

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

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NOTICE TO NON-PETITIONED PARENT WHO IS A HOUSEHOLD MEMBER

PLEASE READ CAREFULLY AND BRING TO THE COURT HEARINGS

I. ABUSE AND/OR NEGLECT PETITION FILED AND COURT HEARING SCHEDULED

A petition has been filed alleging that your child(ren) has(have) been abused and/or neglected. As a result of the petition, **the Court has scheduled a hearing, the date and time of which are provided on the bottom of the petition.** You should plan to attend this hearing and all future Court hearings because orders issued by the Court may directly affect you as well as your child(ren).

Please remember the seriousness of the petition that has been filed. If the judge determines that there is evidence that your child(ren) has(have) been abused and/or neglected, the judge's orders will affect you and your child(ren). This includes, but is not limited to, the possibility that the judge may award protective supervision or legal custody to the Division for Children, Youth and Families (DCYF), which would give DCYF the right to temporarily remove your child(ren) from parental care and custody and determine where and with whom your child(ren) will live. This may include placement of your child(ren) in a foster home(s). The judge may also award legal supervision to DCYF, which would permit your child(ren) to remain in your home, or with another parent, under the supervision of DCYF subject to further Court order.

Abuse and neglect cases under State Law RSA 169-C are intended to protect the health, safety and well-being of children and are handled through a series of Court hearings.

As a parent, you must complete and file the attached Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit (**NHJB-2660-DFPS**) with the court on or before the day of the hearing. You must forward a copy of the UCCJEA Affidavit to the Petitioner or the Petitioner's Attorney.

II. YOUR FINANCIAL RESPONSIBILITY

With limited exception, the department of health and human services shall be responsible for the cost of services provided under RSA 169-C.RSA 186-C, regarding children with disabilities, grants children and their parents certain rights to services from school districts, at public expense, and to appeal school district decisions regarding services to be provided.

III. REPRESENTATION BY AN ATTORNEY

You may hire an attorney to represent you. Pursuant to RSA 169-C:10, II(a), the Court has the discretion to appoint an attorney for you, as a non-petitioned parent who is a household member, if you cannot afford an attorney.

IV. REQUESTING A PARENTAL FITNESS HEARING AND CUSTODY OF YOUR CHILD

As a non-petitioned parent, you have a right to request a parental fitness hearing, pursuant to RSA 169-C:19-e. The request may be made orally at a RSA 169-C court hearing or by filing a written request, including the court form Request for a Parental Fitness Hearing Pursuant to RSA 169-C:19-e (**NHJB-3169-F**). Pursuant to RSA 169-C:19-e, I, a parent shall be awarded custody unless DCYF demonstrates, by a preponderance of the evidence, that the parent has abused or neglected the child or is otherwise unfit to perform their parental duties. Pursuant to *In re Bill F.*, 145 NH 267, 274 (2000), a parental fitness hearing addresses physical custody only. Pursuant to RSA 169-C:19-e, I, at a parental fitness hearing the parent shall be provided the opportunity to present evidence pertaining to his/her ability to provide care for the child. A court order in a RSA 169-C case vesting a fit parent with physical custody is not a permanent order of custody, and will expire upon closure of the RSA 169-C case.

V. THE COURT'S APPOINTMENT OF A GUARDIAN *AD LITEM* FOR YOUR CHILD

The Court will appoint a guardian *ad litem* (GAL) for your child(ren). The GAL will report to the Court and will make a recommendation about what is in the best interest of your child(ren). You will have a chance throughout the case to talk to the GAL. Please note that you will not be asked to pay for the GAL's work.

VI. AN EXPLANATION OF THE COURT HEARINGS AND PROCESS

Outlined below is a brief overview of the Court hearings that are held when an abuse and/or neglect petition is filed. **Please read this information carefully and review it with your attorney, if you have one.** An attorney will be able to provide you with more information about these hearings and the Court process.

All Court hearings and records of abuse and neglect cases are confidential. The hearings are not open to the public and only people involved in the case, or invited by the parties and approved by the Court, will be admitted to the Court hearings.

1. 48-HOUR PROTECTIVE CUSTODY HEARING

If your child(ren) has(have) already been removed from home by law enforcement, the first hearing the judge will conduct will be a 48-hour protective custody hearing. At this hearing, the judge will determine whether there is reasonable cause to believe that your child's circumstances or surroundings present an immediate danger to your child's health or life. If the judge makes such a determination, a preliminary hearing will be scheduled.

2. PRELIMINARY HEARING

If your child(ren) has(have) either been removed from home by DCYF through an *ex parte*, or emergency order, or have not been removed from the home, the first hearing the judge will conduct will be the preliminary hearing. At this hearing, the judge will determine whether your child's circumstances or surroundings present an immediate danger to your child's health or life or whether there is reasonable cause to believe that your child has been abused and/or neglected. If such a determination is made, the Court will schedule an adjudicatory hearing. If not, the petition will be dismissed.

3. NOTIFICATION OF RIGHTS AND CONSEQUENCES HEARING (FOR A MISSING PARENT WHO HAS BEEN IDENTIFIED AND/OR LOCATED)

A "missing parent" in a RSA 169-C case is a parent who is named in a RSA 169-C petition involving their child(ren) but whose address/location is unknown. This parent may be a petitioned parent (alleged to have abused or neglected the child(ren)) or a non-petitioned parent (not alleged to have abused or neglected the child(ren)); a parent who is unnamed in a RSA 169-C petition involving the petitioned parent and their child(ren); or a putative father who is known to DCYF when a RSA 169-C petition is filed or who becomes known to DCYF after a petition is filed.

The court will schedule and conduct a Notification of Rights and Consequences hearing for the non-petitioned parent who has been identified and/or located. All parties have a right to attend this hearing. At the hearing, the judge will review the Acknowledgment of Possible Consequences to Parental Rights in Abuse and Neglect Cases (**NHJB-2209-F**) with the non-petitioned parent. Additionally, the court should, if applicable, discuss the following with the non-petitioned parent: visitation; evaluation, examination and treatment for the child(ren), parent(s), guardian, custodian, and/or household member subject to the petition; services for the child(ren) and/or parent(s); financial affidavit for a parent(s); the social study, case plan, and dispositional order.

4. ADJUDICATORY HEARING OR CONSENT ORDER

ADJUDICATORY HEARING	CONSENT ORDER
<p>At the adjudicatory hearing, or trial, the judge will listen to evidence from the attorneys, the parent (if not represented by an attorney) and DCYF (or individual who filed the petition). DCYF must present evidence and prove, by a preponderance of the evidence, that the abuse or neglect occurred, as stated in the petition. The standard "preponderance of the evidence" means more probable than not.</p> <p>If the judge determines that your child(ren) has(have) not been abused and/or neglected, the judge will dismiss the petition.</p> <p>If the judge determines that your child(ren) has(have) been abused or neglected, <u>a finding of "TRUE"</u> will be entered and a dispositional hearing will be scheduled. The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family.</p> <p>If your child is in an out-of-home placement, the court will also schedule a 12-month permanency hearing. (See Section 7 below.)</p>	<p>If the petitioned parent does not want the judge to conduct an adjudicatory hearing, or trial, he/she may waive this hearing and file a consent decree with the Court. If the judge approves the consent decree and it includes a finding of "TRUE," it will have the same force and effect as if the judge had entered <u>a finding of "TRUE"</u> and determined at an adjudicatory hearing that your child(ren) has(have) been abused and/or neglected.</p> <p>A dispositional hearing, and 12-month permanency hearing if applicable, will be scheduled. The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family.</p> <p>You will be asked to sign the consent decree. Before you do, you should review carefully the form entitled The Effect of a Consent Order on Your Constitutionally and Statutorily Protected Rights, Including Parental Rights (NHJB-2270-F).</p>

IT IS IMPORTANT THAT YOU UNDERSTAND THAT A FINDING OF "TRUE" MAY BE THE BASIS, AT A FUTURE TIME, FOR A PETITION TO TERMINATE YOUR PARENTAL RIGHTS. (See Section 8 below.)

5. DISPOSITIONAL HEARING

If there is a finding of "TRUE," the judge will hold a dispositional hearing within thirty (30) days of the finding of "TRUE." At this hearing, the judge will review the social study of the child's family, consider recommendations from the parties and approve a case plan that will outline what you must do to correct the conditions that led to the finding of "TRUE" that your child(ren) has(have) been abused and/or neglected.

If you want to appeal the Court's decision, you must notify the Supreme Court within thirty (30) days of the final dispositional order.

Please note that at any point during this case, the judge may order that your child(ren) be removed from your care and custody on a temporary basis and placed in an out-of-home placement, including but not limited to a foster home.

Additionally, if the judge determines, pursuant to RSA 169-C:23, that you have not met the standard for return of your child, your child may be removed from you permanently if DCYF files a petition to terminate your parental rights, pursuant to RSA 170-C, and the petition is granted.

6. REVIEW HEARINGS

Following the finding of abuse/neglect, the judge will hold periodic review hearings, pursuant to RSA 169-C:24. At these hearings, the judge will review the status of the case and will examine, since the last hearing, your compliance with respect to outstanding dispositional orders, the case plan and the standard for return of a child in placement, pursuant to RSA 169-C:23. During this review hearing phase of a case, DCYF will be required to make reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan for your child(ren), the court will consider whether services to your family have been accessible, available, and appropriate, pursuant to RSA 169-C:24, II.

7. PERMANENCY HEARING

12-month permanency hearing: If there is a finding of abuse and/or neglect and your child(ren) has(have) been removed from the home and been in an out-of-home placement for twelve or more months, the judge will hold a 12-month permanency hearing, pursuant to RSA 169-C:24-b. At this hearing, the judge will determine if, pursuant to RSA 169-C:23, you have demonstrated that you have met the standard for return of your child(ren) and if so, when your child(ren) will be reunified. If the standard is not met, the judge will identify a permanency plan other than reunification for your child(ren), including adoption through termination of your parental rights, guardianship or another planned permanent living arrangement (APPLA).

Possibility for early permanency hearing—before 12-month permanency hearing: If, after a finding of abuse and/or neglect and removal of a child from his/her home, parents are making no effort or only negligible efforts to comply with dispositional orders, or for some other compelling reason, DCYF may request, and the court may schedule, an early permanency hearing, pursuant to RSA 169-C:24-b, II(b). This hearing may not be requested sooner than 14 days prior to the 6-month review hearing, pursuant to RSA 169-C:24-b, I(f). At this early permanency hearing, the court may order that reunification be maintained as the permanency plan for your child(ren) or may identify a permanency plan other than reunification for your child(ren), including adoption through termination of your parental rights, guardianship or another planned permanent living arrangement (APPLA).

8. PETITION TO TERMINATE PARENTAL RIGHTS

In New Hampshire, there are several ways that a parent's rights can be terminated; one of them is a finding of abuse or neglect and a parent's failure after twelve (12) months to correct the conditions that led to the finding, whether the petitioned or non-petitioned parent in the abuse and/or neglect case; another is a finding of abuse or neglect and parents' failure, after at least six (6) months, to correct the conditions that led to the finding prior to an early permanency hearing held pursuant to RSA 169-C:24-b, II(b) at which the court changed the child's permanency plan due to a compelling reason such as parents making no effort or only negligible efforts to comply with dispositional orders.

In the event a petition is filed to terminate your rights as a parent, you will be notified of any Court hearings. You will have the right to an attorney. If you cannot afford one, the Court will appoint one for you. A guardian *ad litem* (GAL) will be appointed for your child(ren).

At a hearing, both sides will present evidence to the Court concerning the reasons why your rights should or should not be terminated. The Court will make a decision based on the evidence it hears as well as any reports or examinations offered to the Court.

If your parental rights are terminated, you will no longer have any legal rights, privileges, duties or obligations regarding your child(ren).