

Child In Need of Aid Proceedings

Answers to some common questions

Note: This is an informational pamphlet about child in need of aid cases. It is not meant to advise you about Alaska law. You should talk to a lawyer about your individual situation. The Alaska Lawyer Referral Service, at 272-0352 (in Anchorage) or 800-478-9999, will help you find a lawyer. If you are a parent or child involved in this kind of case and you cannot afford to hire a lawyer, you may qualify to have a free lawyer appointed to help you. Ask the judge handling your case.

What is a “child in need of aid?”

A “child in need of aid” is a person under 18 years of age whom the court finds needs the help of the State of Alaska because the child is not receiving proper care or is in an unsafe situation. The court and the Alaska Department of Health and Social Services try to make a plan to help the child. **A child in need of aid case is not a criminal case.**

What kinds of situations make a child in need of aid?

A child may be a child in need of aid for many reasons. For example, a child may be in need of aid if:

- the child has been abandoned
- the child refuses to accept the care offered to him or her (for example, if a child won’t stay home)
- the child needs medical treatment which isn’t being provided
- the child has been physically or sexually abused
- the child has been neglected.

What happens first?

When someone (usually a state social worker who works for the Department of Health and Social Services) decides that a child needs help from the state, that person files a **petition** with the court. This petition is a paper that names the child, the child's parents, guardians, tribe or Indian custodian and tells about the child's situation. A copy of the petition is given to the child and the parents or guardian, tribe and Indian custodian, and everyone is told when to come to court for a court hearing.

If the child is in an emergency situation which requires that some action be taken **before** a court hearing can be held, a social worker may pick up the child and place the child in a foster home or other home until the court hearing. If the child is picked up without a court hearing first being held, the social worker must prepare a petition and give everyone a copy of the petition, and a court hearing must be held as soon as possible.

Sometimes a social worker or other person will ask a court to issue an emergency order requiring that the child be given to the custody of the state until a hearing can be held. In this case, also, a court hearing is scheduled as soon as possible.

What happens at the court hearing?

There is usually more than one court hearing.

At the first hearing, the judge will make sure that everyone has been told about the hearing and about the things said in the petition.

At the first or second hearing, the judge will decide whether or not there is a good reason to believe that the child is in need of aid. If the judge thinks there is a good reason to believe this, he or she will generally schedule a trial in the case, and decide

where the child will stay and what will happen to the family until the time for trial. If the judge decides that not enough information has been presented, the judge will dismiss the case. (If the child is in foster care and the case has been dismissed, the child would be returned to the parents, guardian or Indian custodian at this point.)

The judge also will explain each person's rights. These rights include each parent's right to have a lawyer. (The court may give a parent a free lawyer if the parent wants a lawyer but cannot afford one.) The child also has the right to have someone to help the child in court. Usually a person called a "guardian *ad litem*" is appointed to help the child. The guardian *ad litem* investigates the case, talks to everyone involved and then tells the court what the guardian *ad litem* thinks is best for the child. For further information refer to **PUB-3** entitled "**What is a guardian ad litem?**" Also, the child's tribe has a right to "intervene" in the case, meaning that the tribe has the right to become formally involved.

What happens at the trial?

The trial is called an "adjudication hearing." It is **not** held if everyone agrees that what was said in the petition is true. If everyone agrees, only a disposition hearing is held (see below). If there is a disagreement, there must be a trial and the trial normally should be completed within about four months after the court case has been filed.

The Department of Health and Social Services, usually represented by an assistant attorney general, will present evidence to try to show that the statements in the petition are true. The child's parents and the child will also have a chance to present evidence (for example, to have people come to talk on their behalf) and to ask questions of any people who

testify (make statements) at the trial. From all the information presented, the judge will decide whether or not the child is in need of aid. If the judge decides that the child is **not** a child in need of aid, the case is over. If the child is in state custody, the child is then returned to his parents, guardian or Indian custodian.

If the judge decides that the child **is** a child in need of aid, the judge will schedule a **disposition hearing**, to decide what will happen to the child and family. (Sometimes the judge will make a decision about the disposition of the case at the same time as the adjudication hearing, but sometimes the disposition hearing is held later.)

What happens at the disposition hearing?

Before the disposition hearing, the Department of Health and Social Services must make a written report to the court called a predisposition report. A copy is given to the parents and the child. This report tells what the social worker thinks should happen to the child and the family and why.

At the disposition hearing, everyone gets to tell the judge what he or she thinks should happen. The judge then decides what should happen.

If someone does not like the judge's decision, he or she can **appeal**. This means that he or she can ask a higher judge to change the decision.

What can happen to the child and the family?

The judge will try to decide how best to help the family and the child. For example, the child may be placed in a foster home or a group home, if necessary. The child may be returned home, and a social worker may visit the home to make sure the child is

receiving proper care. The child and the parents may have to do certain things, like go to counseling or parenting classes.

How long is the judge's decision for?

The disposition decision can cover any period of time **up to two years**. If the Department of Health and Social Services wants the case to continue for longer, a social worker can file a petition for an extension and the case then goes back to court to see if the time should be extended.

Does the court look at the case after the disposition hearing?

Yes. Within one year after the child was first taken into state custody, the judge will hold a "permanency hearing." At this hearing, the judge will decide whether the child is still in need of aid. If so, the judge will decide on a permanent plan for the child. Possible plans include returning the child home, making the child available for adoption, or another permanent living arrangement. Before the permanency hearing, the Department of Health and Social Services must make a written report to the court called a permanency report. A copy is given to the parents, and the child. This report tells what the social worker thinks the permanent plan should be, and why.

At the permanency hearing, everyone (including foster parents and grandparents) gets to tell the judge what they think the permanent solution should be. The judge then decides what should happen, and when. The court will hold a hearing every year until the plan is successful.

In addition to the permanency hearings, the court reviews court papers at least once per year until the case is over, to make sure that everything about the case is being handled properly. If a

parent, child or other involved person has a good reason, he or she can ask the court to hold a review hearing about the case. For example, a parent may feel that things have changed at home and that the child should come home before the judge's order says the child should. The court would consider this at a review hearing.

Can a judge take a child away from a family forever?

Yes. If efforts have been made to help the child, but the family situation has not improved, the department may start a “termination of parental rights” case to make the child available for adoption by another family. The law requires the department to consider starting a termination of parental rights case when the child has been living in state foster care for 15 of the previous 22 months.

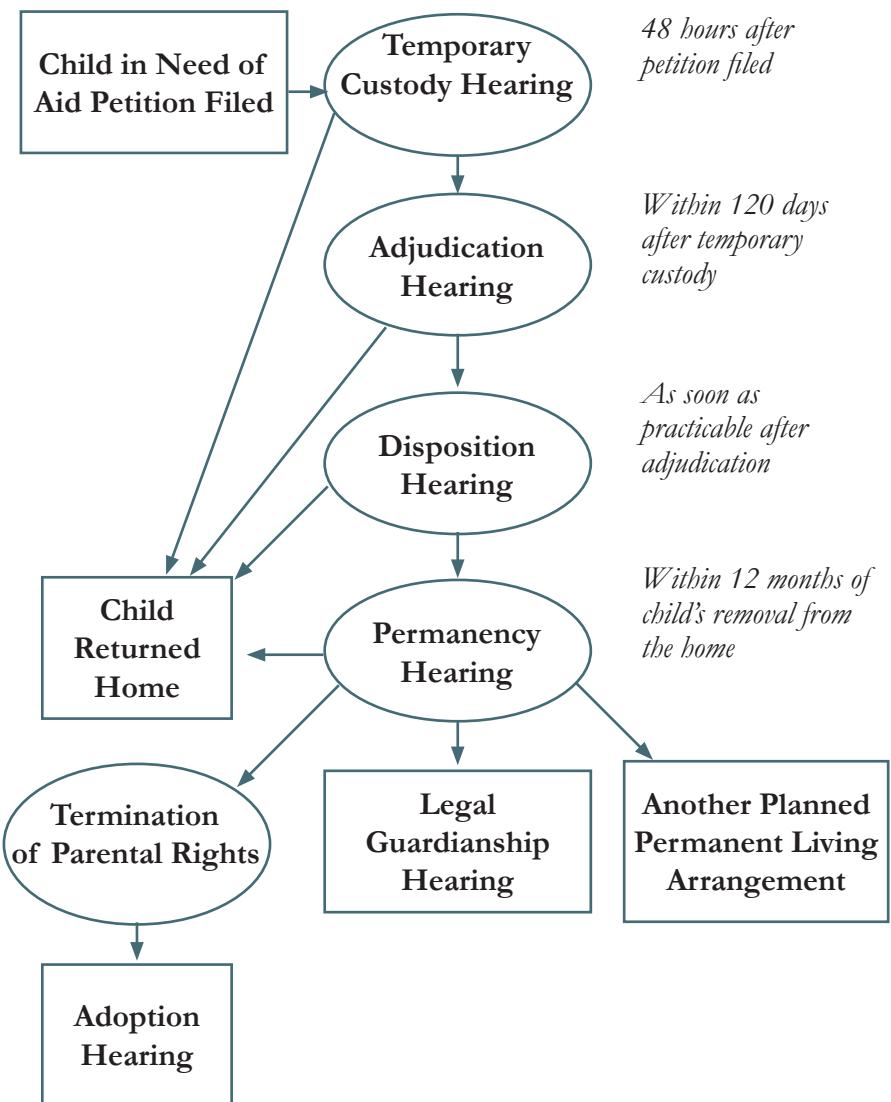
What should I do if I know about a child who needs help?

Contact the nearest office of the Department of Health and Social Services, Office of Children’s Services:

Southeast Region - Juneau	1-888-622-1650
Anchorage Region - Anchorage	1-800-478-4444
Northern Region - Fairbanks	1-800-353-2650
Southcentral Region - Wasilla	1-888-304-9780

The flow chart on the following page shows how a child in need of aid case might progress through the legal process.

Child in Need of Aid Court Process



For more information about this publication, please call the Alaska Court System Administrative Office at
(907) 264-8240
820 West Fourth Avenue
Anchorage, Alaska 99501