with people involved with the case, including you, your child, anyone taking care of your child or giving services to your child, and the DSS caseworkers. You should always cooperate with the GAL and make sure you go to any meetings the GAL schedules with you.

What will the judge do?

The judge decides what to do to protect your child. You may end up going to more than one court hearing. At each hearing, the judge will decide where your child will stay until the next hearing, when you will come back to court, and exactly what you need to do before the next hearing.

What does it mean if you settle the case?

DSS may ask you to settle the case. This means that you and DSS reach an agreement about what will happen to the child. If you settle, you do not have to go to a trial about the case. The agreement between you and DSS should include a placement plan for the child, what services DSS will provide, and what you have to do. If the child will not be living with you, it should say who will take care of the child, and what has to happen before the child can come back to live with you.

Even if you reach an agreement, a judge still has to review it and approve it. The judge will ask you if you understand it and if you agree to it. Be sure you know everything you are agreeing to, because the agreement will become a written court order. You may be agreeing that your child has been abused or neglected, and you may be giving up your rights to make decisions about your child. **It is your choice whether to settle the case or have a judge decide the case.**

GUARDIAN AD LITEM

What is a Guardian ad Litem (GAL)?

The GAL is a person who will assess the case and make a report to the court. In any hearing about child abuse or neglect, your child needs someone to look out for the interests of just him or her. Children may not understand what is best for them. A GAL is there to look out for the best interests of the child.

A GAL does not work for DSS and does not represent you. The GAL looks out for the child. Usually the GAL is not a lawyer and will have his/her own lawyer in court. However, a lawyer can be a GAL.

What is the GAL's job?

The GAL has a special job in the court case. The GAL assesses the case and makes a report to the court. The report has recommendations about what would be best for your child. The recommendations may be different from what the child says that he/she wants.

The GAL should get information from all the people in the case, including you and DSS. Then, the GAL must reach a conclusion about the following things: whether the child is safe in your home, whether the child should stay with you, and whether special services are needed to make your home safe. The GAL will write these conclusions into a report. You or your attorney should receive a copy of the report.

What should I say to the GAL?

The GAL is a very important person for you and your child. As part of the assessment, the GAL will need to talk to you and your child (if your child is old enough). You can ask the GAL to only contact your lawyer instead of calling you directly to arrange meetings, but you should not refuse to talk to the GAL. You should make sure the GAL hears your side of the story. It is very important for you to cooperate with the GAL, since the judge usually pays a lot of attention to the GAL's report to the court. You can have your attorney with you when you talk to the GAL.

THINGS TO REMEMBER

- ❑ Cooperate with the DSS caseworker that is investigating your case. Remember that the caseworker is worried about the health and safety of your child, just like you.
- ❑ If the DSS caseworker investigating the case says a Safety Plan is needed, make sure you tell the caseworker things you need help with to make the Safety Plan work.
- ❑ Keep up with what is going on in your case. If you do not hear from the caseworker about what is happening, call the caseworker or supervisor. The phone numbers are in the brochure DSS gives you.
- ❑ If it looks like your child may be removed from your home, either short-term or long-term, try to figure out a person who your child already knows who would be able to keep your child. Sometimes you can make these arrangements yourself and DSS won't even have to become involved.
- ❑ If you have to go to court, get a lawyer. You have a right to a lawyer. Do not waive (give up) your right. (See page 3.)
- ❑ If your child is removed from your home, you should take part in developing a placement plan for how you can get your child back home. Make sure you understand everything you need to do. If there is some reason you cannot do what you are asked, tell your caseworker what the problem is and ask for help.
- ❑ If either DSS or a judge tells you that you should get services, such as counseling for you and your child, you should cooperate. If you need help to do what they tell you, you should tell your caseworker.
- ❑ If your child is placed outside your home, visit and support your child, unless the judge says you are not allowed to do these things.
- ❑ If the judge sets up a visitation schedule, or orders you to pay support for your child, make sure you do what the judge says. If you need transportation in order to visit your child, tell the DSS caseworker. If you do not visit your child or pay child support, DSS may ask the judge to terminate your parental rights.
- ❑ Never sign an agreement if you do not understand what it says, or what your choices are. If you have any questions, talk to a lawyer. Cooperate with the Guardian ad Litem (GAL) if your case is in court. The GAL's report to the judge will have a big influence on your case.