

PARENTS IN "CHINS" CASES:

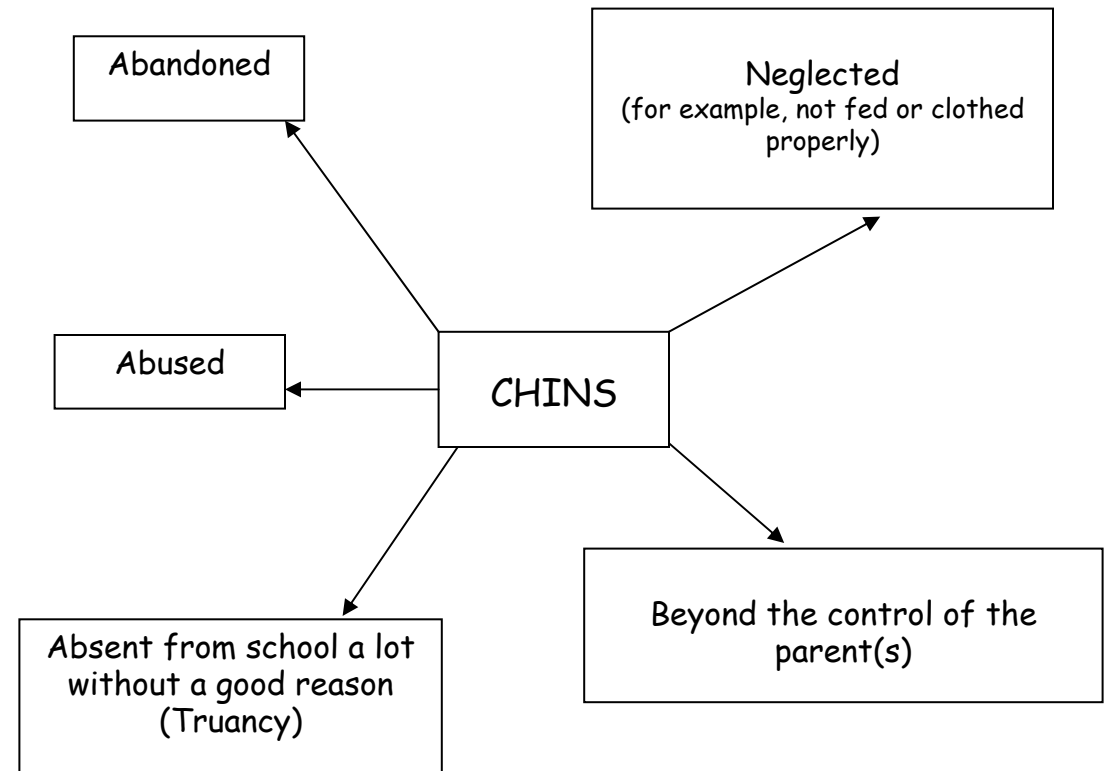
WHAT TO EXPECT FROM YOUR LAWYER AND THE COURT



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

What does "CHINS" mean?

"CHINS" means **CH**ild **I**n **N**eed of **C**are or **S**upervision. Basically, a CHINS child is one who is one or more of the following:



Why Do You Have to Go to Court?

- The purpose of family court is to keep children safe and to help families create a safe home for their children. When making decisions about the case, the judge must decide what is best for the child.
- 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 for Children & Families Services (“DCF”). This means that, for the time being, DCF is legally responsible for your child, and can make decisions about where your child should live and what you need to do to have your child returned to you. The judge must approve certain decisions made by DCF.

What Happens After the Court is Involved With Your Family?

- If your child is said to be a Child in Need of Care or Supervision, you will be told in writing and you will receive a copy of the paperwork that has been given to the judge. You will receive a **petition**, which was written after a concerned person contacted DCF about your child.
- The **petition** is a form which will say in a few sentences why DCF is concerned about the safety of your child. Attached to the petition is an **affidavit**.
- The **affidavit** tells more about why DCF is concerned about your child. It lists one or more **allegations**—statements of what is believed to have happened to your child.

If you do not understand the petition or any other paperwork, ask your lawyer.

Who Will Represent You?

You will receive a letter from the court telling you that you have the right to a lawyer. If you cannot afford to pay for a lawyer, you can ask the court to appoint one for you. Basically, your lawyer should:

- meet with you before court hearings and speak for you in court and
- help you understand your rights and tell you about the hearings you will attend and what to expect at each hearing.

We will tell you more about what your lawyer should do later in this booklet.

- **If you had expected to hear from your lawyer, but have not, call him or her. Also, if you have questions or problems, call your lawyer.**

Your lawyer’s name, address and telephone number are:



Name: _____

Address: _____

Telephone # _____

Best time to call _____

Others Who Will Be Involved with the Case

The State's Attorney

This lawyer has to prove why your child is a Child in Need of Care or Supervision. This lawyer works closely with the social worker.

The Social Worker

The social worker, from DCF, works with children and families to work out the problems that brought them to court. The social worker also gathers information to help the judge make decisions about the case. If the social worker hasn't already given you a booklet called "A Parent's Guide to DCF," ask for it.

Your Child's Lawyer

Your child will have a lawyer appointed by the court. The lawyer's job is to represent your child in court.

The Guardian Ad Litem

Your child will have a Guardian ad Litem (GAL) appointed by the court. GALs are volunteers. The GAL's job is to meet with you, your child, and others, and tell the court what they think is best for your child. The GAL works closely with your child's lawyer.

When Will You Have to Go to Court?

You will 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. Those hearings and meetings are described in the following pages. **It is very important to attend these hearings and meetings.** (But, as explained on the next page, you may not know in advance about the Emergency Detention Hearing.) Most cases have the following court hearings and meetings:

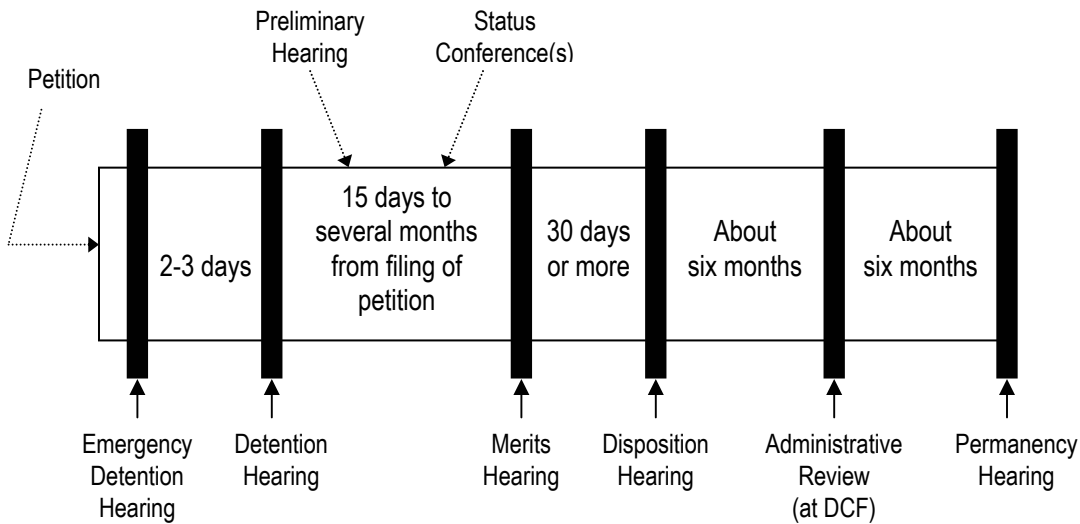


- Emergency Detention Hearing
- Detention Hearing
- Preliminary Hearing
- Status Conference
- Merits Hearing
- Disposition Hearing
- Administrative Review
- Permanency Hearing

What Will Happen in Court and What Will Your Lawyer Do?

Basic Steps in a CHINS Case

Each court hearing or DCF meeting has a different purpose. They are all described 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.



1. Emergency Detention Hearing

- You may not know about the **Emergency Detention Hearing** because it is done quickly, as an emergency. The judge may be contacted over the phone by the state's attorney and told that your child needs to be taken into emergency custody.
- If the judge believes that your child is in immediate danger or has run away, the judge may order that your child be taken into emergency custody.
- The judge decides on a temporary plan for your child until the next hearing. The judge may give custody of your child back to you, or temporarily transfer custody to DCF or another person, like a relative. If custody is transferred to DCF, that doesn't mean that your child will never return home. Most children eventually return home once the family has worked out its problems.

Notes:



2. Detention Hearing

- A **Detention Hearing** will be held within 2-3 working days of the Emergency Detention Hearing. You will receive a notice telling you that you must appear for the hearing. You will also receive information about how to apply for a lawyer appointed by the court, if you cannot afford a lawyer. If the court appoints a lawyer and gives you the name, call that lawyer as soon as possible.

Sometimes, you will meet your lawyer for the first time at the courthouse, before the hearing. Sometimes, your lawyer will not be present for the detention hearing, and you will meet with your lawyer for the first time sometime after the hearing.

- Your lawyer's job is to talk with you about what happened with your child, answer your questions, and speak for you in court.
- At the hearing, the judge will decide who should have custody of your child. The judge may decide that your child should be in your custody, or that custody should be temporarily transferred to DCF or another person. If custody is transferred to DCF, DCF will decide where your child will live for the time being. If that happens, you should let your lawyer or social worker know if there are any relatives or close friends who can provide a safe home for your child. You and your lawyer will talk to the social worker about setting up a schedule for you to visit and/or talk with your child.

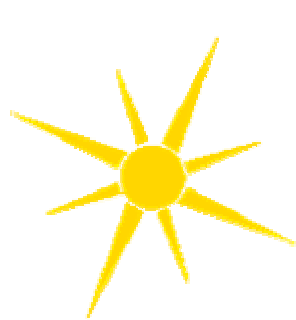
- Before the hearing, you and your lawyer will talk so that you can make a decision. This is an important decision, because it affects what will happen with the rest of the case. Be sure that you understand your choices, and what they mean. Be sure that your lawyer explains this to you.
- If you admit to the allegations in the petition, the next hearing will be a **Disposition Hearing**. If you deny the allegations in the petition, the next hearing will be a **Status Conference** or a **Merits Hearing**.

The time and place of the **Preliminary Hearing** are:

Time and Date: _____

Place: _____

Things I want to talk about or ask about:



The time and place of the **Detention Hearing** are:

Time and Date: _____

Place: _____

Things I want to talk about or ask about:

3. Preliminary Hearing

- The purpose of the **Preliminary Hearing** is to discuss whether you will admit or deny the allegations in the petition. This means that you will decide whether to admit or deny that your child is a Child in Need of Care or Supervision.

4. Status Conference

- The **Status Conference** is a time for the court to find out what is happening with a case and to schedule the next court date.
- If you decided not to admit to the allegations in the petition at the Preliminary Hearing, you may decide to admit to the allegations in the petition at the **Status Conference**. If that happens, the next hearing is a **Disposition Hearing**.
- If you do not admit to the allegations in the petition, then a **Merits Hearing** will be scheduled. The lawyers will discuss scheduling the hearing, and what work needs to be done to prepare for that hearing.
- Before the **Merits Hearing**, the court may schedule another **Status Conference** to follow-up on things that need to be done before the **Merits Hearing**.

The time and place of the **Status Conference** are:



Time and Date: _____

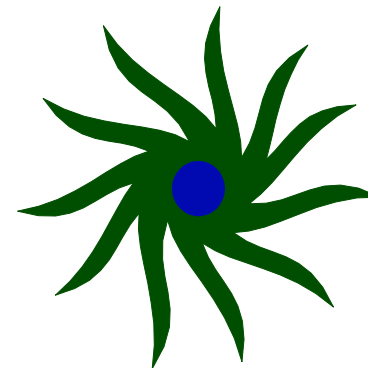
Place: _____

Things I want to talk about or ask about:

5. Merits Hearing

- This is the **trial** in the case. If your child is placed in the temporary custody of DCF, the court must try to have the Merits Hearing within 15 days after the petition is filed with the court. But, it usually takes longer than that to have the Merits Hearing, mostly because of the large number of cases in court.
- Your lawyer will meet with you before the hearing to listen to your side of the story and talk with you about how your story will be presented in court. Your lawyer will talk to people who know you and your child (“witnesses”), and may have them come to the hearing to tell the judge about you and your child. This is called “testifying.” If you will be testifying, your lawyer will go over the questions that he/she will ask you, and the questions that the state’s attorney may ask you. Your lawyer will research the legal parts of the case, and look over the DCF file and any paperwork that is important to the case.
- At the hearing, the state’s attorney (or “the state”) must prove that your child is a Child in Need of Care or Supervision. Witnesses will testify for the state, and your lawyer will ask them questions to challenge what they say. Your lawyer may have witnesses to testify for you, and the state will question those witnesses.
- After hearing from all of the witnesses, the judge decides whether your child is a Child in Need of Care or Supervision. If the judge decides that your child is CHINS, a **Disposition Hearing** will be held. This hearing should be held within thirty days after the judge’s ruling. If the judge decides that your child is not CHINS, then the case is dismissed and your child returns home.

The time and place of the **Merits Hearing** are:



Time and Date: _____

Place: _____

Things I want to talk about or ask about:

6. Disposition Hearing

- Before the **Disposition Hearing**, the social worker will prepare a Disposition Report, which must be filed with the court and made available to your lawyer three days before the Disposition Hearing.
- The Disposition Report is DCF's plan for you and your child. It usually requires that you, and possibly your child, do certain things, like participate in counseling. The purpose of this is so that you and your family can work out your problems. If your child is in DCF custody, the plan may require that your child remain in DCF custody for the time being. The plan may be for your child to return home when it is safe for him or her to do so. Your lawyer will discuss the Disposition Report with you. If your lawyer has not contacted you to discuss the report, call him or her. If everyone agrees to DCF's plan, then the court usually will approve the report. If everyone does not agree to DCF's plan, then there will be a **contested hearing**.
- If there is a **contested hearing**, you and your lawyer must discuss a new plan that will deal with the court's concerns about the safety of your child. Your lawyer may present this plan to the court, and have witnesses testify for you at the hearing. The judge will decide who will have custody of your child and what you, and possibly your child, must do. If your child is placed outside of your home, the judge will decide about any visits between you and your child.
- You need to work with DCF and follow the court's orders about fixing the problems in your family. For example, participate in counseling or take a class on how to be a better parent. If you don't, it could take longer for your child to be returned to you, and you could even lose your rights to your child forever. After the Disposition Hearing, let your lawyer know every few months how the plan is working. If the plan is not working, your lawyer may ask the court to change the plan.
- Your lawyer will tell you about your right to appeal the judge's decision at the Merits Hearing and at the Disposition Hearing. This means that you can ask a higher court, the Vermont Supreme Court, to double-check the judge's decision.

The time and place of the **Disposition Hearing** are:



Time and Date: _____

Place: _____

Things I want to talk about or ask about:

7. Administrative Review

- If your child is placed in DCF custody, then every six months from the time that your child first came into custody, an **Administrative Review** will be held at the DCF office. The

plan for your family will be discussed at this meeting. The plan for your family is called a caseplan. DCF will send you a letter inviting you to this meeting.

- The person in charge of the meeting will talk about the goal for your family, whether you and DCF are doing what you are supposed to do, and how your child is doing. Your social worker and others involved with the case will be there. Changes to the caseplan may be made. You may challenge certain parts of the caseplan through an administrative process.
- Your lawyer may be present for this meeting, particularly if you do not agree with the caseplan, or if DCF is not following the caseplan. Some DCF offices do not send notice of the Review to parents' lawyers, so you must let your lawyer know of the date if you want your lawyer to attend the meeting.

The time and place of the **Administrative Review** are:



Time and Date: _____

Place: _____

Things I want to talk about or ask about:

8. Permanency Hearing

- Every year, a **Permanency Hearing** will be held in court. The purpose of this hearing is almost the same as the purpose of the Administrative Review. This hearing will take a serious look at making sure that your child has or will soon have a permanent home, for the child's well being. Your child could be placed in your home. On the other hand, the court could consider another permanent home for your child, such as adoption. In making this decision the court will look at many things, including whether you have done what DCF has asked you to do in the caseplan.
- You have a right to disagree with the caseplan at this hearing. If you disagree with the caseplan, then the court will schedule a contested hearing. At this hearing, your lawyer may have witnesses to testify on your behalf.



The time and place of the **Permanency Hearing** are:



Time and Date: _____

Place: _____

Things I want to talk about or ask about:

This booklet was created by the Office of the Defender General, 120 State Street, Montpelier, VT 05620-3301. It is intended to provide a basic view of what to expect from your lawyer and the court. It is very important to talk with your lawyer about anything happening in your case that you don't understand. This booklet's format is modeled after a booklet created by the New Mexico Court Improvement Project, which was federally funded by the U.S. Department of Health & Human Services.