

Guide To Protecting Your Parental Rights



This guide was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: www.firrp.org. We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.

Important Words to Know

Immigration Law has a lot of technical words. Here's a list of some of the words you'll see a lot in this guide and an short explanation of what they mean.

- **Immigration Judge (“Judge”)**: this is the person who will make a decision about your case. He or she holds hearings in the courtroom and wears a black robe. This person doesn't work for ICE. It's her job to look at the facts of your case and apply the law fairly.
- **Immigration and Customs Enforcement (“ICE”)**: this is the agency that has put you in deportation proceedings and is in charge of detaining you. ICE is part of the Department of Homeland Security, or “DHS.”
- **Government Attorney**: this is the lawyer who represents ICE when you go to your court hearings. He or she sits at the table next to you and also talks to the Judge. It's usually this attorney's job to ask the Judge to order you deported.
- **Deportation**: ICE has put you in deportation proceedings, which are also called “removal proceedings.” If the Judge orders you deported or “removed” from the United States, you will be sent back to the country where you are a citizen and will not be able to return legally to the U.S. for at least ten years.
- **The Florence Project**: this is a group of lawyers and legal assistants who provide free legal help to people without lawyers. The Florence Project wrote this guide to help you understand your case.

Overview

This guide is designed to help parents detained by ICE in Arizona who are having child custody issues. This guide may be helpful if any of these categories apply to you:

1. You think your children may be in the custody of Child Protective Services (CPS);
2. You know your children are in CPS custody and are going through the child welfare (also known as dependency) court process; or
3. You have sole legal/physical custody of your children and you are detained

Since it was written for parents detained in **ARIZONA** only, this guide focuses on how CPS and the dependency court process function in **ARIZONA**. Each state has different child welfare laws, which makes it impossible to provide specific information about other states in a small pamphlet like this. However, if you are having child custody issues in another state, this guide may give you ideas on how to start advocating for yourself and getting the information you need so that you may be a part of this important time in your children's lives.

Please note that every situation is unique! This guide is **NOT** intended to provide legal advice on either a dependency case or an immigration case.

The guide is broken into 4 parts:

Part 1: Finding My Kids

Part 2: My Rights in the Dependency Process

Part 3: How to Protect My Rights from Detention

Part 4: Planning for Deportation

We encourage you to read this **WHOLE** guide carefully because even if you think one part doesn't apply to you, it may have information about the child welfare system in Arizona that is useful for you.

PART1: FINDING MY KIDS

HOW DO I FIND OUT IF MY KIDS HAVE BEEN PICKED UP BY CPS?

If you think your children may be in CPS custody, call CPS right away. If you do not get any information from CPS, call the Juvenile Court in the county where you were living.

CPS has a 24 hour, toll-free hotline 1-888-767-2445.

Call as soon as you can.

Choose **Option 2** to be connected to a Spanish language operator.

Be calm but assertive and explain that you want to do whatever you can to make sure your children are safe.

When you call, give the following information:

- Your full name and identify yourself as the parent
- Your children's full names
- Explain that you are in immigration detention and are trying to find out if your children are in CPS custody
- Be VERY clear that you cannot receive calls from detention, that this is an emergency situation and that you *need* to know if CPS has an open case so you can contact the caseworker as soon as possible

WHAT IF CPS TELLS ME MY KIDS ARE IN EMERGENCY PLACEMENT?

If you learn that your children have been picked up by CPS and are in an emergency placement CPS may release your children to a **parent, responsible relative, or a non-relative caregiver** who does not pose a risk or danger to your children. You should have this caregiver pick up your children within **48 hours** of CPS taking them. CPS will conduct an emergency assessment of the caregiver that includes a criminal background check, verification of relationship to the children, and a visit to the home where the children will live. Once your children are with the caregiver you should also talk to them and CPS about setting up a long term **guardianship** while you are detained.



NOTE - Under Arizona law, undocumented people may be denied services by CPS or even be referred to ICE. Therefore, it is NOT a good idea to have a family member



who is undocumented try to get custody of your children, especially if they have any criminal history.

If CPS has taken your children on an emergency basis and no one has come forward to care for them within **48 hours**, CPS is required by law to file a petition to make your children dependent on the state. Once this happens, you and your children will become part of a court process called **dependency** that can be very long and complicated, and could end by terminating your parental rights to your children.

HOW DO I FIND OUT IF A DEPENDENCY PETITION HAS BEEN FILED?

Your CPS caseworker should let you know if CPS is opening a dependency case for your children with the court. If you are unable to communicate with the caseworker or if they do not give you any information related to your children's court hearings, call the juvenile court.

In Maricopa County (Phoenix and the surrounding area) there are two courts that hear dependency cases. The location of your hearings usually depends on what court you lived closest to. The courts are:

Juvenile Court Center – Durango
3131 West Durango
Phoenix, Arizona 85009-6292
Telephone: (602) 506-4533

Juvenile Court Center –Southeast
1810 South Lewis
Mesa, Arizona 85210-6234
Telephone: (602) 506-2544

The juvenile court address and phone number for Pima County (Tucson and the surrounding area) is:

Pima County Juvenile Court
2225 E. Ajo Way
Tucson, Arizona 85713
Telephone: (520) 740-2000



Give your children's name and birth date, tell them you are the parent, and ask if a Dependency Petition has been filed.

If a Dependency Petition has been filed in that court, ask for the following information:

- ➔ The case number. The case number starts with "JD"
- ➔ The date and location of your next hearing
- ➔ The name of the judge hearing the case

→ Your attorney's full name, phone number, and mailing address.

****Write down all of this information and keep it in your records! We have created a chart for important contacts in Attachment A of this packet****

PART 2: YOUR RIGHTS IN THE DEPENDENCY PROCESS

There are generally two possible outcomes when CPS opens a case for your children and files a dependency petition in court:

1. **Reunification:** You, the parent, are ordered to comply with a "case plan" and participate in services to prove that you will be a good parent to your children and you are eventually reunified with your children; OR
2. **Severance:** You either don't complete services or the court is not happy with your progress and you do not reunify with your children. If this happens, the dependency court may also move to terminate your legal rights to your children.

You may hear people involved in your case using these words and this is referring to these two tracks. Ultimately, the judge is trying to decide if your children will be best protected by keeping your family together and letting you raise them or by terminating your rights over your children and giving them to another family to raise.

Even though you may feel very emotional and overwhelmed it is very important to know your rights in the dependency process since there are things you can do from detention or if you are deported to try to keep your children.



RIGHT #1: YOU HAVE THE RIGHT TO AN ATTORNEY

Unlike in immigration court, in dependency proceedings you will be assigned an attorney to represent your interest as the parent. Your court appointed attorney is like a public defender in criminal court, but here your attorney should fight for your right to keep your children. If you aren't sure who your attorney is contact your CPS caseworker or the court to get their contact information and call or write them right away.

What should my attorney do for me?

1. Send you all papers she files in court in your children's case and explain what they mean to you in a language you understand.

2. Visit you at the detention center or speak to you over the phone to discuss your children's case. If she does not come visit you, make sure you stay in touch by calling her or writing letters so she knows what you want.



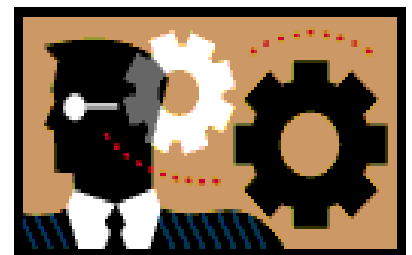
3. Work with you and the CPS caseworker to arrange your case plan and any relative placement or visitation with your children.

4. Help you appear for court over the phone from detention or request the judge to order your transfer to court.

What should I do for my attorney?

1. Make the first contact. If you have your attorney's phone number and address you should contact them right away to tell them where you are. Your attorney may have no idea you are in detention and will have trouble finding you.
2. Tell your attorney about your immigration case. It is VERY important that your attorney knows if you are going to get a bond, what kind of case you are fighting, when your next court hearings are, and if you are going to be deported. Don't assume your attorney knows this information!
3. Participate in court hearings, case plan meetings, child and family team meetings, and other meetings set by the judge. See Attachment B to this packet for all of the different hearings and meetings in a typical dependency case. Just because you have an attorney doesn't mean you don't have to be involved in your case!
4. Tell him if you have hired a private immigration attorney for your deportation case or if the Florence Project is helping you so they can get in touch with each other.

You may be unhappy with your attorney and think she or he isn't doing enough to help you keep your children. Remember that dependency cases can be very complicated, especially if there is a history of CPS involvement with your family and unfortunately sometimes the attorney is not able to do much to help you keep your children. But your attorney is responsible for advocating for you so it is very important to hold him accountable and call and write repeatedly if he is not in contact with you. You should also send the Florence Project a request form or letter if you are having trouble contacting your attorney so we can try to help.



If your dependency case is going forward and you haven't spoken with your attorney and have left many messages, you should write to the judge and explain that your attorney is not in contact with you and request a new attorney be appointed for you.

RIGHT #2: YOU HAVE THE RIGHT TO WORK WITH YOUR CHILDREN'S CPS CASE WORKER

The CPS caseworker is the person assigned to oversee your children's case. She makes recommendations to the judge whether to reunify you and your children or terminate your parental rights. The judge makes the final decision, but he will rely heavily on what the CPS caseworker tells them. The caseworker also creates your case plan, helps you access services required in your case plan, and checks in on your progress.

Make sure your children's caseworker knows that you are detained and that you want to stay involved and do whatever you can to follow your case plan while detained or if you are deported. Always be calm and patient when you talk with the caseworker.

If the caseworker doesn't answer when you call **ALWAYS** leave a message so s/he knows you are staying involved with your children's case as best as you can.

RIGHT #3: YOU HAVE THE RIGHT TO BE NOTIFIED OF ALL COURT HEARINGS AND UNDERSTAND THEM IN YOUR BEST LANGUAGE



The court will mail you and your attorney all court hearing notices. It is important to let both parties know your address in detention so you receive everything in the mail. You can notify the court by calling and providing your name, A# and address for court hearing notices.

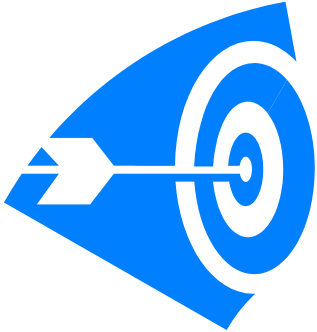
If you are attending a hearing by telephone or if ICE has agreed to transport you to a hearing, you have the right to an interpreter if you do not speak or understand English. It is best to notify your attorney ahead of time if you will need an interpreter. You may also contact the court to make this request.

RIGHT #4: YOU HAVE THE RIGHT TO ADMIT OR DENY ALLEGATIONS OF ABUSE OR NEGLECT MADE AGAINST YOU

Your children's dependency case will involve claims that you have abused or neglected your children. These are called "allegations" in legal terms. Sometimes, abandonment is alleged based only on the fact that you are in detention and that there is no one else to care for your children. Other times there may be a history of abuse or neglect in your

children's lives or drug or alcohol use by you and CPS may have already started an investigation. It is very important that you discuss all of the allegations against you or the other parent with your attorney and make sure your attorney understands the details and facts behind them so she can best prepare your case.

Depending on these allegations and what the judge decides, you may be ordered to follow a **case plan** to maintain custody of your children. Every case is different but some common CPS services in case plans include parenting classes, counseling, drug and alcohol treatment, and anger management classes.



It is important for you to tell your attorney and CPS caseworker early on that you are detained and there are no programs in detention so she can advocate for an appropriate case plan for you. You will have to try extra hard to find things you can do in detention to show you are trying to comply with your plan. Don't give up!

RIGHT #5: YOU HAVE THE RIGHT TO TRY TO CALL, SEND LETTERS TO, AND RECEIVE VISITS FROM YOUR CHILDREN

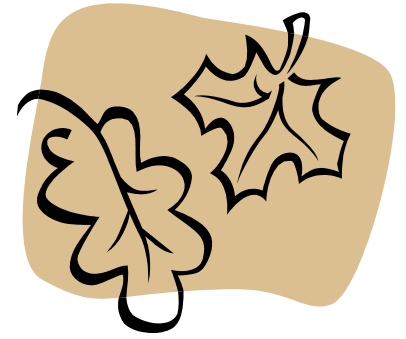
This may be challenging for CPS to coordinate depending on how complicated your case is. If your case is moving towards **reunification** and visitation is written into your case plan you DO have the right to see your children while you're detained.

If your case is moving towards **severance** it is unlikely CPS will coordinate a visit with your children. You will have to work very hard and make many phone calls to the caseworker and to your attorney if you want to visit with your children.

You may feel like you don't want your children to visit you in detention because you may think it will be harmful to them or sad for them to see you in detention. Also, sometimes CPS and the judge will not want to put your children through this. If you choose not to visit with your children remember to make it VERY clear to all parties why you are making this decision so they don't assume you don't want to see your children.

All family visits must be cleared by ICE and the facility where you are detained. Contact your deportation officer and tell them that your children and a chaperone from CPS will be visiting you. This person will need the following information about each one of your children and their chaperone in order to approve a visit: (1) Full Name, (2) Date of Birth, (3) Social Security Number.

***** Be sure to tell your caseworker or relative to call the facility and ask about dress code and other policies so they are not turned away at the door.**



If visits aren't possible you should **ALWAYS** write letters to your children and should be able to receive letters and pictures from your children to stay in contact. Save copies of and take notes on everything you send to and receive from your children. You can also ask to see your children's report cards or ask your children's caregiver to provide you with regular updates on them.

PART 3: PROTECTING MY RIGHTS FROM DETENTION

These are the 5 most important things you can do to try to protect your parental rights and keep custody of your children while you are detained.

1. Make sure EVERYONE knows you are in immigration detention!

The first and most important thing you can do to protect your parental rights is to make sure everyone in the child welfare system knows that you are in immigration detention! If you don't contact them they may think you have already been deported or that you've abandoned your children. So it is **VERY** important to **IMMEDIATELY** call the CPS hotline and to reach out to CPS and your attorney to tell them where you are.

It is also important that CPS, your attorney, and the judge **UNDERSTAND** how immigration detention works and especially how it is different from the prison system. You should tell them this important information:

- ➔ You are not in criminal custody or serving a sentence for a crime
- ➔ You cannot receive phone calls or usually be transferred to hearings
- ➔ There are no classes or programs you can take in detention
- ➔ You will be appearing before an immigration judge who will decide on your case

2. Try to set up a guardianship for the care of your children

If you are able to be involved early in the process and you have a relative or close friend in the United States who is ready and willing to care for your children, you should try to ask for a title 14 guardianship arrangement. Talk to your attorney about this immediately and inform the CPS caseworker and judge you



want to seek a guardianship if you don't think your attorney is helping you with it. If your children are in a long term and stable guardianship, CPS will be less likely to move for severance and your children will be less likely to end up in adoption proceedings with strangers. Guardianship may also give you more time to complete your services and get your children back eventually especially if you are detained for a long time or are deported.

3. Tell the Immigration Judge and ICE you have children with CPS

While your deportation case and dependency case are separate, you should notify the Immigration Judge and ICE about your child custody issues in all of your court hearings. The fact that your children are with CPS may be a positive factor for the judge to consider in deciding whether to grant you relief in your final merits hearing or whether to grant you bond or voluntary departure. Therefore you should ALWAYS tell the judge about your child's dependency case at every court hearing and submit documents about your dependency case such as birth certificates and dependency court documents in your merits and bond hearings. You should also ask your dependency attorney to write you a **letter of support** to the Immigration Judge explaining how your deportation could impact your dependency case.

You should also tell the ICE trial attorney and your deportation officer about your children and submit a request for **prosecutorial discretion** or a **request for release** from detention on humanitarian parole, recognizance, supervised release, or an alternatives-to-detention program like an ankle bracelet. If you don't have a serious criminal history and may lose your rights to your children, ICE may be willing to release you until your dependency case is completed. See the Florence Project's pamphlet called "How to Request Humanitarian Parole" for more information on how to ask ICE to release you.



4. Appear by telephone for all court hearings

Unless you are released on bond or it is a final termination hearing you will probably not be able to appear in person for your dependency court hearings. The judge may order your appearance and your attorney may send a request to ICE, but it is more likely that you will need to appear by telephone from detention. This is called a **telephonic appearance**. In your first conversation with your attorney from detention or in your first letter to him you should tell him you can be present telephonically for your meetings and hearings from detention, but you will need help setting this up.



Ask Your Attorney to:

- Send you a signed copy of all court documents, including the judge's orders and scheduled hearings, to give to ICE officials where you are detained
- Ask the judge to issue an order to ICE that they need to help you call the court during all of your dependency hearings.
- Contact your deportation officer make arrangements for you to call into your hearing with a free call from a private room.

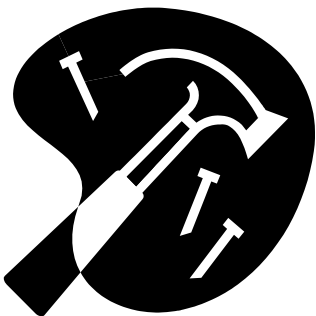
YOU should also tell your deportation officer that you have to call into your dependency hearing at least ONE WEEK before your court date so they can make arrangements for you. The earlier you contact this person, things will go more smoothly and it is more likely they will be able to help you.

Give your deportation officer the phone number of the courtroom, sometimes called the "chambers" (not just the main number of the court) and proof that you have a court hearing. A letter from CPS, the court, or your attorney, or the order of the dependency court judge saying that you need to be there telephonically can be used as proof of your hearing.

If you are having trouble making these arrangements you should also send the Florence Project a request form or letter asking for assistance in setting up a telephonic appearance for your children's dependency case.

5. Make all efforts to stay in touch and keep everyone up to date

Because you are detained you must remember to make every effort to stay in touch with your attorney, the CPS caseworker, and your children and keep them updated about the progress of your deportation case and of your work toward completing your case plan from detention. Since dependency cases have strict timelines the judge will want to know how you are moving forward. Don't make them wonder or they will assume nothing is happening!



The judge may only extend the date he sets for you to complete your case plan if he feels that (1) you've already made good efforts, (2) you can complete all of the requirements of reunification in the time they set, (3) that at the end of that time, it is realistic that you will be able to have your children back living with you. You **MUST** be on top of your case plan to prove to the judge that you deserve more time. You should treat your reunification time like you only have 6 months.

It is your attorney and the CPS caseworker's responsibility to ensure that your case plan is reasonable and that you are able to complete the required classes and services. Ask your attorney and CPS case worker to help you find materials that you can use in place of attending classes.

What you can do to show that you care about your children and are making your best efforts to show that you are a good parent:

1. Write letters or draw pictures for your children and save copies of these letters.
2. Ask to see your children's report cards or ask your children's caregiver to provide you with regular updates of your children.
3. Keep copies of certificates for anything positive you are doing in the detention facility.
4. Involve yourself in any possible activities while in detention including work, reading and research about parenting or related issues such as drug rehabilitation if relevant, religious activity etc.
5. Ask counselors, chaplains, or detention officers to write letters stating that you have demonstrated good behavior while in detention. You can also obtain letters of support from anyone you know that can prove that you are a good parent and care about your children.
6. Ask the chaplain or counselor to help you and other detainees organize anger management classes, Alcoholics Anonymous, parenting classes, etc.
7. If you have family or friends that are not detained, ask them to order you some self-help books from amazon.com and have them shipped directly from Amazon to you. If you have criminal charges for drugs or alcohol, get self-help books that help people maintain sobriety. If CPS is saying that you physically abused your children, get books on parenting or anger management.

Tell your attorney, the CPS case worker, and the judge about your progress in all of these areas and **KEEP COPIES OF EVERYTHING!!!**

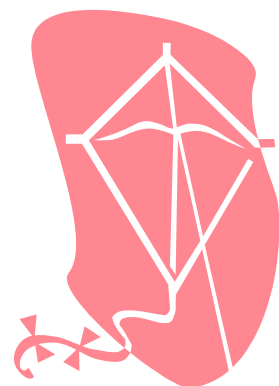
Part 4: PREPARING FOR DEPORTATION



Once CPS opens a case it will continue whether or not you are deported and your children will not be able to travel with you. If you lose your immigration case or ask for deportation or are granted voluntary departure you will travel to your home country directly from detention. Once you are deported you will need to continue to work on your case plan if you want to eventually reunify with your children.

If your immigration case is not looking good or you think you may ask for deportation or voluntary departure, it is best to let your attorney, CPS, and the court know that you want to continue your case plan in your home country as early as possible to arrangements can be made. Here are some tips for preparing for deportation.

1. Explain to your attorney, the CPS caseworker, and the judge that you would like to continue working on your case plan and reunify with your children.
2. Contact your consulate and ask them to make arrangements with child welfare agencies and locate services in your home country. Your consulate should be informed about your children immediately since they can help you with finding services and making arrangements for visitation or reunification.
3. Inform your attorney, caseworker, the judge, and your consulate of the approximate date that you will be deported.
4. If you don't know where you will be living, Give your attorney, CPS caseworker, and the court the contact information of a trusted family member or friend so the court can stay in touch with you once you've left the US.
5. Ask your attorney to ask CPS to do a guardianship for your children with one of your relatives in your country of origin. You will be able to have contact with them as you work to comply with everything CPS wants you to do.
6. If you don't have relatives that are able to care for your children in your home country, ask for a guardianship for your children with a relative or close friend in the US. You may be physically separated from your children but they can still visit with you and travel freely to see you when they are older.
7. Once deported, if you are having trouble complying with the services in your case plan, tell CPS, the judge, and your attorney why. It is part of CPS' job to ensure that you are able to comply with the case plan they put together and if there are serious obstacles that are preventing you from being able to comply, notify everyone immediately. Don't give up!



ATTACHMENT A - IMPORTANT CONTACTS

CPS Hotline: 1-888-767-2445

Juvenile Court - Phoenix: (602) 506-4533

Juvenile Court - Mesa: (602) 506-2544

Juvenile Court - Tucson: (520) 740-2000

Title	Name	Phone Number	Address
CPS Caseworker			
Juvenile Court Judge			
Court Appointed Attorney			
Children's Caregivers			
Supervisory Detention & Deportation Officer			
Deportation Officer			
Unit Counselor			
Chaplain			
Court Appointed Special Advocate (CASA)			
Consulate Contact			
Immigration Attorney/Florence Project			

ATTACHMENT B - DEPENDENCY COURT TIMELINE

The timeline and outcome for every dependency case is different and depends on the allegations against you, the ages of your children, and many other factors. Below is a general timeline of a dependency case which includes all of the **important hearings**:

- ◆ **Preliminary Protective Hearing**: Must be held no more than 5-7 days after the children are removed from the home; one continuance is allowed, for good cause only.
- ◆ **Initial Dependency Hearing**: Happens if you do not attend the Preliminary Protective Hearing. Must be set within 21 days of the filing of the dependency petition.
- ◆ **Mediation, Settlement Conference, or Pre-Trial Conference**: These happen before a contested Dependency Adjudication Hearing or Termination of Parental Rights Hearing (contested means that you are denying what CPS alleges you did).
- ◆ **Dependency Adjudication Hearing**: No more than 90 days from the filing of the dependency petition. This is where the Judge will decide whether or not to make the child dependent on the state court.
- ◆ **Dependency Disposition Hearing**: No more than 30 days from adjudication of the dependency.
- ◆ **Foster Care Review Board**: No less than every 6 months. This is where the court checks in to make sure the children are doing well in their placements and to make recommendations about a good permanent home for the children.
- ◆ **Review hearings**: Must be held every 6 months after the judge makes a decision on the dependency. At the hearing the judge may (1) order 6 more months of services; (2) order that family reunification services be terminated and set a Permanency Hearing; or (3) continue the case.
- ◆ **Permanency Hearings**: No more than 12 months after children's removal from the home if the children are over 3 years old or within 6 months of the children's removal if the children are 3 years old or under. This is where the Judge decides what the long-term plan for the children will be. There are several types of permanency hearings :
 - **Guardianship Hearing**: A type of permanency hearing where the judge dismisses the case and the child goes to live with a long-term guardian.
 - **Alternative Planned Permanent Living Arrangement Hearing**: A type of permanency hearing where the judge decides what will happen to a dependent child who is almost 18.
 - **Termination of Parental Rights Hearing**: A type of permanency hearing where the judge decides whether or not to terminate a parent's rights to their children so the children can be adopted.

- **Adoption Hearing:** A type of permanency hearing where the judge dismisses the case and the child is adopted by a new family and your parental rights are terminated.

Attachment C - California CPS Emergency Telephone Numbers- By County

Alameda	510-259-1800
Alpine	530-694-2235 800-694-2235
Amador	209-223-6550 — Mon-Thur 8-5 209-223-1075 — after hours
Butte	530-538-7882 800-400-0902 — 24hours
Calaveras	209-754-6452 209-754-6500 — after hours
Colusa	530-458-0280
Contra Costa	925-646-1680 — Central 510-374-3324 — West 925-427-8311 — East 877-881-1116
Del Norte	707-464-3191
El Dorado	530-642-7100 — Placerville 530-573-3201 — S Lake Tahoe
Fresno	559-255-8320
Glenn	530-934-6520 530-934-6519
Humboldt	707-445-6180
Imperial	760-337-7750
Inyo	760-872-1727
Kern	661-631-6011 760-375-6049
Kings	559-582-2352 559-582-8776 866-582-8776
Lake	707-262-0235 800-386-4090
Lassen	530-251-8277 530-257-6121 530-310-3682 — after hours
Los Angeles	800-540-4000 — within CA 213-639-4500 — outside CA 800-272-6699 — TDD
Madera	559-675-7829 800-801-3999
Marin	415-499-7153
Mariposa	209-966-7000 800-549-6741

Mendocino	707-463-7992 — Ukiah
	707-962-1100 — Fort Bragg
	866-236-0368 — toll free
Merced	209-385-3104
