

RIGHTS OF INCARCERATED PARENTS IN CPS CASES

If you have been notified that there is a Child Protective Services (CPS) case involving your child, it is important for you to know that you still have rights. Unless a court orders otherwise, your rights are equal to a non-incarcerated parent. However, your ability to participate in the case is still subject to your institution's policies and procedures regarding visitation, legal mail, services availability, and court attendance.

You have a right to a lawyer to help you with your CPS case.

You have the right to a lawyer. If you can't afford to hire one, the court will appoint one for you. Your lawyer's job is to help you understand the law and fight for you in court. Your lawyer must communicate with you and follow your direction. If you don't have a lawyer, or don't know who your lawyer is, or if you want a new lawyer, you can write to the court requesting a lawyer.

You have the right to be a part of the case.

You have the right to participate in the case. It's important to ask your lawyer about participating in hearings when possible. While there is no guarantee that you will be able to attend in person, there may be alternative options, including video conference or phone, depending on availability at your institution. If you can't attend a hearing, your attorney still needs to communicate with you before and after the hearing.

You have the right to information about your child.

- You have the right to know about your child's well-being, including medical needs and medical care, and how your child is doing in school.
- You have the right to know who are the professionals involved in the case.

You have a right to have a service plan designed to help you be a safe parent for your child.

The court may order you to complete services to become a safer parent. Being incarcerated does not mean that you can't complete your service plan. Your attorney can work with CPS to identify services you can complete while incarcerated. The services on your plan must be designed to meet your individual needs (language, disability, etc.) and your lawyer can help make sure your service plan is achievable.

You have the right to request communication with your child.

Being incarcerated does not always mean you cannot communicate with your child. Institutions encourage visits and communication consistent with security and classification guidelines. Even if in-person visits are not allowed, video conference, telephone visits, and writing letters may still be possible. The judge in the CPS case will decide if contact with you is in your child's best interest, so it is important to talk to your lawyer about what communication is available to you.

You have the right to review legal documents in your case.

You have the right to receive copies of documents filed in your case. This includes the petition and affidavit that explain how the case began and what CPS is asking for as well as court reports filed by CPS that update how the case is progressing and how your child is doing.

You have a right to have a say in where your child lives.

The court must treat you equally when deciding where the child lives, including considering placement with your side of the family. Courts understand that children do better when they can be safely placed with family and they are required to prioritize placement with safe family members over placement in foster care.

Additional Resources

- The Children's Commission Parent Resource Guide can help you understand the Legal Process of a CPS case. If your facility doesn't have a copy of the Parent Resource Guide, you can write to:

Texas Children's Commission
P.O. Box 12248
Austin, TX 78711

- Texas Law Help has documents that show if you qualify for a court-appointed attorney and the Texas Law Help Reentry Guide has information for incarcerated parents reentering the community. If your facility doesn't have copies of these materials, you can write to:

Texas Legal Services Center
C/O Family Helpline
E. Riverside Dr. Suite A-120, #501
Austin, TX 78741

This material is for information only and is not legal advice for any case or issue. For legal advice, please speak with an attorney.