

A Montana Guide to Dependency Cases for Teenagers in Foster Care

September 2026

Legal Disclaimer

This guide is for general information only. It does not provide legal advice. This guide is intended for Montana foster youth who can read at an eighth-grade level or higher.

If you have questions about your case or need legal advice, you can talk with your lawyer. As a youth in a dependency case, the court will appoint a lawyer for you for free. You don't have to ask for a lawyer or pay for one. It happens automatically.

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What is a Dependency Case?

A dependency case begins when there are concerns about a child's safety in their home. You might hear them called dependent neglect cases, or DN cases. In these cases, the State of Montana, through the Child and Family Services Division (CFSD), either has temporary custody of the child or is seeking temporary custody because they believe the child needs protection. Typically, when a dependency case is opened in a Montana District Court, the child has been removed from their home and placed in a foster home. That means CFSD will temporarily take responsibility for the child's care and welfare while the case is open.

CFSD's main goal is to safely reunite the child with their family whenever possible.

In this guide, the terms "foster care" and "resource care" will both be used to mean the same kind of placement. Resource care is a newer term that reflects how these placements are a temporary resource and support for a family when a child can't be cared for safely in their own home.

Dependency cases can be difficult, frightening, and confusing for everyone involved, including the adults. While there are no guarantees, knowing what to expect can help you feel more prepared.

This guide is here to help you understand what may happen in your dependency case and who will be involved. You'll also find answers to some common questions that foster children have. Because every dependency case and family situation is unique, it's really important to talk to your lawyer often and as soon as you can.

If you have questions or don't understand something, you can ask your lawyer. It's their job to help you navigate the legal issues. They can provide legal advice and guidance to help you plan for your future.

Your dependency case is about you and your family. Your thoughts and feelings are important. The people involved should encourage you to share your opinions and help plan for your future. They may not agree with you, but they should listen and consider what you have to say. Remember, everyone involved is working to keep you safe.

For more general information about dependency cases, you can visit the Montana Court Improvement Program's website at cip.mt.gov, which includes a link to its eLearning guides, one designed specifically for teenage foster youth.

Why are children removed from their homes?

The Child and Family Services Division (CFSD) is Montana's child protection agency and is part of the Montana Department of Public Health and Human Services. In this guide, they are often referred to as "CFSD." During your dependency case, you might also hear them called "the department," "child protective services," "CPS," or "the state."

CFSD's primary focus is protecting children. Their main role is to step in when children aren't living in a safe environment.

CFSD responds to reports of possible child abuse, neglect, or abandonment. Montana law defines child abuse and neglect as:

- **Actual physical or psychological harm to a child**
- **A substantial risk of physical or psychological harm to a child, or**
- **Abandonment**

Abandonment usually means a parent has left their child for a long time and isn't expected to come back. Abuse, neglect, and abandonment can all pose serious safety risks for children.

What happens when CFSD receives a report of possible abuse, neglect, or abandonment?

When someone reports that a child may be in danger, a CFSD caseworker, called a child protection investigator, steps in to check out the situation. Their main job is to keep children safe from abuse, neglect, or abandonment. They gather as much information as they can and talk with the family and others who know them to figure out what's going on.

In most instances, when CFSD looks into possible child abuse or neglect, they usually find the child is safe in their home. In these situations, the child can continue to live with their parents or other caregivers, and no court case is needed. **If a child is safe at home, there's no reason to remove them from their home.**

However, **if the child protection investigator believes a child isn't safe at home and can't be protected in the home right away, CFSD will temporarily remove the child from their home to protect them.** After that, a county attorney's office or the attorney general's office starts the legal process by filing a dependency case in the local Montana District Court.

Why was I removed from my home?

The Child and Family Services Division (CFSD) removed you from your home because they believed it wasn't safe for you. They want to make sure you're protected, so they placed you somewhere else for now. If you don't agree with their decision, you can seek advice and assistance from your lawyer.

Sometimes, children blame themselves when CFSD gets involved with their family. But it's important to remember that children aren't responsible for their parents' actions or for being removed from their home. Most often, it's parents' behavior that leads to children being removed from their homes.

CFSD got involved when they believed you might not be safe at home. After looking into your situation and talking to your family and others who know them, the CFSD caseworker, who is a child protection investigator, decided to place you in resource care. They based their decision on all the information available.

When a child is removed from their home involuntarily, a dependency case is filed with the local Montana District Court. **The court then reviews the matter to make sure that removing you from your home was in your best interest and the right step to protect you.**

Resource or foster care

Children who are removed from their homes are placed in resource care, which is also known as foster care. Resource care is a newer term that focuses on how the care can serve as a helpful resource and support for the family, with the ultimate goal of helping the child return home when possible.

Being in resource care right now doesn't mean you'll be there long-term. CFSD's goal is to work with your family to help make it possible for you to return home safely. By law, they must try to return children home except in the most severe cases of abuse or neglect. CFSD's efforts include working with your parents to help them get the services and treatment they may need.

When can I go home?

You can go home when the court, either a judge or a standing master, and the Child and Family Services Division (CFSD) believe it's safe.

After a dependency case is filed with the court, a CFSD caseworker, called a child reunification specialist, will work with your parents to try to make sure your home is safe enough for you

to return. Their job is to try to help families get back together. The process may feel slow, but remember, they're focused on making sure your return home is safe and goes smoothly.

The court reviews CFSD's decisions, especially those about the safety of your home and whether you can return there.

How is a decision made about your potential return home?

- **If both CFSD and the court agree it's safe for you to go home, you can go home**
- **The court can order CFSD to let you go home if the court believes it's safe**
- **If the court and CFSD both believe it's not safe for you to go home, the dependency case will continue, and you will remain in foster care**

You will not be allowed to go home until it's safe. Your parents may be required to complete services and treatment. If that happens, written treatment plans will be developed for your parents. Treatment plans are intended to deal with the safety concerns that led to your removal from home. If your parents successfully complete the tasks in their treatment plans and make the necessary changes for your safe return home, you should be able to go home.

At the first court hearing, an emergency protective services (EPS) hearing, the court, either a judge or a standing master, will decide whether you can go back home then. If you can't go home after the first hearing, the court will have additional chances at later hearings to review the situation and decide whether you can return home.

Depending on your family situation, safeguards might be put in place so you can return home while your parents continue working on their treatment plans. Your parents may still be addressing some issues while you live at home. The dependency case will continue until all the safety issues are sorted out.

In most cases, parents make positive changes, and their children return home. However, there are no guarantees. Sometimes, parents don't complete their treatment plans or don't make the necessary changes. The court makes sure your parents have a fair shot at changing their lives in positive ways, but it's ultimately up to them to take those steps. It's not your role to make sure your parents change. That is their responsibility.

What if I'm worried about going home?

Many children and older youth in foster care have strong feelings about where they want to live and what they hope happens next. Some want to return home to their parents, while others may have concerns or may not feel ready to go home. Some children and youth have mixed feelings. They may miss and love their parents, but also worry about going home. It's pretty common to have mixed feelings. Other children might not want to go home.

It's really important to share your thoughts and feelings about going home with your lawyer.

You can decide whether you want to share your thoughts and feelings with the other adults involved with your dependency case. Your lawyer is there to help make sure your questions, concerns, and wishes are understood.

If you are worried about going back home or there is something important you think others need to know, your lawyer can help make sure your voice is heard.

Where will I live during the court case?

When the Child and Family Services Division (CFSD) removes you from your home, they have to find a temporary place for you to live safely. You should have a voice in deciding where you go and who you live with. Your thoughts and opinions matter. While there are no guarantees you'll be able to live where you want to, the people involved should listen to you carefully and consider what you have to say.

In Montana, the first placement option CFSD must consider is living with your parents. For instance, if you have been living in an unsafe environment with one parent, you may be able to stay with your other parent if their home is safe. **Safe parents have a right to care for their children.**

But if both of your parents are currently unsafe, CFSD will find another temporary place for you to stay. These placements are called "resource care" or "foster care," where other adults take care of children who can't live with their parents for a while.

Foster parents, also known as resource parents, have to pass background checks to show they can provide a safe environment.

Before considering other placement options, CFSD must try to place you with relatives or close family friends. If relatives or close family friends are not available, CFSD will need to look into other options for you. You might temporarily live in a family home, a group home, or even an independent living situation if you're close to becoming an adult. The goal is to find a place that feels as much like a family home as possible.

You may have questions when you are placed in resource care.

- How will I get along with the foster parents and their family?
- Do I have to follow their rules and do chores?
- What can I bring to the resource family's home?
- Will my siblings and/or other children be there?
- Will I be able to go to the same school?
- What will happen to my pets?

- How will I celebrate my birthday and the holidays?

If you have questions like these, you're not alone. There are no hard-and-fast answers. But you can talk to your lawyer and CFSD caseworkers about what's on your mind and what you want to happen. Your lawyer is there to advocate for you.

If you ever feel unsafe for any reason, no matter where you are, you can reach out to your lawyer and CFSD caseworkers right away. Don't wait—your safety and security are their top priorities. They can only help if they know what's going on. You shouldn't have to live in an unsafe place. You deserve a safe environment where you can feel secure and thrive.

Will I be able to see my parents?

You should be able to see your parents unless there are serious safety concerns. As part of the Child and Family Services Division's (CFSD) efforts to bring families back together, they try to arrange regular and consistent family time, including visits between you and your parents.

Visitation, which is face-to-face contact with your parents, isn't the only way to spend time with your family. You may also be able to text, call, or video chat with them. Your parents may be able to join you for events like family gatherings, school functions, sports and club activities, or medical and dental visits. You can discuss these options with your lawyer and CFSD caseworkers, who will want to make sure you're safe.

Letting your lawyer know what you want for visitation

Many children and older youth in resource care have strong feelings about visiting their parents. If you do, you can talk with your lawyer. **Some children want to see their parents often, while others have concerns. Mixed feelings are normal.** You might miss and love your parents, but also feel anxious about spending time with them.

If you want to visit your parents more often, let your lawyer know so they can try to help make that happen. But if you have concerns about visiting them frequently or at all, it's really important to share those feelings, too. Remember, your lawyer can only help if they understand what you're thinking and going through.

What will visitation with my parents be like?

Your visitation should take place in the most family-like setting possible. The type of visitation and other family time you have with your parents depends on how safe you are with them.

The Child and Family Services Division (CFSD) tries to make sure your parents are there for every visitation, but sometimes things don't go as planned. Scheduling conflicts or other issues may come up, so some visits may need to be rescheduled.

If you ever feel uncomfortable or unsafe about a visit, you can talk with your lawyer and CFSD caseworkers about it beforehand. Visits are meant to connect you with your family, not to be a source of additional stress or concern.

Supervised visitation

In some situations, another adult must supervise visits with your parents to keep you safe.

The person supervising could be someone from CFSD or another responsible adult who makes sure everything goes smoothly. A relative or family friend could supervise the visits, as long as they are safe and dependable. If you have someone in mind, you can discuss them with your lawyer and the CFSD caseworkers.

Supervised visitation usually takes place in a designated visitation room or office, but can also happen at a home or in a public place, like a park. If it's safe, supervised visits may even occur in your home.

Unsupervised visitation

The goal is to move to unsupervised visits as your parents progress in their treatment and services. Unsupervised visits can only happen if you can be alone with your parents safely. If you feel comfortable with unsupervised visits, you can bring it up with your lawyer and CFSD caseworkers.

Unsupervised visitation often happens in public places, but they can also happen in your home or elsewhere if it's safe.

Will I be able to see other family members and friends and do the things I like to do?

As long as it's reasonable and safe, you should be able to see the people you care about and engage in activities you enjoy. If you have close friends or family members, don't hesitate to ask to spend time with them. You should also be able to continue participating in reasonably safe sports, hobbies, after-school activities, jobs, or any other interests you have.

The Child and Family Services Division (CFSD) is there to look out for your safety, but they are also focused on your best interests by helping you maintain healthy relationships and engaging in positive activities. These connections and activities are very important for your well-being.

You can talk with your lawyer and CFSD caseworker about:

- Visiting and staying in contact with family and friends
- Continuing with activities that are meaningful to you
- Finding ways to stay involved in things that support your goals and mental health

If something or someone is important to you, don't hesitate to speak up. The people involved with your dependency case should work with you to help you stay connected, as long as it remains reasonably safe.

What about going to court?

If you want to go to court, you probably can. Your lawyer should explain the pros and cons of going to court hearings. If they haven't already set up a meeting with you, don't hesitate to ask them to do so. Before all court dates, you can meet with your lawyer to get ready.

Children and older youth usually don't have to appear in court during a dependency case, except in very rare circumstances when the court requires it. It's really important to keep in touch with your lawyer. They can help make sure the court, a judge or a standing master, hears what's important to you, whether or not you're present for court hearings.

If you go to court, you'll need to be respectful. Try not to interrupt others while they're speaking and dress as you would for an important event. If you don't have the right clothes, you can speak with your lawyer and the CFSD caseworkers about getting them. You can call the judge "your honor" or just "judge." If you want to say something, ask your lawyer and the judge or standing master whether it's okay to speak. Some judges and standing masters like to see how children are doing and hear directly from them about their thoughts and feelings.

Your lawyer can also ask for you to speak with the judge or standing master in their private office, which will be near the courtroom. People sometimes call these offices “chambers.” If you’d prefer to talk with the judge or standing master in their chamber instead of the courtroom, let your lawyer know ahead of time. They can try to set that up for you.

The court may be reluctant to have you hear or see certain parts of the case. Sometimes, your lawyer may talk with the other lawyers about which parts of the hearings are okay for you to be at. You might be asked to step out of the courtroom during some parts of the hearings, or you might choose not to take part in some of the hearings. You can discuss this with your lawyer ahead of time.

Remember, you’re not in trouble. The court just wants to make sure you’re safe and that your best interests are being taken care of. Going to court allows the judge or standing master, along with others, to hear directly from you about what’s going on, what you’re thinking, and how you feel. Your lawyer will protect your rights, whether or not you decide to go to court.

Who will be involved with my court case?

Your Lawyer

Lawyers are also called “attorneys” or “counsel.” They are professionals trained to help people and organizations with legal issues.

As a youth in a dependency case, you have the right to a lawyer. The court will give you one at the start of the case. You don’t have to pay for a lawyer or even ask for one. It happens automatically.

Your lawyer works for you and helps make sure your voice is heard. They are on your side. Your lawyer doesn’t work for your parents, CFSD, or the court. Even if they represent your siblings (brothers and/or sisters), they will focus on what you want and need.

Your lawyer will:

- Explain the dependency case and your rights to you
- Answer your questions and give you legal advice
- Participate in meetings, conferences, and court hearings and speak on your behalf
- Present evidence (like facts or proof) and testimony (when someone answers questions in court) to support your case
- Make arguments on your behalf
- If you want, share your opinions, goals, and concerns with the judge and others involved

Your lawyer should get in touch with you, but if that doesn't happen, or if you don't know who they are, you can ask a trusted adult for help contacting your lawyer. A trusted adult could be the judge, the CFSD caseworker, a special advocate, a court appointed special advocate (CASA), or a guardian ad litem (GAL).

Your lawyer is the only person who should be giving you legal advice. This means they'll answer your questions and share their thoughts about your case. They'll use their knowledge and experience to help guide you because they care about what you want. If you don't understand something they say, let them know. They should explain things in a way that makes sense to you. Their job is to help you with your case and do their best to achieve what you want, even if they can't always make it happen. There are no guarantees.

When you talk or otherwise communicate with your lawyer in private, those conversations are generally confidential, meaning they stay private between you two. This is different from talking with other people, where communications might not be private. **With a few exceptions, your lawyer won't share what you say to them with anyone else unless you give them permission. Ask your lawyer about the confidentiality of your conversations and whether there are times they might need to tell someone else what you shared.**

Special Advocates (a CASA or GAL)

Special advocates look out for what they believe is in your best interest. They can be either a court appointed special advocate (CASA) or a guardian ad litem (GAL). They may or may not be a lawyer. It's important to remember they don't work for your lawyer, CFSD, or any other party or participant. Special advocates are independent. **You don't need to ask for a special advocate or pay for them—the court will assign one to you automatically.**

Your special advocate represents what they believe is best for you. They will check in on you and your family, and then report back to the court and others involved. **They may or may not agree with you about what's best for you, but they should consider what you believe is in your best interest.**

The special advocate will investigate the case and review documents. They'll try to talk with you, your parents, other people involved, and their lawyers. They attend court hearings, conferences, and meetings, where they may ask questions and share their opinions. Plus, **they'll write reports about you and your family.** They might even testify in court.

Make sure you get the special advocate's contact information so you can reach out to them. If you want, you can ask your lawyer to be there when you talk to your special advocate.

It's important to remember that the special advocate is not your lawyer. This means anything you discuss or otherwise communicate with them, even if your lawyer is with you, is not confidential, meaning it's not private. Unlike your lawyer, special advocates can share what

you talk about or otherwise communicate to them with the court and others without your permission.

Child and Family Services Division (CFSD) Caseworkers - Child Protection Investigators and Child Reunification Specialists

Child protection investigators and child reunification specialists work for the Child and Family Services Division (CFSD). You might hear them called “child protection specialists,” or “CPS,” since that is what they used to be called. They may also go by “social workers” or “caseworkers.” In this guide, they are called “CFSD caseworkers” to keep it simple.

You might hear CFSD referred to as “the Department,” and it’s also known as “Child Protective Services.”

When there’s a report of possible child abuse or neglect, a child protection investigator checks to see whether the child is safe at home. If they decide the child is safe at home, they’ll leave the child there because there is no reason to remove them. But if they believe a child is in danger and the home can’t be made safe right away, they’ll temporarily remove the child for their protection. If that happens, a dependency court case is filed.

As a court case goes on, a child reunification specialist steps in to help the family. Their main goal is to help families reunite. They will work closely with the family, focusing on getting the child home safely. If that’s not possible, they will look for the next best long-term place for the child to live.

Sometimes, more than one child reunification specialist might get involved. This could be because another specialist has skills that might better help the family, or because someone moves to a different job in CFSD or elsewhere.

The job of a child reunification specialist is to keep you safe while also trying to bring your family back together. They’ll probably ask your parents to go through some services and treatments to make sure it’s safe for you to go home. This usually involves creating treatment plans to help your parents address any issues that could put your safety at risk.

CFSD caseworkers attend court hearings, meetings, and conferences to share important information and make suggestions. They may also testify in court and write reports for those involved. They work closely with the state’s lawyer.

Get your CFSD caseworker's contact information so you can reach out if you have questions or want to talk. If you want, you can ask your lawyer to join you when you speak with them.

It’s important to remember that your conversations and other communications with a child protection investigator or child reunification specialist, even if your lawyer is with you, are

not confidential, meaning they're not private. Unlike your lawyer, a CFSD caseworker may share what you talk about or otherwise communicate to them with the court and others without your permission.

Chafee Worker - Transitional Living Services (TLS) Worker

A Chafee worker, also known as a Transitional Living Services worker, helps older foster youth prepare to become adults. They work closely with the Chafee Foster Care Independence Program and focus on teaching important skills foster children need as they transition out of resource care and become adults.

Chafee workers are mentors and advocates for teens in foster care who could potentially age out of the system. When a child turns 18 in Montana, they legally become an adult. If their dependency case is still open, then it gets closed or dismissed. Chafee workers help older youth learn important life skills, like managing money, planning for school and jobs, and finding a place to live. If you're 14 or older, you can get this support, and if you're 16 or older, you're entitled to help from a Chafee worker. If you don't have a Chafee worker yet, you can ask for one.

The Court – a Judge or Standing Master

The judge is in charge of the court case. They oversee everything that happens during the proceedings. The judge sits at the front of the courtroom, usually facing everyone and wearing a black robe.

In some places, the judge may appoint a lawyer to perform some of the judge's duties during specific hearings. These lawyers are called "standing masters."

In this guide, both the judge and standing master are often referred to as "the court."

The judge or standing master listens to everyone in court and makes important decisions. They review paperwork filed with the court. They often like to hear directly from children and older youth in dependency cases to better understand who they are and what they want. Some decisions are tough to make, so it's important for the court to know what's happening and how everyone feels. The main goal of the court is to make sure you're safe and that everyone involved cares about your well-being.

The State's Lawyer – A Deputy County Attorney, County Attorney, or Assistant Attorney General

A deputy county attorney, county attorney, or assistant attorney general represents the State of Montana. They work closely with the CFSD caseworkers. Their job is to prove that removing you from your home was necessary for your safety and that CFSD tried to help your family before it came to that. They also need to show that CFSD is working to help your family get back together, unless there are severe safety issues.

The state's lawyer represents the State of Montana's interests. They try to achieve the state's goals. They review documents, investigate, and advise CFSD. They go to meetings, conferences, and court hearings. They speak, present evidence and testimony, and argue for the state's position.

If you talk to the state's lawyer, you can ask your lawyer to come with you. Just remember, the state's lawyer doesn't work for you. They work for the state.

It's important to remember that the state's lawyer is not your lawyer. Your conversations and other communications with the state's lawyer, even if your lawyer is with you, are not confidential, meaning they're not private. Unlike your lawyer, the state's lawyer may share what you talk about or otherwise communicate to them with the court and others without your permission.

Lawyers for Your Parents

In a Montana dependency case, your parents have the right to have their own lawyers. Usually, the court assigns different lawyers for each parent because they might have different interests. Since their interests may conflict, the same lawyer can't represent both of them. But if your parents both agree, their lawyers can work together toward a common goal, like reunifying the family.

Your parents' lawyers work to represent what your parents want. They protect your parents' interests. They review documents, investigate, and give your parents legal advice. They go to meetings, conferences, and court hearings. They speak, present evidence and testimony, and argue on your parents' behalf.

It's important to remember that your parents' lawyers are not your lawyer. Your conversations and other communications with your parents' lawyers, even if your lawyer is with you, are not confidential, meaning they're not private. Unlike your lawyer, your parents' lawyers may share what you talk about or otherwise communicate to them with the court and others without your permission.

What will happen during my court case?

Predicting exactly what will occur during a court case can be very challenging because every family's situation is unique. The following subsections can give you a basic idea of the main events that might happen during your dependency case. If you have any difficulty understanding these events, you can ask your lawyer to explain them or any other events that may come up.

Affidavit and Petition

A dependency case begins when the state files paperwork in the local Montana District Court soon after a child is removed from their home. The first documents filed with the court are an "affidavit" and a "petition." **This paperwork tells the court, and everyone involved, why the Child and Family Services Division (CFSD) decided to remove a child from their home. The petition includes information about what CFSD is asking the court to do to protect the child.**

The affidavit should be completed within two business days of a child's removal. The petition and affidavit must be filed with the court within five business days of the child's removal from their home. Because business days don't include weekends or holidays in Montana, these documents are typically filed about a week after a child is removed from their home.

Pre-hearing Conference (PHC)

A pre-hearing conference, or PHC, is an early meeting that happens before the first court hearing. It's held outside of court and is less formal. In most places, PHCs are held remotely on Zoom. This meeting should take place within five business days after a child is removed from their home. People who are involved, like family members and their lawyers, can attend, but the judge or standing master is not there. If you want to be part of this meeting, you can ask to participate.

During the PHC, people talk about important things like:

- **Where you will live**
- **How you will spend time with your family**
- **Any services or treatment your family might need**

The people involved talk about **whether it's safe for you to return home right away.** If going home isn't an option at that time, they will make a plan outlining **what needs to happen so you may be able to return home later.**

Emergency Protective Services (EPS) Hearing

An emergency protective services hearing, or EPS hearing, is **the first court hearing in a dependency case**. These hearings **take place before a judge or standing master and after the pre-hearing conference (PHC)**. They **happen within five business days of removal**. Typically, these hearings occur about a week after a child's removal from their home. They may happen right after the pre-hearing conference.

The main goal of an EPS hearing is for the court to decide whether the child should remain out of their home or return home right away. It depends on whether the court believes the child can be safe at home.

If the judge or standing master decides the child can't go home yet, the court will talk about:

- **What family time and visitation will be like with their family**
- **Whether the child could stay with relatives or close family friends**

Show Cause Hearing

At the show cause hearing, the judge or standing master will first decide whether the child had to be removed from their home for safety reasons. If they decide it's safe for the child to return home, the court may dismiss the case.

The court also checks whether the Child and Family Services Division (CFSD) took steps to help the child stay in their home and, if they were removed, to make it possible for them to return home.

The show cause hearing should be scheduled within 21 days of filing the initial petition and affidavit. Sometimes, this hearing may be delayed to make sure parents and others involved get enough notice about when and where the hearing will be held.

Adjudication Hearing

At the adjudication hearing, the court will decide whether the child is a "youth in need of care." This is a legal term for someone under the age of 18 who has experienced abuse, neglect, or abandonment. The judge or standing master will again determine whether the Child and Family Services Division (CFSD) is doing enough to help the child return home.

The court should hold an adjudication hearing within 90 days after the show cause hearing. Sometimes, if everyone agrees, the court holds both hearings on the same day. Often, they are set on different court dates, depending on local practices.

If the judge or standing master decides the child is not a youth in need of care, the court will dismiss the case, and the child can go home. But if they believe it's not safe for the child to return home and that they are a youth in need of care, the dependency case will continue.

Dispositional Hearing

If the court finds the child is a youth in need of care during the adjudication hearing, the next hearing is a dispositional hearing. **During the dispositional hearing, the judge or standing master will decide what happens next.**

Usually, the court grants temporary legal custody to the Child and Family Services Division (CFSD). Temporary legal custody allows CFSD to make important decisions about the child's care.

The court may also decide what the child's living arrangements will be during the dependency case. **Sometimes, the judge or standing master may decide the child can safely live with their parents.** This could mean living with the parent the child was removed from or with their other parent in a different home. **The child can only live with their parents if it's safe.**

If it's not safe for the child to live with either parent, they may be placed in a foster or resource home. This could mean staying with relatives or family friends they know well. **Another option is a group home,** where they'll live with other older youth and be supervised by adults. There are more older youth in group homes than younger foster children.

The dispositional hearing is supposed to happen within 20 days after the adjudication hearing. Sometimes, both hearings happen on the same day, but usually, they are on different days. How this is handled may depend on local court practices.

Treatment Plans

Children don't receive treatment plans. Treatment plans are for parents to help them deal with the issues the Child and Family Services Division (CFSD) believes put the child at risk. These plans outline the services and treatment the parents may need, like help for substance abuse or mental health counseling.

Parents should have the opportunity to be involved in developing their treatment plans. You can talk with your lawyer about participating in developing your parents' treatment plans if they need one. After all, your life and safety will be discussed. You should have a say in the decisions that lead to treatment plans.

If the parents finish their treatment plans and it's safe for the child to return home, then the child should be able to go home. CFSD would keep an eye on the home and report to the court

and the others involved until the court case is over. **The court case can be dismissed if the child goes home and stays safe there.**

But if the parents don't complete their treatment plans, they risk losing their rights as parents. If all parental rights are ended, or terminated, the child might end up being adopted, placed with a guardian, or staying in foster care until they turn 18.

Depending on local practices, there may or may not be a treatment plan hearing. Treatment plan hearings are not required by law, but the court has to come up with treatment plans within 30 days after they give CFSD temporary legal custody, unless there's a good reason not to do so. For example, if there are no safety concerns about one parent, only the parent with safety issues would need a treatment plan.

Extensions of Temporary Legal Custody Hearings

Temporary legal custody with the Child and Family Services Division (CFSD) can only last for six months at a time. Therefore, the court must review the case every six months to decide whether to dismiss the case or extend temporary legal custody with CFSD for up to six more months.

The court can extend temporary legal custody multiple times. So, there could be multiple hearings to extend temporary legal custody. However, many dependency cases are resolved much sooner.

Status Hearings

During status hearings, the people involved talk about how the case is going and make plans for what will happen next. The court reviews the case.

Status hearings are not required by law. Some courts hold them, while others don't. However, courts are encouraged to hold status hearings every 60 to 90 days. If you think the judge or standing master should hear about something important or the case should be reviewed more often, you can ask your lawyer to request a status hearing.

Family Engagement Meetings (FEM)

Family engagement meetings, or FEMs, are informal meetings held outside of court. Like pre-hearing conferences, they give the people involved another chance to talk about case plans without the pressure of being in court. Unlike court hearings, judges and standing masters don't attend these meetings.

Instead, **a family engagement meeting coordinator from the Child and Family Service Division (CFSD) leads the meeting.** Family engagement meetings can take place in person at CFSD's office or through a virtual platform like Zoom.

At a family engagement meeting, the participants, their lawyers, family members, and service or treatment providers may attend to **review case progress and discuss next steps.**

If you want to attend meetings held outside of court, you can ask your lawyer for assistance. Family engagement meetings are another opportunity for you to take part in case planning.

Youth Centered Meetings (YCM)

A youth centered meeting **is another chance to meet informally away from court to talk about the case. The main purpose of this meeting is to make sure the youth's voice is heard. The meeting is for the youth and about them.**

The same coordinators who run family engagement meetings also lead youth centered meetings. Youth can help by giving the coordinator a list of people they want to invite and deciding on the topics they want discussed. During the meeting, the youth can ask questions about their case, the process, and the roles of the different people involved. **The focus is on the youth's goals for the case and what they want for their future.**

The meeting will likely address:

- Activities the child likes to do, and trying to make sure they can continue to do them
- People the youth wants to advise and advocate for them
- Their plans for education, job training, work, transportation, medical and dental needs, and housing
- The child's long- and short-term goals for the case and their life
- Their plans for a transition to adulthood
- The youth's support network during their transition to adulthood
- Whatever else they want to discuss, ask about, or tell the people involved with the case

A youth centered meeting is a chance for you to share your thoughts and feelings in a setting focused on your goals and wishes for your future. You can talk openly with others involved in your case and be part of the planning process.

As a foster youth, it's important for you to enjoy normal activities that are reasonably safe, just like any other children. You should be able to enjoy life and prepare for your future. Your foster parents should help you do this. But like any reasonable parent, they need to consider your safety and the risks involved, based on your age, maturity, skills, and needs. Resource

parents should do their best to let you join in on fun and normal activities while you're in foster care.

As an older child in resource care, CFSD caseworkers should talk to you about youth centered meetings. If you think it's a good idea, you can ask for one or have your lawyer request one from either the CFSD caseworker or the local family engagement meeting coordinator.

Permanency Hearings

Permanency hearings **are a yearly review of dependency cases.** These hearings are sometimes called "permanency plan hearings." **The purpose of these hearings is to figure out if the plan for the child's future, known as your "permanency plan," is the best fit for them.**

If you have thoughts or preferences about which permanency plan is best for you, you can share those ideas with your lawyer so they can advocate for you during this hearing.

As an older youth in resource care, you can help develop your permanency plan. If you are 14 or older, you must be consulted about your permanency plan. An older foster child's permanency plan must include a plan for transitioning to adulthood.

Courts generally must hold permanency hearings about once a year during dependency cases. However, some cases are resolved in less than a year and don't need a permanency hearing.

Termination of Parental Rights

Termination of parental rights usually doesn't happen in Montana dependency cases because children typically return home to a parent or their parents. But when parental rights are terminated, a parent loses their legal right to care for and have custody of their child. Their parental rights end. They can no longer make important legal decisions for their child. Usually, this results in the child being adopted or being placed in a guardianship.

Some older children may stay in foster care for a long time after their parents' rights are terminated. Other older youth may enter resource care not long before turning 18, the age when they legally become adults. In these cases, termination is less likely because there isn't much time before they age out of the foster care system by becoming an adult. That's why it's important for older youth in resource care to start preparing for adulthood early.

Generally, if a child has been in foster care for 15 of the last 22 months, the Child and Family Services Division (CFSD) must consider filing a petition to terminate parental rights. However, most Montana children in resource care return home before their dependency cases reach this stage. If parents don't complete their treatment plans or abandon their child, termination of parental rights proceedings often happen.

Termination of parental rights can be voluntary if the parents agree, or it can happen through a court hearing before a judge. Standing masters cannot preside over termination hearings. After the hearing, the judge will decide whether it's best to terminate parental rights. There are no juries in Montana dependency cases.

Adoption

Adoption is when someone other than the child's biological parents legally becomes their parent. This means they'll have all the rights and responsibilities for taking care of the child.

Before a child can be adopted through a dependency case, both of their parents must have their parental rights terminated. If any parent still has their rights, the adoption can't be completed.

If there's a petition to terminate parental rights, it's important to share your thoughts and feelings about ending parental rights with your lawyer. **A child who is 12 or older generally must agree to an adoption for it to be finalized.** In other words, an older foster youth can object to an adoption. Termination of parental rights may not make sense if the child is unwilling to agree to an adoption.

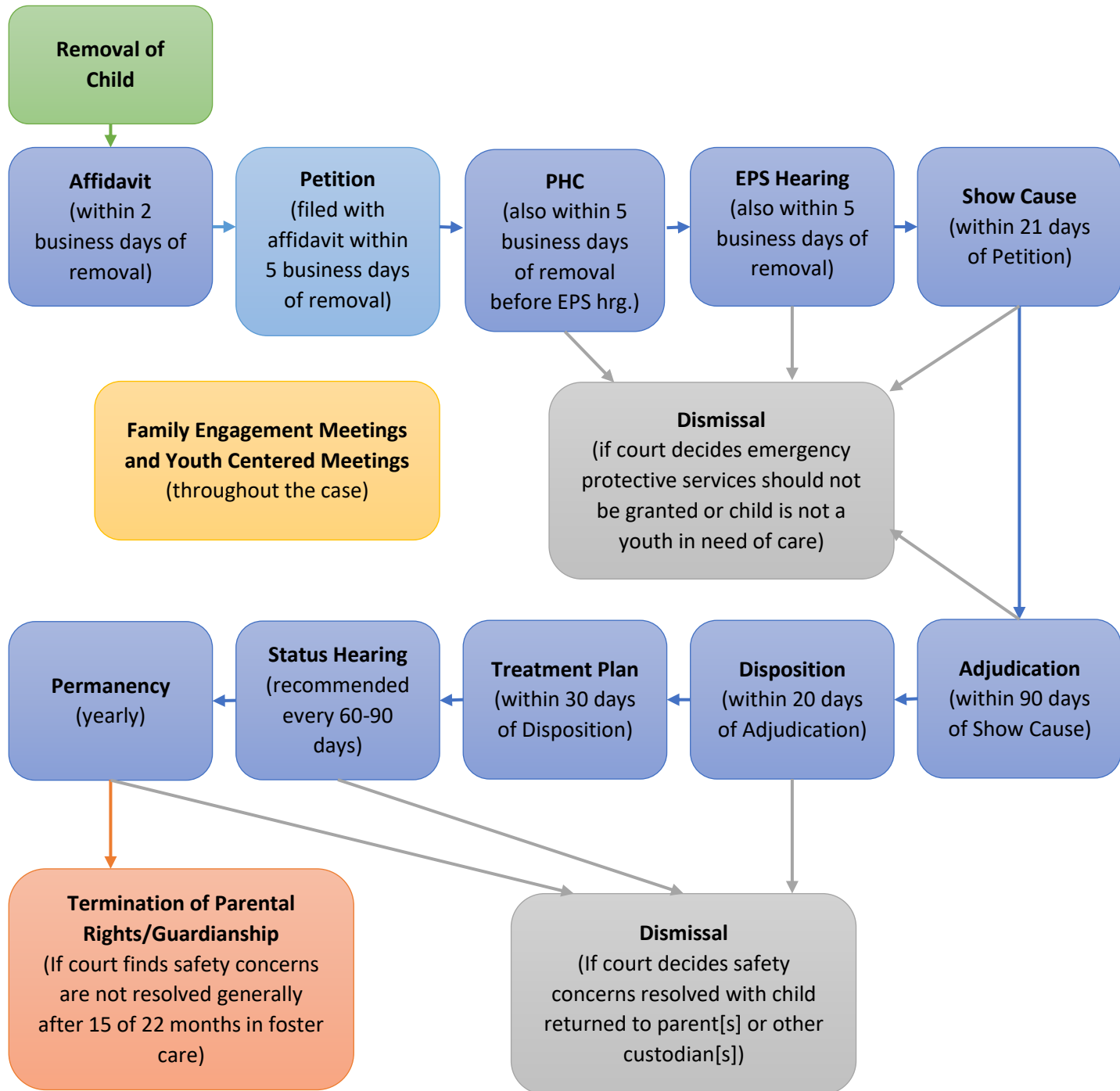
Guardianship

An alternative to the termination of parental rights and adoption could be guardianship. Guardianship means someone other than the parents will legally care for the youth while they are a child. This person, called a guardian, can make important decisions for the youth and has many of the same rights and responsibilities as a parent.

However, **guardians don't become the child's legal parents.** The difference is that guardians aren't considered legal parents, so **the parents' rights don't need to be terminated for a guardianship to happen.**

A guardianship might be more appealing to you than adoption. You can talk with your lawyer about your options and what you would like to happen if discussions begin about a possible termination of parental rights. **Children 14 years of age or older can generally object to the appointment of a guardian. You can talk with your lawyer about your rights to object to adoption or guardianship.** Just remember, most children return home before things get this complicated.

Court Proceedings Chart



What is the Indian Child Welfare Act (ICWA), and does it apply to me?

The Indian Child Welfare Act (ICWA) is a federal law that seeks to protect Native American and Alaska Native children, their families, and tribal rights throughout the United States. Montana has a similar and additional state law called the Montana Indian Child Welfare Act (MICWA).

These laws refer to Native Americans as American Indians and Alaska Natives.

Both ICWA and MICWA apply only to dependency cases involving an “Indian Child.” These laws define an Indian child as:

- **An unmarried person under the age of 18 who meets either of the following criteria:**
 - **An enrolled member of a federally recognized Native American or Alaska Native Tribe, or**
 - **A youth eligible for membership in one of these Tribes, with a biological parent who is a member of a federally recognized Tribe**

Different Tribes have their own ways of determining whether someone is, or could become, a member of their Tribe. **Only the Tribe can decide whether a child is a member or eligible for membership.** The Child and Family Services Division (CFSD) and the court do not make this decision.

A child may self-identify as Native American without meeting the ICWA and MICWA legal definition of an Indian child. ICWA and MICWA apply only to you if you meet the specific definition of an Indian child.

Both ICWA and MICWA are laws that help protect the rights of Indian children. **They hold the state of Montana, CFSD, and the courts to higher standards and make sure everyone respects an Indian child’s Tribe and culture.**

If you know or think you might have Native American heritage, it’s important to speak with your lawyer about it. Your lawyer and CFSD will need to know your family's background. If you could be a member of a Tribe, you may have rights under these laws. CFSD must review your family’s history and contact all possible tribes to see whether you qualify for membership.

If you’re an Indian Child as defined by ICWA and MICWA, your Tribe can get involved in the state court case and participate in the legal proceedings. A lawyer or other tribal representative may appear in state court and speak on your Tribe’s behalf. **In some circumstances, the case might even be moved to your Tribal Court, meaning it would be handled there instead of in a Montana District Court.**

What are active efforts by the state?

In dependency cases involving Indian children, the state must make "active efforts." The state is expected to make more significant efforts than in other cases. **Active efforts are greater than the reasonable efforts required in non-ICWA cases.**

CFSD must make active efforts not only to prevent the removal of an Indian child from their home, but also to reunify the family when the child is removed. Those efforts must be affirmative, thorough, and timely. The state must begin active efforts before filing the dependency case. CFSD must make active efforts to prevent the removal of an Indian child. If an Indian child is removed from their home, active efforts are required of the state to reunite the family. These active efforts must continue throughout the entire dependency case.

What are preferred placements for Indian children?

One of the main purposes of ICWA and MICWA is to provide for the placement of Indian foster children in resource homes that will reflect the unique values of Native American culture. These culturally appropriate placements aim to protect the best interests of Indian children and help maintain the stability and security of Native American families and tribes.

ICWA and MICWA provide preferred placements for foster care, preadoption, and adoption. These preferences focus on keeping Indian foster children within their families first, then with tribal members, and finally in other Native American placements.

However, **if a Tribe has its own placement preferences, those should be used instead of the general placement preferences in ICWA and MICWA.** Before finding a placement for an Indian child, CFSD should check whether the child's Tribe has its own preferences. If the Tribe hasn't set any, then the general placement preferences from ICWA and MICWA should be used.

If the Tribe doesn't have its own placement preferences, the following ICWA and MICWA placement preferences in numerical order apply for foster care and preadoption placement of an Indian child.

- 1. A member or members of the Indian child's extended family**
- 2. A foster home licensed or approved by the Indian child's Tribe**
- 3. An Indian resource home approved by the State of Montana**
- 4. An Indian institution approved by the Indian child's Tribe**

Due to the permanent nature of adoption, there are slightly different placement preferences in the unlikely event that an Indian child is being adopted. The list again prefers family first, then

other members of the child's Tribe, and finally, other Native American families. **If the Tribe doesn't have its own placement preferences, the following ICWA and MICWA placement preferences, in numerical order, apply to the adoption of an Indian child.**

- 1. A member or members of the Indian child's extended family**
- 2. Other members of the Indian child's Tribe**
- 3. Other Indian families**

What are ICWA courts?

An ICWA court is a Montana District Court with a special set of ICWA cases. It is part of the regular state court system, but follows certain procedures. These courts seek to apply the laws and spirit of ICWA and MICWA strictly. They try to handle cases in a way that is sensitive to trauma and encourages teamwork among everyone involved. Tribal representatives take an active role in ICWA courts.

Currently, there are ICWA courts in Montana's 13th Judicial District (Yellowstone County) and the 4th Judicial District (Missoula and Mineral counties). There are ongoing discussions in other parts of Montana about creating more ICWA courts.

What are Tribal Courts?

Native American tribes are recognized as sovereign governments by the United States Constitution. That means they are independent with the right to establish laws for their tribes. Most tribes in the United States have independent court systems to enforce their laws, including child welfare laws affecting dependency cases. In Montana, seven out of the eight federally recognized tribal nations have their own court systems. The Little Shell Tribe of Chippewa Indians of Montana became the most recent federally recognized tribe in 2019. They have not yet established their court system, but have the right to do so.

Some dependency cases should automatically go to Tribal Court. When an Indian child lives on tribal lands or is a ward of the Tribal Court, the dependency case should be in Tribal Court if the Tribe hears dependency cases.

Some dependency cases may be moved from a Montana District Court to the Indian child's Tribal Court when:

- Neither parent objects to the move**
- There is not a good reason to deny the move, and**

- **The Tribal Court accepts the case.** A Tribal Court can't be forced to accept a dependency case from a state court.

If a dependency case is in a Tribal Court, the laws, rules, and regulations of that Tribe will apply. Attorneys accepted by the Tribe will represent the parties, and a Tribal Court Judge and their staff will handle the case.

For more general information about ICWA and MICWA, please visit the Montana Court Improvement Program's website at cip.mt.gov, which has a link to eLearning guides, including one concerning ICWA.

In addition, the following web addresses provide additional information concerning ICWA.

- National Indian Child Welfare Association (NICWA) – nicwa.org/resources/
- Native American Rights Fund (NARF): narf.org/nill/resources/indianchildwelfare.html.
- U.S. Department of the Interior, Bureau of Indian Affairs (BIA) - bia.gov/bia/ois/dhs/icwa
- The U.S. Administration for Children and Families (ACF), The Children's Bureau (CB) - www.childwelfare.gov/topics/tribal-child-welfare/indian-child-welfare-act-icwa/?top=1390

What happens if I turn 18 before the court case is dismissed?

In Montana, you legally become an adult when you turn 18. This is called the age of majority. **When you turn 18 while in foster care, your dependency case is dismissed because you're legally considered an adult.** Although you may still be able to work with the Child and Family Services Division (CFSD) if you want, the court case will be closed. **This process is often called "aging out,"** which means you're leaving the foster care system. Remember, most cases are resolved well before a foster youth turns 18.

It's important to start preparing for life as an adult well before you turn 18. Preparing older children in resource care for a successful transition to adulthood is essential. Case planning discussions should include a transition plan for adulthood. The judge or standing master, along with others involved, should review your plans at every court hearing.

Unfortunately, children who age out of foster care sometimes face challenges like finding a place to live, getting jobs, or continuing their education. That's why planning for adulthood is very important. Thinking ahead can help you secure stable housing and pursue an education

and career that you will find fulfilling. It's best not to wait until the last minute to start preparing. If you have questions about how to get ready for adulthood, don't hesitate to ask.

If you're transitioning from foster care to adulthood, it's important to have the right support to help you reach your life goals. You can talk with your lawyer, CFSD caseworkers, and the judge or standing master about your plans – they can help you figure out the next steps. Other resources are also available to support you as you become an adult.

The **Montana Chafee Foster Care Independence Program (Chafee Program)** is an important resource for teens in foster care. They offer support like mentoring, help creating transitional living plans, and life skills assessments. They also offer training to help you develop life skills and job skills, and even provide vouchers for education and training to help you continue your studies. If you don't have a Chafee worker yet, you can ask for one. Their main role is to help teens in foster care get ready for adulthood. You can work with the Chafee Program until you turn 21, even after you're no longer in resource care. For more information, you can visit their web page at www.dphhs.mt.gov/CFSD/fostercareindependence.

Another helpful resource is **Reach Higher Montana**. They have lots of valuable information for teens transitioning into adulthood who want to go to school or get training to help them succeed in the future. You can visit their website at www.reachhighermontana.org.

Remember, dependency cases are meant to keep you safe and support your growth. You have the power to take charge of your future by planning ahead.

Conclusion

Dependency cases sometimes take a long time, and it's completely normal to feel frustrated, angry, scared, or even confused about the things that happen. You might have a lot of questions about what's going on and what will happen next. While there are no guarantees, regularly talking with your lawyer can really help. They provide important updates and information, and help you plan for your case.

It's important to share your thoughts, feelings, and ideas with your lawyer. The more they understand how you feel and what you want for the case and your life, the better they can help you. Your lawyer cares about your goals and is there to advocate for you.