

***A GUIDE FOR PARENTS
IN
CHINS* CASES:***

**WHAT TO EXPECT FROM
YOUR LAWYER
AND
THE COURT**



Being involved in a “CHINS” case can be very confusing and stressful for a family. This booklet provides information, not legal advice. It will help you to understand what to expect from your lawyer and the court.

*CHINS stands for...

Children In Need of Care or Supervision

November 2017

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This booklet is intended to provide a basic overview 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 do not understand.

WHAT IS "CHINS"?

- ◆ "CHINS" is a term that stands for a **CH**ild **I**n **N**eed of Care or **S**upervision.
- ◆ It refers to a child who may be:
 - Abandoned
 - Abused
 - Neglected (not adequately cared for)
 - Beyond the parent's control
 - Truant

The job of the court is to keep your child safe and to help you create a safe home for your child. The judge must decide what is best for your child, based on information that you and others provide.

WHY DO I HAVE TO GO TO COURT?

Someone is concerned about your child. Someone might have called the Child Protection Hotline to report a concern. Someone may have called the police. When that happens, a Family Services social worker or police officer looks into the matter. The police may deem the situation an emergency and contact the State's Attorney. If the social worker has concerns about your child's safety or well-being, the social worker contacts the State's Attorney (prosecutor).

- ◆ The Department for Children and Families, Family Services Division (DCF–Family Services), or police may have talked with you and other people who know you and your family.
- ◆ The State's Attorney filed a *petition* (form) in the Family Division of the Superior Court with an *affidavit* (written statements made under oath) describing why your child may need care or supervision. The statements can be from DCF, a police officer, or the concerned person.
- ◆ As the child's parent or guardian, you have a right to be at court hearings and to know what is going on.

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WHAT HAPPENS ONCE THE COURT IS INVOLVED WITH MY FAMILY?

- ◆ You will receive a copy of the paperwork. This includes the petition and affidavit.
- ◆ A hearing will be held. You are entitled to a lawyer.
- ◆ The judge can require that you and your family get services.

- ◆ The judge can order that your child be temporarily placed in the custody of a friend or relative, or in the custody of the DCF-Family Services. If your child is placed in DCF custody:
 - DCF would be legally responsible for your child.
 - DCF can make decisions about where your child will live and what you need to do before your child can return home.
- ◆ The judge will review steps taken by DCF-Family Services to keep your child safe.
- ◆ The court will keep you informed of its decisions. You should receive copies of any Orders issued by the judge.

HOW DO I KNOW IF I NEED A LAWYER?

- ◆ You will receive a notice telling you when you must appear in court. This is called a "Notice of Hearing."
- ◆ If the Notice says that you have the right to a lawyer, you can hire a lawyer or ask the court to appoint one for you.
- ◆ If you cannot afford to hire a lawyer, you can apply for one at the courthouse. You may need to pay a fee on a sliding-scale basis.

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WHAT DOES MY LAWYER DO? WORKING WITH MY LAWYER

Most often, you will meet your lawyer for the first time at the courthouse before the hearing. (If your lawyer cannot be present for the first hearing, you should meet with him or her after the hearing.)

- ◆ Your lawyer will:
 - Talk with you about what happened with your child
 - Help you understand your rights
 - Answer your questions
 - Tell you about the hearings you will attend
 - Tell you what to expect at each hearing
 - Speak for you in court
 - Explain to you what happened after each hearing
 - Keep you informed of future hearing dates
 - Return your phone calls.
 - Lawyers are often busy in court so it may take a day or two for your lawyer to get back to you.

If you have not heard from your lawyer, call him or her as soon as possible. If you have questions or problems, call your lawyer.

- ◆ If you have a court-appointed lawyer who does not do these things, you can tell the judge during any hearing. You can also tell the Defender General, because that office oversees your lawyer.

Defender General's Office
6 Baldwin Street
Montpelier, VT 05663-3301
(802) 828-3168

It is your responsibility to let your lawyer and the court know if your phone number or address changes.

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OTHERS WHO WILL BE INVOLVED WITH THE CASE

The State's Attorney (Prosecutor)

The State's Attorney has to prove why your child is in need of care or supervision. The State's Attorney works closely with the DCF-Family Services social worker.

The Social Worker

The DCF-Family Services social worker works with children and families on the issues that brought them to court. Your social worker is looking out for the best interests of your child and wants to support your family to address the problems that caused the situation to be in court. The social worker coordinates referrals to services you may need for your family and must include you in developing a case plan. The social worker makes recommendations to the court on what kinds of supports and services are needed. The social worker gathers information to help the judge make decisions about what should happen with your case.

Your Child's Lawyer

The court will appoint a lawyer to represent your child in court.

The Guardian Ad Litem

The court will appoint a Guardian ad Litem (GAL) as an independent advocate to look out for the best interests of your child. GALs are volunteers. Their role is to learn as much as they can about your child and your family to make impartial recommendations to the court about what they think is best for your child. The GAL works closely with your child's lawyer and with DCF, but does not work for either of them.

The Judge

The judge will make decisions that impact you and your child based on the information presented by each side in court. The judge is guided by what is in your child's best interest.

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WHEN WILL I 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. **It is very important that you attend the hearings and meetings.**

It is also important that the court and your attorney be able to get in touch with you, so make sure you **let them know if your address or phone number changes.**

Remember: the purpose of the court proceedings is to provide for the care, protection, education, and healthy development of your child. The court is concerned with your child's safety and need for a stable, permanent home. The judge's decision is based on what is best for your child.

BASIC STEPS IN A CHINS CASE

Each hearing has a different purpose. Most court cases follow these basic steps:

- ◆ **Emergency Care Hearing** (in emergency situations)
- ◆ **Temporary Care Hearing** (within 72 hours if a child is taken into emergency custody)
- ◆ **Preliminary Hearing** (if no emergency exists). This takes place 15 days from the filing of a Petition
- ◆ **Pre-Trial Hearing** (15 days later)
- ◆ **Merits Hearing** (60 days from the start of the case)
- ◆ **Disposition Hearing** (35 days after Merits Hearing)
- ◆ **Post-Disposition Review Hearing** (2 months later)
- ◆ **Case Plan Review** (not held in court; this takes place every 6 months if a child is in foster care)
- ◆ **Permanency Hearing** (12 months after a child is placed in foster care)

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WHAT HAPPENS IN COURT

1. **Emergency Care Hearing**

- ◆ You may not know about the Emergency Care Hearing because it may be done quickly, in response to an emergency. The judge may be contacted over the phone by a police officer if the officer believes that your child needs to be taken into immediate emergency custody. Or, the hearing may take place in court before you are able to get to the courthouse.

- ◆ If the judge believes that your child is in immediate danger, the judge may issue an Emergency Care Order to protect your child's safety and well-being. If this happens, there will be a Temporary Care Hearing in court within 72 hours to decide if the child can safely return home and what will happen next.
- ◆ During those 72 hours, the child can be temporarily placed in an approved foster care home or with a relative. The DCF-Family Services worker will gather information to present to the court at the next hearing.

If the case does not begin as an emergency, it will likely start with a Preliminary Hearing after the State's Attorney files a Petition with the court. The next hearing would then be a Pre-Trial Hearing (see page 6).

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2. Temporary Care Hearing

- ◆ This hearing will be held within 72 hours (3 days) of the Emergency Care Hearing (not counting state holidays).
- ◆ At the Temporary Care Hearing, the judge decides who should have temporary custody of your child. The judge may decide that your child should be returned to your care, or may temporarily transfer custody to DCF-Family Services or another person, such as a relative or close friend. Let your lawyer or social worker know if there are any relatives or close friends who can provide a safe home for your child. A non-custodial parent who wants custody of their child has to tell the judge how he or she can meet the child's needs.
- ◆ If the judge gives temporary custody of your child to DCF, that doesn't mean that your child will never return home. Most children return home once the family has worked out the issues that brought the child into care.
- ◆ If DCF gets temporary custody of your child, DCF will decide where your child will live for the time being.
 - You and your lawyer will talk to the social worker about setting up a schedule for you to see and/or talk with your child.
 - The judge can order DCF-Family Services to provide visits for you and your child.
 - The judge can require DCF-Family Services to provide services to your child or to refer you to services.

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3. Pre-Trial Hearing

- ◆ This hearing is held 15 days after the Temporary Care Hearing or the Preliminary Hearing.
- ◆ The purpose of the Pre-Trial Hearing is to discuss whether you will admit or deny the allegations (accusations) in the petition. This means that you will have to decide whether to admit (agree) or deny (disagree) that your child is in need of care or supervision.
- ◆ 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.
- ◆ **Next Steps:**
 - If you admit to the allegations in the petition, it is called reaching the “merits” of the case. The next step would be the Disposition Hearing.
 - If you deny the allegations in the petition, the next step is the Merits Hearing.

A Status Conference may be held at any stage of the case. It is a court hearing that allows the judge and other parties to find out what is going on with the case.

If your child is in foster care, DCF-Family Services has 60 days to file a written Case Plan. Family members should be part of the planning process. The Case Plan lists the services that the social worker thinks will be good for you and your child. That plan should be available to you and your lawyer around the time of the Merits Hearing. (The Merits Hearing should occur within 60 days from the date a child is removed from home.) The judge may give you or someone else (such as a relative or family friend) custody of your child with certain conditions. This is called a Conditional Custody Order.

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4. Merits Hearing

- ◆ The Merits Hearing should occur within 60 days from the date of a temporary care order. This may not always be possible if the court or parties need more time.
- ◆ Your lawyer will meet with you before the hearing to listen to your side of the story and talk with you about what will be presented in court.
- ◆ Your lawyer will talk to witnesses (people who know you and your child), and may have them come to the hearing to tell the judge what they know about you and your child. This is called “testifying.”

- If you will be testifying, your lawyer will go over the questions you will be asked, 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-Family Services file and any important paperwork.
- ◆ At the hearing, the State's Attorney ("the State") must prove that your child is a "Child in Need of Care or Supervision" (CHINS).
 - If witnesses testify for the State, 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 listening to all of the witnesses, the judge decides whether your child is in need of care or supervision (CHINS).
 - If the judge decides that your child is not in need of care or supervision, the case is dismissed and your child returns home.
 - If the judge decides that your child is in need of care or supervision, a Disposition Hearing will be held within 35 days.

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5. Before the Disposition Hearing

The word 'disposition' means making a final arrangement.

Before the Disposition Hearing, the Family Services social worker prepares a Disposition Case Plan. This means the social worker has made final arrangements or a final plan for your case.

- ◆ The purpose of the Case Plan is to help you and your family work out your problems.
 - ◆ It describes your child's needs and a plan of "services." Counseling is an example of a service that might be recommended.
 - ◆ If your child is in DCF custody, the Case Plan may require that your child remain in DCF custody for the time being
- or**
- ◆ The plan may be for your child to return home when it is safe to do so.
 - ◆ If your child is over 16 years of age and has been placed in DCF custody, the Case Plan should include services from the Agency of Education and agencies in the community.
 - ◆ Family Services must file the Disposition Case Plan with the court and make it available to your lawyer 7 business days before the scheduled disposition hearing.

- ◆ The Case Plan also recommends a long-term goal for your child, such as returning home or living with someone else.
- ◆ Your lawyer should discuss the Disposition Case Plan with you. If your lawyer does not contact you to discuss the Plan, call him or her before the hearing date.
- ◆ If everyone agrees to the Plan, the judge will likely approve it.
- ◆ If the Plan is **not** agreed to, there will be a contested Disposition Hearing.

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6. Disposition Hearing

- ◆ The Disposition Hearing should be held within 35 days after the Merits Hearing.
- ◆ If everyone agrees to the Case Plan, the judge will likely approve it.
- ◆ If the Case Plan is **not** agreed to, a contested Hearing is held.
 - You and your lawyer must discuss the social worker's and the court's concerns about the safety and well-being of your child.
 - Your lawyer may present a different plan to the court. Your lawyer might have witnesses testify for you at the hearing.
 - The judge will decide who will have legal custody of your child and what you, and possibly your child, must do.
 - If your child is placed outside of your home to live, the judge will decide how often you can see your child.
 - The judge can order visits between your child and other people who are important to your child.
- ◆ The judge will issue an Order based on the Disposition Case Plan that will guide how this matter is handled for the coming months and what the goal for your child should be.
- ◆ You need to work with DCF-Family Services and **follow the court's order** about addressing the issues in your family.
 - You might need to participate in counseling or take a class on how to better meet your child's needs.
 - If you do not follow the Order, it could take longer for your child to be returned to you, and you could even lose your rights to your child forever.
- ◆ On a monthly basis after the Disposition Hearing, let your lawyer know how the Plan is working out for you. **If the Plan is not working, your lawyer needs to know.**
- ◆ Your lawyer will tell you about your right to appeal the judge's decision. This means that you can ask the Vermont Supreme Court to review the judge's decision if you do not agree with it.

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7. Post-Disposition Review Hearing

- ◆ This hearing is held 60 days after the Disposition Order.
- ◆ At this hearing, **the court checks the progress** that you and your child are making.
- ◆ It is important that you talk to your lawyer before this hearing.

8. Case Plan Review

- ◆ If your child is placed in DCF custody, a Case Plan Review will be held at the DCF office every 6 months.
- ◆ DCF-Family Services will send you a letter inviting you to this meeting. Your social worker and others involved with the case will be there.
 - The plan for your family will be discussed.
 - The person in charge of the meeting will talk about:
 - the goal for your family,
 - whether you and DCF-Family Services are doing what you are each supposed to do, and
 - how your child is doing.
 - Changes to the Case Plan may be made.
 - You may challenge certain parts of the Case Plan.
 - Your lawyer may be present for this meeting, particularly if you do not agree with the Case Plan, or if DCF-Family Services is not following the Case Plan.
- ◆ Since this is not a court hearing, your lawyer might not plan to attend. **You must let your lawyer know of the date** if you want to be represented at this Case Plan Review meeting.

When the Case Plan Review happens before a Permanency Hearing, decisions may be made that will be presented to the court at the Permanency Hearing. It is important that your lawyer know about these decisions before the Permanency Hearing happens. **It is important that you talk with your lawyer before each hearing.**

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9. Permanency Hearing

- ◆ If your child is in DCF custody, there will be a Permanency Hearing in court at least once a year. (These hearings can take place sooner if the child is under age 6.)
- ◆ The purpose of this hearing is for the court to make sure that your child has, or will soon have, a permanent home.
- ◆ About a month before this hearing, DCF will file an updated Case Plan, called a Permanency Plan. Your lawyer should talk with you about what the plan says.
- ◆ DCF will present this Plan at the hearing. You have the right to disagree with the Plan. If you disagree with the Permanency Plan, the court can schedule a contested hearing. At this hearing, your lawyer may ask witnesses to testify on your behalf.

- ◆ The court will accept or reject the Permanency Plan. The judge will issue a Permanency Order. Your child could be placed in your home, or the court could consider another permanent home for your child. Examples of this are adoption or Permanent Guardianship.
- ◆ In making a decision, the judge will look at many things, including:
 - Whether you have done what you are supposed to do according to the Case Plan;
 - Whether DCF has made efforts to reach the permanency goal for your child.
- ◆ The judge's decision is guided by what is in your child's best interest.

ADDITIONAL RESOURCES:

- [*Resources for Parents and Other Caregivers - DCF Resources Webpage*](#)
- [*Parent's Guide to Vermont's Child Welfare & Youth Justice Agency*](#)

An overview of how the child welfare and youth justice system works including the following sections:

1. The Family Services Division
2. Child Welfare in Vermont
3. Youth Justice in Vermont
4. DCF Custody
5. The Court Process
6. Rights & Responsibilities; and
7. Resources That Can Help

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Notes:

	<u>Date</u>	<u>Time</u>
Preliminary Hearing	_____	_____
Temporary Care Hearing	_____	_____
Pre-Trial Hearing	_____	_____
Merits Hearing	_____	_____
Disposition Hearing	_____	_____
Post-Disposition Review Hearing	_____	_____
Case Plan Review	_____	_____
Permanency Hearing	_____	_____

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