



# 6. *Dependency*

## **What is Dependency?**

Parents must care for their children. Children must have a safe place to live, food to eat and medical care. Children must go to school. If a parent cannot or will not take care of a child, a county agency may step in and care for the child.

Dependency is the process by which a county agency steps in to take care and control of a child.

## **Dependency Definitions**

- **County Agency** – the people who help children and families obtain services that will help them solve problems related to their family units. The actual name varies by county but is generally something like “Children and Youth Services” or “The Department of Children, Youth and Families.”
- **Emancipation** – independent status granted to a child under the age of 18 who is married or has otherwise been determined by the Court to be independent of his or her parents.

- **Family Service Plan** – a blueprint on how the court, county agency and family will work together to improve the problems and challenges leading to dependency.
- **Guardian or Guardian Ad litem (GAL)** – any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian while court proceedings are happening.
- **Party** – a person who is legally entitled to participate in the proceedings. Generally, parties in dependency matters include the county agency, parents and the child. Other people can petition the court if they want to participate in the proceedings. The judge in the case makes the final determination of who can participate as a party in the case.
- **Permanency Plan** – a comprehensive plan that will result in a permanent home for the child either with one or both parents, a relative or a court approved adoptive parent.
- **Shelter Care Facility** – a physically unrestricted place approved by the state where a child can live temporarily while the child’s case is decided or until an alternate safe home can be found.

## What is a dependent child?

A dependent child is a child:

1. Who is without proper parental care and control;
2. Who is not going to school and should be going to school;
3. Who has been abandoned by his/her parents;
4. Who does not have a parent;
5. Who is under the age of ten (10) and has committed a delinquent act; OR
6. Who has been born to a parent whose parental rights to another child have been involuntarily terminated within three (3) years immediately preceding the date of birth of the child and the parent’s conduct poses a threat to the child’s health, safety or welfare.

## How do I get an attorney to represent me?

### Parents:

- 1) The court **must** assign and pay for an attorney for a parent that cannot afford to hire a private attorney.
- 2) An attorney must be appointed before the first court hearing.

### Does an adult have to have an attorney?

- 1) No. An adult can waive, or decline, to have an attorney represent them. It is usually better to have an attorney in dependency cases, so it is best to ask for one right away.
- 2) The judge will ask the adult questions to make sure the adult knows and understands the consequences of not having an attorney.
- 3) An adult can **always** request an attorney at a later hearing even if they gave up their right to an attorney at an earlier hearing.

### Children:

- 1) Children **MUST** have attorneys in dependency actions.
- 2) The court **MUST** appoint a free attorney to represent a child in dependency cases.

## How do dependency proceedings start?

A dependency proceeding starts in one of six ways:

1. A **dependency petition** can be filed;
2. An application for **emergency custody** can be filed;
3. The child can be taken into **protective custody** by court order;
4. The court can **accept jurisdiction** over a resident child from another state;
5. The court can **agree to supervise** a child because another state's court has asked for that supervision; OR
6. A parent or guardian can agree to **voluntarily place** the child in the custody of a county agency for 30 days.

**NOTE: The County Agency must file a request for a Shelter Care Hearing or a Dependency Petition within 24 hours of obtaining emergency protective custody of a child.**

A shelter care hearing must be held within 72 hours of taking the child into custody.

The primary focus of the shelter care hearing is to determine if protective custody of the child continues to be needed and if the child needs to remain in the care and custody of a county agency.

## Dependency Petitions

A dependency petition is the court document that is filed by the county agency alleging that a child is without necessary, proper parental care and supervision, and containing the facts and information that support the claim.

## Frequently Asked Questions

### **How much does it cost to be involved with dependency court?**

There is no cost for the court hearings themselves.

- If a child is declared dependent and removed from the home, the county agency may file for child support from the parent or guardian. If a child receives SSI or other monetary support, the county agency may be awarded that money until the child is returned to the home.
- If the parties are requested or required to go to programs like mental health programs or drug and alcohol programs, they may have to pay the fees. Sometimes the fees are paid for by the county agency. Check with the child's caseworker to see if assistance is available for these fees, or consult your attorney about getting a waiver of fees.
- Parties are generally responsible for transportation to and from court hearings and/or court ordered programs. Transportation assistance in the form of rides or bus passes may be available. Check with the child's caseworker.

### **Can I see my children everyday if they are in foster care?**

The county agency is only required to set up 2 visits per month for you and your child. The court may order more frequent visitation if you ask for it.

**What if I don't like my caseworker?**

Speak to your attorney to see what the specific county policy is about changing workers, but it is always best to be on good terms and to cooperate with the case workers.

**What if I don't like my attorney?**

You can petition the court to appoint another attorney for you. The court may not do so, but you can ask.

**What is the best thing I can do to get my children home quicker?**

- Remember that at all times, you **MUST** deal with the caseworker politely and respectfully. You might not always like what he or she tells you, but the caseworker will document any instances of rude, threatening or abusive behavior towards the worker and will report it to the court.
- If you don't like the way the caseworker treats you, politely deal with the situation and call your attorney for assistance.
- If you don't like a service or service provider, document the date and time of your concern and call your attorney. **DO NOT** stop attending a service that is court ordered without advice of your attorney. Service providers will document that you are not attending and are not cooperative. Even if your point is valid, the judge will not be happy that you did not follow their order.
- Good rule of thumb – **IF YOU WOULDN'T SAY IT OR DO IT IN FRONT OF THE JUDGE, DON'T SAY IT OR DO IT IN FRONT OF YOUR CASEWORKER OR SERVICE PROVIDERS!**

**Can I speak to my child's attorney?**

Some child advocates will speak with parents. Please remember that the child's attorney is there to advocate for the child – not for you. Your child may want something different than you do. Your child's attorney will work to obtain the outcome for them that seems to be best for the child. For specific questions, you should speak to your own attorney.

**How do I obtain an attorney for myself as a parent?**

Each county is different. Seek assistance from your child's caseworker as to how to go about obtaining an attorney for yourself if one is not automatically appointed to you.

**Remember that every county is unique. For specific assistance please contact an attorney familiar with your county rules and procedures, or your local county's bar association.**