



Youth Advocacy Department

Committee for Public Counsel Services

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Frequently Asked Questions: Parents

What is the job of my child's lawyer?

The job of your child's lawyer is to prepare his case, help him to understand the process, give him legal advice, and advocate for whatever outcome your child has decided upon. The lawyer is responsible for all the legal work in the case and any investigation that needs to be done. Your child's attorney should make sure that your child truly understands the process and the choices that he or she will need to make. Your child's attorney should also explain the process to you. It is important to remember that the lawyer works for your child and not for you. Your child's lawyer should never tell you anything about the case without your child's permission. If you and your child disagree about how to handle the case, the lawyer must follow your child's wishes.

Who makes the decisions for my child?

Your child will make all of the major decisions in his case. His attorney makes certain legal decisions, but all major decisions, such as whether or not to go to trial, are made by your child, the defendant. You are free to advise your child and the lawyer may also advise your child. Ultimately your child has control over the major decisions in his case. It may seem impractical to you to let a child make such important decisions, but keep in mind that it is the child who will live with the consequences.

What if I don't like my child's lawyer?

You do not have to like your child's attorney. You also do not have to agree with your child's attorney about what is in your child's best interest. You do have to feel, however, that your child's lawyer is zealously advocating for his or her best legal interests. Your child's attorney is just that - your child's attorney. he or she is not your attorney and does not represent you. Even though your child is a minor, his attorney does not have to tell you what your child tells him and does not have to do what you think would be best for your child.

Many attorneys will encourage their child clients to bring their parents into the process, because it is usually beneficial for a child to be able to discuss his or her options with a parent and for the parent to help make decisions. This is not always possible. For example, sometimes children are embarrassed or ashamed of what they have done and do not feel comfortable telling their parents what happened. In this situation, it is critical for the child to be able to trust that the attorney will not reveal what the child has told him in order for the child to tell the attorney the truth. Where a child is unable to trust his attorney, that attorney's ability to zealously advocate for him can be seriously compromised.

If you believe that your child's attorney is not listening to him or is not explaining things in ways that your child can understand, you should first speak to the attorney to see if the problem can be resolved. If your child's attorney fails to meet with him, fails to show up for court appearances, and otherwise neglects your child's case, you should ask that attorney to withdraw and request that the judge give your child a new lawyer. Judges rarely grant requests for new lawyers so you should be prepared to give the judge specific reasons why you are not satisfied with the attorney.

What should I expect on the first day my child goes to court?

Your child's first day in court is for arraignment and bail hearing. The purpose of the arraignment is to tell your child and you what he or she is charged with. The judge will also decide whether to release the child to you, or to set bail. Before the bail hearing, you should report to the probation department. You should also speak to your child's lawyer to give him any helpful information about your child. Unfortunately, you may have to sit in court for a few hours before your child's case is called. You should wait in the hallway outside the juvenile courtroom. The lawyer who has been assigned to your child's case will come find you. Be sure to tell your child's lawyer if you leave the waiting area.

Who decides whether my child goes home?

When your child has been arrested or is being accused of violating the terms of his or her probation, the judge makes the final decision on whether to release your child, set bail, or hold your child in custody without bail. If your child is not released and a bail is set, you can bail your child out from the courthouse or from DYS. It must be paid in cash or money order, and will be returned to you once the case is over. If you bail your child out of DYS, it costs an extra \$40 for the bail bonds person, which you do not get back. Usually a bail bonds person will come after 4 or 5pm to do it.

How do I find out where my child is located when he or she is with DYS?

Information about placements may not be available until late in the afternoon on the day your child is placed in DYS. Call the area intake office closest to where you live and they will be able to tell you where your child is being held. You can then call this program to find out visiting times and rules.

Metro Boston - (617) 740-0211

Central - (508) 792-7611

Southeastern - (508) 821-2717 x817

Western - (413) 784-1193

Can the alleged victim drop the case?

The alleged victim does not have the authority to drop a case. Only the prosecutor can decide to drop a case. Even where the alleged victim is saying he or she wants the case dropped, the prosecutor can still go forward with the case and choose not to dismiss it.

Can I talk to the alleged victim (or the victim's parent if he or she is a child)?

You should not speak to the alleged victim or the victim's parent. Talking to them could get you or your child in serious legal trouble, especially if the judge has ordered that your child stay away from the alleged victim. A judge cannot order you to stay away from somebody since you are not the defendant. However, most stay-away orders say your child cannot have any direct or indirect contact. Therefore, a parent contacting an alleged victim or his parent may be construed as indirect contact. If you are on friendly terms with the family of the alleged victim, speak to your lawyer about how or whether to talk to them.

What will my role be in the courtroom?

Your role in court will be to provide emotional support for your child. You should speak to your child's lawyer about your child's personal history, such as difficult circumstances that he or she has faced and how well he or she is doing at home and in school. Since it is your child who has been accused of a crime, he or she makes decisions about the case, such as whether to go to trial or plead to the case.

If the police want to talk to my child, what should I do?

You should politely and respectfully ask the officer why he or she needs to speak to your child. You can tell the officer that you wish to consult with an attorney before allowing your child to speak to the police. It is important to keep in mind that anything your child says to the police can be used against him. It is best to consult an attorney before allowing the police to speak with your child. You can call the Youth Advocacy Department at (617) 445-5640x24 to consult with an attorney.

Should I ever call the police on my child?

We cannot advise you on whether or not to call the police on your child. You should, however, be aware of the consequences. Sometimes parents call the police on their child in order to teach the child a lesson and do not want criminal charges filed. You should know, however, that once the police are called and they become involved, you as a parent do not have control over whether criminal charges are filed. Even if you do not want to see your child arrested, the police can do so anyway and your child could end up facing criminal charges in court. Once the case is in court, the prosecutor, not the victim, decides what happens to the case. Even if you do not want to press charges against your child, the prosecutor can decide to do so anyway.

What happens when my child is on probation?

When your child is on probation, he or she has to follow rules that a judge has set. Your child must follow these rules to show the judge that more serious steps do not need to be taken to help your child stay out of trouble with the law. Usually, the judge will set conditions like:

- do not get arrested again
- go to school (or to work) on time every day
- obey the rules of wherever you are living
- report to a probation officer or program
- pay money, if you stole or damaged property
- follow the conditions of your curfew

While your child is on probation, he or she will be assigned a probation officer ("PO") who will regularly check on how your child is doing at school and at home. The PO will interview both you and your child. Keep in mind that the PO may talk to the judge or others about your child. Therefore, you should be careful about what information you share with the PO since it is not a confidential conversation.

Should I call my child's probation officer if my child is having problems while on probation?

We cannot advise you on whether or not to call the probation officer. You should, however, be aware of the consequences. If the probation officer believes your child is not following his terms of probation, the probation officer could surrender your child, which means that your child has to come back to court, and the judge could have him locked up in DYS (Department of Youth Services). If the judge believes that your child violated his terms of probation, one consequence is that your child could be committed to DYS.

Do I have to let a probation officer in my home?

Yes. Probation officers have the right to visit and meet with probationers. Probation officers also have the right to search the probationer or his home if the officer has reason to believe the probationer has violated any of the terms or conditions of probation.

What happens when my child is held at the Department of Youth Services (DYS)?

If your child has an open case and is held on bail, or without bail, he or she will be held at a detention unit that is operated by the Department of Youth Services. While held there, he or she will have access to medical and educational services. There are also clinicians/caseworkers who may check in with your child. You should call the facility to get information on visiting times and rules.

What does it mean if my child is "committed" to DYS?

If your child is committed to DYS, the Department of Youth Services will have physical custody of your child until his 18th birthday (or 21st birthday - See Youthful Offender question). You will maintain legal custody of your child. A committed youth will go to a residential or secure (locked) program for a period of time determined by DYS and may eventually live at home with DYS rules.

A meeting called a staffing will be held 30 to 45 days after your child is committed to DYS and a plan for his placement will be discussed. It will be important for you to attend this meeting to advocate for what your child needs. Before this meeting, a representative of DYS will contact you to get information about your child, his development, life growing up, etc. in order to write a case history of your child. DYS wants to have the most comprehensive information about your child so that they can best work with him. Periodic meetings will be held regarding your child's progress within DYS. It is important to try to attend these meetings so you can be kept up to date.

If your child is eventually returned to your home, he or she will be required to live under DYS rules. Your child and his DYS community caseworker will sign a contract called a Grant of Conditional Liberty (GCL). If he or she violates any of these rules, DYS can take your child back into their physical custody.

What else can happen to my child and/or my family as a result of my child's court-involvement?

There are many potential consequences to a juvenile or criminal prosecution. Some of the major potential consequences include: deportation, school expulsion, eviction from public housing (this could apply to the entire family), loss of driver's license, loss of educational and employment opportunities, registration as a sex offender, and loss of voting rights. These are possible consequences and do not apply to all cases. Anyone who has a case pending should ask their lawyer if these or other collateral consequences might apply to them.

Can I use the court to get help for my child if he or she is acting out?

Yes. If your child is acting out (stubborn), running away, not going to school, or getting in trouble at school, you can go to court and file what is called a CHINS petition. CHINS stands for Child in Need of Services. You can only file a CHINS petition if your child is between the ages of 6 and 16 if there is a school issue, and between 6 and 17 for stubborn or runaway youth. You must have legal custody of the child in order to file a CHINS petition. If you want to file a petition, you must go to the juvenile court clerk's office closest to where you live and ask to file a CHINS petition. After completing the application, the clerk will set a date for a hearing to decide if a CHINS petition will be issued. That hearing is called the "preliminary hearing" or "arraignment." The case will go to a judge. A probation officer will be assigned to conduct an investigation of your child and family in order to decide if the child's best interests will be served by the issuance of the petition. The probation officer will make a report to the judge at the "preliminary hearing" or "arraignment."

At the "preliminary hearing," the judge can do one of three things. 1) The judge may decide not to issue a CHINS petition because he or she does not think there is enough evidence that the child needs services. 2) The judge could decide that it would be best to have probation work with the child and family without formal court involvement. 3) The judge could decide to issue a CHINS petition. If the judge issues the petition, they will either

issue a summons for you and your child to come to court at a later date, or in some cases issue a warrant for your child.

If a CHINS petition is issued and at a later date the judge finds your child is in need of supervision, the court can help the child and family in many ways. The court can help with providing services to address all types of issues including medical, psychological, psychiatric, educational, social services, or placement of the child outside the home. The judge's disposition order may not last for more than 6 months, although it can be extended if necessary.

Where do I post bail for my child? How do I get the money back?

If you are in court when the bail is set, you can immediately post the bail at the clerk's office. If your child is already at the DYS facility, you must post the bail there. It is best to first call the DYS facility and tell them you are coming to post bail for your child. They will make arrangements for the bondsman to meet you there to post the bail. When you have to post the bail at the DYS holding facility, it will cost you a \$25 fee for the bail bondsman. This fee is non-refundable. You must pay with either cash or money order. Personal checks and credit cards are not accepted.

At the time you post bail, you are given a receipt. When the case is closed, if you present that receipt and your identification, you can get your bail money returned. You must go to the main juvenile clerk's office of the county in which your child's case originated in order to get your money back.