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Please note: these materials provide general information only. They cannot replace legal advice. If you need legal help, call us at 312-675-0912 or use the “request legal help” link.

HELPFUL PHONE NUMBERS

DCFS case tracking 773-989-5530
773-371-6161

To find out whether there is a DCFS case for your child and if so, who the caseworker is.
Give the child's name and date of birth, and your name and date of birth

DCFS Hotline 1-800-25-ABUSE (1-800-252-2873)
Alternate hotline number 1-217-524-2606
(Use these only after careful consideration.)

Office of the Cook County Public Defender
Child Protection Division 312-433-7047
Usually appointed to represent the mother in foster care cases.

Lutheran Social Services of Illinois /Connections 312-783-9516
For rides for children's visits.

Illinois Department of Public Health Adoption Registry 217-782-6553
To register after an adoption so that your child can find you upon reaching adulthood.

CLAIM 312-675-0912;
For legal advice on family law and guardianship. *Collect: 312-675-0911*

PARENTAL RIGHTS

- Both parents have a Constitutional right to the “companionship, care, custody and management of the child”.
- Residual rights and responsibilities are those remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to:
 - ✓ the right of reasonable visitation,
 - ✓ the right to consent OR refuse to consent to an adoption,
 - ✓ the right to determine the minor's religion, and
 - ✓ the responsibility of supporting the minor.

PARENTAL RESPONSIBILITIES

- Provide necessary support when able.
- Provide education as required by law.
- Provide medical and other care (see below) as necessary for the minor's well-being.
- Provide care: adequate food, clothing and shelter.
- Protect the child from:
 - ❖ danger of sexual abuse;
 - ❖ danger of physical injury;
 - ❖ excessive corporal (physical) punishment;
 - ❖ any environment that could injure the child’s welfare in any way.

**FOR ALL CASES WHERE CHILDREN ARE INVOLVED,
THE MOST IMPORTANT IDEA IS THE
“BEST INTEREST” OF THE CHILD**

No matter who is taking care of your children:

- Begin to **PLAN NOW** to re-establish a home for your children. Keep records to document your progress toward the eventual return of your children. This may include participation in Gateway (drug counseling), PACE Institute's parenting classes, and other available programs that address any problems that could delay the return of your children, increase your skills as a parent, or provide you with employment skills or education. Failure to make progress can be a ground for termination of parental rights. Also, your jail or prison records may be subpoenaed, so try to avoid having a disciplinary record inside. It can and does affect the judge's opinion of you as a mother.
- **VISITS** are the most important way to keep up your bond with your child. Consistent visits are considered the strongest evidence of your interest in your child. Since visits through a thick glass barrier might be too traumatic for a small child, you may want to try to get a contact visit for your child. Cook County Department of Corrections has a policy of barrier visits only, and exceptions may be made only in special circumstances, with a court order. You may want to ask your judge for a special parent-child visit in the court conference room after the hearing if it is appropriate to bring the child to court on that day.
- **REUNIFICATION** usually takes time. It is better for you and your child if you can arrange a smooth, gradual transition. Mothers must balance this with the requirement that they reunite quickly if their children are in foster care. The court will look for evidence of: adequate housing, recovery from any drug or alcohol addiction, a stable, legal form of income to support the children, and your stability. Show that you can be a responsible parent, and that you are not likely to be arrested again.

Placement of Children: Questions to Consider

For all parents:

- Will my child be safe?
- Will my child be comfortable with this caregiver?
- Is my child likely to have visits with me and connections with other family members in this placement?
- Can the children stay together? If not, can they have visits?
- Will the caregiver support my relationship with my child?
- Will I be able to regain custody? Will the caregiver help create a smooth transition for my child?
- Does this placement reduce the risk of my child having to move from one home to another?

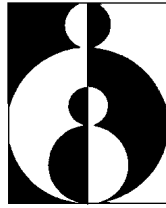
Special questions for mothers of newborn infants:

- Is the caregiver close enough to provide frequent visits?
- Will the caregiver support the development of a bond between me and my baby?
- Will the caregiver keep me informed of my baby's day-to-day development?
- Can my new baby live with my older children? If not, can the caregiver devote time to help my new baby get to know the older children?
- Is the caregiver aware of the length of my sentence, and can the caregiver adjust appropriately to my length of sentence?
 - *If I have a short sentence, will the caregiver ease the transition of the baby coming home to me?
 - *If I have a long sentence, is the caregiver willing to care for my child and provide visits for all those years?
- Will the caregiver continue visits if I am transferred to a facility farther away?

Try to avoid:

- Foster care/State custody. Try to place your baby with a trusted relative or friend who is eligible to be the legal guardian if necessary – someone with a stable lifestyle who has no felony convictions and no reports of child neglect or abuse. Make sure it is someone unlikely to be a target for a hotline call due to drugs in the home, children left unattended, or excessive physical discipline.
- Sending your child far away. If there are no visits it will be harder to reunite with your children. If the caregiver feels like the only parent, she is more likely to fight you for custody.
- Sending your child out of state. You cannot be brought to court in another state from an Illinois facility and it will be harder to protect your legal rights. Some states allow termination of parental rights on the basis of just one felony conviction.

...for the children



*70 East Lake Street, Suite 1120
Chicago, Illinois 60601-5950*

312-675-0911 collect calls only

FOSTER CARE & JUVENILE COURT

Foster Care and Juvenile Court:

- If there is any stable, safe home available that can prevent placement of the children in foster care, try to get the children placed there. If they are already in foster care, there is a preference for placement with relatives, but the relatives must pursue it aggressively, and early in the case.
- The caseworker and supervisor decide on a “permanency goal” for each child, the long-range plan for where the child will live and the child's future. The system requires children to have a definite plan for a permanent home within nine months. This puts pressure on the worker to move toward termination of your parental rights if you cannot have your life together and provide a stable home for your child in a very short time.
- There is no absolute right to change caseworkers. This is the **children's** caseworker (not the mother's). The caseworker has a great deal of power over the family. Therefore, cooperate fully with the case plan. If you do not already have a written service plan, ask the worker for one **AND FOLLOW IT**.
- **Document** your contact with the children and agency, and all progress you make. Keep good **RECORDS** of your communication with the agency and of your efforts to follow the service plan.
- The **Administrative Case Review** takes place every six months. Try to participate by phone hook-up if you cannot attend, or ask for the review to be held at the facility where you are. If this doesn't work, ask someone, such as a counselor, minister or relative, to go to the review and represent you. Also, write a letter to the caseworker to be read at the review, expressing your concerns about your children and any progress you have made. The review is your chance to have a voice in the plans for your children.

THINGS TO REMEMBER:

1. Keep in **frequent contact** with your child, the caretaker and the foster care agency.
2. Keep making progress toward regaining custody of your child and becoming a better parent. Participate in drug treatment or A.A./N.A., take parenting classes, get counseling, attend GED or other classes, and cooperate with court orders and all reasonable requests of the caseworker.

KEEP GOOD RECORDS OF THESE EFFORTS SO YOU CAN PROVE THEM LATER ON.

- It is critical to keep in regular contact with the children and/or the caretaker or agency. Failure to do so is likely to result in termination of parental rights. If you do not know where the children are, try to find out immediately. (For DCFS case tracking, call 773-989-5530.) Visits, phone calls, and cards or letters to the children should be as frequent as possible and should be documented, and copies kept of correspondence whenever possible.
- Begin to plan now to re-establish a home for your children. Keep records to document your progress toward the eventual return of the children. This may include participation in Gateway (drug counseling), parenting classes, and other available programs that address any problems that could delay the return of the children, increase your skills as a parent, or provide you with employment skills or education. Failure to make progress is a ground for termination of parental rights. Also, your jail or prison records may be subpoenaed, so try to avoid having a disciplinary record inside. It can and does affect the judge's opinion of you as a mother.

VISITS are the most important way to keep up your bond with your child. Consistent visits are considered the strongest evidence of your interest in your child. Since visits through a thick glass barrier are too traumatic for a small child, you may want to try to get a contact visit for your child. Cook County has a new program for mothers. If you are in Cook County Jail and eligible for Department of Women's Justice Services' treatment and parenting program, you may be able to have contact visits with young children in the beautiful **Bright Spaces** visiting room. It is hard to get your child brought to distant prisons. **Lutheran Social Services of Illinois/Family Connections**, which provides rides to prisons for children and caregivers, can be reached at 312-567-9224. You may want to ask for a special parent-child visit in the court conference room after court hearings the child will be in court.

REUNIFICATION takes time. It is better for you and your child if you can arrange a smooth, gradual transition. You must balance this with the requirement that you reunite quickly if your children are in foster care. The court will look for evidence of: adequate housing, recovery from any drug or alcohol addiction, a stable, legal form of income to support the children, and your stability. Show that you can be a responsible parent, and that you are not likely to be arrested again. If you have fully completed the service plan, have unsupervised overnight visits, and only need housing before you can regain custody of your children, ask the caseworker or your lawyer about “Norman Funds” for your security deposit and first month's rent, to help you obtain housing.

TERMINATION OF PARENTAL RIGHTS - (abbreviated as “TPR”)

Your Rights:

1) **Notice** must be sent to your last known address and if you are no longer there, the state must “publish” notice – ie: put an ad in the paper notifying you of the court date.

If the court can not find you and publishes to provide you notice, **the trial will continue even if you do not show up for court.

2) **Present** – You have a right to be present in court *unless* you’re incarcerated in another state OR in a federal facility. It is sometimes possible to participate by phone.

3) **Lawyer** – If you can not afford a lawyer, the court **MUST** appoint a lawyer to represent you (in Juvenile Abuse and Neglect court, where foster care cases are heard).

NOTE: In Cook County, the Public Defender represents most parents in these cases.

Office of the Public Defender
2245 W. Ogden, 7th Floor
Calendar _____
Chicago, IL 60612
312-433-7047

TPR is FINAL.

Once your rights are terminated, there is a short period of time (30 days) for you to appeal the decision. Once that time period ends, there is no way to undo the termination.

The Trial:

The Termination of Parental Rights (TPR) trial is “bifurcated” (2 parts).

Part 1: Unfitness

The state asks the Judge to make a finding of “unfitness” based on one or more grounds.

a) If the Judge does make a finding of unfitness, then the trial proceeds to Part 2.

-OR-

b) If the Judge does not make a finding of unfitness, the state’s petition for TPR is dismissed, and everything stays the same – the kids do NOT return home automatically, but your rights are NOT terminated.

Part 2: Best Interest

If the Judge made a finding of unfitness, she next decides whether it is in your child’s “best interest” for your rights to be terminated.

a) If the Judge decides that it IS in the best interest of your child to terminate your rights, then she WILL terminate.

-OR-

b) If the Judge decides that it is NOT in your child’s best interest to terminate (even though she already made a finding of unfitness), your rights are NOT terminated

Grounds for Termination:

There are **22 Total Grounds** (See 750 ILCS 50/1(D(a)-(t)) that the Judge can find you UNFIT under. The state only needs to prove **ONE** of these grounds by clear and convincing evidence.

- (a) **Abandonment** of the child, especially an infant.
- (b) Failure to maintain a **“reasonable degree of interest, concern or responsibility”**
- (c) **Desertion** of the child for more than 3 months right before the TPR petition is filed.
- (d) **Substantial neglect** of the child if continuous or repeated.
- (e) **Extreme or repeated cruelty** to the child.
- (f) Two or more findings of **physical abuse** to any children (most recent finding by clear and convincing evidence); a **criminal conviction** OR finding of not guilty by reason of insanity **because a child died from physical abuse**; or a finding by Juvenile court that a child died from physical abuse.
- (g) **Failure to protect** the child from an environment that could injure the child physically, mentally, or emotionally.
- (h) **Other neglect** or misconduct.
- (i) **Depravity**. Includes a *rebuttable presumption* that you are depraved if you have been convicted of **3 felonies** and at least one of your convictions was in the **last 5 years**. Also includes 1st or 2nd degree **murder** of the child’s **other parent** (can be overcome if you have *clear & convincing* evidence, like self-defense) and the murder of **any child**, including conspiracy and solicitation.
- (j) Open and notorious **adultery or fornication**.
- (k) Habitual **drunkenness or drug addiction** for at least *one year* before the TPR petition is filed.
- (l) Failure to show **reasonable interest** in a newborn for the first month after birth.
- (m) **Reasonable efforts / Reasonable progress**
NOTE: Detailed information follows.
- (n) Failure to **visit, communicate** with the child or agency, or plan for the child’s future for **any 12-month period**.
NOTE: The State will look at whether you sent cards, gifts, and letters to your child (or to the caseworker if you don’t have your child’s address) as a large part of proving this ground. The State will also look at whether you visited your child in person or over the phone.
- (o) Failure to provide **food, clothing, and shelter** although able to do so.
- (p) Unable to parent because of a **mental impairment**.
- (q) **Criminal conviction of aggravated battery, heinous battery, or attempted murder** of any child.
- (r) Your child is in foster care, you are **convicted of a crime and incarcerated**, and *before your incarceration* you had **little or no contact** with your child OR provided **little or no support**, AND you will not be able to “discharge your parental responsibilities” for **the next two years**.
- (s) Your child is in foster care, you are **incarcerated**, and you have been **repeatedly incarcerated** because of criminal convictions, AND the repeated incarceration prevents the parent from “discharging his/her parental responsibilities.” (Convictions from *before* your child was born CAN be included if they affect your ability to be a good parent – See *In re D.D., a Minor*, Illinois Supreme Court, Opinion filed June 21, 2001).
- (t) Your child is **born exposed to drugs**, you have at least **one other child** who the court found was neglected, AND **you had the opportunity** to participate in drug counseling, treatment, and rehabilitation programs after trial.

THE **MOST COMMONLY-USED GROUND** is failure to make reasonable efforts and/or reasonable progress. This is Ground (m) in the statute – 750 ILCS 50/1 (D(m)).

Ground (m) states:

“Failure by a parent (i) to make **reasonable efforts** to correct the conditions that were the basis for the removal of the child from the parent, or (ii) to make **reasonable progress** toward the return of the child to the parent **within 9 months after an adjudication** of neglected or abused minor, or (iii) to make **reasonable progress** toward the return of the child to the parent **during any 9-month period after the end of the initial 9-month period . . .**”

Adjudication: 705 ILCS 405/2-7, 2-10

Adjudication is the trial that covers everything that happened up until the day of the temporary custody (TC) hearing.

At the TC hearing, the court decides if your child should stay outside of your care until Adjudication – the TC hearing must occur no more than 48 hours after DCFS took your child and placed him/her somewhere else.

The Adjudication must occur within 90 days of the date of service to the parties (both parents), *unless* all parties agree to have the trial after 90 days, AND the court allows the trial to be delayed (called a “90-day waiver”).

Once Adjudication has occurred, the **clock starts ticking for the 9-month period for reasonable efforts and progress (Ground (m)).

“**Reasonable efforts**” means –

Did you complete your tasks in the service plan? (Including visiting your child.)

“**Reasonable progress**” means –

Do you understand your role in making your child a foster kid?

Have you done everything needed (like completing your tasks in the service plan) to ensure that what led to the state taking your child will NOT happen again?

(For example, if your child was born drug-exposed, have you completed drug treatment **AND** have you been drug-free for a significant period of time?)

Visits and other contact as part of reasonable efforts and progress:

Just as important, and often even MORE important, than whether you completed your tasks is DID YOU VISIT YOUR CHILD?

The court often views parent-child visitation as the most important, and the easiest, thing for you to do. If you do not visit your child, the court often sees this as your lack of interest and concern about your child. Even if you do nothing else, you MUST visit your child.

Visiting your child is a HUGE part of making reasonable efforts.

NOTE: When you are incarcerated, it can be difficult for you to decide whether it is best for your child to visit you in jail or prison. Sometimes it can be upsetting for your child to see you in that environment, on top of dealing with the noise, chaos, AND no-contact visits. If you decide that it is best for your child to NOT see you in the jail/prison environment, **write a letter** to your caseworker and lawyer explaining your decision. Your letter should make it clear that you are making this decision because you are thinking about what's best for your child, NOT because you do not want to see your child.

You should also **write letters** and make phone calls (if possible) to your child. It is very important to keep the highest level of communication possible with your child.

“Best Interest of the Child” Standard: 705 ILCS 105/1-3(4.05)

ALL of the decisions made by the court are supposed to be in the “**best interest**” of your child.

When the court decides what is in the best interest of your child, it looks at the following factors, “in the context of the child’s age and developmental needs:

- (a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child’s identity;
- (c) the child’s background and ties, including familial, cultural, and religious;
- (d) the child’s sense of attachments, including:
 - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child’s sense of security;
 - (iii) the child’s sense of familiarity;
 - (iv) continuity of affection for the child;
 - (v) the least disruptive placement alternative for the child;
- (e) the child’s wishes and long-term goals;
- (f) the child’s community ties, including church, school, and friends;
- (g) the child’s need for permanence which includes the child’s need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care; and
- (j) the preferences of the persons available to care for the child.”

Best Interest Standard in TPR Trials:

When a Judge is deciding whether it is in your child's best interests to terminate your parental rights, she looks at all of the best interest factors. During the best interest portion of TPR, the Judge is specifically looking at the following issues:

- 1) How long has your child lived outside of your care?
- 2) How often did you have contact with your child while she was in foster care – through visits, letters, phone calls, etc.?
- 3) Is your child bonded to you? Does your child seek you out for affection, reassurance, and love? Would it be detrimental to your child to sever the legal bond between you and your child?
- 4) How long has your child lived in his/her current home?
- 5) Is your child bonded to her current caretakers? What names does she have for the caretakers (“mom,” “dad,” “grandma,” etc.)? Does your child seek out the caretakers for affection, reassurance, and love?
- 6) Depending on the age of your child, what does she want? (If your child is older, the court will consider whether your child wants to return to you or be adopted.)
- 7) What do the current caretakers want? Are they willing to adopt your child?

These are just some of the broad considerations the court thinks about when it decides whether to terminate your rights. Where your child feels safe and loved is a HUGE part of the court's consideration.

After the TPR Trial:

If your rights are terminated, many Judges set a new permanency goal of Adoption immediately after the trial. The caseworker and court will now work towards your child being adopted.

If your rights are NOT terminated, the permanency goal will be changed – most likely to either Guardianship or Return Home. If the goal is Return Home, you must cooperate with the caseworker and participate in services if you want your child to be returned to you.

Specific Consents and General Surrenders:

If you think you will lose your parental rights at trial, talk to your lawyer and think about your other options. One of the reasons some people choose to sign a consent for termination is because they have other children in foster care they want returned home. If the court terminates your parental rights *without* your consent, the termination can be used as evidence against you in another foster care case of a different child. (This can be a case already in front of the court OR a new case that is opened in the future).

1) Specific Consents

You can sign a consent for your child to be adopted by a specific person. This means that your rights will be terminated with your consent. The caseworker/agency and the court must approve this adoptive parent, who is usually the current foster parent. The benefit of a specific consent is that you know who will adopt your child, and hopefully it is someone who you trust.

2) General Surrenders

You can also sign a general surrender of your parental rights. This means that your rights will be terminated with your consent, and that it is up to the caseworker/agency and court to decide who should adopt your child.

You can also ask your lawyer to create an **open adoption contract, although this is not commonly done in Juvenile court. If the adoptive parents agree, you could ask for updates about how your child's doing, photos, and possibly attend events like graduations and birthday parties. However, **courts can NOT enforce these agreements**, so if the adoptive parents change their minds at any point, there is nothing you can do.

Searching for your adopted child:

There are several agencies that will help you find your adopted child once she has reached adulthood, and *only if* your child wants contact with you.

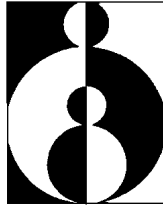
Midwest Adoption Center 3158 Des Plaines River Road, Des Plaines, IL 60018
847-298-9096, 847-298-9097 fax

Soundex Reunion Registry P.O. Box 2312, Carson City, NV 89702

Adoptees Liberty Movement Association P.O. Box 2790, Glen Ellyn, IL 60138

Illinois Department of Public Health, Office of Vital Records, Adoption Registry
605 W. Jefferson, Springfield, IL 62702-5097, 217-782-6553

... for the children



*70 East Lake Street, Suite 1120
Chicago, Illinois 60601-5950*

312-675-0911 collect calls only

GUARDIANSHIP

Guardianship of Minors (Probate Division)

Guardianship of Minor petitions in Probate Court are usually used to formalize existing custody situations, often when there is agreement in the family as to who should care for the children. If your children live in Cook County, a CLAIM lawyer can represent the guardian you choose for your children, in most cases, as long as you consent to the guardianship. We will have a face-to-face interview with you, to ensure that you understand and want the guardianship, before we proceed with the case. If there is a clear need for court-ordered guardianship, (eg. medical, public aid or school requirement) contact CLAIM for an appointment with a staff attorney or ask the children's caregiver to call us.

The Probate Act gives you two alternatives to court-ordered guardianship: **standby guardianship** and **short-term guardianship**. Standby guardianship enables parents to appoint a future guardian for their children in case of the parents' incapacity or death. This can serve as an assurance that if/when you are separated from your children, whether due to imprisonment or for other reasons, the children will have a legal guardian and will not be in danger of becoming foster kids. A short-term guardianship allows parents to appoint a guardian for their children by affidavit for **up to three hundred sixty-five(365) days without a court order**.

Short-term guardianship can be done by the parent signing an "Appointment of Short-Term Guardian" form in front of two witnesses and having the guardian sign it. It DOES NOT require a court order, and it expires automatically on the date shown or in 365 days. However, it can only last for up to 365-days. It is not intended to replace court-ordered guardianships in situations when you will be away for a long time. If there is a problem with the guardian or if you are ready to take care of your children again, you can end the Short-Term Guardianship simply by writing a Revocation of Short-Term Guardianship and sending it to the Short-Term Guardian.

- If you are considering a court order, think about **why the guardianship is needed**. Will Short-Term Guardianship accomplish your needs? If the relative has no need of a court-approved guardianship, it may be best to leave well enough alone. That way, the family does not need to go back to court when you are ready to regain custody. If you are concerned that another relative may try to take the children, a court order may be needed so that the police will protect the present custody arrangement.
- Guardianship does **NOT** end your parental rights. You still have a right to visit with your child while someone else is the guardian. When you and the guardian go to court together to request discharge of the guardian, the court will do so. If the guardian does not agree to be discharged, you will need to show the court you are fully ready to resume responsibility for your child.
- The "**temporary custody**" forms in the jails and prisons **DO NOT GIVE** legal guardianship. Sometimes relatives use those forms and try to obtain guardianship in Probate Court. If the caretaker is a close relative, Public Aid often will accept those forms to give the caretaker a medical card for the child *unless* there is a question of paternity and the caregiver is on the father's side of the family.
- In order to consent to a court-ordered guardianship, the parent signs an "Appearance and Consent for Letters Appointing Guardian." Courts may appoint the guardian even without the parent's consent if there is a need for guardianship, but the guardian must show that she sent notice of the hearing to the parent or published notice in a newspaper.
- When it is time to discharge the guardian and return the child, the parent must show what has changed so that the guardianship no longer is necessary. Think about how the judge can know that you are ready to take full responsibility for your child and that you will not be arrested again.

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

SAMPLE

APPOINTMENT OF SHORT-TERM GUARDIAN

1. I, YOUR NAME, currently residing at Name of correctional center
County and state, am a parent of the following child: Child's name
born date of birth.

2. I hereby appoint the following person as the short-term guardian for my child:
(Name) Guardian's name (Address) Guardian's address
City, State and Zip Code

3. This appointment becomes effective immediately upon the date that this form is signed and dated below.

4. This appointment shall terminate on Date up to one year from date when the guardian will sign.
(not more than 365 days after effective date)

5. This appointment is made this today's date day of month, 20 .

Signed: Your signature

6. Witnesses: I saw the parent sign this instrument, then I signed this instrument as a witness in the presence of the parent. I am not appointed in this instrument to act as the short-term guardian for the parent's child.

Witness 1: _____

Name

Address

Witness 2: _____

Name

Address

(No notary is required but it can be helpful to assure doctors, public aid workers, etc., that no one forged your signature. If you can have the form notarized, have the notary be one of the two signatures.)

7. Acceptance of guardian: I accept this appointment as short-term guardian on this _____ day of _____, 20____. *(Date the Guardian signs)*

Signed: Guardian's signature

DIVORCE & CHILD CUSTODY

(Domestic Relations Division)

The best interest guidelines in the Marriage and Dissolution of Marriage Act (750 ILCS 5) determine custody between two parents whether or not they were actually married. Another caregiver may file a petition in the Domestic Relations Division if the child is not in the physical custody of either parent.

- If you are anxious to get a divorce, in most cases you should wait until you are released from incarceration! The court can not grant you custody of your child while you are locked up, and the judge may have to award custody to the father even if he is not the better parent to raise your child. Exception: if the dad abused the kids, and you're charged with failing to protect the kids from him, you may want to proceed with a divorce.
- If you receive a divorce summons, **YOU ONLY HAVE 30 DAYS TO FILE YOUR RESPONSE**. If you do not have a divorce lawyer, please ask a staff member to fax it to CLAIM with a request for representation, or get a copy made and send it to CLAIM. CLAIM *might* be able to represent you (Cook County) or help you write and file your response.
- If the father files a petition for determination of paternity, he will be able to get temporary or even permanent custody of the child if you are not able to care for your child, unless you can show that there is a very serious reason why he should not have custody and you have someone reliable file a petition to intervene in the case. **YOU MUST FILE A RESPONSE** or the court will hold you in default and grant the father's petition.
- Once a divorce or custody case is completed, you will probably be stuck with that judgment for a long time. **A petition for modification of custody can NOT be filed within two years of a judgment, except by agreement of the parties, unless the children are seriously endangered in their current home.** After two years from the date of entry of judgment, a petition for change in custody can be filed on the basis of a **change in circumstances in the custodial home AND that the change in custody is in the children's best interest**. This is an easier standard than showing endangerment--a change could include the children's wishes to live with you now or your daughter entering her teen years. If the father files for divorce or custody, it may be possible to delay entry of judgment until you are released and back on your feet, to preserve your chance of having custody of the kids.
- Try to get the court to order at least some visitation with the children, even if only by telephone. Visitation can be modified at any time, based on the best interest of the child.

BEST INTEREST of the Child Standard:

The judge looks at "best interest" factors (750 ILCS 5/602) to decide custody and visitation arrangements.

"Best Interest of Child. (a) The court shall determine custody in accordance with the best interest of the child.

The court shall consider all relevant factors including:

- (1) the wishes of the child's parent or parents as to his custody;
- (2) the wishes of the child as to his custodian;
- (3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest;
- (4) the child's adjustment to his home, school and community;
- (5) the mental and physical health of all individuals involved;
- (6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person;
- (7) the occurrence of ongoing abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, whether directed against the child or directed against another person; and
- (8) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child."

BONDING AND ATTACHMENT SEPARATION AND LOSS

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Children cannot grow up normally unless they have a continuing, stable, human relationship with at least one nurturing adult, someone they can count on for life. Food, clothing, shelter, and a safe place aren't enough. They need to be attached. Attachment begins in infancy with the feeding cycle. Babies feel stressed because they are hungry and their mothers (usually) reduce the stress by feeding them. Over time the baby learns to associate the feeling of being safe and cared for with a particular person who looks, feels, smells, and sounds the same. All attachment occurs by a stress/stress-reduction cycle.

A child needs to be attached in order to learn and to grow up emotionally and behaviorally intact. When children are removed from the adults to whom they are attached and placed in foster care their basic development may be disrupted. Sometimes children must be removed for their own safety. But separation itself can be life-threatening. In the past, well cared for infants placed in institutions often died before their first birthdays, because they were not cared for by a particular person and never attached to anyone. Physically they didn't grow well and were very susceptible to infection. Today we call them "failure to thrive" babies.

There are predictable cognitive, emotional and behavioral outcomes of separating children from the adult to whom they are attached. Short-term memory loss is very common. A child cannot retain information so has difficulties with learning to read, taking tests, or following directions. A child may seem to be developmentally delayed or even retarded.

Children who are separated from their primary caretaker very often have emotional difficulties. They have a confused sense of who they are, who they belong to, and whether they are worthwhile to anyone. They sometimes feel as if they have been kidnapped, snatched from parents who want them by frightening authority figures. Children who were removed by law enforcement officers and who are kept away from contact with their families are particularly apt to feel victimized.

Everyone has a life story, but foster children have difficulty constructing a story about who they are. They have a history with holes in it, and have no way of filling these holes unless foster parents and caseworkers take the time to document their lives using picture scrap books (i.e. Life Books).

Developmental tasks of adolescence require the process of individuation. Teens must separate from the adults to whom they are attached through interaction (and conflict) in order to develop an adult identity and the ability to relate intimately with others. Adolescents who are separated from the people to whom they are attached do not have the opportunity to individuate and may not be able to develop a separate adult identity. They also frequently are not able to later establish intimate relationships which last, and have difficulty with domestic abuse and child abuse.

Behavior problems of foster children are very common. They also are very similar to the behavior seen in children who have lost a parent or sibling through death or divorce. If the behavior problems of foster children are first looked at as expressions of grief (a natural process) rather than pathology, we may better be able to understand them and intervene successfully.

Children go through the classic stages of grief (denial, bargaining, anger, depression, and acceptance). However, they tend to express them a bit differently than adults and also take longer to move towards resolution. The younger the child was at the time of the loss, the longer the grief lasts, some for as long as six to eight years.

Denial in foster children is apt to be expressed through rhythmic behavior which helps them avoid the pain. If a child keeps running or bouncing a ball incessantly, or hitting his head against the wall or the floor, or rocking himself in front of the TV, he won't have to deal with the tremendous hurt of feeling abandoned. Foster children often use bargaining. "If I'm good they'll let me go home." or "If I'm good they'll keep me and love me and adopt me." This honeymoon period early in a placement generally breaks down after several weeks.

The anger of grief can be very powerful. Anger about their disconnection, anger about their powerlessness, anger about the threat to their normal development, anger about it happening to them, anger about everything, anger over nothing. Just anger. If a child's mother were killed we'd recognize some of this angry behavior as grief. We frequently don't recognize foster children's anger as grief (since we have rescued them from a dangerous situation) and tend to label them as "emotionally disturbed" or "bad."

Depression is another stage of grief. Children in depression have very little energy, may sleep a lot, appear lazy and spend hours staring into space. Depression makes learning difficult.

CHECK-LIST FOR MOMS

___ Write to your children as often as you can. If they are too young to read, you can draw pictures or send a photograph of yourself to them, if possible. Or write a simple letter for the children's caretaker to read to them. If you do not have your children's address, send the letters to the caseworker or to a relative who visits with them.

___ Keep a record of your letters and cards to your children. If possible, keep a copy or first draft of all letters. If you can't do that, keep a notebook with a list of each date you wrote to your children and a sentence or two saying what you wrote about. That way, you will at least have a clear memory of how often you kept in touch. Be sure to show your attorney the records you have kept, or at least tell him or her about the records, before any court date you may have.

___ Ask your children's caseworker or caretaker to arrange phone calls for you and your children as often as possible. **Keep a list** of all dates of your phone visits with your children and the topic, and dates you tried to call them but could not, and the reason.

___ Unless a court has ruled otherwise, you have a **right to regular visits** with your children. If your children's caseworker or caretaker refuses to permit visits, contact the Family Advocate at the facility, a human services worker, or your attorney for help. **BE PERSISTENT BUT POLITE**. Sometimes it takes many calls or letters to get someone to bring your children to visit you. Make sure the caseworker, or your child's caretaker, **ALWAYS** knows your present address and how to contact you, and that you can prove this through correspondence.

___ **AT LEAST** once a month, contact your children's caseworker or caretaker, and keep records of your communication. Usually it is better to let the caseworker know you're in jail than let him or her think you have abandoned your children (grounds for termination). Make sure the caseworker, or your child's caretaker, **ALWAYS** knows your present address and how to contact you.

___ If your children are in foster care, write the caseworker a letter asking for a written plan to have the children returned home to you. Also, ask to be notified of the six-month administrative case review. You should do everything you can to attend the case review, and if you will still be incarcerated, you should write to the case review administrator to request to have the review at the correctional facility. If the agency will not hold the review at the facility, you can send a representative to it or write down your concerns in a letter to the case review administrator beforehand. The six month review is your chance to have some voice in the decisions about your children's care and the process of getting them back home.

___ **Do everything you possibly can to cooperate with the caseworker and to follow the case plan.** If you have serious disagreements with the caseworker, try to get help from someone to straighten them out – your attorney or Public Defender, a Family Advocate, a Gateway counselor, or Human Services. **YOU WILL NEED TO CONVINCED A JUDGE, CASEWORKER, GUARDIAN, OR RELATIVE THAT YOU ARE READY AND ABLE TO REGAIN CUSTODY OF YOUR CHILDREN.**

___ If you have a child custody case in court, ask to be notified of all hearings, and if you are incarcerated, ask for a writ to court. **It is better to attend the court date if you possibly can.** Write to the Public Defender for that court or calendar as soon as you know the court date, to inform him or her of any issues that are of concern to you. Do not write to the judge unless you are representing yourself. You must send a copy of any such letter to the state’s attorney or lawyer for the opposite side, and to any attorney or Public Guardian who has been appointed for your child, and indicate on the letter anyone to whom you have sent copies with a “cc:” on the bottom and the names of those to whom you are sending copies.

___ Participate in any classes or programs to help you be a better parent. Ask for a certificate or letter to show that you successfully completed the program. Send a copy to your child’s caseworker as evidence of your progress.

___ If you have a history of drug or alcohol abuse, do everything in your power to get into a counseling and treatment program and **stick with it.**

___ Try to plan ahead regarding education for yourself and your children, housing, a job, day care, and other parole plans. In order to regain custody, you will need to show stability, including adequate housing, a legal source of income, and that you can be a responsible parent.

CLAIM MINI REVIEW QUIZ

1. If you want a good friend of yours who is taking care of your child to be appointed as your child's guardian, you can't do it in Illinois because it must be a blood relative.
TRUE FALSE
2. Courts usually make decisions about child custody and visitation based on the best interest of the child.
TRUE FALSE
3. Both parents have a right to the child's companionship, care, custody, and management, under the United States Constitution.
TRUE FALSE
4. a.) You can appoint a short-term guardian for your children without going to court, and the guardianship ends after 365 days, without the judge having to discharge the guardian.
TRUE FALSE
b.) A court appointed guardianship works the same way; you do not have to go back in front of a judge to discharge the guardian.
TRUE FALSE
5. If a parent is awarded legal custody in Domestic Relations Division, the other parent cannot petition the court to modify the order for two years after the judgment is entered, unless there is evidence that the child is seriously endangered in the custodial parent's home.
TRUE FALSE
6. The state cannot terminate your parental rights based on any aspect of your criminal conviction or sentence.
TRUE FALSE
7. A parent cannot permanently lose her children unless the parent abused them or severely neglected them.
TRUE FALSE
8. a.) Termination of parental rights is based on the parent being found unfit, and it means that the court can allow someone to adopt your child without your consent.
TRUE FALSE
b.) The court cannot terminate parental rights unless you appear in court.
TRUE FALSE
9. Parents whose children are in foster care should make sure they have a written service plan and that they do everything in their power to complete the tasks outlined in the plan.
TRUE FALSE
10. An administrative case review is held once a year by DCFS to determine the plan for each foster care case.
TRUE FALSE

CLAIM MINI-REVIEW QUIZ ANSWER KEY

1. If you want a good friend of yours who is taking care of your child to be appointed as your child's guardian, you can't do it in Illinois because it must be a blood relative.
FALSE Guardians do not have to be relatives.
2. Courts usually make decisions about child custody and visitation based on the best interest of the child.
TRUE
3. Both parents have a right to the child's companionship, care, custody, and management, under the United States Constitution.
TRUE
4. a.) You can appoint a short-term guardian for your children without going to court, and the guardianship ends after 365 days, without the judge having to discharge the guardian.
TRUE
b.) A court appointed guardianship works the same way; you do not have to go back in front of a judge to discharge the guardian.
FALSE The court must discharge the guardian to restore custody to the mother.
5. If a parent is awarded legal custody in Domestic Relations Division, the other parent cannot petition the court to modify the order for two years after the judgment is entered, unless there is evidence that the child is seriously endangered in the custodial parent's home.
TRUE ... except if the parents agree and the court enters an agreed order.
6. The state cannot terminate your parental rights based on any aspect of your criminal conviction or sentence.
FALSE There are three grounds to find unfitness based on felony conviction or incarceration.
7. A parent cannot permanently lose her children unless the parent abused them or severely neglected them.
FALSE There are 22 grounds to find a parent unfit and terminate parental rights. Failing to complete the tasks on the foster care service plan is a common reason that courts terminate parental rights
8. a.) Termination of parental rights is based on the parent being found unfit, and it means that the court can allow someone to adopt your child without your consent.
TRUE
b.) The court cannot terminate parental rights unless you appear in court.
FALSE The court can terminate your rights if you do not appear.
9. Parents whose children are in foster care should make sure they have a written service plan and that they do everything in their power to complete the tasks outlined in the plan.
TRUE
10. An administrative case review is held once a year by DCFS to determine the plan for each foster care case.
FALSE Administrative case reviews are usually every six months.