

CHILD ABUSE AND NEGLECT OVERVIEW

A child abuse case is started by filing of a petition alleging abuse or neglect with the Probate Court. The petition lays out the facts showing abuse or neglect. The Department of Human Services, a police agency, or the prosecutor's office may file a petition. The Department of Human Services is usually the party that files the petition.

When a police agency or the Department of Human Services discovers a neglected or abused child they may remove the child from the home and immediately file a petition. A hearing is promptly scheduled in Probate Court to review the decision for removal, the placement of the child pending a final decision, and set visitation rights while the case is pending. The parents may request a court appointed attorney at this hearing or they may retain their own counsel.

The prosecuting attorney's office has the responsibility for proving, by a preponderance of the evidence, that the neglect or abuse occurred. "Preponderance of the evidence" means the facts must show it is more likely than not the abuse/neglect happened.

The next step is a trial in which a six person jury decides if the prosecution has proven the children have been abused or neglected. If a jury finds the parents responsible, the court has jurisdiction to make decisions regarding the care and placement of the children.

A dispositional hearing is scheduled after the trial to make orders regarding the case. Under Michigan law, the goal of the court is to reunite the family. Generally, the court sets up a program to help the parents solve the problems that lead to the neglect and/or abuse. Drug treatment, parenting classes, and mental health treatment are among the common requirements of court dispositions.

In severe cases of neglect/abuse, where serious injury has been done to the children, the court may terminate parent rights at disposition. Termination of parental rights can only be done where there is a proof by clear and convincing evidence that the best interest of the child would be served by termination. Serious physical injury or sexual assaults are the most common situations where immediate termination is sought.

If parents are ordered into counseling or treatment as part of a program to stop abuse and reunite the family and they fail to do what is required, they face the possibility of a parental rights termination petition being filed against them.

Most cases result in a course of successful treatment for the parents followed by reunification of the family.

CHILD ABUSE AND NEGLECT UNIT

The Prosecutor represents the state's interest in protecting children who have been abused or neglected under the Child Protection Laws. Child Abuse is defined as harm or threatened harm to a child's health or welfare that occurs through non accidental physical or mental injury, sexual abuse, sexual exploitation or maltreatment, by a parent, a legal guardian, or any other person reasonable for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy. Child Neglect is defined as harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- i. Neglect treatment, including failure to provide adequate food, clothing, shelter, or medical care.
- ii. Placing a child in unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person reasonable for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

The prosecutor's office becomes involved in a case after the Department of Human Services and/or the police have completed their investigation, a child or children have been removed from their parent's home by the court and the parents have failed to rectify the conditions of the referral and/or have failed to comply with intervention. A petition may be filed for temporary jurisdiction whereby the parents will be permitted to have a trial to determine if there child is in need of temporary state intervention in the form of services and resources to reunite the family, or a petition may be filed for permanent termination of parental rights whereby the parents will be permitted to have a trial to determine if it is in the best interest of the child or children to terminate their parents rights permanently.

If you are concerned that your child or a child you know may have been a victim of abuse or neglect, contact the Department of Human Services at (989) 345-5135.