STATE OF NEVADA

DIVISION OF CHILD & FAMILY SERVICES



Parent's Guide to Child Protective Services

- Child Protective Custody
- Child Protection Laws
- Legal Contact Information

Updated February 15, 2008
Prepared by the Division of Child and Family Services
Family Programs Office

DIANE COMEAUX, ADMINISTRATOR
DIVISION OF CHILD AND FAMILY SERVICES

JIM GIBBONS, GOVERNOR STATE OF NEVADA MICHAEL WILLDEN, DIRECTOR DEPARTMENT OF HUMAN RESOURCES

1. WHAT IS CHILD PROTECTIVE SERVICES (CPS)?

PS is required by Nevada law (Nevada Revised Statutes (NRS), Chapter 432B) to investigate reports of child abuse or neglect. If CPS believes a child has been abused, neglected, or is otherwise in need of protection, CPS has the authority to place the child into protective custody under certain circumstances. petition the court for custody of the child, or offer services to the family of the child. The actions of CPS depend on the circumstances of each family. If a child is taken into protective custody or if custody is granted to CPS by the court, CPS must assist the child's parent or guardian to overcome the circumstances that place the child at risk, unless the court makes an order that CPS does not have to offer such assistance.



The goal of CPS is to ensure the safety of the children who are reported as being abused or neglected. The focus is on protecting the child from harm or risk of harm. CPS does not punish parents. Any legal action taken by CPS is a civil matter, not a criminal matter. CPS focuses on trying to make it safe for a

child to live with his parent or parents. The assigned CPS worker assesses family functioning and identifies the strengths and problems in the home. As part of the assessment and the effort to make sure that the home is safe for the children, the CPS worker and family develop a plan to address any problems that have been identified. If the parent is unable to overcome the problems that place the child at risk, then CPS must

locate another safe, permanent home for the child. This could include guardianship or custody with another relative, or even adoption.

It is possible that abuse or neglect investigated by CPS could also be investigated by the police; however, these are two separate issues and processes. The decision to arrest or file criminal charges against you is made by the police and the District Attorney's Office. If criminal charges are filed, those charges and the process that takes place because of the charges are entirely separate from the CPS case. Criminal charges are handled through a separate legal proceeding.

2. HOW DID CPS HEAR ABOUT ME?

PS received a report indicating that your child is not receiving proper care or is being abused.

Nevada law (NRS 432B.220) requires certain persons to make a report with CPS or the police if they know or believe a child is being abused or neglected. Those people include doctors, dentists, nurses, hospital personnel, daycare providers, clergy, social workers, teachers, and counselors. If those people who are required to make a report fail to do so, they are guilty of a crime. Any other person who believes a child is being abused or neglected may make a report to CPS or the police. The identity of the person who made the report is confidential and cannot be disclosed. However, if a person knowingly makes a false report, the court can order that person's identity to be released.

3. WHAT IS CHILD ABUSE AND NEGLECT?

here are several types of abuse or neglect of a child, such as:

Physical Injury (NRS 432B.090): Injury to a child which is non-accidental. Such injuries include bruises, cuts, bites, burns, and/or broken bones. An injury is non-accidental if it is reasonably foreseeable, even though it was not intended.

Mental Injury (NRS 432B.070): Injury to a child's intellectual or psychological capacity or emotional condition causing the child's normal range of performance or behavior to be impaired.

Sexual Abuse or Exploitation (NRS 432B.100-110): Engaging in sexual activity with a child, including fondling and lewdness, or encouraging or allowing a child to view pornographic material, engage in prostitution, or engaging in pornography.

Negligent Treatment or Maltreatment NRS 432B.140): Abandonment or failure to provide a child with proper care, control or supervision, food, education, shelter, medical care or other care a child needs for his well-being. This could include not having a safe home, leaving a young child alone, or leaving a child with someone who does not properly care for the child or is unable to care for the child. This could also include using or being under the influence of drugs in the presence of the child or while caring for the child.

<u>REMEMBER</u>: A parent or guardian is responsible for the abuse or neglect of a child if he causes or allows the abuse or neglect and the child's health or welfare is harmed or threatened with harm.

4. IS DISCIPLINE CONSIDERED ABUSE?

f discipline is <u>reasonable</u>, it is not considered abuse or neglect. In determining what is reasonable, many factors must be considered, such as:

- The age of the child;
- Whether the child has a physical or psychological disability;
- The frequency and duration of the discipline;
- Whether the discipline resulted in a physical or mental injury; and,
- The location on the body of the physical discipline (buttocks vs. face).

REMEMBER: Nevada law allows a parent or guardian to "spank" his child as a form of discipline, but causing an injury or bruise to the child because of the "spanking" may cause the "spanking" to become unreasonable discipline.

5. WHAT HAPPENS DURING A CPS INVESTIGATION?

hen CPS receives a report of alleged abuse or neglect of a child, it must initiate an investigation. The nature of the allegations and the age of the child are factors that determine how quickly an investigation is started. An investigative/assessment social worker conducts the CPS investigation. (There may also be an investigation by the police if the abuse or neglect involves criminal conduct.)

At the initial time of contact with person(s) who are the subject of a child abuse and neglect investigation, the social worker will advise the individual of the complaint or allegation made against them, but cannot disclose the name of the informant or reporting party (required under the Child Abuse Prevention and Treatment Act (CAPTA)). The social worker will attempt to gather information regarding the alleged abuse or neglect by conducting interviews with the child, the child's caretaker, the parent or guardian who is caring for the child, other persons living in the child's home, and other persons who may have information regarding the allegations of

abuse or neglect or the child's situation. The social worker may also gather information from other CPS agencies, law enforcement, medical personnel, and school personnel, if necessary. Nevada law authorizes the investigative social worker to interview a child concerning any possible abuse or neglect without the consent of, and outside the presence of, the parent or guardian.

In gathering the information, the investigative social worker will assess the immediate safety and the future risk of harm of the children in the home. The social worker will consider factors such as the severity of the injury or threat of harm, the age of the child, the development of the child, prior abuse and neglect history in the family, the child's home environment, and other risk factors and family strengths.

Based upon facts of the case and the assessment completed by the social worker, proper action is taken to protect the child from harm. If the risk of harm is great, the worker may place the child into protective custody. If there is some risk but it is determined that immediate action is not necessary, the worker may offer services to the family to address the risk and may leave the child in parent's or guardian's care.

6. COURT ACTION VS. VOLUNTARY SERVICES

f the investigative social worker determines that the risk to a child is such that the child can remain safely in the home with services provided to the family:

CPS may offer voluntarily services (NRS 432B.360) or the Agency may seek court involvement. If the family willingly cooperates with CPS in participating in the services, oftentimes the matter can be handled informally. CPS and the family will develop a voluntary Case Plan and Service Agreement (case plan), which identifies services for the family.

If the risk to the child requires CPS placement of the child (NRS 432B.390):

 CPS may petition the court for legal custody and to seek court involvement. CPS may still offer services; however, the family's participation in those services is then court-ordered.

7. WHAT HAPPENS IF MY CHILD IS PLACED INTO PROTECTIVE CUSTODY?

CPS social worker or a police officer can place a child into protective custody if he believes immediate action is necessary to protect the child from abuse or neglect. If a child is taken into protective custody, the child must be placed in the emergency shelter. a licensed foster home, or with an appropriate relative. In determining whether a relative is appropriate, CPS considers such factors as the conditions of the relative's home, criminal background, history of child abuse or neglect, substance abuse, ability and willingness to protect the child from his parent or guardian, and the level of cooperation with the case plan developed by CPS and the family.

When your child is placed into care, notice is given briefly describing why your child is being placed. This notice also lists the date, time, and location of your court hearing. Nevada law requires a hearing to be held within 72 hours after a child has been placed into protective custody (excluding weekends and holidays) (NRS 432B.470).

<u>REMEMBER</u>: It is important for you to give CPS information about your relatives early in your case so CPS can determine whether your child can be placed with any of them. If the court grants custody of your child to

CPS and CPS places the child with a relative caretaker, the caretaker must ensure the safety of the child and follow the directives of the Agency throughout the child's placement. If the relative caretaker fails to follow the terms outlined by the placing social worker, your child may be removed from the caretaker's home and placed into a licensed foster home or facility.

8. WHAT IS A PROTECTIVE CUSTODY HEARING?

to represent you at the Protective Custody Hearing. Certain counties in Nevada will not appoint you a public defender for this type of hearing (check with your social worker). You will need to make arrangements to hire your own lawyer if you want one. Your matter may be resolved after the Protective Custody Hearing. If it is not resolved and CPS seeks further court action, you may apply for a public defender at that time (check with your social worker). You may request a continuance of the Protective Custody Hearing one time to give you time to hire a lawyer. If you wish to request this one time continuance, you must formally do so at the hearing.

At the Protective Custody Hearing, CPS will explain to the court why your child was taken into protective custody and any other relevant information that the worker has learned in the course of the investigation. Once the social worker presents the information, you may then question the CPS social worker and tell the court any information that you wish the court to consider.

If the court determines that your child may be at risk of harm if released from protective custody, or that you or your child's guardian is not available to care for the child, the court will order the child to remain in protective custody. If the court does not make those findings, your child will be released to a parent or guardian.

If the court grants custody of your child to CPS, then CPS has the right and responsibility to ensure that your child is safe and receives proper care. If CPS is given custody, CPS may allow your child to be placed with you while CPS maintains custody. (This is similar to you allowing your child to go stay with a relative while you retain custody and the right to determine what your child does.) If CPS has custody of your child and your child is placed back with you by the Agency, you must obtain permission from CPS before you travel out of the area.

9. WHERE CAN I GET A LAWYER?

s stated above, at the first Protective Custody Hearing, you may have to hire your own lawyer if you want one. You can find a lawyer through the telephone book, word of mouth, or by calling the lawyer referral service of the State Bar of Nevada at 1-800-789-5747. There is additional contact information at the back of this pamphlet.

After the Protective Custody Hearing, if CPS sees the need to have further court involvement, you will be served with a "Petition for Hearing" document. If you wish to find out if you are eligible for public defender services, please check with your social worker. If the court orders your child to remain in protective custody, custody of the child is granted to the CPS agency. If CPS believes that it is necessary to retain custody of your child for more than 10 days after the Protective Custody Hearing, then CPS must file a "Petition for Hearing" to seek further court involvement (NRS 432B.490). During the wait for the requested petition hearing, CPS will continue to work with you to solve the problems that caused the abuse or neglect. Contact information regarding persons and governmental entities, such

as legal services, which may provide assistance to you during the investigation of the alleged child abuse, are listed at the end of this pamphlet.

10. CAN I SEE MY CHILD IF HE IS PLACED IN PROTECTIVE CUSTODY?

f your child is placed in protective custody, you may visit your child unless the court orders otherwise. In order for you to visit your child, you must arrange for visitation through your assigned CPS worker and schedule the time, place, and terms of the visitation. Depending on the circumstances of the case, your visits with your child may be supervised. You should not discuss the allegations of your case with your child during the visits.

<u>REMEMBER</u>: Keeping your visitations with your child is important to your child, and is important because it shows the court that you wish your child returned to your care.

11. WHAT HAPPENS IF MY CHILD IS NOT RETURNED AFTER THE PROTECTIVE CUSTODY HEARING?

If your child is not returned to your legal custody after the Protective Custody Hearing and CPS believes that further court involvement is necessary for the protection of your child, CPS will file a legal document called a "Petition for Hearing." That document initiates further legal proceedings.

A. Petition for Hearing (NRS 432B.470)

If CPS believes your child is in need of protection and believes that court involvement is necessary, even if your child has not been placed into protective custody, CPS will file a legal document called a "Petition for Hearing." If your child has been placed into protective custody, the Petition will be filed within 10 days after the Protective Custody Hearing. You will be served with a copy

of the Petition. With the Petition, there will also be a notification that sets a date and time for a hearing. You need to be present in court for the hearing.

The Petition sets forth allegations showing why CPS thinks your child is in need of protection. At the hearing, you will have an opportunity to either:

- 1. Admit that all or some of the allegations are true;
- Choose to not comment at all (in which case the court will decide after hearing from CPS); or
- 3. Deny that the allegations are true and ask for a Contested/ Evidentiary Hearing (trial).

If you admit the allegations or choose not to comment, the judge will then decide if your child is in need of protection and whether he has been abused or neglected. If the judge determines that the child is in need of protection, the judge will then proceed to Disposition.

B. Contested / Evidentiary Hearing (NRS 432B.490)

f you deny the allegations in the Petition and request a Contested Hearing (trial), the Contested Hearing will be set for another date. At the Contested Hearing, CPS will present evidence and witnesses in support of the Petition. You will have the right to question the witnesses and the evidence, and to present your own evidence and witnesses. CPS must be able to prove the allegations of the Petition by a "preponderance" of evidence. This means that the evidence shows that it is more probable that the allegations are true than not true. (The burden of proof is greater for a criminal trial.)

At the end of the Contested Hearing, the judge will decide whether the child is in need of protection and whether the child has been abused or neglected. If the

judge determines that the child is in need of protection, the judge will then proceed to Disposition.

C. Adjudicatory Hearing; Disposition (NRS 432B.530)

The "Disposition" of the case may be combined with the Hearing Upon Petition. The CPS social worker will prepare a report for the judge that outlines the concerns for your child's safety, the conditions of the home, the child's progress in school, the mental, physical, and social background of the family and its financial situation, and the parent's progress with services. The report will also make recommendations to the judge about where the child should be and what the parent should do.

You will receive a copy of the report prior to the court hearing and you should discuss your concerns about anything written in the report with the CPS social worker. At the Disposition Hearing, you may also raise your concerns with the judge.

After the judge has heard from all parties involved in the hearing, the judge will make orders concerning the custody and placement of the child, what CPS must do, and what the parent must do.

If your child is placed into the emergency shelter or other foster care, you may be ordered to repay the costs of that care.

Following Disposition, you may be assigned a new ongoing social worker - also known as a substitute care social worker. This social worker will assist you with your concurrent case plan objectives. The social worker will explain any noted problems and will discuss what services are available to you to improve the identified problem areas. The social worker will also monitor your progress in making the necessary changes to ensure a safe and appropriate home for your child. It is

important for you to maintain contact with the social worker and that you participate in the case plan as soon as possible so you can work toward reunifying with your child.

D. Review Hearing (NRS 432B.580)

The court will review the progress of your case in the sixth month or more frequently as determined by the court after your child's initial placement date. The ongoing social worker will prepare another written report for the court describing the progress toward reunifying the child with the parent. You will receive a copy of the report prior to the hearing. If you have concerns about what is in the report, you should discuss your concerns with the social worker. You may also raise your concerns with the judge at the hearing.

After the judge has heard from CPS and the parent, the judge will make orders concerning the custody of the child, placement of the child, what CPS must do, and what the parent must do. If you have done all that is necessary to ensure a safe and appropriate home for your child, the court may dismiss the case and return custody to you.

E. Permanency Hearing (NRS 432B.590)

Federal and state laws require CPS to find a safe, appropriate and permanent home for any child placed into foster care. It is the goal of CPS to reunify your child with you if it is safe and appropriate. Federal and state laws allow only 12 months to determine the safe and appropriate permanent home for the child. A hearing must be held within 12 months after a child is placed into protective custody to order this permanent plan. This hearing is called the Permanency Hearing. At the Permanency Hearing, the court can determine that the permanent plan for a child is one of the following:

- 1. Reunification with the parent or guardian;
- 2. Termination of parental rights and adoption;
- 3. Placement in a guardianship that is intended to be permanent; or
- 4. Permanent custody of the child with a fit and willing relative.

REMEMBER: The permanent plan depends on the facts of each case. However, if you want your child to be returned to you, you must have made significant progress on the case plan prior to the Permanency Hearing.

12. WHAT IS A COURT- APPOINTED SPECIAL ADVOCATE?

The court may appoint a Court-Appointed Special Advocate (CASA), if available, to act as an advocate for your child. The CASA's role is to report to the court on your child's progress while in custody of the CPS Agency. The goal of the CASA program is to provide an "outside" person to speak for the child's best interest.

13. HOW DO I GET MY CHILD BACK?

he ultimate decision to return your child to you is based upon whether your home is safe and appropriate for your child. Unless the court orders otherwise, CPS will work with you to attempt to return your child to your care. As soon as possible after your child has been placed into protective custody, you should schedule a meeting with your CPS social worker to develop an initial case plan.

Your social worker, with your input, will develop this agreement, which will outline the tasks you must work toward so that your child can be returned to your care. It is important to note that this case plan is a "working document," which will typically change throughout the course of your involvement with CPS and the court. Each change in your case plan will be discussed with you prior to

occurring, and will be presented to the court for approval. While you and your social worker develop your case plan, you should be aware that the court may order you to do additional things that are not listed in the agreement.

Your participation in the services identified by court orders and your case plan is how you demonstrate that it is safe and appropriate to have your child returned. It is important for you to schedule and attend each evaluation, counseling session, and other appointments that are identified by court orders or in your case plan.

REMEMBER: It is vital that you maintain contact with your CPS social worker. You must demonstrate significant progress in your case plan prior to the Permanency Hearing or the court might identify an alternative plan for your child, such as permanent guardianship or even adoption.

14. HOW MUCH TIME DO I HAVE TO GET MY CHILD BACK?

ederal and state laws require CPS

to find a safe, appropriate, and permanent home for a child in substitute care. The court must decide whether a child will be returned to the parent or placed for adoption, permanent guardianship, or permanent custody with a relative no later than 12 months after the child was placed into protective custody.

If your child has been in foster care for 14 out of the last 20 months, there is a presumption that your parental rights should be terminated (NRS 432B.590).

<u>REMEMBER</u>: Because of time limits, it is very important for you to:

- Start and maintain contact with your CPS social worker;
- Develop a case plan;

- Begin participating in the services identified; and
- Demonstrate to the court that substantial progress is being made to make it safe and appropriate to return your child to your home.

15. WHAT CAN I DO IF I DISAGREE WITH MY CPS SOCIAL WORKER?

pen discussion with your CPS social worker will usually resolve any disagreements. If not, you may contact the social worker's supervisor. You may also raise concerns with your lawyer and the court. However, it is best if you attempt to resolve the problem with the social worker so it can be addressed quickly rather than waiting for court.

16. ARE YOU OF NATIVE AMERICAN INDIAN DESCENT (NRS 432B.397)?

f you have any Native American Indian heritage in your family, you may fall under the provisions of the Indian Child Welfare Act (ICWA), which would provide you with additional rights and protections (NRS 432B.425). You should inform your social worker if you have any relatives that are registered with a tribe or have claimed affiliation with a tribe.

<u>REMEMBER</u>: If you or your child is affiliated with any federally recognized Indian tribe or if your relatives are Native American, inform your CPS social worker IMMEDIATELY.

17. OVERVIEW OF CPS/COURT PROCESS

- A. CPS receives a report alleging that a child is being abused or neglected.
- B. CPS initiates an investigation to determine whether the child is being abused or neglected.

- C. If CPS believes immediate action is needed to protect the child from abuse or neglect, the child is placed into protective custody.
- D. If the child is not placed into protective custody, CPS may offer voluntary services to the family or pursue legal custody and court involvement.
- E. If your child is removed from your care, a Protective Custody Hearing will be held within 72 hours (excluding weekends and holidays). Notice of the reasons for the hearing and the date, time and place of the hearing is provided to the parent.
- F. The judge determines at the Protective Custody Hearing whether the child should remain in the custody of the Agency.
- G. If the judge decides that the child should not remain in protective custody, CPS may offer voluntary services.
- H. If the child remains in protective custody, CPS continues its investigation and must determine whether further court action is necessary.
- I. Hearing Upon Petition. As a result of the Petition being filed by the Agency, a hearing is typically held within 30 days of the Petition filing date. Parents may admit, make no comment, or deny the allegations in the Petition.
 - If the parent admits the allegations or makes no comment, the judge will determine whether the child is in need of protection. If the judge determines the child is in need of protection, the case proceeds to Disposition.

- If the parent denies the allegations, the matter is set for a Contested or Evidentiary Hearing. If the judge determines that the child is in need of protection at the Contested Hearing, the case proceeds to Disposition.
- J. <u>Disposition/Adjudication Hearing</u>. The court will read the CPS report and hear from the CPS social worker. The parent may respond to the report and tell the judge any information that they wish concerning their case. The judge will determine and order who should have custody of the child, and the services and actions expected of CPS and the child's parent.
- K. Review Hearing. Review hearings are scheduled at regular intervals, usually coinciding with the third, sixth, and ninth month of the child's placement in substitute care.
- L. The court will review the progress made by the parent. At the point that the parent has successfully completed all of the services required by the court, the court may dismiss the case at the Review Hearing.
- M. Permanency Hearing. Once a child remains in substitute care for 12 continuous months (or 14 of the last 20 months), the court must determine a permanent plan for the child.
 - 1. If the parent has made significant progress and it is safe and appropriate for the child to return, the permanent plan will be reunification.
 - If the parent has not made significant progress and it is not safe and appropriate for the child to return home, the court will order a different plan such

as termination of parental rights/adoption or permanent guardianship.

18. CHILD PROTECTIVE SERVICES LOCATIONS AND PHONE NUMBERS

If you have additional questions regarding information contained in this book, contact your CPS social worker. Business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m.

Nevada Division of Child and Family Services - Rural District Offices:

Carson City District Office

1677 Old Hot Springs Road, Building B Carson City, NV 89706 775-687-4943 775-687-4903 FAX

Elko District Office

1010 Ruby Vista Drive Suite 101 Elko, NV 89801-2878 775-753-1300 775-753-1301 FAX

Battle Mountain Field Office

145 E. 2nd Street Battle Mountain, NV 89820-2031 775-635-8172 and 775-635-5237 FAX: 775-635-9067

Elv Field Office

740 Park Avenue Ely, NV 89301-2798 775-289-1640 FAX: 775-289-1652

Lovelock Field Office

535 Western Avenue P.O. Box 776 Lovelock, NV 89419-0776 775-273-7157 FAX: 775-273-1726

Winnemucca Field Office

475 W. Haskell, #7 Winnemucca, NV 89445-3781 775-623-6555 FAX: 775-623-6559

Fallon District Office

1735 Kaiser Street Fallon, NV 89406-3108 775-423-8566

775-423-4800 (FAX)

Silver Springs Field Office 3959 Hwy. 50 SW P.O. Box 1026 Silver Springs, NV 89429 775-577-1200 FAX: 775-577-1212

Yerington Field Office 215 Bridge Street, Suite #4 Yerington, NV 89447-3568 775-463-3151 FAX: 775-463-3568

Hawthorne Field Office 1000 C Street P.O. Box 1508 Hawthorne, NV 89415-1508 775-945-3602 FAX: 775-945-5714

Pahrump Field Office

2280 East Calvada, Suite 302 Pahrump, NV 89048 775-727-8497 775-727-7072 FAX

Tonopah Field Office

500 Frankie Street P.O. Box 1491 Tonopah, NV 89049-1491 775-482-6626 FAX: 775-482-3429

County Social Services:

Clark County Department of Family Services

Claude I. Howard Children's Center 701 K North Pecos Las Vegas, NV 89101 702-455-5444 702-385-2999 FAX CA/N Hotline 702-399-0081

Washoe County Department of Social Services

350 Center Street Reno, NV 89501 775-785-8600 FAX: 775-785-8648 *Template provided courtesy of Washoe County Department of Social Services.

RESOURCES AND CONTACT INFORMATION

The following are resource and contact information that are available to you:

Clark County:

Clark County Legal Services 800 South Eight Street Las Vegas, NV 89101-7051 Telephone: (702) 386-1070 E-Mail: <u>clarkcountylegal.com</u>

Clark County Children's Attorney Project 800 South Eight Street Las Vegas, NV 89101-7051 Telephone: (702) 386-1070 E-Mail: <u>clarkcountylegal.com</u>

Northern Nevada:

Washoe County Legal Services 650 Tahoe Street Reno, NV 89509

Telephone: (775) 329-2727

Fax: (775) 324-5509

E-Mail: info@washoelegalservices.org Website: www.washoelegalservices.org

Rural Nevada:

Volunteer Attorneys for Rural Nevadans & Domestic Violence Victim's Assistance Project 904 N. Nevada Street, Suite B P. O. Box 365 Carson City, NV 89702 (775) 883-8278 or 1-866-448-VARN (8276) FAX: (775) 883-7211 E-Mail: Info@varn.org

Statewide Information:

Nevada Division of Child and Family Services Systems Advocate (effective 09/01/06) 4126 Technology Way Carson City, NV 89706 Telephone: (775) 684-4456

11 Posted 2009-01-05