

JUVENILE COURT

Section 2
Juvenile Court



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OVERVIEW OF JUVENILE COURT

Illinois Court System

Supreme Court

The Illinois Supreme Court, the highest court in Illinois, has general administrative and supervisory authority over all courts in the state. The Illinois Supreme Court generally hears appeals from the Circuit and Appellate Courts, and may also act as a trial court in very limited circumstances.

Appellate Court

The Illinois Appellate Court hears appeals from the Circuit Courts. The Illinois Appellate Court *is not a forum in which to initiate a new case*. It is a court of review to determine whether or not the rulings and judgment of the court below were correct.

Circuit Court

The Illinois Circuit Court conducts hearings and trials in criminal and civil cases. It is comprised of circuit and associate judges. There are 22 judicial circuits in Illinois; each has one chief judge elected by the circuit judges. The chief judge has general administrative authority in the circuit, subject to the overall administrative authority of the Illinois Supreme Court. Circuit judges may hear any case assigned to them by the chief judge.

Juvenile Court

In each Illinois county, juvenile court proceedings are a part of the Circuit Court branch.

Establishing Juvenile Court

First Juvenile Court in U.S. Created in Illinois

The Juvenile Court of Cook County was established on July 1, 1899, as the first juvenile court in the United States. The court was the result of a long and determined campaign spearheaded by reformers such as Jane Addams, her Hull House associates and the Chicago Women's Club.

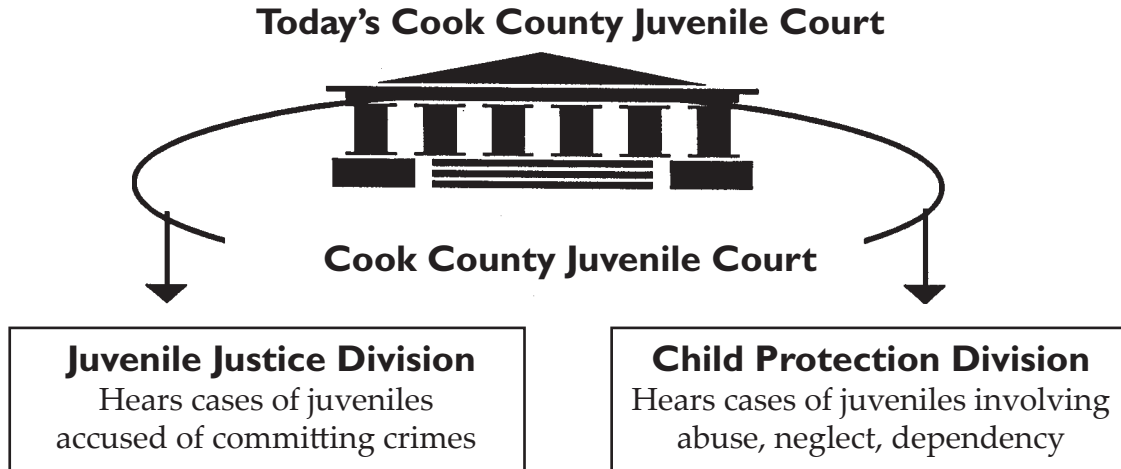
The original establishment of a separate court for juveniles was based on these beliefs:

- the State has the right and the duty to stand as the legal guardian of its children when their parent/s cannot, or will not, provide for them; and
- children who commit crimes should not be treated like adult criminals.

The establishment of the first juvenile court in Cook County revolutionized the legal treatment of children and set an example for the U.S. and the entire world.

Juvenile Court Today

Today, juvenile court proceedings are conducted in each of the 102 counties in Illinois. In Cook County, specific judges are assigned to hear only juvenile court cases. In some other Illinois counties, judges hearing criminal and civil matters also hear juvenile cases.



Juvenile court, in contrast to adult courts, is:

- less formal;
- less confrontational; and
- more focused on keeping children and families together during a crisis by providing community social services, whenever possible.

Children's cases are referred to juvenile court for the court to decide if a child:

Under 17 meets the legal criteria of being:

- delinquent.

or *Under 18* meets the legal criteria of being:

- abused, neglected, or dependent;
- truant (in counties with population under 2 million);
- addicted; or
- a Minor Requiring Authoritative Intervention (MRAI).

Children, *13 years old or older*, accused of felony crimes may be tried as an adult. These serious criminal cases may be heard in adult criminal court, not juvenile court. (See pages 38-40)

WHO'S WHO IN THE ABUSE/NEGLECT COURTROOM?

Judge

The judge makes decisions regarding the case according to the facts and the law, and also maintains an orderly courtroom procedure.

Parties are those individuals who have an interest in the court proceedings. In abuse/neglect/dependency hearings, the *parties* usually include:

- Assistant State's Attorney, representing the Office of the State's Attorney in that county and the people of Illinois;
- birth parents;
- attorneys for the birth parents;
- children;
- attorneys for the children, who may or may not also be the Guardian ad litem; and
- the child's Guardian ad litem (GAL).

Other people can be present at court hearings, not as parties, but to act as witnesses or support persons: foster caregivers, the child's caseworker, a CASA (Court Appointed Special Advocate) volunteer, as well as other private and professional witnesses and support people. Juvenile court cases are closed proceedings, so they are not open to the public.

State's Attorney (or Assistant State's Attorney)

As a representative of the People of the State of Illinois, the State's Attorney's Office first must decide whether or not to file a petition in Juvenile Court alleging that the minor child/ren are abused, neglected, or dependent. Then, the State's Attorney bears the burden of producing evidence and witnesses to prove the allegations stated in the petition.

Guardian ad litem (GAL or Public Guardian)

The court appoints a Guardian ad litem as an officer or agent of the court to protect the best interests of the child and represent the child in legal proceedings. The GAL appointed will usually remain the child's GAL throughout the entire court proceedings, including Permanency Hearings and Termination of Parental Rights.

Cook County: The Office of the Public Guardian is usually appointed to represent the child as both the Attorney and Guardian ad litem. When the Office of the Public Guardian has a conflict representing a minor, a private attorney or bar attorney is appointed to represent the minor.

Outside Cook County: The GAL appointed for the child may not always be an attorney. If not, the GAL shall be represented in the performance of his/her duties by an attorney.

Foster caregivers and GALs can be important partners in seeing that the child's best interests and wishes are fairly and accurately represented. By understanding exactly what the GAL is supposed to do, foster caregivers can help foster children through a very difficult period in their lives. Although the GAL is required to represent the "best interests" of the child in court, most of the GAL's work is done outside the courtroom.

Contact with Children

It may seem obvious, but a GAL cannot properly tell a judge what is in the child's best interests unless he or she actually knows the child. GALs are required to meet with the children assigned to them and have contact with the caregiver once before the adjudicatory hearing, once before the first permanency hearing and once each year thereafter.

Training

In many counties, GALs are required to be attorneys and to have specialized training to help them meet the needs of their assigned children.

Foster caregivers shouldn't wait for the ACR, court date, or a scheduled meeting to contact the GAL if their child's needs are not being met or they have other important information.

Administrative Case Reviews (ACRs) (See Section 3, pages 25-28)

GALs are invited to the ACR. Their participation gives them a clearer understanding of the goal and services the child and family will be addressing. GALs are allowed in the child's portion of the ACR. Birth parent/s have the right to ask that the GAL *not* be present for their portion.

What Can a Guardian ad litem (GAL) Do?

- seek protective court orders to protect children from harassment or limit visitation that is harmful;
- prepare children to testify in court and help them understand the court process;
- ask that the child not be called as a witness, if testifying would be too traumatic;
- provide legal intervention, if needed, and support foster parents in getting needed support services or proper assessments for the children;
- receive reports of abuse or neglect about the child;
- provide legal intervention, if needed, to help foster children:
 - visit with their parents, siblings, friends and relatives;
 - take advantage of community recreational programs, go to the church of their choice and engage in other activities that will make them happier and better adjusted;

- receive educational programs appropriate to their needs, such as speech therapy or special education classes; and
- recover their toys, clothing and other personal property from home.
- provide other legal interventions which they believe are in the best interest of the child or with an older child, present legal intervention at the request of the child; and
- although the GAL cannot always accomplish what children or foster caregivers may want, he or she should always listen to them before recommending to the court what is in the child’s best interests.

How to Find Your Child’s GAL

- ask your caseworker for the name and phone number;
- call the circuit clerk of the court in your county;
- call the Office of the Cook County Public Guardian at 312-433-4300; and
- identify yourself as the child’s foster caregiver. **Know** the child’s birth date to verify the case.

COOK
ONLY

After each hearing, a letter is usually mailed from the GAL’s office to the foster caregiver. It states the name and phone number of the GAL, gives the next court date and court calendar number, and invites the caregiver to be present in court. The letter also invites the foster parent to call with information prior to the next court date. Foster caregivers should not expect a GAL letter notifying them of court hearings set on an emergency or short-notice basis.

Private Attorney/Public Defender/Bar Attorney

The child’s parents have the right to legal representation in Juvenile Court proceedings. They may hire a private attorney to represent their interests in Juvenile Court. If the parents cannot afford to hire an attorney, and they meet the income guidelines for free legal representation, the Office of the Public Defender or other counsel will be appointed to represent them.

DCFS Regional Counsel

The DCFS Regional Counsel is an attorney employed by DCFS who appears in court when DCFS requires legal representation. The DCFS Regional Counsel is often called upon to explain DCFS policies to the Court.

Caseworker

The private agency or DCFS caseworker assigned to the child's case must appear at the court hearings to provide information about the nature and progress of the case, the services needed by and provided to the family and about the welfare of the child.

Child

The child in care has a right to attend all court hearings regarding his or her case.

The judge or the GAL may request the child's attendance for specific hearings. If the child is over 12 years old and wishes to attend, you should have the child discuss the benefits of attending the hearing with his or her GAL. Sometimes, the other *parties* to the case (i.e. parent's attorney) may issue a subpoena requiring the child to be present in court to testify. **Foster caregivers should immediately notify the GAL if the child receives a subpoena.**

Parents

The child's parents have the right to attend all court hearings and to be represented by an attorney. The parents may testify at the hearings or may remain silent. They also may bring in friends, relatives, therapists, or other professionals as witnesses on their behalf or as a support system. Note: The judge has the right to limit who may attend a juvenile court proceeding and may exclude support persons if they may be called as a witness in the case.

Court Appointed Special Advocate (CASA)

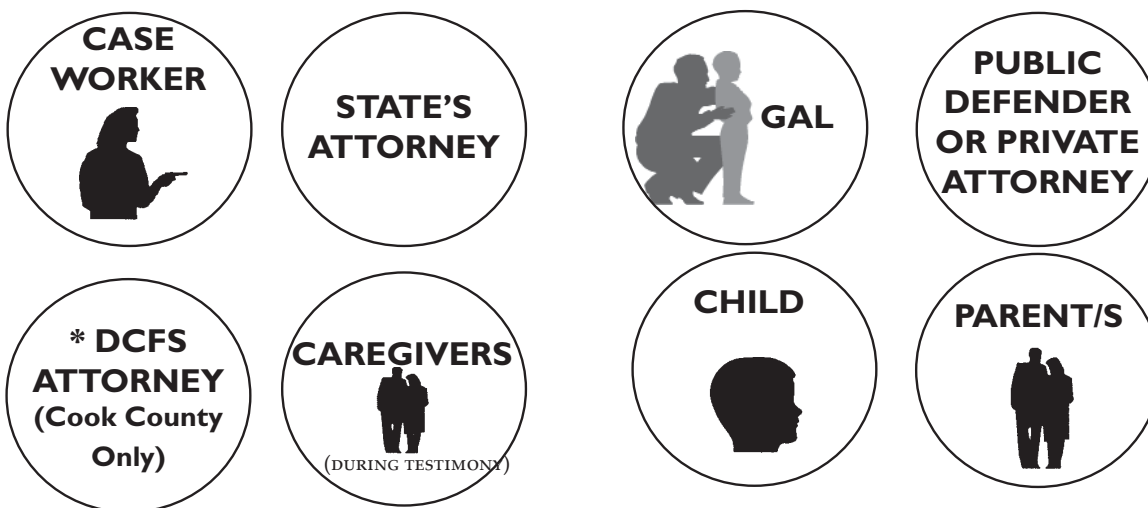
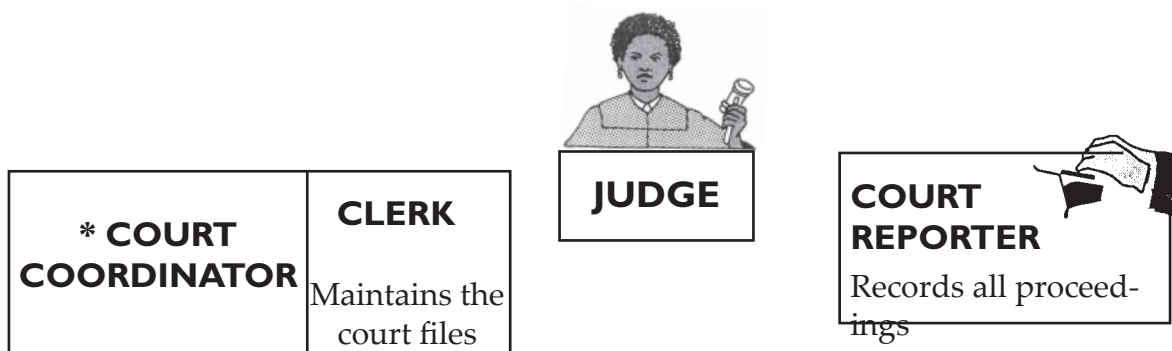
A CASA worker is a trained community volunteer who is appointed by a juvenile or family court judge to speak for children who are brought before the court. The majority of CASA volunteers' assignments are cases in which a child was removed from home for his or her own protection.

In some counties, the judge may appoint the CASA as the child's GAL.

As the child's advocate, the CASA volunteer has three main responsibilities:

- 1) to serve as a fact-finder for the judge by thoroughly researching the background of each assigned case;
- 2) to speak for the child in the courtroom, representing the child's best interests; and
- 3) to continue to act as a "watchdog" for the child during the life of the case, ensuring that the case is brought to a swift and appropriate conclusion.

COURTROOM DIAGRAM



NOTE: This is the seating order mandated in Cook County. Other counties differ in their seating according to the preference of the county.

Move to stand before the judge when called to testify.

WITNESSES

May be allowed to remain in the courtroom throughout the whole proceeding, or may be required to sit outside the courtroom until they are called in to testify.

CAREGIVERS
(seated while waiting to testify)

Right: To receive notice of all hearings

Right: To request to be heard

Caregivers may be asked to remain in the waiting area during testimony.

CAREGIVER ROLE IN JUVENILE COURT

Foster caregivers, *in practice*, usually take these two roles in either child protection proceedings (abuse/neglect/dependency) or in delinquency proceedings:

- supporter of a child during court appearances, when appropriate; and
- advocate for the child's best interests in court by providing important information about the child's history, need for services and/or temporary or permanent family placement.

Knowing and understanding juvenile court child protection proceedings and delinquency proceedings will enable you to fulfill both of these roles.

Foster caregivers also have several important rights and responsibilities in court. (See pages 10 and 11.)

Preparation for Testifying in Court

Whether you voluntarily go to court to provide information, are requested by the caseworker or GAL to appear, or are officially summoned by the court, being prepared is essential.

The Guardian ad litem (GAL) and caseworker are working for the child's best interests and, in effect, may become your teammates in court. If you wish to speak in court, they can be helpful in preparing you for what to expect and helping you know the best time to request to speak.

By talking to the GAL and caseworker *in advance*, you can:

- verify what type of hearing is being held to decide whether or not the information you wish to present is relevant to this type of hearing;
- gain their support for your testimony. (As a courtesy, inform the child's caseworker and the GAL that you intend to request to testify, instead of surprising him/her during the hearing.); and
- ask the GAL to inform the judge you would like to speak at the right point during the hearing.

Guidelines For Testimony

- expect to be nervous;
- your records may be very helpful. Bring originals (if you have them) and photocopies;
- dress conservatively;
- don't try to memorize what to say;
- speak slowly and clearly;
- use clear and appropriate language;
- avoid a tone or words which convey possessiveness toward the child or condemnation of the birth parent;
- if an attorney asks you a question, answer ONLY the question asked;
- don't guess. If you don't know, say so;
- state only what you remember. If you can't remember details, you may be allowed to review your notes;
- if an attorney makes an objection to a question being asked of you, do not answer—wait until the judge makes a ruling on the objection;
- if you don't understand, ask to have the question repeated and don't allow yourself to be rushed or intimidated; and
- be as descriptive as possible when testifying about the events or reactions of the child, so that the judge has a clear picture of what occurred.

Remember

Caregivers do not need anyone's permission to ask the judge to be heard. The judge may or may not grant your request to be heard, based on the relevance of your testimony to the hearing.

A foster caregiver, caseworker and GAL may not always agree on what is in the child's best interest.

If you are a witness, the judge may exclude you from the courtroom until you give your testimony.

Foster Caregiver Rights in Juvenile Court

The Juvenile Court Act, an Illinois law, governs all juvenile court proceedings. The following rights are given to foster parents under this Act.

Right: To be notified of ALL upcoming court dates

Caregivers have the right to receive notice of all court dates. Notification may be written or verbal, and is usually given about two weeks in advance to enable attendance. Note: Sometimes emergency or other court hearings can be set on very short notice. Foster caregivers, in these instances, need to understand the short notice given to them by the caseworker or other parties. Any foster caregiver not receiving notice of court hearings may contact the caseworker's supervisor or the agency, or may call the DCFS Advocacy Office for Children and Families for assistance at 800-232-3798.

Right: To request to be heard in court

Current and former caregivers of a child have the right to request to be heard in juvenile court. You should request to be heard in court if you have important information for the judge before an important decision about the needs or the future of the child and his or her family. After requesting to be heard, the judge will allow you to speak if he or she feels the information you came to share is relevant to the types of decisions being made at that hearing. If you wish, you may also bring an attorney, but it is not necessary.

Many caregivers are hesitant to attend court hearings due to conflicting work schedules or lack of training and experience with court procedures. Sometimes, caregivers are even told they do not have to attend. Remember: If you do not attend court hearings, important actions may be taken without your input.

Right: To intervene to request that the child be placed in your home

If, after the court makes a finding that a child is abused or neglected, the court considers returning the child home to the parent/guardian/legal custodian who abused or neglected him or her, certain caregivers may petition the court to intervene for the sole purpose of requesting that the child be placed with the caregiver.

To be eligible to intervene, the caregiver must be either the current caregiver or the former caregiver of the child, who had the child placed with them for one year or more, and not be the subject of any indicated report of child abuse or neglect.

Right: To file a writ of mandamus

If the caregiver requests to be heard at the court hearing, but is denied the right to be heard, the caregiver has 30 days to file a "writ of mandamus." The caregiver should have an attorney file the writ of mandamus on his or her behalf. If granted, this "mandamus" action allows the caregiver to be heard in court.

Foster Caregiver Responsibilities in Juvenile Court

Responsibility: To testify voluntarily or in response to a subpoena

Caregivers may informally be asked to testify in a case or may be served formally with a subpoena requiring them to appear at a court hearing. If you receive a subpoena for a child's court hearing, contact the attorney who sent the subpoena to you. The attorney will usually wish to speak with you prior to the court hearing about the testimony you will give at the hearing. The other attorneys on the case may also wish to meet with you prior to the hearing to discuss your testimony and have you answer some questions.

Responsibility: To contact the child's Guardian ad Litem, if you receive a subpoena for the child to testify in court

Subpoenas may also be issued for children to testify in court. If you receive a subpoena for the child to testify, immediately call the child's GAL and also notify the caseworker. The GAL may not want the child to appear or testify in court and will need to file a motion asking the judge to quash the subpoena (cancel) so the child does not have to appear or testify in court.

Responsibility: To sign a court waiver if you cannot or do not wish to appear in court

If the Public Defender or Guardian ad litem intends to file a motion affecting the status of the child, he or she may call the caregiver directly or ask the caseworker to have the caregiver sign a court waiver in advance of the hearing. By signing the court waiver, the foster caregiver acknowledges that he or she was notified of the court hearing and the court may proceed without them.

Not all counties use written foster parent waivers.

Caregivers who sign waivers still retain their right to appear and be heard.

Responsibility: To support a child who must appear or testify in court

If you feel afraid about going to court, imagine how the child feels. Your presence in court can be very reassuring to a child who must face a room full of strangers. Most children can benefit from the emotional support of their caregivers.

If you receive a subpoena, you must go to court unless the subpoena is withdrawn by the party issuing it or a motion to quash is filed and the judge grants it.

Common Questions Asked of Caregivers in Court

- How long have you been a caregiver?
- How many children have you cared for over the years?
- How many biological/birth children do you have?
- Have you ever adopted any children from foster care?
- Do you have any special training or experience in child care areas? (If you are a nurse, teacher, etc., tell them so.)
- How long has this particular child been in your care and what was the physical and emotional condition of the child at placement?
- Have there been any changes in the child's behavior or physical condition since placement? What were they? (positive and negative)

Examples: Changes in eating habits or how well the child interacts with other children and adults.

- Have there been any changes in the child's behavior before, during, or after visits or telephone contact with the parents?
- Have the child's parents had visits with the child? When have they taken place? How long did they last?
- What were the dates of the parents' telephone calls?
- Describe the interaction between the parent and child. How did the child approach the parent? What were the dates that you observed the interaction? Who else was present?
- Did the visits occur as scheduled? If not, how did the child react?
- Does the child ask or talk about the parent? What does the child say? When did these conversations occur? Who else was present?
- Does the parent give cards or gifts to the child on special occasions? What is the child's reaction?
- Does the parent ask about the child and does the parent play with the child on visits?
- Have you ever done anything that prevented a parent from visiting or talking with this child? If yes, please explain why.
- Did the parent ever appear to be under the influence of alcohol or drugs? If yes, when did this occur?
- Did the parent ever explain to you why he/she did not come for a visit? When?
- If the child becomes available for adoption, what are your intentions?

CHILD PROTECTION CASES IN JUVENILE COURT

Child protection cases referred to Juvenile Court involve the negative behaviors, or the negative impact of behaviors, of a child's parents or the person responsible for the child's welfare toward the child. Generally, these negative behaviors fall into these categories: physical abuse, sexual abuse, neglect, or dependency.

The Abused and Neglected Child Reporting Act (325 ILCS 5/3), commonly referred to as ANCRA, and the Juvenile Court Act (705 ILCS 405/2-3, 405/2-4) provide the following definitions of these four negative behaviors. DCFS policy and procedure provide the examples.

Physical Abuse

Physical abuse occurs when a parent or a person responsible for the child's welfare:

- "Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function."

Examples: bruises, human bites, bone fractures, burns, female genital mutilation

- "Creates a substantial risk of physical injury" likely to have the physical impacts listed above.

Examples include such incidents as:

- choking or smothering a child;
- shaking or throwing a small child; and
- violently pushing or shoving a child into fixed objects.

Other circumstances include incidents of domestic violence in which the child was threatened, violating an order for a known perpetrator to remain apart from the child, and a history of past sexual abuse which may place other children at risk.

- Commits "acts of torture."

DCFS defines this as "deliberately and/or systematically inflicting cruel or unusual treatment which results in physical or mental suffering."

- "Inflicts excessive corporal punishment."

Bruises and welts inflicted on a child are usually considered as meeting this definition. The behavior of the parent, immediate family member, or any person responsible for the child's welfare is the focus of this definition. Whether the caretaker has physically abused the child or did nothing to stop the abuse (acts of "commission and omission") is decided by the court.

Sexual Abuse

Sexual abuse occurs when a person responsible for the child's welfare commits any of the following acts with the child:

- Sexually penetrates a child;
This includes any contact between the sex organ of one person and the sex organ, mouth, or anus of another person. Typical acts include vaginal, oral and anal sex.
- Sexually exploits a child;
*DCFS definition: "sexual use of a child for sexual arousal, gratification, advantage, or profit." This includes such acts as explicit verbal enticements, child pornography, self masturbation in the child's presence and forcing a child to watch sex acts.

If parents or caretakers of a child are aware that the child is being physically or sexually abused by another person, they have a responsibility to take reasonable steps to stop the abuse. If they don't, they may be charged in either juvenile or criminal court or both.

- Sexually molests a child; or
*DCFS definition: "sexual conduct with a child when such contact, touching, or interaction is used for arousal or gratification of sexual needs or desires."
- Sexually transmits diseases to a child.
*DCFS definition: "diseases which were acquired originally as a result of sexual penetration or conduct with an individual who was afflicted."

– DCFS Procedure 300, Appendix B

Neglect

The behavior of the parent, immediate family member, or any person responsible for the child's welfare is the focus of this definition. Whether the caretaker is willing or unwilling to fulfill the parenting role ("acts of commission or omission") is decided by the court.

Neglect occurs when a person responsible for the child:

- abandons the child;
- deprives or fails to provide the child with adequate food, clothing, shelter, education or needed medical treatment;
- provides inadequate supervision of a child;
(Neglect can be alleged when children are left either unsupervised for an unreasonable amount of time and without regard for the health, safety and welfare of that child or in the care of someone unable to supervise due to his or her condition.)

-
- permits the child to be in an environment injurious to his or her welfare; or
 - gives birth to an infant whose blood, urine, or meconium contain any amount of a controlled substance, or a metabolite of a controlled substance. If the controlled substance is due to medical treatment given to the mother or the infant, the child is not deemed neglected.

Blatant Disregard

Children can suffer injuries that are the result of “blatant disregard” by parents or caretakers. In these cases, the blatant disregard by the parent or caretaker may be considered neglect.

“Blatant disregard is a situation in which the risk of harm to a child is so imminent and apparent that it is unlikely that any parent or caretaker would expose the child to such without taking precautionary measures to protect the child.”

— DCFS Procedure 300, Appendix B

Dependency

The behavior of the parent, guardian, or custodian is the focus. Whether or not the caretaker is willing, unwilling, or unable to fulfill the parenting role is decided by the court.

A “dependent” child is under 18 years old and:

- is without a parent, guardian, or legal custodian;
- is without proper care because of the physical or mental disability of his parent, guardian, or custodian;
- is without proper medical or other remedial care through “no fault,” neglect or lack of concern of the parent, guardian, or custodian
Term: “no fault” dependency; or
- has a parent, guardian, or legal custodian who, with “good cause”, wishes to be relieved of all parental rights and responsibilities, guardianship or custody.

Example of “good cause”: The child has severe health issues, and the parent, a teenager with mental health issues of his or her own, is unable to adequately care for the child.

If “good cause” is found by the court, the court will appoint a guardian for the child, which may or may not be DCFS.

How A CHILD'S CASE COMES TO JUVENILE COURT

DCFS Hotline: 1-800-25-ABUSE (1-800-252-2873)

TDD 800-358-5117 (for hearing impaired)

The DCFS Hotline is available to take reports of abuse or neglect 24 hours per day, seven days a week, from anyone who has relevant information. The job of the DCFS Hotline worker is to:

- talk with the caller to get as much information as possible about the alleged incident, the alleged victim/s and the alleged perpetrator; and
- determine whether the harm, as described by the caller, is considered to be abuse, neglect, or dependency under the law and DCFS guidelines.

If the Hotline call taker feels the caller's information meets the criteria for abuse, neglect or dependency, the call taker will take the report and transmit it immediately to the local DCFS Child Protection Investigation Unit.

Mandated Reporters

A mandated reporter is a person who is required by law to report suspected child abuse or neglect. Each mandated reporter must call the DCFS Hotline at 1-800-25-ABUSE (1-800-252-2873) if he or she has reasonable cause to believe that a child known to him or her, in his or her professional capacity, may be abused or neglected.

Foster Caregivers are Mandated Reporters

All foster caregivers are mandated reporters for children placed in their direct care and supervision ONLY. (See Section 8, page 32) Caregivers are not legally mandated to report suspected abuse or neglect of other children, but, as concerned citizens, should make a report.

The mandated reporters listed below must report ANY situation they become aware of where abuse or neglect of a child may be involved:

- | | |
|--|-----------------------------|
| • medical personnel | • school personnel |
| • social service/mental health personnel | • child care personnel |
| • coroner/medical examiner personnel | • law enforcement personnel |

Ideally, the person, or mandated reporter, with the most knowledge of the suspected abuse or neglect should make the actual call to the DCFS Hotline. Section 8: pages 31-33 give a detailed explanation of the responsibilities of a mandated reporter, hotline criteria for taking a report, how an investigation works and foster parents' rights if they are under investigation.

Caller's Confidentiality

The identity of all callers to the hotline is confidential and will not be released to the person/s who are investigated as a result of a report unless a court or administrative order is issued to release the caller's name. Anonymous caller's reports will also be taken, if the criteria for taking a report is met. Section 8, page 32 outlines how to make a hotline report.

Child Protection Investigation Specialist

The local child protection investigation specialist responds to the report transmitted by the Hotline by investigating the caller's allegations.

Unfounding a Report

If the investigator finds no credible evidence of abuse or neglect, he or she will show the allegations as unfounded in his or her report.

Keeping a Child Home

After investigating the allegations, the child protection investigation specialist, with supervisory approval, may decide not to remove the child or children from the parents if they are not in immediate danger and:

- the family voluntarily accepts DCFS services;
Families who need help may receive services from DCFS. DCFS opens an "intact" family case and works with the family. Intact family cases may not be screened into Juvenile Court by the intact specialist unless there is a need for additional monitoring or court intervention.

OR

- it appears that a court Order of Protection would enable the child or children to remain with the parents.

The investigation or intact specialist presents the case to the State's Attorney to determine whether the facts of the case support asking the judge to issue an Order of Protection. A court Order of Protection lists the services the family needs to participate in, and the actions the parents need to take or not take for the child or children to remain at home. The judge, after hearing the facts, may either issue the Order of Protection as requested, or may order the children to be taken into temporary custody, or may dismiss the case entirely if the facts of the case do not support keeping the court case open.

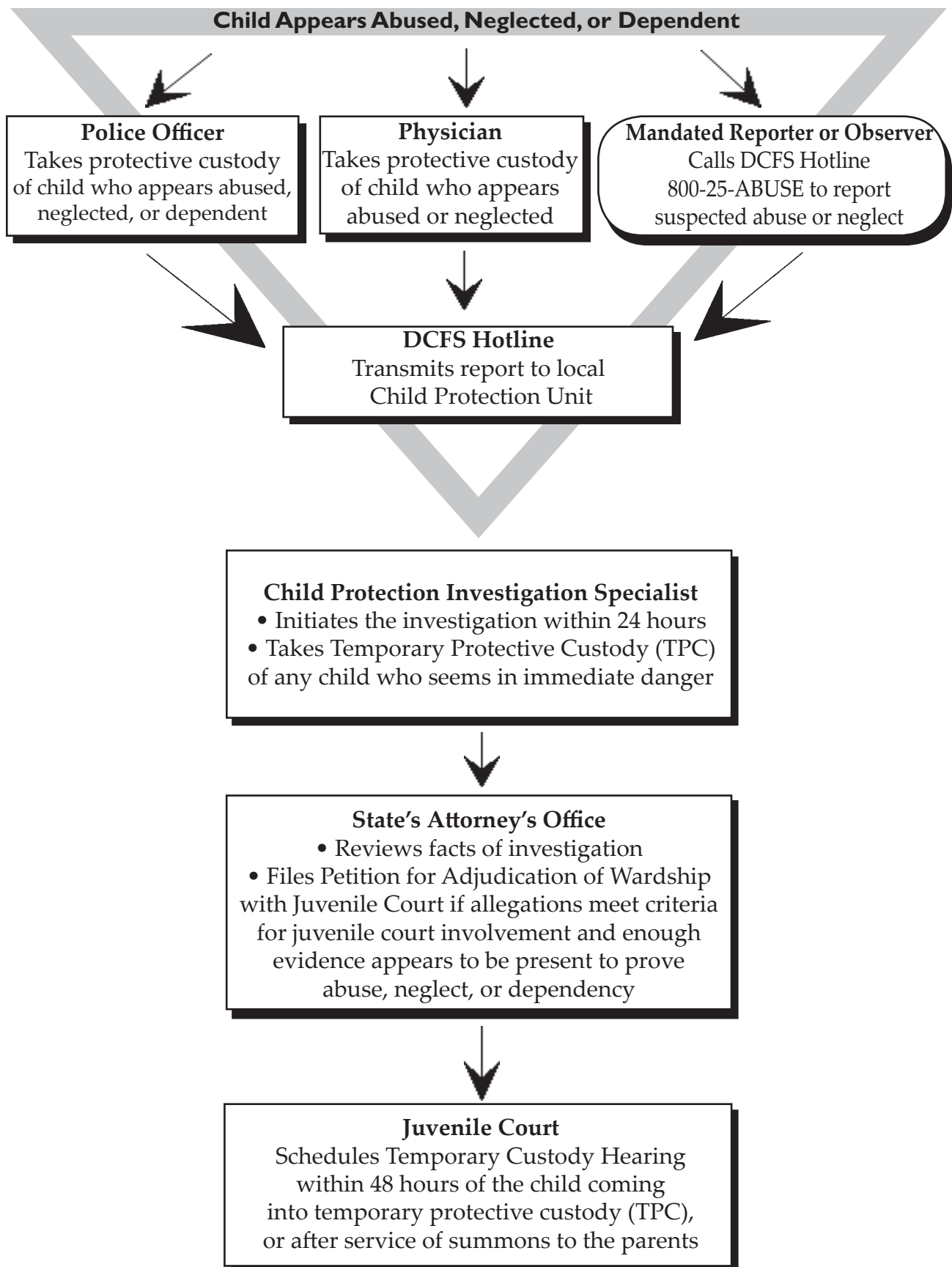
Note: If the judge closes the court case, DCFS may decide to keep the child welfare care case open to help the child and family.

Removing a Child from Home

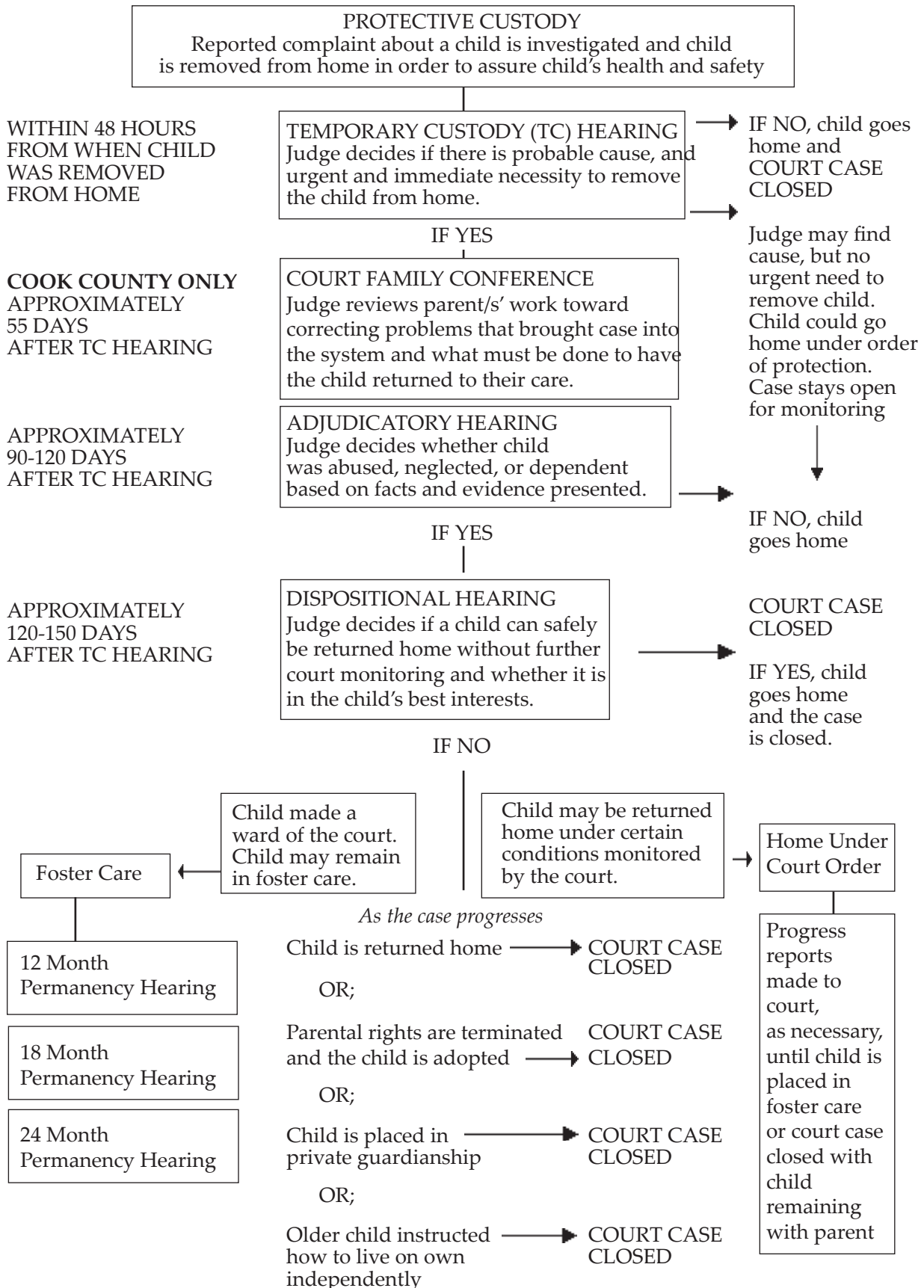
Investigators use an approach to assess the safety and protective needs of children called a Child Endangerment Risk Assessment Protocol (CERAP) to help them make decisions about whether or not the child is in immediate danger. The Investigation Specialist is authorized, and may decide, to take the child/ren into temporary protective custody if there appears to be "urgent and immediate necessity" to remove them from home for their own protection, and if their supervisor agrees.

In this case, a Temporary Custody Hearing (also called a Shelter Care Hearing) must be scheduled in Juvenile Court within 48 hours (excluding weekends and court holidays) of the child being taken into protective custody. Police officers and physicians may also take children into temporary custody if they believe the child is in immediate danger. After taking custody, they call the DCFS Child Abuse Hotline for further investigation.

CASE PROGRESSION THROUGH JUVENILE COURT



Timeline for Child Protection Proceedings



Temporary Custody/Shelter Care Hearing

Purpose

The judge decides whether there is probable cause to believe the child was abused, neglected, or is dependent, and if the child is at such immediate risk of serious injury that the child must be placed away from the parent or caretaker pending further juvenile court proceedings. The judge also decides whether DCFS made reasonable efforts to prevent the child's removal.

Time Frame

The hearing is held within 48 hours of the child being taken into protective custody, otherwise after notice to the parents. There may also be a 10-day rehearing if the parents did not receive adequate notice. If the child was not taken into protective custody, the hearing may be set for a future date, in Cook County, typically 21 days.

Caregivers Need to Know

Caregivers have a right to be present at this hearing, but are usually not asked to be present or to testify due to the purpose of the hearing unless he or she is a witness to the abuse/neglect/dependency that brought the case to court. In Cook County there may be Extended Temporary Custody conferences in which a caregiver may be asked to participate, especially if they are a relative and a support for the parent.

Possible Results

1) The child returns home if the court finds:

- there is no "probable cause" to believe that the child has been abused, neglected, or dependent and the case is dismissed. Criteria for "probable cause" is defined by law; or
- there is probable cause to believe that the child is abused, neglected, or dependent, but the Court has determined that the child may be returned home if consistent with the child's health, safety and welfare. Then a court date is set for an Adjudicatory Hearing.

2) The child remains outside the home if the court finds:

- there is "urgent and immediate necessity" to place the child away from his or her parents pending an adjudicatory hearing; or
- placement is in the best interests of the child.

The court appoints the DCFS Guardian as the temporary custodian of a child, with the right to place the child outside the home, pending an Adjudicatory Hearing. A child could go home with a non-custodial parent upon DCFS recommendation. *For example:* if the abuse happens in the mother's home, DCFS could recommend that the child go home with the father and the court could grant it. In Cook County, this would usually

be under an Order of Protection. The courts occasionally appoint another person to act as a private custodian instead of the DCFS guardian. This person is usually a close family member or friend. If this happens, the child is not under DCFS authority.

- 3) If **protective custody was taken of one child**, but another child still remains at home, the judge may decide to also remove the child remaining at home if the judge finds probable cause exists to believe that the child in protective custody is abused/neglected/dependent and there is urgent and immediate necessity to place the child at home away from the parent/s.

Court Family Conference

Purpose

The Court Family Conference brings together everyone involved in a family's court case. It is usually conducted as an *informal* conference held with a judge. Parts or all of the hearing may be held off the record. If the parents are not present, the conference will be held on the record.

Participants at the Court Family Conference may:

- discuss the service plan and progress to date;
- explain to the parties what results the court will expect to see prior to making decisions about whether to return the child home and whether to close the case;
- set a target date for the child to return if appropriate; and
- summarize the results of the Court Family Conference for the record.

Time Frame

55 days after child enters protective custody

Caregivers Need to Know

The judge may, or may not, allow caregivers to participate in this conference. The caregiver retains the right to be heard by the court before the end of the proceedings.

Possible Outcomes of the Court Family Conference

- 1) changes to identified services; or
- 2) change or no change to the recommended permanency goal based on facts presented.

The caseworker should explain the outcomes to caregivers.

Mediation Program

In Cook County, the Child Protection Mediation and Facilitation Program is available at the Cook County Juvenile Center. This program includes meetings during which family members and various individuals involved with the family come together to discuss and try to resolve issues that are impacting the family. Individuals trained in mediation and facilitation help the participants to have a thorough discussion. These services are available when a case is pending in juvenile court. The discussions are kept confidential and the facilitators remain neutral. The facilitators do not make decisions; it is up to the participants to decide how to resolve their disputes. Typically sessions result in a signed agreement. However, a signed agreement made during a mediation session is not a legally binding contract. The Child Protection Mediation and Facilitation Program can be contacted at 312-433-5259.

Adjudicatory Hearing

Purpose

The judge decides if the evidence presented shows that the child was abused, neglected, or is dependent. If the judge finds that the child was abused, neglected or is dependent, the judge must then determine whether the child was abused or neglected by the parent, guardian, or legal custodian, or is dependent.

Time Frame

The hearing is held within 90 days of the Temporary Custody Hearing, unless waived by the parent. The parties can ask for one continuance for up to 30 days or the court, on its own motion, can grant a continuance.

Caregivers Need to Know

Caregivers have a right to be present at this hearing, but are usually not asked to be present, or to testify due to the purpose of the hearing unless a caregiver is a witness to the abuse/neglect/dependency that brought the case to court.

Possible Results

- 1) The judge finds that the evidence does not support the facts and dismisses the case. **The child is returned to the parent/s**, if court finds that the child was not abused or neglected by the parent/s, or is not dependent;
- 2) The child remains in foster care until the next court hearing because either:
 - the parent/s abused or neglected the child; or
 - the child is found to be legally dependent.
- 3) The judge finds the child was abused or neglected, but decides to send the child home with services in place, if consistent with the child's health, safety and welfare.

- 4) If the child remains in foster care, the Dispositional Hearing is set for the next court date.
- 5) If the original petition requested or if an additional petition has been filed by the State's Attorney seeking termination of parental rights, the judge will also hear evidence of the unfitness of the parent/s alleged in the petition and will make a special finding of whether or not clear and convincing evidence exists to support one or more grounds for termination of parental rights.

Dispositional Hearing

Purpose

The judge considers testimony, caseworkers' reports, services provided, parent/s response to services and other evidence that may be presented in deciding whether a child can be safely returned home and whether it is in the child's best interest to do so, or whether the child should be made a ward of the court. If the child is made a ward of the court, the judge must then decide whether to appoint a private guardian or appoint DCFS as guardian of the child. (DCFS is usually appointed guardian).

Time Frame – ***Must be completed within 120 days.***

The hearing is held within 30 days after the Adjudicatory Hearing with one opportunity for continuance not to exceed 30 days, if necessary, to complete the dispositional report.

Caregivers Need to Know

The judge's role at this hearing is to:

- consider reports submitted by the caseworker and other service providers;
- hear:
 - testimony regarding efforts made to reunify the child and family
 - evidence as to the services delivered or to be delivered under the family's service plan; and
 - evidence as to the placement alternatives (including return home) and the best interests of the child.
- decide if the parents are "unable," "unwilling," or "unfit" to care for the child at this time, and if it is in the child's best interest to return home or to stay in foster care;
- decide whether to make the child a ward of the court;
- appoint a guardian for the child/ren staying in foster care, usually DCFS, represented by the DCFS Guardian;

- consider whether it is appropriate to pursue termination of parental rights of parents who are unknown, whose whereabouts remain unknown, or who have not responded by appearing in court after receiving service and notice of the court proceedings; and
- set a future date for a Progress or Permanency Hearing.

Caregivers may request to be heard if they believe that they have relevant information needed before the judge makes a final ruling. The judge may either decide to allow the caregivers' testimony because it is in the best interest of the child or may deny the caregivers' request to testify if the judge feels it is not in the child's best interest or is not relevant to this hearing.

Possible Results

The judge may:

- return custody of the child to the parents and close the case;
- make the child a ward of the court and return the child home to the parents under an Order of Protection for further court monitoring. If so, then the judge shall order the parents to cooperate with DCFS and comply with the terms of an aftercare plan or risk the loss of custody of the child and possible termination of their parental rights;
- make the child a ward of the court and order that the child stay in foster care, with DCFS usually appointed by the court as guardian of the child. If so, then the judge shall order the parents to cooperate with DCFS, comply with the service plan and correct the conditions which require the child to be in foster care or risk termination of their parental rights;
- select "guardianship" as the appropriate dispositional alternative when the criteria established by DCFS for guardianship are met;
- enter an order terminating parental rights and appointing a guardian with power to consent to adoption, if the original petition requested, or an additional petition was filed requesting an expedited termination of parental rights and at adjudication the judge found "clear and convincing" evidence that one or more of the unfitness grounds exists;
- modify any prior orders entered in the case in the best interests of the child, for example, increasing or decreasing parental visits;
- enter any other orders necessary to fulfill the service plan, for example, ordering the children and/or parents to receive counseling; or
- review the current service plan and recommended permanency goal to see if it is appropriate. The court may find that the supervising agency should develop and implement a new goal and permanency plan. If this happens, the agency must enter a new service plan.

Permanency Hearing

Purpose

The judge (or in Cook County, the Hearing Officer) reviews the service plan and reports submitted by the caseworker and service providers; hears evidence regarding efforts made to reunify the child and family; reviews the services delivered or to be delivered under the family's service plan; considers placement alternatives (including return home); and determines the best interests of the child. Then, the judge determines the child's future status by setting a permanency goal.

Time Frame

The first permanency hearing must be held within 12 months of Temporary Protective Custody (TPC) and every 6 months thereafter, or more frequently if necessary. Time frames for permanency hearings are mandatory. A permanency hearing may not be delayed in anticipation of a report from any source or due to an agency's failure to timely file its written report (other than the service plan).

The court must also hold a permanency hearing within 30 days 1) after an expedited termination of parental rights (See Section 3, page 15) or 2) after granting a motion to terminate reunification efforts.

Caregivers Need to Know

The judge's role at this hearing is to:

- Review the client service plan. *Note:* The agency is required to file the most recent service plan prepared within the prior 6 months, at least 14 days in advance of the hearing date to allow for review prior to the hearing;
- review reports submitted by the caseworker and service providers;
- hear:
 - evidence regarding efforts made to reunify the child and family;
 - what services have been delivered or not delivered under the family's service plan;
 - placement alternatives (including return home); and
 - testimony about what is in the best interests of the child.
- set the first permanency goal for the family;
- consider these factors when setting the permanency goal:
 - age of the child;
 - options available for permanency;
 - current placement of the child and the intent of the family regarding adoption;
 - emotional, physical and mental status or condition of the child;
 - types of services previously offered and whether or not the services were successful and, if not successful, the reasons the services failed;

-
- availability of services currently needed and whether the services exist; and
 - status of the siblings of the minor.

When the judge sets the permanency goal at this hearing, he or she must explain, in a written order, the goal selection and why other goals were ruled out.

Caregivers may be present and request to be heard in court.

Possible Results - Permanency Goals

In 1998, significant changes in Illinois law included eliminating “long-term” foster care as a goal. The law allows only specific goals to be selected. These permanency goals are part of the common language used by caseworkers, child welfare staff, and the juvenile court. Caregivers need to familiarize themselves with the permanency goals shown below.

During the first 12 months of the case, the agency assigned to the case and working with the family may work with a recommended permanency goal based on the facts of the case. At the 12-month permanency hearing, the judge selects a permanency goal, based on the evidence presented and the recommendation of the caseworker. *Once the court has set the goal, it can only be changed by the court.* The services in the service plan must always support the goal set by the court.

Permanency Goal Definitions

- (A) The minor will be returned home by a specific date within five months.
- (B) The minor will be in short term care with a continued goal to return home within a period not to exceed one year, where the progress of the parent or parents is substantial, giving particular consideration to the age and individual needs of the minor.
- (B-1) The minor will be in short-term care with a continued goal to return home pending a status hearing. When the court finds that a parent has not made reasonable efforts or reasonable progress, to date, the court shall identify what actions the parent and DCFS must take in order to justify a finding of reasonable efforts or reasonable progress. The court will also set a status hearing to be held not earlier than nine months from the date of adjudication and no later than 11 months from the date of adjudication, during which the parent’s progress will again be reviewed.
- (C) The minor will be in substitute care pending court determination on termination of parental rights.
- (D) Adoption, provided that parental rights have been terminated or relinquished.
- (E) The guardianship of the minor will be transferred to an individual or couple on a permanent basis provided that goals (A) through (D) have been ruled out.

- (F) The minor over age 15 will be in substitute care pending independence.
- (G) The minor will be in substitute care because he or she can not be provided for in a home environment due to developmental disabilities or mental illness or because he/she is a danger to self or others, provided that goals (A) through (D) have been ruled out.

Other Hearings

Status Hearing

- **Purpose :** To inform the court about the status of a particular aspect of the case.
- **Example:** Whether or not a parent who was not present at the Temporary Custody Hearing has been given notice about the court proceeding (case).
- **Time Frame:** Any time the court deems necessary.

Motion Hearing

- **Purpose:** One of the parties will file a motion asking the judge to do or refrain from doing something.
- **Example:** Public defender files a motion asking the judge to grant unsupervised visits to the mother.
- **Time Frame:** Any time the court deems necessary.

Progress Hearing

- **Purpose:** To inform the court about the progress of a case, including such matters as:
 - the parent or parents' progress toward being ready for the child to return home;
 - the caseworker's progress in getting a case prepared for termination of parental rights; or
 - a parent or parents' progress under an Order of Protection where increased contact with the child has been granted by the judge.
- **Time Frame:** Any time the court deems necessary.

Termination of Parental Rights

- **Purpose:** The judge decides, based on the facts and evidence presented, whether there is clear and convincing evidence to find the parent or parents unfit and whether it is in the child's best interest to terminate parental rights.
- **Time Frame:** This hearing can occur in conjunction with the Adjudicatory and Dispositional phase of the case or in a separate hearing after the Dispositional Hearing.

COMMONLY USED COURT TERMS

Adjudicatory Hearing	Court hearing which decides whether or not the child was abused, neglected, or is dependent based on the facts and evidence presented.
Admission	The voluntary acknowledgment of a party that certain facts do exist or are true.
ASA	Assistant State's Attorney (see State's Attorney).
Bar Attorney	An attorney in private practice who has offered his or her services to assist in Juvenile Court and is paid by the County. A Bar Attorney places his or her name on a court list and is appointed in cases where a conflict occurs necessitating the need for one of the parties to be represented by an attorney appointed from the list.
Best Interest of the Minor	The standard the judge uses in making decisions about the child's welfare in abuse/neglect/dependency cases.
Burden of Proof	The burden of persuasion. The attorney for each of the parties must persuade the court that the law and the evidence supports the outcome his or her client is seeking.
Calendar	A group of cases assigned to a specific courtroom.
Call	Cases scheduled to be heard on any given calendar on any given day.
Call List/Sheet	A printed list of cases scheduled to be heard on that day.
Dispositional Hearing	<p>Court hearing which decides whether it is in the best interest of the child to return home, or continue in out-of-home placement under the guardianship of DCFS, or be placed in private guardianship based on the evidence and facts presented.</p> <p>Sometimes, the Dispositional Hearing occurs on the same day as, and immediately following, the Adjudicatory Hearing. Usually, it is conducted on a later date in order for the court to receive and properly review written reports, evaluations and recommendations.</p>
Evidence	Testimony or documents formally presented in court to demonstrate or prove the existence or nonexistence of a fact at issue.

Guardian ad litem (GAL)	A GAL is an officer or agent of the Court who is appointed to protect the interests of the child and represent the child in legal proceedings. The GAL is usually an attorney, but, if not, the judge may decide to appoint a separate attorney to also represent the child.
Guardian	An officer or agent of the court who is appointed to protect the interests of minors or incompetent persons, and to provide for their care, welfare, education, maintenance and support. The DCFS Guardianship Administrator is usually appointed, but not always. The Guardian appointed for a minor may also be a private citizen.
Hearing	A court proceeding regarding a case that takes place in front of a judge.
Instanter	Hold a hearing immediately — on a matter not previously scheduled before the court.
Juvenile Arrest Warrant (JAW)	Warrant issued by the judge <i>in delinquency court cases</i> for the arrest of a minor.
Juvenile Protection Warrant (JPW)	(Also referred to as a Child Protection Warrant.) Warrant issued by the judge <i>in abuse and neglect court cases</i> to allow police officers to take the juvenile named in the warrant into protective custody whenever the juvenile is found. JPW is commonly issued when a juvenile has run away from a foster placement.
Legal Screening	Both of these processes:
Cook County Only →	<ol style="list-style-type: none"> 1) State's Attorney decides whether enough evidence of abuse, neglect, or dependency exists to support filing a Petition for Adjudication of Wardship after consulting with the Child Protection Investigator; and 2) State's Attorney decides whether the documentation and evidence within a case supports filing a motion to request termination of parental rights after consulting with DCFS legal staff, the GAL and the caseworker. Other counties have variations that may or may not include a State's Attorney.
Minor	The general definition is anyone under 18 years old, but juvenile court cases in some circumstances remain open until 21 years of age.
Motion	An oral or written request by the State's Attorney, Public Defender, GAL or other Attorney representing a party to the case asking the court to take or not take some specific action on a case.

Permanency Hearing (PH)	A hearing in which the judge selects a permanency goal; determines if services in the service plan have been provided and are appropriate, and whether reasonable efforts have been made to achieve the goal, and whether the plan and goal have been achieved. COOK COUNTY ONLY: First PH is conducted by a judge. Every six months thereafter, the PH may be conducted by a Hearing Officer who only makes a recommendation to the judge of which goal he or she should select.
Cook County Only →	
Petition	Document filed by an attorney alleging specific violations of the law and requesting judicial action. Example: Petition for the Adjudication of Wardship is filed by the State's Attorney alleging instances of abuse, neglect, or dependency and requesting court action.
Pre-Screening	Prior to a case being taken to LEGAL SCREENING for termination of parental rights in the State's Attorney's Office, DCFS Regional Legal Staff pre-screen the documentation for completeness.
Probable Cause	Reasonable grounds to believe that an action took place. Example: At the Temporary Custody/Shelter Care hearing, the judge must decide if there is "probable cause" to believe that the child is abused, neglected, or dependent in order to remove the child from the child's parents/guardian.
Protective Custody (PC)	A Child Protection Investigator investigating a DCFS Hotline report, a physician suspecting abuse or neglect, or a police officer responding to a call can remove a child from home or not allow the child to return home for his/her own protection.
Prove Up	An uncontested court hearing in which evidence sufficient to establish the factual basis of a court decision is read into the official court record.
Public Defender (PD)	The attorney appointed by the court to represent the parent or parents in an abuse/neglect/dependency case or the minor who cannot afford an attorney in a delinquency case. In counties other than Cook, the PD may also be appointed to represent the child in an abuse/neglect/dependency case as the child's Attorney and Guardian ad litem.
Shelter	A physically unrestrictive facility designated by DCFS or a licensed child welfare agency, or other suitable place designated by the court for a minor who requires care away from his or her home.
Shelter Care Hearing	See Temporary Custody Hearing. Counties other than Cook often use this term.

State's Attorney	As a representative of the People of the State of Illinois in Court, the State's Attorney (usually an Assistant State's Attorney) first must decide whether or not to file a petition in Juvenile Court alleging that the minor child/ren is/are abused, neglected, dependent, MRAI, truant, addicted, or delinquent. He or she then bears the burden of producing evidence and witnesses to prove the allegations stated in the petition.
Stipulation	An agreement by the parties that certain facts are true. The stipulation is presented in court to the judge and the judge decides whether or not to accept it. If it is accepted, it relieves the parties of the burden of presenting evidence on those factual issues at a hearing.
Temporary Custody (TC)	The temporary placement of a minor out of the custody of his/her parent or guardian.
Temporary Custody Hearing	Court hearing where the judge decides whether there is probable cause and urgent and immediate necessity to remove a child from his or her home.
Temporary Protective Custody/Protective Custody (TPC or PC)	Custody of a child within a hospital or other medical facility or a place previously designated for such custody by DCFS, subject to review by the Court, including a licensed foster home, group home, or other institution. Such a place, however, may not be a jail or other place for the detention of the criminal or juvenile offenders.
Termination of Parental Rights (TPR)	Court hearing in which the judge decides whether to terminate the legal rights of the parent or parents to the child.
Trial	The Adjudicatory Hearing is sometimes referred to as the "trial."
Urgent and Immediate Necessity	Legal standard used by the judge at the Temporary Custody Shelter Care Hearing to decide if the child should be removed from home for his/her own protection.
Ward of the Court	A minor who has been taken under the supervision of the court.

JUVENILE JUSTICE CASES REFERRED TO JUVENILE COURT

Child protection cases coming to juvenile court involve the behavior of the parent or parents or caretaker of the child; while *juvenile justice* cases coming to juvenile court involve the behavior of the minor.

Any caregiver who believes a youth may be at risk of *becoming delinquent, truant, addicted, or is considering running away or committing a crime* needs to know the facts about the consequences of these actions given on the following pages.

Being informed will help you talk to your youth openly about the potential consequences of his or her actions and help you understand your likely involvement as a foster caregiver.

Delinquency

A delinquent child is legally defined as “a minor, *under 17 years old*, who has violated or attempted to violate any federal, state or municipal law.”

Delinquency includes all acts that would be criminal offenses if committed by an adult, such as burglary, robbery, assault and battery.

What Can Happen to a Delinquent Child?

Of course, the facts of each case determine what happens to a child found delinquent by the court, but here are several possibilities not widely known by foster caregivers or by youthful children in foster care.

The court may decide to:

- appoint DCFS as guardian of a delinquent child *less than 13 years old*;
- remand a delinquent child *13 years old or older* to the Illinois Department of Corrections (DOC); or
- transfer a delinquent child age *10 or older* to the Illinois Department of Corrections (DOC) if an “interagency review committee” decides that DCFS does not have a facility to care for and rehabilitate the child. The interagency review committee has four members: DCFS representative, Department of Corrections representative, an educator and a qualified mental health professional.

Truancy (Outside of Cook County Only*)

Parents, caregivers and caseworkers are responsible for knowing if a child is chronically truant, and for making “good faith” efforts with the school to take action to discourage and prevent truancy. Chronic truancy of a minor may come before Juvenile Court if these efforts fail.

A “truant” child is legally defined as a minor, *under the age of 18 years old*, who doesn’t attend school and refuses prevention, diagnostic, intervention, remedial services, alternative programs and other school and community resources offered by continuing to be chronically truant.

What Can Happen to a Truant Minor?

The court can order:

- the minor to comply with an “individualized educational plan” (IEP) provided by the regional superintendent of schools;
- counseling or other supportive services be provided by a school district;
- the minor to perform reasonable public service work;
- the minor’s driver’s license to be suspended; and
- the minor to pay a fine of up to \$100 for each day of absence without valid cause.

Addiction

An “**addicted**” child is a minor, *under the age of 18*, who is an addict or an alcoholic as defined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1 et.seq).

“Addiction” means a disease characterized by the continued use of a specific psychoactive substance despite physical, psychological or social harm. The term also describes the advanced stages of chemical dependency.

(*Counties with a population under 2 million)

Temporary Police Custody

A law enforcement officer, *without a warrant*, may take temporary custody of a minor who:

- the officer has “reasonable cause” to believe is addicted. For example: the youth’s behavior resembles that of addicted person;
- is a ward of the court who has run away to avoid treatment ordered by the court. For example, the court has ordered addicted minor to complete rehabilitation at a center and the youth runs away from the center and is found by the police; or
- is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, or hospitalization.

Taking a minor into temporary police custody under these circumstances is NOT an arrest and there is no police record.

NOTE: This provision is rarely used, but you should be aware of it.

MINOR REQUIRING AUTHORITATIVE INTERVENTION

Sometimes the behavior of both the child and caretaker/s come to the attention of the Juvenile Court. The court, in these cases, decides whether or not the child is a **Minor Requiring Authoritative Intervention (MRAI)**.

An **MRAI** is legally defined as a minor, *under 18 years old*, who is either:

- absent from home without consent of the parent, guardian, or custodian; or
- beyond the control of the parent, guardian, or custodian, constituting a substantial or immediate danger to the minor's physical safety; and
- who after being taken into limited custody and offered interim crisis intervention services, refuses to return home after the minor and his or her parent, guardian or custodian cannot agree to an arrangement for an alternative voluntary placement.

MRAI Applied to a Child In "Limited Custody"

Sometimes, during a family crisis, the child may be moved outside the home by a crisis worker who feels that a short "cooling off" period would enable services to begin and the child to rejoin the family. This "limited custody" may only last up to 21 days without the child coming into DCFS guardianship.

The first time a child is taken into limited custody, the court *cannot* find the child to be a MRAI during the first 21 days of limited custody.

During a second, third and fourth time a child is taken into limited custody, the court cannot find the child to be MRAI during the first five days of limited custody.

What Happens to a Child Found MRAI?

The court may order medical, psychological, psychiatric, or social services evaluations and the family to be assisted in getting those services.

The court may find the minor to be "neglected", and not MRAI, if the family refuses to accept the minor back home after limited custody (i.e., lockout).

WHO'S WHO IN THE DELINQUENCY, OR (IN COOK COUNTY) JUVENILE JUSTICE COURTROOM?

The *parties* having roles in the delinquency proceeding and the others present are different from the abuse/neglect juvenile courtroom.

In delinquency hearings, the *parties* usually include:

- the Assistant State's Attorney, representing the Office of the State's Attorney and the people of Illinois;
- the child;
- the child's attorney; and
- parents.

Other people present at delinquency court hearings involving a child in foster care may include: the child's guardian, other relatives, foster caregivers, probation officer, Guardian ad litem for the child, the DCFS regional counsel, the caseworker, police officer and other witnesses or support people.

Judge

The judge makes final decisions regarding the case according to the facts and the law and also maintains an orderly courtroom procedure.

State's Attorney (or Assistant State's Attorney)

As a representative of the People of the State of Illinois, the State's Attorney's Office first must decide whether or not to file a petition in Juvenile Court alleging that the minor is delinquent, truant, addicted, or a Minor Requiring Authoritative Intervention (MRAI). Then, the State's Attorney bears the burden of producing evidence and witnesses to prove the allegations stated in the petition.

Private Attorney/Public Defender/Bar Attorney

The child and parents are given the opportunity to hire a private attorney to represent the child's interests in Juvenile Court. If the child or parents cannot afford to hire an attorney for the child and they meet the income guidelines to receive free representation, the Office of the Public Defender will be appointed to represent the child as his/her attorney.

In the case of two minors responding to the same allegations, if there is a conflict between them, the Office of the Public Defender will be appointed to represent one minor and a "conflict" or Bar Attorney will be appointed to represent the other minor. The Bar Attorney is appointed from a list of attorneys who have offered their services to assist in Juvenile Court for reduced fees that are paid by the county.

Guardian ad litem (GAL or Public Guardian)

The court may appoint a Guardian ad litem as an officer or agent of the court to protect the best interests of the child and represent the child in legal proceedings.

The court may appoint a GAL for the child whenever it finds that there may be a conflict of interest between the child and his or her parents or other custodian or when it is in the best interests of the child to do so. If the GAL is *not* an attorney, legal counsel shall represent the GAL.

Note: In some counties, the GAL may be appointed by the court to represent the child in delinquency cases instead of a Public Defender or Bar Attorney. In this situation, the GAL would also be an attorney or would be represented by an attorney.

Probation Officer (PO)

A probation officer may be authorized or directed by the court to receive, investigate and evaluate complaints indicating dependency, requirement of authoritative intervention, addiction or delinquency. The probation officer can be helpful in determining or assisting the person or agency filing the complaint against the child (complainant) in determining if a court petition should be filed, or whether a referral should be made to an agency, association, or other person, or whether some other action is advisable.

The probation officer assigned to your foster child's case is available to counsel and, by order of the court, to:

- supervise the minor referred to the court'
- conduct indicated programs of casework, including referrals for medical and mental health services, organized recreation and job placement for wards of the court and, when appropriate, for members of the family of the ward'
- act as a liaison officer between the court and agencies or associations to which the minor is referred or through which he or she is placed'
- when so appointed by the court, to serve as guardian of the person of the ward of the court'
- provide probation supervision and protective supervision ordered by the court; and
- provide like services to wards and probationers of courts in other counties or jurisdictions who have lawfully become local residents.

The probation officer can also arrange for placements ordered by the court and can assume administrative responsibility for such detention, shelter care and other institutions for minors as the court may operate.

DCFS Regional Counsel

The DCFS regional counsel is an attorney employed by DCFS to represent the interests of DCFS (not the caseworker). The DCFS regional counsel appears in court when DCFS requires legal representation and is often called upon to explain DCFS policies to the Court. The DCFS regional counsel also assists caseworkers in court, particularly when there is a dispute regarding placements or services.

Caseworker

The private agency or DCFS caseworker assigned to the child's case may be required to appear at the delinquency court hearings to provide information to the court about the nature and progress of the child's abuse/neglect/dependency case, services needed by and provided to the family, and information about the welfare of the child. Information provided might include possible placement options.

Child

The child must attend a Juvenile Justice court hearing regarding his or her case, unless excused by the judge or probation officer.

Parents

The child's parents have the right to attend all court hearings and to be represented by an attorney. The parents may testify at the hearings or may remain silent. They also may bring in friends, relatives, therapists, or other professionals as witnesses on behalf of the child or themselves or as a support system. Note: The judge may decide not to allow support persons into the courtroom who will or will not also be called as witnesses.

Court Appointed Special Advocate (CASA)

A CASA worker is a trained community volunteer who is appointed by a juvenile or family court judge to speak for children who are brought before the court. The majority of CASA volunteers' assignments are cases in which a child was removed from home for his or her own protection.

In some counties, the judge may appoint the CASA volunteer as the child's GAL; and, in other counties, as the child's GAL, the CASA volunteer may be appointed to represent the child in delinquency court. If so, the CASA volunteer shall be represented by an attorney appointed by the court.

As the child's advocate, the CASA volunteer has three main responsibilities:

- 1) to serve as a fact-finder for the judge by thoroughly researching the background of each assigned case;
- 2) to speak for the child in the courtroom, representing the child's best interests; and
- 3) to continue to act as a "watchdog" for the child during the life of the case, ensuring that the case is brought to a swift and appropriate conclusion.

DCFS Court Facilitators **Cook County Only**

There is one DCFS court facilitator assigned to assist with the delinquency courtrooms. The DCFS court facilitator is usually present in the courtroom conducting the custody call in order to provide notification to DCFS caseworkers of orders affecting minors under the department's care.

SITUATIONS REQUIRING TRANSFER OF VIOLENT JUVENILES TO ADULT COURT

Caregivers who believe a child or youth may be considering becoming involved with a gang or contemplating illegal behavior should inform him or her of the possible consequences. Many children and youths are unaware of the scope of the law holding them accountable for their actions, even as juveniles. Children and youth need to be aware that there are potentially life-defining consequences of any illegal action.

Generally, individuals under 17 years old who are charged with a crime in Illinois are tried in Juvenile Court (405 ILCS 405/5-3 (1)). However, juveniles who commit certain serious crimes will be tried in adult criminal court with the same range of penalties that are available for adults. All juveniles who are tried and convicted as adults are incarcerated separately from adult prisoners until they are sent to an adult prison at some point between their 17th and 21st birthdays. Convictions in adult criminal court become part of a juvenile's *permanent record*.

Juvenile Cases Transferred to Adult Court at the Discretion of the Judge

Age Group Eligible: Youth age 13 and above

Crimes: Any crime may be used as a basis for the State's Attorney's petition. A Juvenile Court judge must conduct a hearing and must determine that it is not in the best interests of the juvenile or the public to keep the case in juvenile court.

The judge's decision is based on nine factors:

- whether there is probable cause that the minor committed the crime;
- seriousness of the alleged offense;
- minor's history of delinquency;
- age of the minor;
- responsibility of the minor in committing the offense;
- whether the offense was committed in an aggressive or premeditated manner;
- whether the minor used or possessed a deadly weapon during the offense;
- the minor's history of services and his willingness to participate in available services; and
- the adequacy of the punishment or services available in the Juvenile Justice system.

The judge will give more weight to the seriousness of the offense and the minor's history of delinquency.

Source: 705 ILCS 405/5 4(3)

Mandatory Transfer of Juvenile Cases to Adult Court When Probable Cause Exists That the Allegations are True

Age Group Eligible: 15 and 16 year olds

Type of Transfer: Mandatory Transfer

The State's Attorney must file a motion requesting a transfer hearing.

These are the categories of eligible juveniles:

- Juvenile commits *forcible felony* in furtherance of gang activity and has a prior felony conviction;
Forcible felonies are: treason, 1st degree murder, 2nd degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, certain types of aggravated battery and any other felony which involves the use of threat of force against any individual.
- Juvenile commits felony in furtherance of gang activity and has prior forcible felony conviction;
- Juvenile committing crime on presumptive category list (Class X felony or aggravated discharge of a firearm or being involved in drug dealing with a weapon) with a prior delinquency finding for a forcible felony; and
- Juvenile commits aggravated discharge of a firearm on or within 1000 feet of school property.

The Juvenile Court judge must conduct a hearing. If the judge finds there is probable cause to believe the allegations in the motion concerning the juvenile to be true, then the judge must transfer the case to adult court.

Type of Transfer: Presumptive Transfer

The State's Attorney must file a motion requesting a transfer hearing.

Only certain specified offenses may be transferred:

- Class X felony other than armed violence;
- Aggravated discharge of a firearm;
- Armed violence with a firearm where the predicate offense is a gang-related Class 1 or Class 2 offense;
- Armed violence with a firearm when the predicate offense is certain specified violations of the Illinois Controlled Substance Act; and
- Armed violence when the weapon involved is a machine gun, sawed off shotgun or bomb.

The Juvenile Court Judge must conduct a hearing and determine whether there is probable cause to believe that the allegations in the motion for transfer and delinquency petition are true. If so, there is a rebuttable presumption that the minor should be transferred and is not a fit and proper subject to be dealt with in juvenile court. If the judge finds probable cause exists, the law requires transfers to adult court unless the judge specifically finds that the minor is suitable for treatment in Juvenile Court. The judge is given factors similar to *discretionary transfer* to guide the decision.

Juvenile Cases Automatically Transferred to Adult Court

No juvenile court hearing is held. The case proceeds directly to adult court in situations where the minor is charged with the crimes listed below.

Age Group Eligible: 15 and 16 year olds

Crimes:

- first degree murder;
- aggravated criminal sexual assault;
- armed robbery or aggravated vehicular hijacking, committed with a firearm;
- certain weapons offenses committed on school grounds;
- delivery and possession, with the intent to deliver a controlled substance, on school or public housing property or on a public way within 1000 feet of a school or public housing; and
- escape or violation of bail while facing an adult charge.

If, after a plea of guilty or a trial, a minor age 15-16 is found guilty of a *lesser included offense*, and not the automatically transferable offense, the judge may still sentence the juvenile as an adult based on his or her discretion and on certain other statutory factors. *Lesser included offenses* include: 2nd degree murder, involuntary manslaughter, criminal sexual assault, robbery, possession of a controlled substance.

Age Group Eligible: 13 and 14 year olds

Crime:

Applies only to situations where the minor is charged with 1st degree murder during the commission of an aggravated criminal sexual assault, criminal sexual assault, or an aggravated kidnapping.

If the minor is charged with murder based on accountability (aided or assisted another in crime), the minor can only be transferred after a discretionary transfer hearing.

Source: 705 ILCS 405/5-4 (6)(a), (7)(a), (8)(a), (9)(a)

CAREGIVER INFORMATION FOR COOK COUNTY JUVENILE COURT

Notification to Caregivers of Court Dates

In Cook County, caregivers generally are notified of court dates in two ways:

- the caseworker and agency work with the caregivers to notify them of upcoming court dates verbally or in writing; and
- the Guardian ad litem (GAL) usually mails a letter to foster caregivers after each court hearing.

The GAL letter:

- gives the name and phone number of the child’s GAL;
- lists the next court date; and
- invites the caregivers to call if they cannot attend the next hearing

The letter also asks the caregivers to notify the GAL if they are no longer caring for the child. Caregivers should communicate with the GAL before the next court date to help the GAL represent the child. (See pages 3-4.)

Cook County caregivers can find the name of their child’s GAL by calling the Office of the Cook County Public Guardian at 312-433-4300.

Security at Both Entrances

Everyone who enters the Juvenile Court Building must go through security checkpoints – even children. Since the line may be long, make sure you arrive at security at the entrance *at least 1/2 hour before your scheduled court time*. You may have to wait outside, so make sure to dress for the weather. If children must come to court, be sure to explain the purpose of security and what to expect, before you arrive.

Once inside, look for “Men” and “Women” lines – look for the signs or wait to be directed by a Sheriff. Men and women must go into separate lines. Both men and women will be asked to empty whatever is in their pockets and will be instructed to walk through a metal detector. You may also be “patted down” by a Sheriff.

Do not bring these items into the court building. They will be taken from you.

microphones;
cameras;
tape recorders;
radios;
pepper spray/mace;
scissors/metal nail files;
glass bottles;
any type of weapon; or
cans of soda.

Locating Your Courtroom

To participate in court, you **MUST** allow enough time to get through security and get to your courtroom **on time**. The court building has escalators and elevators.

- Entering from HAMILTON (by parking garage): After security, go straight down the hallway through the big double doors to the left of the Clerk's Office. Past the Sheriff's desk, you will see the courtrooms, beginning with Courtroom A.
- Entering from OGDEN: the courtrooms will be in front of you.

Information Desk (near the Hamilton entrance): If you have been given a court calendar number, but no courtroom letter, or do not know which courtroom to go to, or need other information, ask at the Information Desk.

Courtrooms: West building (facing Ogden)

Courtrooms A-G: First Floor

Courtrooms H-N: Lower Level

Outside the Courtroom: Look for the caseworker and your child's Guardian ad litem (GAL) to tell them you are there. A Deputy Sheriff stands at the door of the courtroom to control who enters. The Deputy Sheriff will announce the case by the last name of the children to those waiting in the waiting area. Be prepared to wait. Even though your child's case is scheduled, the order of the cases called may change that day.

Inside the Courtroom: Judges do not allow those inside their courtroom to talk unnecessarily, chew gum, eat, or wear a hat. Children must be as quiet as possible.

Bringing Children to Court

Waiting area space outside each courtroom is limited.

Make arrangements to leave your children at home, if possible. Children in foster care do not have to attend court hearings unless the judge or GAL has requested their presence, or if a subpoena has been issued for the child to be present. If the caseworker asks you to bring the child to court, ask if the judge or GAL has requested it. The child's GAL will also be able to provide this information. Visits between children, parents and siblings, should take place in appropriate settings — not in court.

Vending Machine Area

West building, between Sheriff's Desk and large double doors, near the Clerk's Office. Drinks and snack foods are available in vending machines, but there is no cafeteria for complete meals. Appropriate food for young children and babies is not available. Diapers are not available in the court building.

Art and Nature Room

This room is close to the vending area. Children can stay there under supervision during court hearings, however, court personnel must give the caregiver a form allowing the minors to stay in this room. The room closes at 4 p.m.

DIRECTIONS TO THE JUVENILE COURT OF COOK COUNTY

If a child's family of origin lives in Cook County, all court hearings will be held at:

Juvenile Court of Cook County
2245 W. Ogden Ave.
Chicago, Illinois 60612
(corner of Ogden and Roosevelt)

Public Transportation instructions: Call RTA at 312-836-7000.

Driving instructions:

from WEST on 290 — Eisenhower Expressway
Exit at Damen Avenue — right on Damen
South on Damen to Taylor
Right (West) on Taylor, 2 blocks to Hamilton
Left on Hamilton to Parking Garage on left

from NORTH on 90/94 — Kennedy Expressway East
Exit Ogden Avenue — Right on Ogden
South on Ogden to Taylor
Left on Taylor
Immediate Right on Hamilton to Parking Garage

from SOUTH on 90/94 — Dan Ryan Expressway West
Exit Taylor Street — Left on Taylor
West on Taylor to Hamilton
Left on Hamilton to Parking Garage

from LOOP — 290 West Eisenhower Expressway
Exit at Damen Avenue — Left on Damen
South on Damen to Taylor
Right (west) on Taylor, 2 blocks to Hamilton
Left on Hamilton to Parking Garage

Parking Garage: \$2, no time limit/Security/Elevator
Located on Hamilton, between Taylor Street and Roosevelt Road.
Street parking is also available.
Entrance to court building is across the street from the parking garage.

Building Entrances: Two entrances are available.
Ogden (between Taylor and Oakley) or
Hamilton (between Taylor and Roosevelt)

