

Preparing Parents for a Children's Division Investigation

COVID-19 Updates: May 18, 2020

Parents have many questions about a possible Children's Division investigation. Advocates can help parents prepare for an investigation and alleviate concerns by discussing common questions in advance:

How are neglect and abuse defined in Missouri?

ABUSE involves a non-accidental act by a person responsible for a child's care, custody and control, that results in harm to the child.

NEGLECT is lack of care required for a child's well-being. It may be lack of supervision, failure to comply with school attendance laws, living in a place that does not meet housing standards for sanitation, with no utilities or other unhealthy or dangerous conditions.

How long can a child abuse hotline investigation last?

Missouri law requires that Children's Division complete all investigations within 30 days, unless there is good reason why the investigation can't be completed on time. Within 90 days of a report of abuse or neglect that results in an investigation, Children's Division must notify the persons involved of its decision.

Should a parent expect a Children's Division investigator to come to their home or the child's school?

An investigator must have contact with the child who is alleged to be the victim of abuse or neglect. This typically means coming to the home to interview or examine the child. Case investigations are prioritized according to the severity of the alleged maltreatment. A police officer will often accompany the investigator (see below). Clients should expect one or more home visits for interviews of the children and/or the parents. At times investigators may see the children at their schools.

Does Children's Division have the right to remove a child?

Under Missouri law, Children's Division is authorized to conduct investigations and to report alleged abuse or neglect to the Family Court. **However**, the only people who can legally remove a child from the custody of a parent are Police Officers, hospitals or doctors OR Family Court juvenile officers

Will Children's Division speak to other people regarding the investigation? If so, who?

In addition to the parent(s) and the child, an investigator will speak with the person who called the hotline, who has the right to remain anonymous. Babysitters, neighbors, teachers, and other family members may be interviewed.

When does someone have the right to remove a child?

The standard for removal is if the child is "at imminent risk of harm." This can mean a dangerous person has access to the child, or that conditions in the home threaten harm to the child. If one child in the household is considered at risk of harm, other children in the house may be considered for removal as

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well. A juvenile officer of the court, police or a doctor, rather than the Children's Division investigator, may decide to remove children from the house.

If my child is removed, what are my immediate rights?

A parent or guardian has the right to a protective custody hearing at the Family Court, and the law requires that one be held. Generally, these hearings take place within 3-5 days of the child's removal. The only issue before the court at the protective custody hearing is the placement of the child.

As a parent having your own lawyer representing you at the time the child is removed is critical. A parent or guardian has a right to counsel at the protective custody hearing and at all further hearings before the Family Court. No matter what, never say you do not need a lawyer. The court must appoint free counsel if the parent or guardian cannot afford to pay for counsel. The parent should ask for counsel to be present at all meetings and interviews. Attorneys from Legal Services' Parental Justice Program can represent eligible clients at these hearing.

A parent has the right to ask for placement with a relative or family friend, if that person passes background checks (usually child abuse and criminal record checks). The parent should provide as much information as possible about potential placements to their attorney and the Children's Division immediately upon the child's removal. Don't wait until the hearing! Names, addresses, social security numbers and dates of birth will be important.

What can I do to help my lawyer prepare?

Tell your lawyer the whole story, every detail. Try to remember dates. Take photographs. Get names of witnesses. Obtain doctors' records if physical illness or injuries are involved. If Children's Division knew about the conditions in the home and did not judge the children at imminent risk of harm, tell your lawyer about the circumstances. Courts and lawyers need evidence, and you are the best person to obtain what you need at the start.

Tell your lawyer if you receive any letters from Children's Division. There is a chance that they may substantiate a finding of child abuse or neglect against you or someone else. This is separate from the Family Court case. If there is a finding against you, it can seriously affect your employability and you have rights to appeal, if you act quickly.

If the attorney has a social worker on staff, consult with the social worker often – they are there to make certain your needs are met.

**Legal Services Parental Justice represents clients at every stage of a Children's Division investigation in St. Louis County if the parent qualifies.
Call 314-615-4502 for more information.**

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