

---

---

*A Dependency and Neglect*

# HANDBOOK

*for Larimer County Parents*

---

---



# Table of Contents

Introduction .....	3
What is a Dependency and Neglect Case? .....	3
What Are My Rights As a Parent? .....	3-4
What are my Child or Children’s Rights? .....	4-5
What happens at an Emergency Hearing? .....	5-7
What Happens at a First Appearance? .....	8
What Happens at an Adjudicatory Hearing? .....	8-9
What happens at a Disposition Hearing? .....	9
What happens at a Permanency Hearing? .....	10
What happens at a Change of Placement Hearings? .....	10
What is Relinquishment of Parental Rights? .....	11
What is Termination of Parental Rights? .....	11-12
What is Allocation of Parental Responsibilities? .....	12
What is Youth in Transition Case? .....	12
Definitions .....	13-14
Frequently Asked Questions .....	14-15
Application for Court Appointed Counsel .....	16-17
Path to Permanency Timeline .....	18

*\* This resource guide does not constitute legal advice. You should consult counsel throughout this process.*

## Introduction

---

The Department of Human Services becomes involved in a family's life because of concerns for a child's safety. The process can be intimidating, overwhelming, and scary. It is also an opportunity to engage with family/friends, community resources and services to create a safer network for your family. This handbook is intended to be an informational guide for Larimer County parents about the dependency and neglect legal system. It gives information about what to expect in a dependency and neglect case and answers commonly asked questions about this system. The information is helpful, but this is not legal advice. You should always consult counsel.

## What is a Dependency and Neglect Case?

---

Approximately seventy years ago, citizens of Colorado were concerned about children who were suffering from abuse or neglect. Because of that concern, the Colorado Legislature gave the Court authority to protect the child when the county Department of Human Services proves the child is Dependent and Neglected.

The law requires the Department of Human Services ("DHS") Child Protection division to assess each report of child abuse and neglect it receives and determine if there is abuse and neglect. The primary job of DHS is to protect children from abuse and neglect and assist parents to identify family difficulties that may be placing children at risk. DHS provides resources/services to families to address these issues.

When DHS comes to court with an allegation of abuse or neglect it needs to provide proof at a "preponderance of the evidence" standard. This standard is often understood to mean "more likely than not". Before children can be temporarily removed and/or the family restricted in their actions, DHS has to obtain Court permission.

When a dependency and neglect case is authorized by the Court, there are required steps that the Court and the parties must follow. These steps protect both the safety of the child and the Constitutional rights of the Parents.

## What are my Rights as a Parent?

---

Parent's Rights:

1. Right to Counsel.
2. Right to a Hearing Before a District Court Judge or a Magistrate.
3. Right to Admit or Deny the Allegations.

### *Preponderance of the evidence standard:*

This standard is often understood to mean more likely than not.

### *ICWA ("Indian Child Welfare Act"):*

If a Child is an Indian Child as defined by law, the standard of proof for removal of the child is "clear and convincing evidence" rather than "preponderance of the evidence." Also, the Court must make the finding that the child would be in immediate harm to their physical or emotional health if the child were to remain in the custody of a parent.

4. Right to an Adjudicatory Jury Trial.
5. Right to Present Evidence and Question Witnesses.
6. Right to Request Treatment Plan Alternatives and a Dispositional Hearing.
7. Right to a Permanency Hearing.
8. Right to Due Process which means reasonable notice of Court proceedings and the opportunity to be heard.
9. Right to Appeal any Final Order.
10. Right to see the child or children absent a Court order preventing that contact because of safety concerns.

For more information, please reference the Advisement of Rights handout provided to you by your attorney or the court Clerk at your initial hearing (Green form). This list is not exclusive. There are more rights that can be discussed with your attorney.

### What are my Child(ren)'s Rights?

1. The right to be in the care of parents or guardians absent a Court order with a legal basis.
2. The right to food, shelter, and clothing to meet basic needs.
3. The right to have a parent /guardian/caregiver protect them from harm, danger, injury, and neglect.
4. The right to feel safe and secure.
5. The right to health care and mental health care.
6. The right to see parents unless the Court has prevented the contact through a protection order based on safety concerns.
7. The right to placement with siblings when possible. When siblings cannot be placed together, they have the right to frequent and meaningful contact with each other and to be actively involved in each other's lives unless such contact is not in the best interests of one or more of the siblings.
8. The right to developmentally appropriate notice of Court proceedings and to attend and fully participate in all hearings related to their case.
9. The right to a timely permanent and stable home.
10. The right to have legal representation. Your child will have their own lawyer in Court whose role will depend on your child's age:
  - a. If your child is under 12, your child's lawyer will be called a **Guardian ad Litem** or "**GAL**." The GAL will represent your child's best interests. The GAL will talk to your child, all parents, Human Services, teachers, service providers, family members and kin, and to others who might have helpful information. The GAL will make recommendations and advocate for your child's best interests in Court and will also tell the Court what your child wants.
  - b. If your child is 12 or older, your child's lawyer will be called **Counsel for Youth** or "**CFY**." Your child's CFY will advocate in Court for what your child wants to have happen in the case (direct representation for your child). The CFY will talk with your child, all parents, Human Services,

teachers, service providers, family members and kin, and to all who might have helpful information. Your child's CFY will use this information to advise your child about the positions your child can take. *If the Court determines that your child has diminished capacity, the Court may also appoint a GAL to represent your child's best interests.*

Sometimes your child's attorney will have a case consultant helping with an independent investigation on behalf of your child. This professional is not a caseworker but a member of your child's legal team who has a social work or related background

If your child is placed in foster care, your child is entitled to protections to ensure your child's freedom, safety, and basic needs. These protections can be found at <https://coloradochildrep.org/download/foster-youth-bill-of-rights-safeguards/?wpdmdl=5754&refresh=600f2141eb2481611604289>.

## What Happens at An Emergency Hearing?

---

- Who?** The People of the State of Colorado ("The People") bring the case to the Court through the County Attorney's Office. The People present the information DHS has gathered. Parents, significant others, and potential caregivers for the children are notified about the hearing so that they can attend. A Guardian ad litem or Counsel for Youth, depending on the child's age, is appointed and will appear. Court Appointed Counsel will be available if a parent financially qualifies.
- What?** The People seek temporary protection orders and/ or temporary custody orders to resolve alleged safety concerns.
- Where?** Courtroom 2C, Justice Center, 201 LaPorte Ave, Fort Collins, CO 80521 (unless otherwise directed)
- When?** Tuesday and Thursday at 1:15 p.m. (parents are expected to be at Courtroom 2C by 12:30 p.m. to fill out a request for an attorney, receive an advisement of rights and fill out other paperwork) or as otherwise directed. Respondent Parent Counsel will appear at 12:30 to assist parents. GALs, YFT and the People will appear at 1:00 p.m.
- Why?** The Colorado Legislature has created a type of hearing to address the immediate safety concerns related to the child(ren) while providing due process. Due process is an opportunity for parents to be heard and receive counsel. This is a civil proceeding. The People alleges that your child(ren) are Dependent or Neglected. This allows the People to intervene in the lives of your family. This is NOT a criminal proceeding and you have not been charged with any crime in this Court. This juvenile Court does not have jurisdiction over criminal charges, if any.

Respondent Parent Counsel will appear at 12:30 to assist parents. GALs, YFT and the People will appear at 1:00 p.m.

You have a right to an attorney. You can hire your own attorney or, if you cannot afford an attorney, the Court will appoint an attorney at state expense if you financially qualify. To see if you qualify you will need to complete the affidavit for appointment of an attorney at state expense. (See the application link provided with this handbook).

The Court will appoint a Guardian ad litem (GAL) or Counsel for Youth (CFY) for the child(ren) at this hearing based on the child's age.

The Emergency Hearing determines whether the Court should enter temporary custody or protection orders. Any orders entered at the emergency hearing are temporary and may be modified and/or dismissed in the future. You have the right to contest entry of these orders and have a hearing.

Because of the emergency nature of this hearing, any information having probative value may be received by the Court regardless of its admissibility under the Colorado Rules of Evidence (reference 19-3-403). The burden of proof on the People of the State of Colorado is "preponderance of the evidence" (i.e. something is more likely true than not). You may invoke your 5th Amendment right to remain silent if you believe your testimony could incriminate you or subject you to criminal prosecution. Unlike a criminal case, silence may be considered by the Court. You will need to discuss this with your counsel.

In addition to several other matters, the Court will decide **three** primary things at the hearing:

- 1. The Petition:** The Court will decide based on the affidavit attached to the Petition whether there is sufficient evidence to authorize the filing of the Petition in this case (C.R.S. 19-3-501). Authorizing the filing of the case is NOT a finding that the child(ren) is or is not dependent or neglected. You will have a right to a full hearing before a judge or a jury of 6 to determine whether an adjudication should enter declaring that your child(ren) is dependent or neglected. If the Court authorizes the filing of the Petition, the Court must also enter an order for the payment of foster care fees and Guardian ad litem fees. The court is required by law to enter this order. Your child(ren) may or may not be placed in foster care. In the past, the state has not requested reimbursement of Guardian ad litem fees, but the state by law could seek reimbursement.
- 2. Protection Orders:** If the Court authorizes the filing of the Petition, the Court will also consider whether any order of protection needs to be in place to keep your child(ren) in the home and/or to serve their best interests while the case proceeds. The Court may issue any type of protection order necessary (i.e. drug/alcohol testing, supervised parenting time, etc.) C.R.S. 19-1-114. You have a right to request a district court judge hear this issue rather than the Magistrate. C.R.S. 19-1-108.
- 3. Temporary Custody Orders:** If the Court authorizes the filing of the Petition, then the Court may enter Temporary Custody Orders. The Court may continue custody with you or another parent of the child(ren). The Court may order custody of the child(ren) placed with a relative or other person determined by the Court to be a safe person for the child(ren). The Court may also order that custody be placed with the Larimer County Department of Human Services. If your child(ren) is placed with DHS, subject to Court approval, the DHS will decide the placement of your child(ren). C.R.S. 19-1-115 and 403. If a child is removed from a parent, it is required that reasonable efforts be made to reunite that child with a parent except in very limited circumstances. C.R.S. 19-1-115.

#### DHS RESPONSIBILITY TO CONSIDER FAMILY AND FRIENDS AS PLACEMENT

- i. Notice of Rights and Remedies (a State FORM) –** DHS must provide you with a Notice of Your Rights and Remedies after any decision by the Court to remove custody of the child from a parent. This is a State Form. (Attach link)

- ii. The Department of Human Services (DHS) is also required to consider family as an option for placement of any child who has been removed if DHS has temporary custody. Prior to placement with family/friends, DHS must conduct a criminal background check and a TRAILS background check to protect the safety of the child. If the family/friends are out of the State of Colorado, DHS must seek the other state's permission before the child can be placed in that home. That is unless the other State gives permission for the child to be placed in the home while the other State considers the home for placement. The Court can order custody be with a relative or friend instead of DHS.
- iii. Presumptions for grandparents – C.R.S. 19-1-115 acknowledges the unique role grandparents play in the lives of children. This law authorizes the Court to determine whether temporary custody should be vested with the grandparents (if the grandparents are appropriate, capable, willing, and available).
- iv. Presumptions for keeping siblings together- Colorado law also acknowledges that siblings shall be placed together unless the Court finds that it is not in the best interests of the child to be placed with siblings.
- v. ICWA (“Indian Child Welfare Act”) – If a Child is an Indian Child as defined by law, the standard of proof for removal of the child is “clear and convincing evidence” rather than “preponderance of the evidence.” Also, the Court must make the finding that the child would be in immediate harm to their physical or emotional health if the child were to remain in the custody of a parent.

## Future Dates Set at the Emergency Hearing

1. **Facilitation** – settlement conference with all parties and counsel to see if agreements can be reached.
2. **First Appearance** – At this court appearance you may admit or deny the allegations of the petition filed. It is very important that you meet with your attorney, if you have one, prior to this court date so you can make an informed decision. You can admit and adopt a treatment plan or set the case for an adjudicatory (determining) hearing. In the packet of materials that you receive at the emergency hearing (or when you are personally served), you will find a Written Advisement of Rights. You should read this document carefully. If you have not already filed the signed advisement with the Court, you must bring it to the first appearance.
3. **Case Management Conference** – you will set a date with the district court judge to set a trial if you deny the allegations at the first appearance.
4. **First contact (with child)** – Unless agreed upon, or if the Court finds a delay of contact is in the child's best interests, contact shall occur between a parent and child that has been removed within 72 hours of this hearing excluding weekends and court holidays.

**CASA Appointment to a Case:** Court Appointed Special Advocate (CASA): At the emergency hearing your case may be referred for a CASA Volunteer. CASAs are appointed by the court to ensure that the court is informed of your child's needs during the time your court case is open. You will be notified when a CASA is appointed to your case by CASA of Larimer County. Once a CASA is appointed, they will meet with your child regularly as well as others involved in your child's life including you, teachers, placements, doctors and other professionals.

## What Happens at a First Appearance?

---

- Who?** All parties and counsel are expected to attend court in person.
- What?** A judicial officer will ask you to either admit or deny the allegations set forth in Exhibit A of the Petition you received. Exhibit B of the Petition contains the DHS version of the facts and evidence DHS must prove.
- Why?** Because...If you admit one or more of the allegations, your child will be adjudicated dependent and neglected. The judicial officer will ask you questions to ensure you understand your rights before accepting your admission. Once your child is adjudicated, the Court then has authority to enter orders and treatment plans for you and your child. After the Court accepts your admission, the Court will then set a Disposition Hearing to decide an appropriate treatment plan. If you have already reached an agreement for a treatment plan, the Court can also adopt the treatment plan.
- But... If you deny the allegations, your case will be set for an adjudicatory hearing which can be heard by the Magistrate, a District Court Judge, or a jury of 6 (your decision).

**Settlement Offers?:** If all parties agree, deferred adjudication (or continued adjudication) may be submitted to the court. The deferred adjudication allows the Respondent to make an admission but the court will not adjudicate the child dependent or neglected and instead give the Respondent time (no more than 12 months) to complete a treatment plan. If the child and parent are successfully reunited, there is no further need for court orders and the safety concerns have been resolved, then the court can dismiss the case as if the parent had never made the admission. However, if the parent is not able to resolve the safety concerns, or further orders are needed to keep the child safe, the court has the ability, upon a motion of the parties, to enter the adjudication.

## What Happens at an Adjudicatory Hearing?

---

- Who?** Every named **Respondent** (see definitions) in the case. That could include parent, step-parent, legal custodian, or any other person who was responsible for the care of the child prior to filing.
- What?** If you deny the allegations to the Petition of Dependency and Neglect, you will have a hearing. The adjudicatory hearing is before a Judge (or Jury of 6 people if you have chosen one). Judge or jury will hear all evidence from DHS. You may present evidence if you choose to. DHS has the burden of proof. DHS must present enough evidence for the Judge or Jury to find your child is more likely than not (**preponderance of the evidence**) Dependent and Neglected. Because DHS has the burden of proof, you do not have to present any evidence. If there is not enough evidence to prove that your child is Dependent and Neglected, then the case and all Orders from the case will be dismissed. If there

### Preponderance of the Evidence Standard:

DHS must present enough evidence for the Judge or Jury to find your child is more likely than not Dependent and Neglected.



is enough evidence to prove that your child is Dependent and Neglected, the Court will Adjudicate your child Dependent and Neglected and the next step is to determine the proper disposition (see next section).

- Where?** An adjudicatory hearing can be held at the Larimer County Justice Center and will be heard by a magistrate, district court judge, or a jury of 6.
- When?** The adjudicatory hearing will be scheduled within 60 days of service of the petition if it is an Expedited Permanency Planning (EPP) Case (see definitions) (unless good cause is found to go beyond the deadlines). If it is not an EPP case, it must be held within 90 days of service (unless good cause is found by the court to go beyond the deadlines). A hearing can be avoided if you and DHS agree that your child or children are **Dependent and Neglected**. You may waive your right to the adjudicatory hearing and enter that agreement at or before the adjudicatory hearing.
- Why?** Every parent has a right to a hearing to determine the truth of the allegations made.

## What Happens at a Dispositional Hearing?

- Who?** Every **Respondent**. That could include parent, step-parent, legal custodian, or any other person who was responsible for the care of the child prior to filing. This can sometimes include a Special Respondent, which could include others who may have care of the child now or in the future.
- What?** The plan to resolve the safety and risk concerns of DHS. Disposition is custody, placement, and, if the proposed plan is not termination of parental rights, adoption of a treatment plan. Disposition is a treatment plan, which can include therapy, substance abuse treatment, training for safe parenting, healthy relationship building, and other programs designed to address the safety and risk concerns. If circumstances change, the parties can request amendments to the plan. A treatment plan will be provided at the **facilitation** prior to a first appearance in Court. If you disagree with any of the terms of the proposed plan you have a right to have a hearing to determine if it should change.
- If the child/youth is 14 or older, the child/youth shall also be provided with a roadmap to success by the Department of Human Services. This roadmap to success addresses what services or paperwork the child/youth will need to successfully transition into adulthood.
- Where?** A dispositional hearing can be heard by a magistrate or a district court judge.
- When?** The dispositional hearing follows adjudication. This can happen within 30 days if it is an Expedited Permanency Planning (EPP) Case (see definitions) or within 45 days if it is not an EPP case. A parent can volunteer to begin a treatment plan early, even prior to an order. Statistics indicate a higher success rate with early participation.
- Why?** The Children’s Code aims to keep children safe from being abused or neglected, to keep families together and to reunify them if they have been separated. The treatment plan identifies how to accomplish those goals. Achievement of the goals address the safety concerns and can allow safe reunification and closure of the case.

## What is a Permanency Hearing?

- Who?** The parents, child, and any care provider for the child is invited to the hearing and must receive notice about DHS's proposed permanency goal at least five days in advance of the hearing.
- What?** At this hearing DHS proposes to the Court what it believes to be an appropriate plan to provide permanency to the child (Return Home, Permanent Custody with a Relative or Non-relative, Adoption by a Relative or Non-Relative or Other Permanent Planned Living Arrangement).
- Where?** In Courtroom 2C unless the hearing is contested and then it may be set in front of the magistrate or the district court judge to decide.
- When?** A permanency plan hearing is held within 90 days after the dispositional hearing and at least every six months after.
- Why?** It is important for children to have a stable and permanent home. Remaining in limbo causes emotional and psychological distress. Numerous studies show children undergo critical bonding and attachment by the age of 6. Children who do not have secure bond with a caregiver suffer significant emotional damage. It is therefore legally required for a Court to consider whether a child can return home and, if not, to establish that stability and attachment through another caregiver. The Court also considers whether helpful resources have been provided to caregivers to achieve that goal.

## What happens at Change of Placement Hearings?

- Who?** If the child is in the custody of DHS and the placement is changing (but not custody), DHS must provide written notice to all parties at least 10 days before the proposed change unless an emergency exists. Within those 10 days any party may file a written objection to the change in placement and ask for an emergency hearing. The standard for the hearing is set forth in 19-3-702(6).
- If any other party requests a change in placement or custody, a motion may be filed explaining the reasons as stated in 19-3-702(6). Only parties can make this request.
- What?** At this hearing the Court decides whether it is in the child(ren)'s best interest to move to a different placement.
- Where?** In Courtroom 2C unless a party has objected to the jurisdiction of the Magistrate.
- When?** After a motion is filed or an objection is filed to the proposed change in placement if DHS has custody.
- Why?** Changes to placement can be positive, or harmful and traumatic to child(ren). To preserve stability and consistency for child(ren), the Court must make a careful decision about what placement is in the best interests of the child(ren).

## What is Relinquishment of Parental Rights?

---

- Who?** Any biological parent may request a relinquishment of their own parental rights for one or more of their biological children.
- What?** Voluntary relinquishment of parental rights permanently gives up all of your rights and responsibilities to your child(ren). Once your parental rights are relinquished, you no longer have any rights or obligations for the child(ren). This is permanent and cannot be changed in the future. You must undergo counseling before it can occur. The magistrate or judge must find that the relinquishment of parental rights is in the child's best interests. Therefore, there are some instances when the Court may not grant your request to relinquish your parental rights. If your child is twelve years of age or older, that child will also need to agree to the relinquishment of parental rights before it can be granted by the Court.
- Where?** Relinquishment of parental rights are filed as a separate action but can then be joined into your Dependency & Neglect case.
- When?** You may seek this at any time that it is allowed by statute. Talk to your attorney or inform the magistrate or judge that you wish to relinquish your parental rights. You will need to file a separate Petition for Voluntary Relinquishment of Parental Rights. You must also file an affidavit from the counselor verifying you received counseling and that you understand what you are doing and that he/she believes that you have thought through this decision.
- Why?** Relinquishment of Parental Rights terminates your parental rights voluntarily. This is different than Termination of Parental Rights, which occurs when the County and DHS seek to end your parental rights involuntarily. There are many reasons for a parent to request relinquishment of their parental rights. If you are considering this, please talk with your attorney to discuss any questions and next steps.

## What is Termination of Parental Rights?

---

- Who?** This applies only to parents.
- What?** An order terminating parental relationship severs all legal ties between a parent and the child.
- Where?** The Larimer County Justice Center. A judge or magistrate can make the final decision that must be based on clear and convincing evidence based on factors listed in C.R.S. § 19-3-604 of Colorado Statutes. The judge or magistrate must consider these factors along with the child's needs. If ICWA applies, different factors also apply, and a higher burden of proof applies.
- When?** Termination of a parent-child legal relationship is ordered by the Court only in extreme cases and only after all other options have been

If ICWA applies the burden of proof becomes beyond a reasonable doubt standard and the People have to demonstrate active efforts towards addressing safety. In addition, a tribal expert has to be called as a witness to testify that the basis for the termination of parental rights is not focused on abuse or neglect and not on tribal customs or traditions.

considered and eliminated. This hearing must be held at least 30 days after the motion has been filed by the DHS. For EPP cases, this hearing must happen within 120 days of the motion (unless good cause is found and it is determined to be in the best interests of the child).

**Why?** This final step opens the pathway for a permanent placement for the child without parent involvement or any option for future involvement, which can include adoption.

## What Is Allocation of Parental Responsibilities?

**Who?** Anyone who will have parenting time or decision making authority at the end of the case may be a party to an allocation of parental responsibilities case.

**What?** This is a Court hearing that establishes parenting time with the child and decision making. The judge or magistrate must base this decision on statutory guidelines 19-3-702. This order achieves permanency and allows the case to close.

**Where?** Larimer County Justice Center. This can be heard by a district court judge or magistrate.

**When?** When necessary, this hearing will take place to provide permanency.

**Why?** This process grants a person legal authority to make decisions for the child. This creates an ongoing safe and stable relationship that allows the case to be closed.

An ICWA inquiry is still required to preserve the relationship between the child, the Indian parent and the tribe.

## What Is A Youth In Transition Case?

If your child is 18 or older and was in an open dependency case or in foster care or kinship care on or after their 16th birthday, your child will be able to participate in Colorado's Foster Youth in Transition Program if they so choose. This is a program that empowers older youth to make important decisions about their lives while receiving developmentally appropriate services and supports as they transition into adulthood. Your child will receive housing assistance, assistance enrolling in Medicaid and other public benefits, educational and career supports, assistance with getting a driver's license, as well as many other supports. This program is voluntary, and your child can choose to leave and reenter the program as many times as they want until they turn age 21.

While your child participates in the program, they will receive legal representation from Counsel for Youth (CFY) at no cost. Their CFY will help advise them of their rights and options and represent them in Court and at meetings with DHS.

If your child is in an open D&N case when they turn 18, the Court will hold a transition hearing within 35 days after the child's 18th birthday to advise your child about their right to opt in or out of the program. If your child chooses to enter the program, a new petition will be filed for the Foster Youth in Transition case and the D&N case will be dismissed for your child. If your child meets the legal definition of "incapacity" and qualifies for adult services and supports, the Court may keep the D&N case open to better serve your child as they transition into adult services.

More information about this program can be found at: <https://coloradochildrep.org/youth-center/transition-program/>.

## DEFINITIONS

---

**EPP** - Expedited Permanency Planning (EPP) applies to any case with a child under the age of six. The goal in implementing this process is to identify service needs for families and to make informed decisions about a child's permanent care more quickly. The judge, attorneys representing the parents, attorneys representing the children, and the county attorney will describe this process in more detail when the petition is filed.

**ICWA** – “Indian Child Welfare Act” – this is a federal law that identifies Indian Children as a group that needs special protection because of to the government overreach and trauma done to the children of all recognized tribes. This law requires a higher standard for removal of any known Indian Child, more active efforts to reunify the child with the parent, placement designed to promote ties to their culture, the ability of the tribe to participate in all legal proceedings and/or to remove the case to Tribal Court, and a higher standard if a motion to terminate parental rights is filed.

**PRNP** – Petition to Review the Need for Placement (PRNP). This filing is not a dependency and neglect case as there are no indications that the child meets the definition of an abused or neglected child. It is instead a requirement for the Courts to review the state expenditure of funds for a child who has been voluntarily placed by the parents in state facility because of to the child's behaviors or level of need. Legal custody remains with the parent(s). This review must be completed by the Court at least every 90 days and the only permanency option for a child named in this petition is to return home after the placement has addressed the needs of the child.

**RESPONDENT** – a parent (biological, legal or adoptive parent), or legal guardian or legal custodian of the child. The People of the State of Colorado can also name any person responsible for the abuse or neglect as a Respondent.

**GAL** – Guardian ad litem is an attorney who represents to the Court the child's best interests and is independent from the Department of Human Services and the Respondent.

**COUNSEL FOR YOUTH (CFY)** - An attorney appointed to represent youth age 12 and older in D&N proceedings. This attorney advocates for the youth's position and is independent from the county department and any Respondent.

**PEOPLE OF THE STATE OF COLORADO** – The People are represented by an Assistant County Attorney who represents the laws of the State of Colorado within a dependency and neglect case. The Department of Human Services is often the advisory witness for the People of the State of Colorado.

**DHS** – the local county Department of Human Services is assigned by the Colorado Legislature to assess and determine safety and risk for referred children.

**RESPONDENT PARENT COUNSEL** – An attorney hired or appointed to represent any respondent. If you want to apply for Court Appointed Counsel you should do so at your first hearing. Please plan on arriving early to complete the forms and to see if you qualify. If you apply for Court Appointed Counsel and qualify financially then you will be appointed an attorney at no cost to you. This attorney is also called a Respondent Parent Counsel because they are the counsel or attorney to you, the Respondent Parent in the case.

If appointed, this attorney is not affiliated with the Public Defender's Office. If appointed, this attorney will be your attorney for the entirety of the case unless you choose to terminate their representation and to represent yourself. Your attorney's job is to answer all of your questions; to provide you with all of the

information necessary for you to make a decision for how you want to proceed in your case; and to argue and advocate on your behalf for your stated goals at all hearings and at all times until your case is closed.

**CASA - CASA (Court Appointed Special Advocate):** A trained volunteer who is appointed by the court to work with children throughout the D&N proceedings. They inform the court of the child's situation and advocate for the child's needs. CASA of Larimer County is a nonprofit organization who trains and supervises all CASA Volunteers and is not a part of the Department of Human Services.

## **FREQUENTLY ASKED QUESTIONS**

Remember to always ask your attorney if you have any questions.

- **What right does the Court have to do this?**  
Colorado law permits the filing of Dependency and Neglect cases and for the judge or magistrate to enter orders when a judge or magistrate believes they are necessary for the safety of your child(ren) or children. If you disagree with the allegations, then you have the right to an Adjudicatory trial to a judge or jury.
- **What happens if I go to the Adjudicatory trial and win?**  
The case is dismissed along with all orders from the case including any Temporary Custody Order and/or Protection Order.
- **What happens if I go to the Adjudicatory trial and lose?**  
The Court will adjudicate your child or children Dependent and Neglected and order an appropriate Treatment Plan for you to complete to have your child(ren) returned to you.
- **When do I have the right to file an appeal?**  
If you lost at trial you have the right to appeal after a disposition order (to appeal the adjudication findings by the court), paternity determination, Allocation of Parental Responsibilities and/or termination of your parental rights. If you consent to the orders, you do not have the right to appeal the order absent fraud.
- **What if I do not have an attorney?**  
You have the right to file an Application for Court-Appointed Counsel at any time in your case or, if your application has been denied, at any time your personal and/or household financial situation changes. You have the right to hire an attorney at your own expense at any time in the case. You also have the right to represent yourself if you do not wish to hire an attorney and you do not qualify for Court-Appointed Counsel.
- **Am I losing my parental rights?**  
If your child is removed at the beginning of a case, temporary custody can be granted to someone else or the Department. The Temporary Custody Order lists the parental rights you continue to have and the parental rights that are temporarily granted to the temporary custodian. You can lose your parental rights permanently only by formally relinquishing your parental rights or by having them terminated by the Court (see above sections on Relinquishment and Termination of Parental Rights).
- **Is this a criminal case? Am I being charged?**  
No, this is a civil case called a Dependency and Neglect action. These cases are filed because of to safety concerns surrounding children. This is not a criminal case, and you are not being charged with any criminal offence in this case.

- **When do I get my kids back?**

There is no set time. Your child(ren) will be returned to your care when the Court decides that you are a safe parent, and that the child(ren) will be safe in your home and free from imminent harm. The case will be closed by the Court when the Court believes there are no further concerns for the safety of your child(ren).

- **My next Court date is in three months, do I not get my kids until then?**

The Court schedules planning and review hearings approximately every three months to check in on how the child(ren) are doing and how each parent is doing on their treatment plan. Any party may ask the Court for a hearing in between these planning and review hearings and the Court will decide whether or not it is appropriate to grant the request.

**APPLICATION FOR PUBLIC DEFENDER, COURT-APPOINTED COUNSEL, OR GUARDIAN AD LITEM**

Pursuant to §21-1-103(3), C.R.S., a processing fee of \$25.00 may be collected by the court upon final disposition of this case.

Case number: \_\_\_\_\_ Court Room: \_\_\_\_\_ District: \_\_\_\_\_

Most serious charge: \_\_\_\_\_ Next hearing date/Type: \_\_\_\_\_

**All sections must be completed. Print neatly. If an item does not apply, write N/A.**

<b>Applicant</b>	<b>Applicant's Employer</b>
Name _____	Company _____
Mailing Address _____	Mailing Address _____
Street Address (if different) _____	Street Address (if different) _____
City, State, Zip _____	City, State, Zip _____
Phone number _____	Phone Number _____ Position _____
Soc. Sec. No. _____ Birthdate _____	Length of Employment _____ Hours/Week _____
Driver's License No. _____ State _____	Pay Dates: _____ Pay Rate: \$ _____

<b>Other Household Members (Spouse, Parent, etc.)</b>	<b>Other Household Member's Employer</b>
Name _____	Company _____
Relation to Applicant _____	Mailing Address _____
Mailing Address _____	Street Address (if different) _____
Street Address (if different) _____	City, State, Zip _____
City, State, Zip _____	Phone Number _____ Position _____
Phone number _____	Length of Employment _____ Hours/Week _____
Soc. Sec. No. _____ Birthdate _____	Pay Dates: _____ Pay Rate: \$ _____
Driver's License No. _____ State _____	

**Marital Status:**  Single  Married  Separated  Divorced Total Number of Dependents (including yourself): \_\_\_\_\_

Gross Monthly Income (See definitions on reverse for further information.)	Amount	Monthly Expenses (See definitions on reverse for further information.)	Amount
Self (wages, salary, commission)	\$ _____	Rent/Mortgage	\$ _____
Spouse/Other Household Members	_____	Groceries	_____
Parents (if same household)	_____	Utilities	_____
Unemployment Benefits	_____	Clothing	_____
Social Security/Retirement Funds	_____	Maintenance/Alimony and/or Child Support	_____
Maintenance/Alimony	_____	Medical/Dental	_____
Other Income (see Page 2)	_____	Other Expenses (identify source)	_____
Other Income (see Page 2)	_____	Other Expenses (identify source)	_____

<b>Total Household Income</b>	\$ _____	<b>Total Expenses</b>	\$ _____
-------------------------------	----------	-----------------------	----------

Assets	Amount	Description
Savings Account Balance	\$ _____	Name of Bank: _____
Checking Account Balance	_____	Name of Bank: _____
Value of Vehicles	_____	Year and Model: _____
Value of Recreation Vehicles	_____	Amount Owed: \$ _____
Value of House	_____	Type: _____
Value of Other Property	_____	Type: _____
Value of Stocks, Bonds, Mutual Funds	_____	Type: _____
Value of Other Investments	_____	Year and Model: _____
<b>Total Assets</b>	\$ _____	<b>Convertible to Cash = \$ _____</b>

**References:**  
 1. Name/Address/Phone \_\_\_\_\_  
 2. Name/Address/Phone \_\_\_\_\_

**Guidelines:**  
 At or below or  Above or  
 Automatically eligible for PD/GAL/RPC (  In custody &/or bond allowed  Out on bond ) or  
 Refer to scoring instrument (Criminal, Misdemeanor, Traffic, Juvenile Delinquency cases )

Signature of investigator/clerk/PD: \_\_\_\_\_ Date: \_\_\_\_\_

I swear under penalty of perjury that the above-contained information is true and complete. I also understand that if the court grants this request, I may later be ordered to reimburse the State of Colorado for attorney fees spent on my behalf.

Client signature \_\_\_\_\_ Date: \_\_\_\_\_

Signature of judicial officer: \_\_\_\_\_ Date: \_\_\_\_\_

**Request:**  granted or  denied



# APPLICATION FOR PUBLIC DEFENDER, COURT-APPOINTED COUNSEL, OR GUARDIAN AD LITEM

## General Information

It is important that you accurately complete all sections of this form as appropriate based on your personal circumstances. If a section does not apply, please write N/A .

**A. Gross Monthly Income.** Includes income from all members of the household who contribute monetarily to the common support of the household.

♦ **Income categories to include:**

Wages, including tips, salaries, commissions, payments received as an independent contractor for labor or services, bonuses, dividends, severance pay, pensions, retirement benefits, royalties, interest/investment earnings, trust income, annuities, capital gains, unemployment benefits, Social Security Disability (SSD), Social Security Supplemental Income (SSI), Workman's Compensation Benefits, and alimony.

**Note:** Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the applicant's income in a fashion which would allow the applicant proprietary rights to the roommate's income.

♦ **Income categories do not include:**

TANF payments, food stamps, subsidized housing assistance, veteran's benefits earned from a disability, child support payments, or other public assistance programs.

**B. Liquid Assets.** Includes cash on hand or in accounts, stocks bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment.

**C. Expenses.** Nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., **shall not** be included. Allowable expense categories are listed on JDF 208.

# PATH TO PERMANENCY



**CASE CLOSURE**

1. Family Engagement Meeting (FEM) prior to case closure when remain home or APR/guardianship is plan
2. Team Decision Meeting (TDM) if moving to adoptive home

INITIAL PERMANENCY HEARING	Subsequent Permanency Hearing	OPPLA (Other Planned Permanent Living Arrangement)	PHOM (Permanent Home Hearing)
<ol style="list-style-type: none"> <li>1. Notice provided under C.R.S. § 19-3-702</li> <li>2. Youth/Child consultation</li> <li>3. Efforts to identify kin for placement/support</li> <li>4. FEM held prior to hearing if concurrent goal is recommended</li> <li>5. Determine if substantial probability of return home within 6 months</li> <li>6. If not substantial probability, possible order to file for TPR or make good cause findings as to why not to pursue TPR</li> </ol>	<ol style="list-style-type: none"> <li>1. Notice provided under C.R.S. § 19-3-702</li> <li>2. Youth/Child consultation</li> <li>3. Efforts to identify kin for placement/support</li> <li>4. FEM held prior to hearing if changing/adding concurrent goal</li> <li>5. Determine if substantial probability of return home within 6 months</li> <li>6. If not substantial probability, possible order to file for TPR or make good cause finding as to why not to pursue TPR</li> </ol>	<ol style="list-style-type: none"> <li>1. Youth is 16 years or older <u>AND</u></li> <li>2. Youth demonstrates exceptional circumstances that prevent the youth from returning home, adoption, legal guardianship or permanent custody</li> <li>3. Efforts to identify kin for placement and support</li> <li>4. Permanency Round Table (PRT) held prior to adopting OPPLA goal</li> <li>5. FEM/Emancipation Staffing Prior to Benchmark Hearing</li> <li>6. Ongoing Benchmark Hearings</li> </ol>	<ol style="list-style-type: none"> <li>1. In EPP cases, pursuant to C.R.S. § 19-3-703, a child shall be placed in a permanent home no later than 12 months after out of home placement</li> <li>2. Exceptions can occur if reasonable efforts have been made to find a permanent home and one is not available or if the child is not ready for permanent placement</li> <li>3. Hearing will occur approximately 9-11 months into a case</li> <li>4. Parties will engage in a PHOM staffing 30-45 days prior to hearing</li> </ol>

\* Expedited Permanency Planning (EPP)- Shortened timelines for cases where at least one child is under the age of 6 at the time the D&N Petition is filed.