

# Family Law Handbook

A Resource for People in  
Connecticut's Prisons

Women, Incarceration and Family Law Project  
Arthur Liman Public Interest Program

**YALE LAW SCHOOL**

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# Family Law Handbook

## A Resource for People in Connecticut's Prisons

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# What are the most important things I should know about my rights as a parent while in prison?

- ▶ **If DCF is trying to terminate your parental rights, you have a right to an attorney.**

If you cannot afford a lawyer, you must fill out a fee waiver form and ask the court to give you a lawyer.

- ▶ **Tell your social worker, correctional counselor, and attorney about any court dates you have about your child's custody.**

If you want to attend court hearings about your rights as a parent, you have to let your social worker and attorney know. You have a right to attend hearings about your parental rights, but the prison does not have to make sure that you're there. Keep track of your hearing date, and tell your social worker and attorney to make arrangements for you to get transportation to the hearing, or attend the hearing by telephone or videoconferencing.

- ▶ **Make a plan for your child, and have a backup plan.**

Have a backup plan for someone else to take care of your child if the first person you choose can't. If you decide to place your child in foster care with a relative or a friend, DCF will have to license the caretaker, and may decide that your relative or friend is not qualified to be a caretaker. If you decide to place your child with a relative or friend without getting DCF involved, you should still be prepared just in case you need someone else to take care of your child.

- ▶ **Make sure you get visits with your child.**

If your child is in foster care, DCF is required to bring your child to visit at least once a month no matter how far your child lives from the prison. Your attorney may be able to get DCF to bring your child more than once a month; if this is something you want, tell your attorney.

- ▶ **Get your child support modified.**

Your child support order is not automatically reduced when you go into prison. You have to apply for a modification to avoid owing extra child support when you get out of prison.

- ▶ **Keep track of your progress.**

If you complete any programs while in prison, let your social worker know and keep certificates from the programs if you can. When you get out, having these certificates to show to the court may help you reunite with your children faster. If the court orders you to participate in programs the prison doesn't offer or that you're on a waitlist for, tell your attorney to tell the judge about your situation. Give your attorney any documentation you have that shows that you've done everything you can to follow the court's order.

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## INTRODUCTION

# How to use this handbook

This handbook addresses how family law impacts people in prison. It is divided into four sections: 1) children; 2) child support; 3) marriage and divorce; and 4) wills. At the end of the handbook, you will find a resource guide with information about organizations that help with parenting, reentry, and legal issues. The handbook also includes copies of useful court forms. Some words in the text are highlighted in bold; you will find definitions of these terms after the table of contents.

The handbook goes into a lot of detail. If you're looking for a brief answer to a question, jump to the short reference sheets at the back on page 56. The family law reference sheets give quick answers to questions about placing your child with a friend or relative, foster care, termination of parental rights, issues incarcerated fathers might face, child support, and marriage and divorce. There's also a list of the most important things you should know about your rights as a parent while in prison.

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## OVERVIEW

### Section 1: Children

Most of the handbook focuses on children and your rights as a parent. As a parent in prison, you may fear that your child will not be cared for, that you will lose your child, or that your relationship with your child will suffer. You may also wish to make alternative arrangements to care for your child while you are incarcerated. The Children section focuses on the legal options available to you, including how to help keep your relationship with your child.

Since the Children section is long, it is divided into six parts. The first two sections discuss ways to make sure that your child will be cared for while you are in prison, whether your child is living with a friend or relative (Part A) or in foster care (Part B). Part C discusses custody disputes. Part D explains how your parental rights can be terminated (or ended) without your permission, and ways to keep that from happening. Part E discusses the special challenges incarcerated fathers face and explains the additional steps fathers in prison must take in order to protect their rights. The last section, Part F, discusses how you can give up your parental rights and put your child up for adoption if you want to.

### Section 2: Child Support

A child support order is not automatically reduced when you go into prison. You have to apply for a modification to avoid owing extra child support when you get out of prison. The Child Support section explains how to modify your child support order. It also covers how to collect child support.

### Section 3: Marriage & Divorce

You have the right to get married and divorced while in prison. The Marriage & Divorce section explains your rights and discusses the process for filing for divorce.

### Section 4: Wills

A will is a document that says who should inherit your property. The Wills section includes a basic formula for writing your own will in case you do not have access to a lawyer who can help you.

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# Definitions

## **Abused**

Means that a child has (a) been physically hurt other than by accident; (b) been injured, and the story that the parent gives explaining the injury does not make sense; (c) been malnourished, sexually molested, deprived of necessities, emotionally mistreated, or cruelly punished.

## **Adoption and Safe Families Act (ASFA)**

A federal law that requires the government to decide if it should terminate a parent's rights whenever a child has been in non-kinship foster care for 15 of the past 22 months.

## **ASFA**

See **ADOPTION AND SAFE FAMILIES ACT**

## **Custody**

Custody has two parts. "PHYSICAL CUSTODY" means the physical care and supervision of the child. "LEGAL CUSTODY" is the right to make major decisions concerning the child, including those related to the child's education, health care, and religious training.

## **Custodial Custody**

A term that refers to the person who has physical custody of a child.

## **DCF**

See **DEPARTMENT OF CHILDREN AND FAMILIES**

## **Department of Children and Families (DCF)**

The state agency that is in charge of issues dealing with families and social services. DCF runs foster care and also provides a variety of supervisory and support services to families the department deems in need of assistance.

## **Dissolution of Marriage**

Connecticut's legal term for a divorce.

It happens when two people have been legally married, and one or both of them goes through the court process to have the marriage ended. Orders about alimony, division of property, name changes, and child custody, visitation, and support can all be made in a divorce.

## **Family Court**

The court for divorces, child custody, visitation, and child support cases. These cases are brought by parents or by spouses.

## **Foster Care**

Out-of-home care provided for a child who has been placed by DCF with a person licensed to provide such care. Foster care is usually a temporary situation to provide a safe and healthy environment when the child's family is unable to do so.

## **Guardianship**

In Connecticut, a person under the age of 18 is considered to be a minor. A guardian is an adult who has the legal responsibility to take care of the minor, and the authority to make medical and personal decisions about the welfare of the minor. The birth parents are automatically the joint guardians of their child, but in **PROBATE COURT**, guardianship can be transferred from the birth parents to other adults.

## **Guardian ad litem**

A guardian appointed by the court to represent the interests of a child or adult whom the court decides cannot represent themselves.

## **Informal Assignment of Custody**

See **PRIVATE PLACEMENT**

## **Involuntary Foster Care**

See **INVOLUNTARY PLACEMENT**

### **Involuntary Placement**

When a child is placed in foster care without the parents' permission.

### **Juvenile Court**

The court for abuse, neglect, and TPR cases started by DCF. This court also hears cases concerning juvenile delinquency. You have the right to an attorney if you are the parent or guardian of a child in a JUVENILE COURT case. To ask for a free attorney, call or write the Clerk's Office of the JUVENILE COURT where your case has been filed.

### **Kinship-care Foster Care**

See RELATIVE FOSTER CARE.

### **Legal Father**

A father whom the court has recognized as the father and who has all the same rights as the mother.

### **Open Adoption and Visitation Agreement**

An agreement between a biological parent and an adoptive parent where the biological parent gives up all parental rights but arranges for conditions of contact with the child. Agreements *must* include: an acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irreversible, even if the adoptive parents do not follow the cooperative post-adoption agreement; and an acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative post-adoption agreement.

### **Neglected**

Means that a child has been: (a) abandoned; (b) denied proper care and attention, either physically, educationally, emotionally, or morally; (c) allowed to live in conditions that injure his well-being; or (d) abused.

### **Power of Attorney**

The authority to act for another person in legal or financial matters.

### **Private Placement**

A custody arrangement where a parent places their children with family or friends without involving the foster care system.

### **Pro se divorce**

Do-it-yourself divorce.

### **Probate Court**

The court where you or your child's caregiver can try to change your child's custody or guardianship arrangement because of a parent's illness, death, absence, or neglect. Probate Court also handles adoptions.

### **Putative Father**

Someone who is alleged to be or claims to be the father of a child but who has not established legal rights.

### **Relative Foster Care**

An arrangement where your child can be placed with a close relative through DCF.

### **State Child Support Enforcement System**

A federally-mandated state enforcement system that helps parents locate the father, establish paternity, establish support, enforce support, and modify support. To contact the STATE CHILD SUPPORT ENFORCEMENT SYSTEM call 1-800-228-KIDS or 1-888-233-7223.

### **Temporary Guardian/Temporary guardianship**

If a parent or guardian is unable to care for his or her child for a period of time because of illness, absence from the area, or for some other reason—such as incarceration—that parent may appoint a temporary guardian for the child by filing an application in the PROBATE COURT. A temporary guardian serves with, but does not replace, the parent as the natural guardian. Either a parent or a temporary guardian can make important decisions that affect the child. The parent can end the temporary guardianship at any time by notifying the PROBATE COURT. A temporary guardianship cannot last for

more than one year without the permission of the **PROBATE COURT**.

### **Termination of Parental Rights (TPR)**

A decision by a judge to end the legal tie between a parent and a child. A termination allows the child to be adopted by someone else. Once terminated, parental rights can almost never be restored. However, in some very unusual situations, the natural parent may be able to adopt his or her own child at a later point in time.

### **TPR**

See **TERMINATION OF PARENTAL RIGHTS**.

### **Transfer of Guardianship with Subsidy**

Allows for a relative to apply for guardianship of a child who has been in foster care and receive a monthly payment for food and care of the child as well as medical care.

## INTRODUCTION

Courts in the United States, including both the Supreme Court of the United States<sup>1</sup> and the Connecticut State Supreme Court,<sup>2</sup> have recognized that parents have a powerful, fundamental right to take care of their children.<sup>3</sup> Family members—both parents and children<sup>4</sup>—have a constitutional right to “family integrity.”<sup>5</sup> This means that the government cannot separate families from each other except in very serious circumstances.

While your rights as a parent are generally protected by the law, there are some situations when someone else may be able to get custody or legal control of your child. This often happens in cases involving two parents who are not living together or who are getting a divorce. But it can happen in other cases too. For example, a relative whom your child has been living with for a long time can try to get custody.

The government may also step in to limit or end your role as a parent. In the United

States, the government has a responsibility to protect and take care of children who are neglected or abused.<sup>6</sup> When government social workers at the **Department of Children and Families (or DCF)** believe that a child is in danger, they may take the child out of his or her home. They may put the child into temporary or long-term foster care, and require the parents to meet certain conditions before they can get the child back. In some cases **DCF** may attempt to terminate a parent’s right to his or her child. In cases where a child has been in foster care for 15 of the past 22 months, a federal law, the **Adoption and Safe Families Act (or ASFA)**, requires the government to decide if it should terminate a parent’s rights. Any actions to limit your role as a parent must be approved by a judge. As a parent, you have rights, too, which will be discussed below.

As a parent in prison, you may find yourself in one of three situations:

1

**YOU, OR SOMEBODY ELSE, ARRANGED FOR YOUR CHILD TO LIVE WITH FRIENDS OR FAMILY BUT DID NOT GO THROUGH THE FOSTER CARE SYSTEM TO PLACE YOUR CHILD THERE.** This practice is known as private placement (or “informal assignment of custody”). This will be discussed in Part A below. A parent who gives informal custody of his or her child to a non-parent has not given that person “guardianship” of the child, which is the legal right and duty to care for the child. The parent may still be the legal guardian.

2

**YOU CHOSE TO PLACE YOUR CHILD IN FOSTER CARE.** Your child may be living with foster parents who are relatives or persons unrelated to you. The state supervises and provides funding to these foster parents to help care for your child. This practice is known as voluntary placement and will be discussed in Part B.

3

**YOUR CHILD WAS TAKEN FROM YOUR HOME BY DCF AND PLACED IN FOSTER CARE.** Your child may be living with foster parents who are relatives or persons unrelated to you. This practice is known as involuntary foster care and will be discussed in Part C.

## A PRIVATE PLACEMENT OF YOUR CHILD WITH A RELATIVE OR FRIEND

### Q Can I have a relative or friend take care of my child?

A Yes, you can have a relative or friend take care of your child while you are in prison. If you want a relative or friend (or a “caretaker”) to look after your child, you should write down your agreement and both you and the relative or friend should sign it.

#### EXPLANATION

Many incarcerated parents place their children with family or friends without involving the foster care system. This practice is called **private placement** (or “**informal assignment of custody**”). Private placement is the best way for parents in prison to keep their parental rights because the strict **ASFA** rules, which require the government to consider termination of parental rights if a child has been in foster care for 15 of the past 22 months, only apply to children in foster care. The main advantage of private placement is that someone you know and trust will care for your child. But, if you place your child in private placement, the person caring for your child will not be able to get public assistance, food stamps, or Medicaid for your child.

### Q What should the written agreement with my child’s caretaker include?

A The agreement should include three important points: [1] You are giving temporary custody of your child to that person while you are in prison; [2] Your child will be returned to you when you are released; and [3] The caretaker will bring your child to visit you in prison. You may include other points, which are discussed in more detail below.

#### EXPLANATION

If you want a relative or friend to care for your child you should write down the agreement and both of you should sign it. If you can, talk to a lawyer when creating this agreement. At least get a copy of the agreement signed and notarized in case there are any problems later. The agreement should include three important points: [1] You are giving temporary custody of your child to that person while you are in prison; [2] Your child will be returned to you when you are released; and [3] The caretaker (the relative or friend) will bring your child to visit you in prison.

This agreement will help your child’s caretaker to register your child for school, get public assistance, and take your child to the doctor. It will also help make sure that you get your child back when you get out of prison. Agreements can be very short and may be as simple as: “I \_\_\_\_\_ [your name] give temporary custody of my child \_\_\_\_\_ [child’s name],

born on \_\_\_\_\_ [date of birth], to \_\_\_\_\_ [caretaker's name] I give \_\_\_\_\_ [caretaker's name] the ability to make medical and educational decisions for my child."

You may also want to give the caretaker **power of attorney**, which lets them take care of your legal or financial issues (such as getting money from your bank account for you, or selling your car). Keep in mind that giving someone power of attorney means giving them a great deal of power over your affairs, so you should think carefully about this choice.

**Q** What does it mean to give my child's caretaker "temporary guardianship"?

**A** Giving someone **temporary guardianship** does not mean that you are giving up your parental rights forever. It only means that you are giving someone else permission to care for your child until you are ready to get your child back. You may appoint a temporary guardian for your child by filing an application in **Probate Court**.

**EXPLANATION**

If a parent or guardian is unable to care for their child for a period of time, they may appoint a temporary guardian for the child by filing an application in the **Probate Court** (see "**PC-504: Application/Appointment of Temporary Guardian**" in the Useful Forms section at the end of this handbook). Either a parent or a temporary guardian can make important decisions that affect the child. The parent can end the **temporary guardianship** at any time by notifying the **Probate Court**. Without the permission of the **Probate Court** a temporary guardianship cannot last for more than one year.

If you know someone who is willing to care for your child but does not have the money to do so, they may be able to receive public assistance, food stamps, and Medicaid, if you appoint them as a guardian. Giving somebody guardianship does not mean that you are giving up your parental rights forever. These terms only mean that you are giving permission for someone else to care for your child until you are ready to take him or her back. The paperwork needed for the caretaker to receive assistance is available at public assistance agencies (such as the Department of Social Services in the case of food stamps).

When a child is in an informal custody arrangement, the parent has the right to get him or her back. No legal measures should be necessary, but sometimes custody battles occur (various custody disputes are discussed in Part C). For example, sometimes relatives or friends become attached to the child and may sue for guardianship or start **termination of parental rights (TPR)** and adoption proceedings without the parent's consent. To avoid this, incarcerated parents should attempt to maintain as much contact with their children as possible. It also helps to have a written agreement with your child's caretaker (discussed above). Parents should ask the caregiver to bring the child for visits and should send letters and cards to the child often.

**Q** If I decide to place my child with a friend or relative, can we both be legal guardians?

**A** Yes, you can ask the **Probate Court** to appoint one or more persons to serve as co-guardian(s) of your child. When the court appointment takes effect, the co-guardian(s) have the legal right (and duty) to care for the child. You share this right with the co-guardian.

**EXPLANATION**

To make your child's caretaker a legal guardian you have to apply to the **Probate Court** in the district where your child lives. You will have to fill out a form to request the appointment of one or more persons to serve as co-guardian(s) of your child (see "**PC-504: Application/Appointment of Temporary Guardian**" in the **Useful Forms** section at the end of this handbook. There is an application fee, but you can apply for a fee waiver by submitting a "**PC-184: Waiver of Fees**" form included in the **Useful Forms** section of this handbook).

The court will decide whether to appoint the co-guardian based on the following factors: **[1]** the ability of the prospective co-guardian(s) to meet the physical, emotional, moral and educational needs of the child on a continuing day-to-day basis; **[2]** the child's wishes if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference; **[3]** the existence of an established relationship between the child and the prospective co-guardian(s); and **[4]** the best interests of the child.

When the court appointment takes effect, the co-guardian(s) has the legal right and duty to care for the child. This right is shared with you—it may be exercised by either you or the co-guardian(s). If you have any problems with the co-guardian(s) you should bring these issues to the **Probate Court** that appointed them.

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## B FOSTER CARE

### Q What is foster care?

A **Foster care** is meant to provide for children whose parents cannot care for them. The government has **legal custody** of children in foster care. Foster care is meant to help families through difficult times and to ensure that children are living in safe and healthy environments.

#### EXPLANATION

If private arrangements do not work out or are not an option, you may apply through **DCF** to have your child placed in **foster care**, either with a relative or with a certified foster parent who is not related to you (which can include a friend). Foster care is a way of providing for children whose parents cannot care for them. The government has **legal custody** of children in foster care, which means that the government takes responsibility for the child. Foster care is not supposed to be a permanent solution; it is meant to help families through difficult times and to ensure that children are living in safe and healthy environments.

There are two different ways children can be placed in foster care. When the parent chooses to place their children in foster care, it is called voluntary placement. When a judge orders the child to be placed in foster care, it is called involuntary placement. Children may be placed with relatives (relative foster care), with an agency-approved foster family, in a group home, or in a residential facility.

### Q Will I be giving up my parental rights if I place my child in foster care voluntarily?

A No, you do not give up your parental rights by placing your child in foster care. *But if you are going to be in prison for more than twelve months, placing your child in foster care may create a risk of involuntary termination of your parental rights.* This risk is discussed in more detail below.

#### EXPLANATION

If you cannot arrange for the care of your child with family or friends or if you are not satisfied with the care your child is receiving, you may place your child in foster care. You can request voluntary services from **DCF** by contacting the **DCF** Hotline (860-550-6300) and requesting an application for the Voluntary Services Program.

You *do not* permanently give up your parental rights by placing your child in foster care. You are still legally their parent. It does not mean that you are giving up or abandoning

your child, and it does not show that you are unfit as a parent. It only means that you are temporarily unable to provide your child with the care you think he or she needs. If you do what the **DCF** requires and if you are released within a relatively short time, you will have a good chance of getting your child back.

However, if you are going to be in prison for more than twelve months, placing your child in foster care may create a risk of involuntary termination of your parental rights. You should *seriously consider* your decision to place your child in foster care because there is a law, **ASFA**, which generally requires the government to try to terminate parental rights if a child has been in foster care for 15 out of the last 22 months.

In summary, if you are able to privately place your child with a friend or relative, this may be the best way for you to protect your parental rights. It is important to consider all of your options carefully before placing your child in foster care for 15 months or longer.

**Q** Can I place my child in foster care with a relative?

**A** Yes. If you have a relative who would like to care for your child, you may be able to arrange for **relative foster care**, where your child can live with your relative and your relative may receive financial assistance and support from **DCF**. Your relative must be licenced by **DCF**. **DCF** has **legal custody** of children in relative foster care, just as it does in any foster care arrangement.

**EXPLANATION**

**DCF** will sometimes approve close relatives to become **relative foster parents**. If you have a relative who would like to care for your child, you may be able to arrange for **relative foster care**.<sup>7</sup> In order for your child to stay with the relative, the relative must be licensed and their home must be examined and approved by **DCF**. Under this program, your child lives with your relative. However, unlike in the private placement described above, **DCF** has **legal custody** of your child.

If your child will be staying with the relative foster parent for an extended period of time, your relative can apply for a “**transfer of guardianship with subsidy**.” If appointed as a guardian, the relative will receive a monthly state subsidy plus medical coverage in the state Medicaid HMO program. In order to transfer guardianship with a subsidy, your child must live with the relative caretaker for at least six months and the relative must apply with the child’s caseworker. After six months, the **DCF** caseworker will determine if the relative’s home is a suitable long-term placement for your child. If **DCF** decides that the placement is “in the best interest of the child,” the social worker will file a “Motion to Revoke/Transfer Custody” in the Superior Court for Juvenile Matters, which, if granted by a judge, will end **DCF’s** legal custody of your child and make the relative caretaker your child’s legal guardian. Guardianship with subsidy will help your relative cover childcare expenses for your child; however, **DCF** will review the subsidy every year, and may decide to decrease the amount your relative receives in subsidy, or stop giving your relative the subsidy. Once you are ready to have your child come home, you can petition to be reinstated as the guardian, and the foster care family will stop receiving the subsidy.

Relatives must be licensed as foster parents by **DCF**. However, children may be placed with a relative who is not licensed for as long as 90 days until the licensing process is completed.<sup>8</sup> In Connecticut, a criminal history check is performed on anyone who wants to be a foster parent and anyone over 16 who is living in the home.<sup>9</sup> The criminal history check is repeated every time the foster parent applies for re-certification (a foster parent must apply to renew his or her license every two years).<sup>10</sup> **DCF** will also inspect your relative's home and will require it to be up to code. You should always have a backup plan so that if your child is not able to stay with the person you wanted them to stay with, they will have someplace else to go.

It is difficult for people with certain kinds of criminal records to be approved as foster parents. A prospective foster parent can be denied for several reasons, including: [1] conviction at any time of injury or risk of injury to a minor, impairing the morals of a minor, violent crime against a person, or illegal use [2] conviction of the possession, use, or sale of controlled substances within the past five years; [3] other criminal record that **DCF** or the child placing agency believes makes the home unsuitable; [4] having had an allegation of child abuse or neglect substantiated; [5] having had a minor removed from their care because of abuse or neglect; or [6] charge for an above-listed crime that has not been resolved yet.<sup>11</sup>

If it is found that someone applying to be a foster parent has been convicted of any of the crimes listed above, the foster care agency will remove any foster child living with the foster parent.<sup>12</sup> A license will also not be renewed if the foster parent knowingly arranges for the child to be cared for by a person convicted of one of the crimes listed above.<sup>13</sup> When deciding who you want to take care of your child, keep in mind that **DCF** is unlikely to approve somebody who has a violent criminal record, a history of sexual abuse, an extensive **DCF** history, or a drug problem.

**Q** What are some of the disadvantages and advantages of relative foster care?

**A** A disadvantage of **relative foster care** is that **DCF** will be involved in your relationship with your child. An advantage of **relative foster care** is that your child's caretaker is eligible for foster care payments. More risks and advantages of **relative foster care** are discussed below.

**EXPLANATION**

A disadvantage of **relative foster care** in comparison with private placement is that **DCF** will be involved in your relationship with your child. **DCF** could decide to have your child removed from your relative's home to another foster home. It also means that you will not be able to simply ask the relative for your child's return when you are released from prison. Instead you have to work with **DCF** to get your child back. Also, **DCF** may attempt to terminate your parental rights so that your relative or another person can adopt the child.<sup>14</sup>

An advantage of **relative foster care** is that your child's caretaker is eligible for the same foster care payments available to unrelated foster care parents. You and the

potential relative foster parent should talk to **DCF** together about the funds available to him or her. Another advantage is that if your child is in foster care **DCF** has to support you with services, including providing regular visitation. Some prisons have a **DCF** caseworker at the facility. For incarcerated parents, **DCF**'s duty to you is generally limited to services offered by your facility, although your child is entitled to any services offered by the agency. **DCF** has a duty to bring your child to see you. However, if you are generally not allowed visits because of a restriction or for disciplinary reasons, you will not get to have visits from your child. Finally, mothers at York can make a free phone call to their children in foster care through the Telephone Program.

#### ONE ON ONE MENTORING PROGRAM FOR CHILDREN WITH PARENTS IN PRISON

This program serves youth age 8 to 21 who are involved in **DCF** and who have a parent or both parents in prison. The mentors are involved in the youth's life as guides, friends, and positive role models. They see their mentees at least 2 times a month and call them once a week. When appropriate, and if approved by **DCF**, the mentor facilitates contact between the youth and their parents in prison. The program aims at maintaining these relationships on a long-term basis with a one-year minimum commitment. Ideally, these relationships evolve into permanent, life-long friendships.

#### For more information contact:

- **DCF** at 860-550-6300;
- Covenant to Care (the provider that **DCF** works with for Southern Connecticut) at 860-243-1806 or 120 Mountain Ave. Suite 212, Bloomfield CT 06002; or
- Nutmeg Big Brothers Big Sisters (the provider that **DCF** works with for Northern Connecticut) at 860-525-5437, ext. 112 or 30 Laurel St. Suite 3, Hartford, CT 06106.

## C CUSTODY DISPUTES

Q What are the different ways that an incarcerated parent might lose guardianship against their will?

A There are three ways that incarcerated parents can lose **guardianship** involuntarily: [1] through a custody dispute with another parent; [2] through guardianship proceedings initiated by a relative of the child; or [3] through **abuse** or **neglect** petitions initiated by **DCF**.

### EXPLANATION

There are three ways in which an incarcerated parent can lose guardianship involuntarily: [1] disputes over custody between biological parents, which generally take place in the Family Matters section of the Connecticut Superior Court; [2] guardianship proceedings initiated by a relative of the child in **Probate court**; or [3] neglect, abuse, or uncared-for petitions in **Juvenile Court**, initiated by **DCF**. Often, petitions begin in **Probate Court** and then are transferred to **Juvenile Court** at the request of the parents.<sup>15</sup>

Your child may be placed in foster care without your consent, a practice known as **involuntary placement**. **Involuntary placement** can occur before, or as a result of, your incarceration. If you do not agree in writing to the removal of your child and a preliminary hearing has not yet been held, your child can be removed only if there is an *immediate* danger to his or her life or health. If the court feels that the situation is an emergency, it may remove your child without a hearing or **DCF** may remove your child before receiving a court order. If **DCF** takes your child on an emergency basis, a court must hold a hearing within 96 hours.

**Involuntary placement** does not mean that your child has been permanently taken from you. However, in order to avoid termination of your parental rights, you must fulfill certain obligations. The government also has a duty to make “diligent efforts”—or try hard—to foster a close relationship between you and your child so that you can get your child back. **ASFA** has created some exceptions to the government’s duty to show “diligent efforts.” These obligations, rights, and exceptions are discussed in Part D (on **termination of parental rights**).

Q What happens in a custody dispute between biological parents?

A Disputes over child custody between biological parents usually take place in the Connecticut Superior Courts or Connecticut Family Matters Court. The Court considers many factors in resolving custody disputes, described in more detail below.

#### EXPLANATION

Biological parents share rights over their children, and each parent has the right to **physical custody** (meaning that the child lives at least part of the time with the parent) and **legal custody** (meaning that the parent makes major decisions about the child's life, including those related to the child's education, health care, and religious training). Parents, even if they do not live together, can share both physical and joint custody, meaning that they share obligations to care for the child. It is also possible for one parent to have physical custody and for the other parent to have legal custody and visitation rights. This means that one parent is the primary caregiver but the other parent still shares in the child's life. The non-custodial parent will likely have child support obligations (see Part II of the handbook for a full discussion of child support).

Sometimes, disputes arise between biological parents over who should have **physical custody**, who should have **legal custody**, or how much and what type of visitation should be allowed. This is particularly common in cases involving separation or divorce, but it can also arise between parents who were never married. Disputes over child custody between biological parents usually take place in the Connecticut Superior Court, or more specifically, the Family Matters Court.

The Family Matters Court considers many factors in resolving custody disputes. The most important factor is the "best interests of the child." Best interests are measured by how long the child has been with each parent, the strength of the bond between each parent and the child, the age and needs of the child, and the parents' parenting skills.

Incarcerated parents do not have the right to a court-appointed lawyer in all custody disputes. However, an incarcerated parent involved in a custody suit should send a letter to the judge or clerk saying that he or she is challenging the custody claim, lacks means to hire an attorney, and wants a court-appointed attorney. The court may appoint a lawyer.

**Q** If the other parent wins custody, can I still retain visitation rights?

**A** Even if the court orders a change in custody, the losing parent often retains the right to visit their child.

#### EXPLANATION

In most cases, the losing parent will keep visitation rights even if the court orders a change in custody.<sup>16</sup> The incarcerated parent should ask the court to create a schedule for visitation. If the parent with **legal custody** refuses or tries to prevent or make a visitation difficult, the incarcerated parent can ask the court to require visitation according to the court-created schedule.

## 4 TERMINATION OF PARENTAL RIGHTS

Whether a child is in a private placement, in some form of foster care, or in the custody of the child's other parent, the parent in prison can petition to regain custody after his or her release. In some situations, however, the child's caregiver or **DCF** may decide that your rights as a parent should be terminated, or permanently ended. The following section explains how and why this might happen, and what you can do to protect your parental rights.

### Q What is Termination of Parental Rights (TPR)?

A In some situations, **DCF** may try to convince the **Juvenile Court** that it is in the child's best interests to terminate, or end, a parent's rights so that the child can be adopted by someone else. If termination of parental rights, the parent no longer has any right to be a part of the child's life.

#### EXPLANATION

Parents have the right to take care of their children and to make important decisions in their children's lives. However, in certain situations, **DCF** or other adults involved in a child's life may ask the **Juvenile Court** to **terminate a parent's rights**. For example, when a child has been in foster care for a period of more than 15 months, **DCF** may believe that the child's natural parent is "unfit" and that it would be best for the child if he or she were adopted by a foster family. In other situations, a parent or other adult who is taking care of a child may wish to terminate the other parent's rights. Sometimes this happens when the absent parent has never really been involved with the family or was abusive in the past. It can also happen when communication between the parent and the child's current caregiver breaks down. Unfortunately, these kinds of situations often come up when parents are serving prison sentences, especially long ones.

Courts take **TPR** very seriously. Parents have the right to an attorney, but they must request one (see page 18). If **DCF** is involved, the court will require **DCF** to prove three things: [1] that **DCF** made a "reasonable effort" to reunify the family; [2] that the parent is not fit to take care of the child; and [3] that termination of the parent's rights is in the child's "best interests."

However, if a court does decide to terminate a parent's rights, the parent loses all possibility of re-gaining custody of the child and has no legal rights at all, not even the right to visitation. The child's caregivers may allow the parent whose rights have been terminated to see the child, but it is entirely their choice.

**Q** What are the basic stages in a TPR proceeding?

**A** Termination hearings happen in two stages. First, **DCF** will try to convince the judge that you are unfit to be a parent. Second, even if the judge finds that you are unfit to be a parent, he or she cannot terminate your rights unless that would be the best outcome for your child. The judge must also find that **DCF** made efforts to help reunify your family.

**EXPLANATION**

A **Juvenile Court** cannot terminate parental rights unless it first finds that [1] **DCF** has made “reasonable efforts” to find you and reunify you with your child,<sup>17</sup> with some exceptions;<sup>18</sup> [2] that at least one of the grounds for TPR has been shown by “clear and convincing evidence;” and [3] that TPR is in the “best interests” of your child, after the judge considers seven factors listed in Connecticut General Statutes § 17a-112(k).<sup>19</sup> The grounds for TPR include: abandonment, acts of parental commission or omission which result in safety concerns; absence of a meaningful relationship with the child; neglect of the child; failure by the parent to rehabilitate; the parent has killed or assaulted another of their children; or the parent was convicted of sexual assault resulting in the conception of the child.

It is extremely important that you go to the termination hearing. **DCF** will challenge your capabilities as a parent, and you should be there to respond to any issues that **DCF** brings up. If you are not at the hearing, you will not be able to defend yourself, and it might look like you are not interested in protecting your parental rights. Although you have a right to attend the hearing, if you are in a facility outside of the state where the hearing will be held, the officials at your correctional facility probably will not be able to provide transportation. Other ways to participate include: attending the hearing by telephone; testifying by deposition (a special legal document where you answer questions or make statements in another place and it is brought before the court in writing instead of you being there in person); and aggressive representation by your attorney (get your lawyer to really advocate for you).

In Connecticut, a judge cannot terminate your parental rights just because you are in prison,<sup>20</sup> and **DCF** has to make “reasonable efforts” to support the relationship between you and your child whether you are in prison or not.<sup>21</sup> However, Connecticut courts hold incarcerated parents to high standards, requiring them to show that they have a strong relationship with their children even when the daily realities of prison life may make this difficult.

The sections that follow provide a more detailed description of what **DCF** is required to do for parents in prison; what judges are looking for when they determine what is the “best interests” of the child; and the four grounds for **TPR** that are most frequently applied to incarcerated parents: [1] abandonment, [2] absence of a meaningful relationship with the child, [3] failure to rehabilitate, and [2] severe injury (i.e. shaken baby or broken bones).

**Q** Can the government take away my kids just because I am in prison?

**A** Just because you are in prison does not mean that a court can terminate your rights as a parent. However, parents in prison face special challenges that make it more difficult for them to take care of their children and to maintain a parent-child relationship. If your sentence is longer than 15 months and your child is in foster care with a non-family member, you may have to go to a hearing to defend your parental rights. It is important to keep track of all your hearing dates. The facility where you are incarcerated will not automatically make arrangements for your juvenile court dates. Be sure to be proactive about keeping track of your court dates and tell your correctional counselor about any open cases you may have.

**EXPLANATION**

Parents in prison are at risk for losing their parental rights if their children are in **DCF** custody. This is because the federal law **ASFA** requires **DCF** to file a petition to terminate parental rights if a child has been in foster care for 15 of the past 22 months. While this doesn't automatically mean that a parent will lose his or her rights, it does mean that, if your sentence is longer than 15 months, you will likely have to fight to protect your rights in a hearing.

Connecticut law says that the government cannot terminate your parental rights just because you are in prison. However, being in prison can make it hard for you to do all the things that **DCF** demands. Because prison rules on visiting and phone calls can make communication with both **DCF** and with your children more difficult, some parents do not fully understand what **DCF** is asking them to do—or how to follow **DCF's** instructions—until it is too late.

If your child is in a **private placement** with a family member or friend, or is in a **kinship-care foster care placement**, then this law does not apply to you. However, Connecticut allows any adult interested in the welfare of your child to initiate proceedings against you in **Probate Court**. For example, your child's other parent, or a grandparent or friend who is caring for a child, may file a petition asking the court to terminate your rights.

**Q** What happens if **DCF** files a neglect or abuse petition against me?

**A** In some cases, **DCF** may file a neglect or abuse petition against you in the **Juvenile Court**. **DCF** may try to get custody of your child. If **DCF** already has custody, it may try to terminate your parental rights. The process happens in a few different stages, but the most important thing to remember is that **you have the right to a lawyer**. You will need to fill out a fee waiver form and ask the court to give you a lawyer. Do not say anything to **DCF** or anyone else in the court before you have had a chance to meet with your lawyer and discuss the situation with him or her.

**EXPLANATION**

**DCF** may file a neglect or abuse petition against you in **Juvenile Court**. If your child is being cared for by relatives, friends, or is in some other kind of private arrangement, **DCF** can ask for custody. If your child is already in foster care, **DCF** may file a petition to terminate your parental rights. A foster parent, a child's attorney, and even the child may start a petition in **Juvenile Court**.

The first step in a **TPR** proceeding is that **DCF** files a petition accusing a parent of abuse or neglect of his or her child. The petition has to name all people who have an interest in the child, including the biological father if he is known. A summary of the facts and circumstances that led **DCF** to file the petition should be attached to the petition.

**DCF** files the petition in **Juvenile Court** at the court closest to where the child lives. Two dates will be on the petition: these are dates for two very important hearings. If you wish to keep your parental rights, it is extremely important that you participate in these hearings. If for some reason (such as serious illness) you cannot do so, you should write to the court immediately to explain and to ask for a new date.

At the first hearing, the judge will tell you that you have the right to a lawyer and the right to remain silent. You should take advantage of both of these rights by asking for a lawyer and saying nothing else. No decision should be made until you and your lawyer have time to meet and prepare for a hearing.

The second hearing is the "plea date." On the plea date, you must go back to court and either admit to the charges in the petition; deny the charges in the petition; or plead "nolo contendere," which means that you will not dispute the charges. Sometimes people choose to plead "nolo contendere" if they are willing to accept **DCF's** position, but they do not want to admit to having done something wrong that they could be charged for criminally. You should discuss this with your lawyer.

**Q** What are my rights before and during a **TPR** hearing?

**A** You have a right to be told in advance about the hearing. Parents who are facing termination of their parental rights have the right to an attorney. If you cannot afford a lawyer, you must fill out a fee waiver form and ask for a lawyer to be appointed. You have the right to appeal if a judge terminates your parental rights. No matter what, make sure you request that officials at the prison take you to the hearing, and ask for a lawyer to help you.

**EXPLANATION**

Once you have a lawyer assigned and you plea, the court will set a date for a TPR hearing. The TPR hearing gives you and DCF the opportunity to present arguments and evidence to the court. The court will then decide whether to terminate your parental rights.

As a parent, you have important legal rights in termination proceedings. First, you have a right to be told in advance that the hearing is going to happen.<sup>22</sup> Parents who are facing termination of their parental rights have the right to an attorney. If you cannot afford a lawyer, you must fill out a fee waiver form and ask for one to be appointed (the form, **JD-JM-114: Application for Appointment of Counsel—Waiver of Fees**, is included in the “Useful forms” section of this handbook).

All **TPR** decisions must be based on “individual determinations” of parental fitness.<sup>23</sup> This means, for example, that a court could not terminate parental rights just because the parent is a single father or single mother, doesn’t have very much money, has a history of drug use or mental illness, or is gay or lesbian. Parents whose rights have been terminated can appeal to the Appellate Court of Connecticut, and ultimately to the Connecticut State Supreme Court. You must appeal a decision from the **Probate Court** within 30 days, unless you were not told that you could appeal, in which case you have 90 days.

**Q** What obligation does **DCF** have to reunify my family?

**A** **DCF** must try to find you and get in touch with you by phone or mail. If your child is in foster care, **DCF** must try to arrange for your children to visit you. **DCF** must also try to place your child in “kinship foster care” (with a family member) instead of with strangers. Kinship foster care does not trigger termination proceedings.

**EXPLANATION**

To terminate parental rights, **DCF** must prove that it made “reasonable efforts to locate the parent and to reunify the child with the parent . . . unless the court finds in this proceeding

that the parent is unable or unwilling to benefit from reunification efforts.”<sup>24</sup> When **DCF** is working with an incarcerated parent, this generally means that **DCF** must attempt to get in touch with the incarcerated parent by phone and mail; arrange and provide support for visits between the parent and the child; and make efforts to find a kinship foster care arrangement before placing the child with a stranger.<sup>25</sup> Parents should be aware, however, that **DCF** is not required to make these efforts if it decides that a parent is “unwilling or unable to benefit” from them. For example, in one case, a court found that incarceration, combined with the parent’s lack of effort and substance abuse problems, made a father “unable” to benefit from **DCF’s** attempt to support reunification.<sup>26</sup>

**Q** What are the three reasons that **DCF** most commonly uses to argue that a parent in prison is “unfit”?

**A** For parents in prison, the three most common grounds for termination are: [1] “abandonment;” [2] “failure to rehabilitate;” and [3] “lack of an ongoing relationship.” “Abandonment” is when a parent doesn’t act in a way that clearly shows that he or she cares about his or her child. “Failure to rehabilitate” is when a parent will not be able to take on the duties and responsibilities of parenting in the near future. “Lack of an ongoing relationship” means that the relationship between the parent and child has broken down—it might mean, for example, that the child has no positive memories of the parent or doesn’t really think of the parent as being his or her mother or father. Among these three grounds, “failure to rehabilitate” is probably the most commonly used by **DCF**. **DCF** may also have the right to take your child at birth on the grounds of “presumptive neglect.” Presumptive neglect is found if you’ve lost parental rights three times before.

#### **EXPLANATION**

For parents in prison, the three most common grounds for termination are: [1] abandonment; [2] lack of an ongoing relationship; and [3] failure to rehabilitate. Abandonment occurs “where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child, and demonstrates no concern for the child’s welfare.”<sup>27</sup> The Connecticut courts have defined the “commonly understood general obligations of parenthood” as being: [1] express love and affection for the child; [2] express personal concern over the health, education and general well-being of the child; [3] the duty to supply the necessary food, clothing, and medical care; [4] the duty to provide adequate [housing]; and [5] the duty to furnish social and

## EXAMPLE: The Lukas K. Case

Courts look for actions that show that a parent is concerned for their children and taking responsibility. The Connecticut Supreme Court determined that a father had abandoned his son, Lukas, because he had never seen or had contact with Lukas; had never paid

child support; had been incarcerated since Lukas' birth; and had failed to attempt either to contact or visit his child during his incarceration.<sup>30</sup> **Take-away: Show concern for your child through regular contact and visits.**

religious guidance.<sup>28</sup> If a court finds that you do not do these things for your child, it may determine that you have abandoned him or her.

In evaluating the parent, courts look for actions that show interest, concern, or responsibility. This includes visits, attempted visits, telephone calls, sending cards, letters, gifts, and financial support.<sup>29</sup>

A parent has achieved “personal rehabilitation” when he or she has been “restore[d] . . . to his or her former constructive and useful role as a parent.”<sup>31</sup> While rehabilitation does not mean that you must be able to take full responsibility for your child, you must show progress that “encourage[s] a belief that at some future date [you] can assume a responsible position in [your] child’s life.”<sup>32</sup> Courts generally base their decisions about “rehabilitation” on whether a parent has been able to follow the particular steps **DCF** may require. For example, in *In re Katia M.*, **DCF** had required that a parent keep all appointments with the agency; keep the agency updated of both his and his child’s whereabouts; participate in private counseling and substance abuse treatment; secure and maintain adequate housing and legal income; and visit the child as often as possible.<sup>33</sup> Based on these requirements, the court held that, to achieve rehabilitation, the father would have to demonstrate “a substantial period of sobriety, adequate housing, gainful employment, no further involvement with the criminal justice system and an unknown amount of therapeutic services to facilitate a relationship with this child.”<sup>34</sup>

A parent is not considered to be “rehabilitated” and ready to “assume a responsible position in the life of the child” if she or he is incarcerated. Incarceration may prevent the parent from meeting **DCF**’s requirements.<sup>35</sup> For example, an incarcerated parent may not be able to secure adequate housing for his or her child<sup>36</sup> or improve his or her relationship with his or her child because of limitations on contact and visiting.<sup>37</sup> Incarceration may prevent reunification of parent and child within the “reasonable period of time.”<sup>38</sup> For this reason, the length of a parent’s sentence becomes very important in determining whether a court will find that a parent has failed to rehabilitate.<sup>39</sup> Courts also make their own decisions about what counts as rehabilitation. For example, the court in *Katia M.* considered **DCF**’s specific requirements and used its own definition of rehabilitation: the ability to “provide safe and nurturing parenting to the child, attend to her developmental needs and provide her with an appropriate home.”<sup>40</sup>

Courts require parents to get rehabilitated within a “reasonable” amount of time. While the court’s idea of a “reasonable” amount of time can change depending on the situation,<sup>41</sup> judges generally expect that a parent will be ready to take responsibility for his or her child within the next year.<sup>42</sup> Incarcerated parents serving sentences of more than one year may have a difficult time meeting the court’s rehabilitation expectations, but it is not impossible.

Courts can also terminate a parent's rights if the relationship with the child has broken down, meaning:

[T]here is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child.<sup>43</sup>

While “abandonment” and “failure to rehabilitate” are based on the parent's behavior, the answer to whether or not there is an “ongoing parent-child relationship” is based on the “feelings of the child.”<sup>44</sup> The most important question is whether the child “has . . . present memories or feelings for the natural parent.”<sup>45</sup> The child must recognize the incarcerated parent as his or her parent. For example, in *In re Shane P.*, two-year-old Shane visited his mother in prison on a monthly basis, “enjoyed the visits,” and “warm[ed]” to her. Shane's mother “acted appropriately with Shane . . . [and] played with and read to him.”<sup>46</sup> Despite this, the court found that Shane lacked “present memories or feelings for his mother” because he “[did] not refer to the respondent as his mother . . . [had] no memories of any maternal relationship with her,” and referred to his foster parent as “mother.”<sup>47</sup>

**Q** What is the next step if a judge finds that I am an ‘unfit’ parent?

**A** Even if a judge finds that you are an unfit parent, the hearing isn't over. The next question the judge has to ask is whether it would be in the “best interests of the child” to have your parental rights terminated. For example, if your child is a teenager and you have a strong relationship with him or her, it may be against the child's best interest to be adopted by another family, even if you are going to be in prison for many years. In thinking about children's interests the judge will consider the child's age; his or her relationship to you and to other caregivers; stability; and many other factors.

**EXPLANATION**

If a judge decides that one or more of the grounds for **TPR** have been met, the judge will then start what is called the “dispositional phase” of the trial. During this phase the judge makes a decision about whether **TPR** is in the child's “best interest.” This means the court considers what is best for the child without considering the parent. Courts in this stage consider “the child's interests in . . . growth, development, well-being, and continuity and stability of . . . environment.”<sup>48</sup> These concerns are balanced with the possible benefits of maintaining a connection with their parent.<sup>49</sup> In deciding this, courts have to consider the seven factors listed in Connecticut General Statutes § 17a-112(k), which relate to both the potential impact of **TPR** on the child and the responsibility of the parent. These factors are

just considerations. They do not have to be proven for termination to be ordered.<sup>50</sup>

Some of the factors that courts are required to consider, such as the child's age<sup>51</sup> and emotional ties between the child and parent,<sup>52</sup> involve a decision about **TPR**'s effect on a child: for example, an older child with emotional ties to her parent will suffer greater trauma from **TPR** than an infant, or than an older child who has never had a meaningful relationship with the parent. Similarly, courts see strong emotional ties to a pre-adoptive foster parent as one reason to terminate the parent's rights.

Incarceration can play a big role at this part of the hearing. Courts are more likely to find that **TPR** is in the best interests of the child if the parent's sentence is long, especially if the child is young and the parent and child do not have a strong relationship. For example, in *In re Lukas*, the fact that the father would be incarcerated for 4 to 9 years, that his exact release date "was uncertain," and that Lukas was an infant when his father was imprisoned and did not know his father, led the court to find that it would be against "Lukas' best interest to allow time for a new relationship to develop" between him and his father.<sup>53</sup>

Connecticut courts care about permanency and stability,<sup>54</sup> particularly when young children are involved.<sup>55</sup> The Connecticut Appellate Court has held that even though a mother "completed nearly every relevant rehabilitative program available" and had "received excellent evaluations of her work at prison jobs," it would be inappropriate to consider the possibility of an early release from prison in deciding whether to terminate her parental rights because considering this would make the child have to wait longer for stable placement.<sup>56</sup> Similarly, the court found that the possibility that a father would not find housing in a reasonable amount of time and that he could be required to return to jail for a probation violation made **TPR** in the child's best interests—despite the father's recent release from prison and his "positive strides."<sup>57</sup>

### EXAMPLE: The Mariah P. Case

A Connecticut Superior Court decided not to terminate the parental rights of two incarcerated parents because it found that **TPR** was not in the best interest of their two fourteen-year-

old children.<sup>58</sup> Even though the parents had demonstrated a failure to rehabilitate, the children had bonded with them, had positive memories of them, and did not wish to be adopted. Because of this, the court found that **TPR** "may well be devastating to the girls."<sup>59</sup>

For the other "best interests" factors, courts must take a more careful look at whether a parent found to be "unfit" might not be responsible for their "unfitness." Courts should consider whether the parent's unfitness might be **DCF**'s fault, because **DCF** did not provide adequate services to the parent or failed to keep any promises it made to the parent.<sup>60</sup> This has sometimes kept courts from terminating parental rights when **DCF** was in some way responsible for the parent's unfitness.<sup>61</sup> For example, in *In re Valerie D.*, the Connecticut State Supreme Court reversed a **TPR**, finding that because **DCF** had removed the child from the mother's care at birth and at the same time filed for both custody and **TPR**, **DCF** had, in effect, made it impossible for the mother to have a relationship with her child.<sup>62</sup>

Courts may require that **DCF**'s failure or fault be a "primary cause" of the parent's unfitness before they accept that the parent is not responsible for his or her unfitness. For example, in *In re Shane P.*, the court found that a mother's argument that she lacked an ongoing parent-child relationship because **DCF** did not provide enough visits was "not utterly groundless," as "bureaucratic mismanagement" meant that it took **DCF** almost six

months to begin arranging visits between the mother and her two-year-old son.<sup>63</sup> Even so, the mother was still responsible for failing to have a relationship with her son, because she “chose not to develop a relationship with her son” during the first year of his life. At that time, she was not incarcerated but had a drug relapse and was absent for “a number of months.”<sup>64</sup>

Courts must also consider whether a parent has been “prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent . . . or the unreasonable act of any other person or by the economic circumstances of the parent.”<sup>65</sup> For example, in *In re Lukas K*, the court considered the fact that Lukas’ mother had moved away from his father because his father was violent and abusive. The court found that the move did not prevent his father from maintaining a relationship with Lukas because his father had “ways of contacting” Lukas and Lukas’ mother despite his incarceration and his estrangement from Lukas’ mother.<sup>66</sup>

Finally, the court must consider a parent’s efforts to maintain contact and rehabilitate, including whether the parent met his or her promises to **DCF**;<sup>67</sup> whether the parent has maintained contact with the child, even if that contact is not enough to make a “meaningful relationship;” and whether the parent has maintained contact with the current guardian of the child.<sup>6</sup>

**Q** If I left my child with a friend or family member, can that person attempt to take away my rights as a parent?

**A** A family member, friend, or any other person who is taking care of your child while you are in prison can claim guardianship or try to get custody of your child. This means they want to have the legal right to be able to make important decisions about your child’s health, education, and other issues. A person seeking guardianship or custody of your child may file a petition in **Probate Court**.

#### **EXPLANATION**

Family or friends can take care of your child for a short period of time without changing your **legal custody** or guardianship over your child. But they will probably have trouble signing permission for certain things your child needs, like medical care and school-related things. You may decide that you want to give that caregiver **legal temporary custody** or **guardianship** of your child so that they have the power to care for your child properly. In other situations, the caregiver may want to get legal temporary custody or guardianship even if the parent does not agree.<sup>69</sup> These kinds of petitions happen in **Probate Court** and are called “removal of guardianship.”

After receiving an application for removal of guardianship, the court will set a time and place for a hearing. It will notify the incarcerated parent and the child. The parent has a right to be represented by a lawyer and may ask the court to appoint one. The Court will also appoint a legal guardian, called a **guardian ad litem**, to protect the rights of the child or any parent they feel is incompetent. In all cases involving abuse or neglect, the Court

must appoint a lawyer or **guardian ad litem** to represent the child.

When an application for removal of a guardian has been filed in a **Probate Court**, the Court will, in most cases, order an investigation and report to be completed by **DCF**. An investigation is required in cases where the applicant has alleged abuse or neglect or in cases where the judge thinks the child may have been abused or neglected. The judge may ask a physician, psychiatrist, or licensed clinical psychologist to evaluate you, the other adult seeking guardianship, or your child.<sup>70</sup> If one side is accusing the other side of abuse or neglect, an evaluation by a professional may help the judge get a better sense of what really happened. Once the investigation is complete, the court will make a decision. It may take guardianship from the parent if it finds by clear and convincing evidence that one or more of the following things are true: **[1]** The parent consents to having his/her guardianship terminated; **[2]** The child has been abandoned by the parent—i.e., the parent has failed to maintain a reasonable degree of interest, concern, or responsibility for the child's welfare; **[3]** The child has been denied the care, guidance, or control necessary for his or her physical, educational, moral, or emotional well-being as a result of acts of parental commission or omission and the court believes the parent cannot exercise, or should not in the best interest of the child be permitted to exercise, parental rights and duties; or, **[4]** The child has been physically, sexually, or emotionally abused.<sup>71</sup>

**Q**     **Recommended Actions for Parents: Keeping in Touch and Taking Care of Yourself**

**A**     The most important things you can do to protect your rights as a parent are: **[1]** stay in touch with your child, whether through visits, phone calls, or letters; **[2]** maintain a good relationship with the social worker from **DCF**; **[3]** do whatever you can while you are in prison to prepare for being a parent again when you are released.

**EXPLANATION**

Even if you are in prison, there are many things you can do to show that you are taking steps towards rehabilitation and doing your best to maintain a meaningful relationship with your child. First, you should keep in touch with your child in whatever way you can. This is important for the well-being of you and your child. It may also help you protect your parental rights in the future. Keep track of all the times you visit, telephone, mail a letter, or take other actions to stay in touch—writing it down in a journal might be helpful.

**You should try to arrange to see your child during visitation hours.** If your child is living with relatives or a friend and **DCF** is not involved, you can ask that caretaker to bring your child to the prison for visits. Only a relative or appointed caretaker can bring your child to visit you. In order to visit you, your child must bring his/her birth certificate with them. Remind whoever is bringing your child that they cannot bring diaper bags or bottles into the visitation area. Additionally, they should call ahead to make sure the facility is not on lockdown. If the caretaker does not want to do this, you may be able to get help from the **Probate Court** or **Family Court**.

## Arranging Visits: Transportation Services

If transportation is a problem, you or the caretaker can call Families in Crisis at 860-236-3593 or Infoline at 211 to learn about vans and buses that go to the prisons each weekend from some locations in Connecticut.

If your child is in **DCF** custody, you can ask **DCF** to bring your child to visit. You can ask your **DCF** social worker for information on how to do this. **DCF** has an obligation to bring your child for visits unless you were convicted of abusing your child or have been convicted of a sexual crime. If you fall into one of those categories you can ask the Warden to allow you to have your child visit anyway.

Visiting is not the only way to stay in touch with your child. Judges have recognized any form of contact—telephone calls, sending cards or gifts, letters, or financial support—as evidence of ongoing care for a child’s wellbeing.<sup>72</sup> When judges see evidence of these kinds of activities, they are less likely to find that you have abandoned your child or that you no longer have an ongoing parent-child relationship.<sup>73</sup>

The type of contact you have with your child may depend on your family situation. For example, if your child lives far away from the prison, it might be very difficult for him or her to visit you. You may choose to advocate as forcefully as you can to get **DCF**, or the child’s caretaker in a private placement, to bring the child to see you. You may also decide that it would be better for your child if you stayed in touch by writing him or her a letter every day and talking with him or her on the phone.

Secondly, it is crucial that you stay in touch with **DCF**. York Correctional Institution has a **DCF** liaison social worker that can help you get in touch with **DCF**, your attorney, and your children. You should be allowed to call by telephone into all **DCF** treatment plan meetings. As soon as you get a **DCF** letter with the date of the meeting, talk to your prison counselor about setting this up. In general, when speaking with your **DCF** social worker, you have to cooperate, but keep in mind that your **DCF** social worker is not working for you and any information you give them may be used against you—therefore you should not give them any information that may harm your ability to maintain a good relationship with your child and preparing for being a parent again when you are released.

Finally, you can also help maintain your parental rights by taking care of yourself. It may be helpful for you to take advantage of whatever services, classes, or resources the Department of Correction has to offer, paying particular attention to resources that might help you address the issues that led you to become incarcerated, or that led you to become separated from your child. For example, if you struggle with addiction to drugs or alcohol, you may want to seek out classes, support groups, or therapy relating to substance abuse. If your ability to parent has been negatively affected by mental health issues, you might look for individual or group therapy. Some prisons have programming for people affected by domestic violence, anger management, or other kinds of issues. People who have not yet been sentenced cannot get into programs. Even for those who have been sentenced, some facilities have long waiting lists for programs. If you are unable to get into a program, keep track of your attempt to get in so that you can show the court that you tried. Also, be sure to share with your lawyer your attempts to participate in programs.

If you do choose to seek out programs in prison that would help you work on issues that led to your incarceration or separation from your child, be sure to keep copies of program certificates. Make sure that **DCF** knows that you are taking these steps, and let them know if there is help you need that you cannot get while you are in prison. Taking advantage of these opportunities will help you defend yourself in court, while at the same time helping you build your confidence and abilities.

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## E VOLUNTARY TPR AND ADOPTION

In some cases, parents choose to give up their rights voluntarily in order to have an open adoption.<sup>74</sup> Through an agreement with the adoptive parents, a parent may be able to maintain an ongoing relationship with his or her child and arrange to visit with the child, as long as visitation is in the best interest of the child.<sup>75</sup> This section briefly discusses how to voluntarily terminate your parental rights and put your child up for adoption.

For more information about this, you should get a copy of the **Probate Court's** Termination of Parental Rights and Adoption Procedures guide. You can request one by writing to: The Probate Courts of Connecticut, Probate Court Administrator, 186 Newington Road, West Hartford, CT 06110. The Connecticut Judicial Branch also publishes a helpful guide to legal resources on adoption in Connecticut called *Adoption in Connecticut: A Guide to Resources in the Law Library*. You can get a copy of this by contacting the New London Law Library, 70 Huntington Street, New London, CT 06320; Telephone: (860) 442-7561; Fax: (860) 442-9416.

### Q How do open adoptions work?

A You and the adoptive parents would make an **Open Adoption and Visitation Agreement**. Your parental rights would be terminated, meaning that you would no longer have any legal connection to your child, and the adoption would be permanent. The **Open Adoption and Visitation Agreement** would mean that you could maintain an ongoing relationship with your child and arrange to visit, as long as that visitation continued to be in the child's best interest. *The TPR and adoption are final and cannot be reversed, even if the adoptive parents fail to follow the agreement* (for example, if they fail to send letters or updates as promised in the agreement). Keep in mind that these agreements are difficult to enforce. Your ability to stay in touch with your child remains totally up to the adoptive parents.

#### EXPLANATION

Connecticut allows “cooperative post-adoption agreements” between birth parents and adoptive parents.<sup>76</sup> Under Connecticut law, these agreements must include: [1] An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irreversible, even if the adoptive parents do not follow the cooperative

post-adoption agreement; and [2] An acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative post-adoption agreement.<sup>77</sup>

This means that all parties must acknowledge that the **TPR** and adoption are final, and that they cannot be reversed even if the adoptive parents fail to follow the agreement (for example, if they fail to send letters or updates as promised in the agreement). Even though the adoption itself cannot be changed, if the adoptive parents are not living up to their end of the deal, you will have the right to try to make them keep the promises they made in the agreement.

Under Connecticut law, cooperative post-adoption agreements may also include: [1] Provision for communication between the child and either or both birth parents; [2] Provision for future contact between either or both birth parents and the child or an adoptive parent; and [3] Maintenance of medical history of either or both birth parents who are a party to the agreement.<sup>78</sup>

These agreements often include specific promises to send letters and updates about the child to the birth parent on a regular basis, or pass gifts to the child through the lawyer who managed the agreement. It will be very important that you make sure the lawyer, or anyone else involved in adoption agreement, always has an up-to-date mailing address for you so that they can send you any letters and updates the adoptive parents agree to send.

This handbook includes a sample agreement on the next page that is only meant to give you an idea of what these agreements might look like and what types of promises they might include. If you decide to voluntarily terminate your parental rights and enter into an open adoption and visitation agreement with adoptive parents, you should get a lawyer to make sure that the agreement reflects your desires and protects your interests. Parents whose parental rights are being terminated have the right to a free attorney.<sup>79</sup> If you cannot afford a lawyer, submit a written statement showing your inability to afford a lawyer to the Court and asking for a fee waiver. The Court may appoint an attorney for you without charge. For more details on the **TPR** process, see Part C of this handbook. You should also read the **Probate Court's** guide to these proceedings, *Termination of Parental Rights and Adoption Procedures*.

#### EXAMPLE OF A SAMPLE OPEN ADOPTION AND VISITATION AGREEMENT:

- 1 **ADOPTION.** The parties shall all cooperate fully with DCF in the orderly completion of an adoption of the child by the adopting parents.
- 2 **TERMINATION OF RIGHTS.** The natural mother will withdraw her legal challenge . . . as soon as the adopting parents have approval of their adoption application by DCF.
- 3 **VISITATION.** The adopting parents will cooperate fully with the natural mother in the natural mother's visits with the child both now and after the adoption takes place until the child's 18th birthday. The parties agree to be guided in carrying out this provision by the present laws of Connecticut regarding reasonable visitation, which are partly embodied in Connecticut General Statutes Section 46b-56, as they pertain to visitation rights of non-custodial parents in dissolutions of marriage. The young age of the child and her high sensitivity to her, up to the present, state of uncertainty shall be taken into account by the parties.

Each of the parties shall at all times in good faith endeavor to maintain in the child respect and affection for the other parties. The rights of visitation shall not be exercised by the natural mother at any time or in such a manner as to interfere with the education and normal social and school activities of the child.

Visitation shall be twice a month for three (3) hours each visit at the [adoptive parents'] home.

(Adapted from *Michaud v. Wawruck*, 209 Conn. 407, 409 (1988), as printed in Connecticut Judicial Branch Law Libraries, *Adoption in Connecticut: A Guide to Resources in the Law Library*, 2011 Edition)

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## F INCARCERATED FATHERS—ESTABLISHING PATERNITY AND RESPONSIBILITIES OF FATHERS

Q How can you make sure that your rights as a father are protected?

A As a father, your biological link to your child is not enough to protect your rights as a parent. To protect your rights, you must establish yourself as a **legal father** and stay in regular contact with your child because incarcerated fathers are vulnerable to claims of abandonment.

### EXPLANATION

As a father, your biological link to your child is not enough to protect your rights as a parent.<sup>80</sup> In order to have the rights to your child described in this handbook, the law requires you to do two things. First, you need to establish yourself as a **legal father**. Second, you should stay in regular contact with your child. It is important to keep in regular contact with your child because courts can terminate your parental rights based on claims that incarcerated fathers have abandoned their children.

You must be legally recognized as the father of your child to get your full constitutional rights as a parent, including the right to receive notice. The “right to notice” means that the court has to find you and notify you before termination proceedings start. Before paternity is legally established, the government uses the term “**putative father**.”

Q What are the different types of fathers and what rights do they have?

A There are two different categories of fathers within the law: **legal fathers** and **putative fathers**. A legal father has the same rights as a mother; a **putative father** has fewer legal rights.

### EXPLANATION

A **legal father** has the same rights to his child that a mother does. If you are established as a **legal father** you are entitled to all the rights outlined in this manual. If you are a **legal father** and your child’s mother has her rights terminated, you will become the sole parent.<sup>81</sup> **Putative fathers** generally have fewer legal rights than **legal fathers**. However, if you are a **putative father** but have a close, or “substantial,” relationship with your child, your constitutional rights are protected.<sup>82</sup> Even if you do not have a substantial relationship with your child, as long as you are registered as the **putative father**, you will receive notice before your child can be adopted or before your parental rights are terminated.<sup>83</sup> However, you may not be directly involved and represented in any proceeding related to your rights

as a father if: [1] you have not been adjudicated as the father (meaning the court has not declared that you are the father); [2] you have not acknowledged in writing that you are the father; [3] you have not contributed regularly to the support of the child; [4] your name does not appear on the birth certificate; or [5] you have not shown a “reasonable” degree of interest, concern or responsibility for the child’s welfare.<sup>84</sup>

**Q** How do I know if I need to establish paternity?

**A** Establishing paternity is necessary if you were not married to the mother of your child at the time of your child’s birth. Even if you lived with the mother of your child, you are not automatically considered to be the child’s legal father.

**EXPLANATION**

To have the parental rights described in this handbook, you must establish paternity by proving to a court that you are the **legal father** of your child. Establishing paternity comes with rights and responsibilities. One of the major responsibilities is a possible obligation to pay child support.<sup>85</sup>

Establishing paternity is necessary if you were not married to the mother of your child at the time of your child’s birth. If you were or are married to the mother of your child, the court automatically considers you the father of all children conceived or born to the mother during the marriage, and you do not have to establish paternity unless the mother shows that you are not the father. However, if you are unmarried, you are not automatically considered to be the child’s legal father even if you lived with the mother of your child. So if you were not married to the mother of your child at the time of your child’s birth, you will have to prove paternity.

**Q** How do I establish paternity?

**A** If you were not married to the mother of your child when the child was born or conceived, you can establish paternity in three ways: [1] the mother of the child can bring a petition to prove paternity in **Probate Court**; [2] you submit a written sworn acknowledgment of paternity to a court, along with submitting required documents; [3] you can file a claim of paternity under General Statutes § 46b-172a.

**EXPLANATION**

Paternity can be established in a number of ways: [1] The mother of the child can bring a petition to prove paternity in **Probate Court**. This is filed in the county where she or the

**putative father** lives, and can be brought at any time before the child's 18th birthday. A father may have the right to a lawyer and a trial, and if the father denies paternity, he will be given a DNA test which the state may pay for.<sup>86</sup> Once the hearing is over, the court determines paternity and if the court decides you are the father, you will have "been adjudicated as the father." [2] You can submit a sworn written acknowledgement of paternity to the **Probate Court**, along with a waiver of the right to a blood test, a trial, and an attorney; a written statement affirming paternity, which must be sworn to by the mother; and oral and written notice of the rights and responsibilities that arise from establishing paternity.<sup>87</sup> [3] You can file a claim of paternity under General Statutes § 46b-172a.

If you want to file a paternity claim under General Statutes § 46b-172a, you must file the necessary form at the **Probate Court** in the district where either the mother or child lives. The form is provided by the court and should include: [1] Your name and address; [2] Last known address of the mother; [3] Month and year of child's birth (or expected birth).

Once your claim is filed, the **Probate Court** will schedule a hearing. The timeframe for when the hearing happens depends on the type of petition that is filed. If the mother agrees that you are the child's father, the judge may find that paternity has been proven. If the mother says you are not the father, the judge may order a DNA test to prove paternity. Once paternity is proven, you will have all of the rights and responsibilities that a mother has.<sup>88</sup>

**Q** Once paternity is established what are my rights and responsibilities?

**A** Once paternity is established you will have all the rights discussed in this manual; however, you will also have responsibilities. It is important that you maintain contact with your child in order to avoid claims of abandonment or potential termination of your rights. You will be legally obligated to provide for your child financially. If you are the non-custodial parent you will be required to pay child support.

**EXPLANATION**

As this manual has discussed, Connecticut courts have held that while being incarcerated does not automatically mean that you have abandoned your child, incarceration is not a legal excuse for failing to stay in contact with your child.<sup>89</sup> To protect yourself against a claim of abandonment, which can lead to the termination of your parental rights, you must maintain a "reasonable" degree of interest, concern, and responsibility for your child, even while you are incarcerated. Connecticut courts view telephone calls, sending cards and gifts, and financial support as signs that you are trying to stay in contact with your child. These activities help prevent a legal finding of abandonment by showing that you are interested, concerned, and responsible for the welfare of the child.<sup>90</sup> You should take advantage of available prison programs that would permit you to maintain contact with your child, and attempt (and document) regular visits and communication with your child.<sup>91</sup>

# Child Support

Q What is child support?

A Child support is a monthly payment to the **custodial party**, or the person who has **physical custody** of the child. For child support obligations to be legally enforceable, payments must be ordered by a court in the form of a child support order. The purpose of a child support order is to provide for the care and wellbeing of children.

Q What must be done to collect child support?

A To collect child support from a non-custodial parent, three things must happen. First, the non-custodial parent must be found. Second, there needs to be legal proof that he/she is the parent (see Section F on Paternity above). Finally, a court case is started to get court orders of child support.

Q How does a child support order get established?

A If there is a court hearing establishing paternity, the court will usually establish a support order at the same time. A child support order can also be established in a separate court proceeding, including custody proceedings. The order for child support is based on the non-custodial parent's ability to pay under Connecticut's Child Support Guidelines.

## EXPLANATION

If the parents agree on a certain amount of child support, that amount can be filed with the court and will become a court order.

Q What is the State Child Support Enforcement System?

A The **State Child Support Enforcement System** is a federally required state enforcement system that helps parents locate the father, establish paternity, establish support, enforce support, and modify support. Services under the program are automatic if you receive **temporary financial assistance (TFA)** from the state. If you do not receive TFA, you can apply for and receive these services for free.

Q How do I get help from the Support Enforcement System?

A If you receive TFA, ask your state worker for the name and number of your child support worker. Your child support worker will be in charge of your child support case. The government will not count the first \$50 of your child support. However, after that \$50, your TFA amount will be reduced one dollar for each extra dollar in child support you get. (For example: if you get \$125 in child support, your TFA benefit will be reduced by \$75).

**EXPLANATION**

If you do not receive TFA you will need to apply for assistance. Call the Child Support Hotline at 1-800-228-KIDS. You should receive an application for help within five days.

Q What information will the Child Support Enforcement System need to help me get child support as a custodial parent?

A The **Child Support Enforcement System** will need the name of the non-custodial parent and, if possible, their social security number and the name and address of their current employer. The non-custodial parent cannot find out any information about you or your location through the service.

Q How much time do I have to bring a paternity action?

A A paternity action can be brought any time until your child turns 18. However, if you were on government assistance, you can only get back child support for the previous three years. If you are not on assistance, you can go back for any period of time that you did not receive child support. However, the court is not required to give you back child support.

Q How much do I have to pay in child support?

A Child support obligations are based on income. The court uses required guidelines to make fair and consistent child support orders. The court will generally order the non-custodial parent to pay 22-24% of his or her take-home pay to support one child, about 33-35% to support two children, and about 40-42% for three. For more information, or to apply for the program, call 1-800-228-KIDS.

Q How do I enforce a Child Support Order?

A There are three tools that the Support Enforcement Service Unit uses to enforce child support orders: income withholding; contempt; and license suspension.

#### EXPLANATION

There are three tools that the Support Enforcement Service Unit uses to enforce child support orders: **[1] INCOME WITHHOLDING:** A court can order money to be taken from the non-custodial parent's income in order to pay child support. Income includes wages, overtime pay, worker's compensation, unemployment compensation, retirement benefits, etc.<sup>92</sup> The court can also place a lien on your property.<sup>93</sup> **[2] CONTEMPT:** If the court finds that the non-custodial parent willfully failed to obey the court order then that parent can be held in contempt. A person found in contempt may be ordered to pay a lump sum of money. The person can also be sent to jail until a certain sum of money is paid.<sup>94</sup> Before someone can be sentenced to jail for refusal to pay child support, the court must first find that they were able to pay but did not.<sup>95</sup> **[3] LICENSE SUSPENSION:** If the court finds the non-custodial parent failed to obey the court order, it can order his or her driver's, professional, occupational, or recreational license suspended after 30 days.<sup>96</sup>

If there is a valid child support order against you and you do not make payments as required, you can be held in contempt of court.<sup>97</sup> However, you have the right to be represented by a lawyer.<sup>98</sup> Additionally, you cannot be imprisoned for more than one year for violation of a child support order.<sup>99</sup>

You can only be found in contempt (and sentenced to jail) for not paying child support if the following three things happen first: **[1]** You are served with papers telling you of a court hearing; **[2]** You are represented by a lawyer. The government will pay for a defense attorney if you cannot afford one; and **[3]** The court gives you a chance to explain your side of the story and finds: **a)** You had the ability to pay the order; or **b)** You deliberately did not pay.

**Q** What qualifies me for a modification of a child support order?

**A** *Your child support is not automatically reduced when you are incarcerated. You must apply for a modification to avoid owing additional child support. A modification for a child support order will be granted if there is: **[1]** a showing of substantial change in circumstances of either parent; or **[2]** a showing that the final order for child support does not follow the child support guidelines. “Substantial change in circumstance” may include incarceration, the receipt of Supplementary Security Income, Social Security Disability or a change in custody status.*

**EXPLANATION**

A modification of a child support order either increases or decreases the amount that the non-custodial parent must pay. A modification can only be granted if there is: **[1]** a showing of substantial change in circumstances of either parent; or **[2]** a showing that the final order for child support does not follow the child support guidelines.<sup>100</sup> Substantial change in circumstances may include incarceration, getting Supplementary Security Income or Social Security Disability, or a change in custody status.<sup>101</sup>

In the case of incarceration, child support orders can be reduced, *but you must apply for a reduction*. Child support is not reduced if you are incarcerated for a crime against either the custodial party (the person who has **legal custody** of your child) or the child for whom child support is ordered.<sup>102</sup> A modification of a child support order due to a change in circumstance does not change the amount you owe on past payments. A modification can only affect future payments, so it is important to apply for modifications as quickly as possible.<sup>103</sup> However, if the original child support order is substantially different from the child support guidelines, the modification can be applied retroactively, meaning if the court calculated your payments incorrectly, your past payments can also be decreased.<sup>104</sup>

**Q** How do I modify a child support order?

**A** In Connecticut, only a judge or family support magistrate can change child support orders. The easiest way to get a change in your child support order is to ask **Support Enforcement Services** to assist you. To contact Support Enforcement Services call 1-800-228-KIDS or 1-888-233-7223. You can also file for a modification and represent yourself in court.

**EXPLANATION**

In Connecticut, only a judge or family support magistrate can change child support orders. The easiest way to change your child support order is to ask **Support Enforcement Services** to help you. You may ask them in writing, by email, or by phone to review your court order to see if you can get your order changed. To contact Support Enforcement Services call 1-800-228-KIDS or 1-888-233-7223 or write SES Administration: 287 Main Street, East Hartford, CT 06118.

You can also file for a modification and represent yourself in court (see **Child Support Modification form** in **Useful Forms** section at the end of this handbook to apply for a modification on your own). The process is as follows: you must file a motion for modification and complete [1] an Appearance Form, [2] an Application for Waiver of fees, [3] a Financial Affidavit, and [4] an Affidavit concerning Children (see the Useful Forms section at the end of this handbook). Once you complete the paperwork, you must take or send it to the Superior Court Clerk's office. These forms are available in the Useful Forms section and online at: [www.jud.ct.gov](http://www.jud.ct.gov). (Once you are on the website, use the search box to find forms you need.)

Once you have all the required forms, you must fill out the forms, file the forms with the court clerk, get the papers "served" (officially delivered) by a State Marshal, gather information for your court hearing (including pay stubs from the last 13 weeks, information on any benefits you get, and proof of any medical reason that may be keeping you from working), and go to the court hearing. It is possible that you might "attend" the hearing by videoconference or telephone rather than in person.

## PART III Marriage

**Q** Can people in prison get married?

**A** People in prison have a constitutional right to get married. They may be prevented from marrying only when a prison official reasonably finds that the marriage presents a threat to the security or order of the prison or to public safety.

### EXPLANATION

People in prison have a constitutional right to get married.<sup>105</sup> They may be prevented from marrying only when a prison official reasonably finds that the marriage presents a threat to the security or order of the prison or to public safety.<sup>106</sup> However, prison officials may regulate the time and circumstances under which the marriage ceremony itself takes place.<sup>107</sup> Procedures concerning marriage of people in prison in Connecticut appear in section 10.9 of the Department of Correction Administrative Directives. If you have specific questions about marriage while in prison, please consult that directive.

**Q** Do people in prison have a right to conjugal visits once they are married?

**A** No, people in prison do not get a right to marital privacy and conjugal visits once they are married.

### EXPLANATION

People in prison do not get a right to marital privacy and conjugal visits once they are married.<sup>108</sup> Even after a person is married, there may be no place for them to enjoy marital privacy. They may have to wait for discharge to consummate their marriage.

## PART IV Divorce

### Q Can people in prison get a divorce?

A Yes, people in prison have the right to get a divorce. The process for filing for divorce is discussed in more detail below.

#### EXPLANATION

People in prison have the right to get a divorce. Under Connecticut law, a marriage can be ended—this is called a “**dissolution of marriage**,” or simply a divorce—if either partner to the marriage explains to a court that the marriage “has broken down irretrievably,” and that there is no hope of getting back together.<sup>109</sup> Divorces are generally easy to get with the help of a lawyer, when small amounts of money or property are involved and child custody is not an issue. It is also possible to get a divorce in Connecticut without the help of a lawyer in cases where the partners have been separated for a while, where neither partner wants money or property from the other, and where there are no minor children from the marriage. Where either partner seeks a substantial amount of money, property, or support from the other or where there are minor children from the marriage, a lawyer should be consulted, if at all possible.

The State of Connecticut Judicial Branch distributes a *Do It Yourself Divorce Guide* that is designed to help people without formal legal training use Connecticut’s state courts. People in prison can obtain a free copy of the guide from the Inmates Legal Assistance Program: 78 Oak Street, P.O. Box 2600237, Hartford, CT 06126-0237 (Tel # 860-246-1118, Fax # 860-246-1119). Since people in prison are unable to pick up the *pro se* (“do-it-yourself”) forms discussed in that book in person, they will have to write to a court clerk and request the necessary forms. The court clerks’ addresses appear in the back of the *Do It Yourself Divorce Guide*.

There is a filing fee for a “dissolution of marriage” petition. A court will waive this filing fee if an incarcerated person proves that he or she is indigent (unable to afford the fee). Filing fees are discussed at greater length in Chapter 17 of the Connecticut Prisoners’ Rights Handbook, *Access to Courts*.

# When a Person Passes Away in Prison

## NOTIFICATION, BURIAL, PROPERTY, AND WILLS

**Q** What happens if someone dies while they are in prison?

**A** If a person dies while they are in prison, DOC will immediately contact their closest family members, or “next-of-kin.” These family members will generally be responsible for arranging and paying for the burial.

### EXPLANATION

The procedures that the Connecticut Department of Correction follows when a person in prison dies can be found in DOC Administrative Directive 8.2.<sup>110</sup> When someone in prison dies, the person listed as “next of kin” in his or her file will be contacted by the facility chaplain or unit administrator immediately. The next of kin will be told about the death and its causes and will be asked to come pick up any property held by the person in prison. The next of kin will also be given instructions on what to do if he or she would like to arrange for burial or other disposition of the body. If the next of kin cannot be located or refuses to take responsibility for the body, the DOC will arrange for final disposition of the body at a funeral home. The next of kin is responsible for the costs of burial unless he or she cannot afford such expenses, in which case the DOC will pay for the burial, using any funds in the deceased person’s prison account.

**Q** What happens if the person does not have a will? Who gets their property?

**A** If you don’t have a will, Connecticut law says that your property—which includes any money or possessions that you might have—will go to your surviving family members. Exactly how the property will be divided, and which family members will get it, is a little complicated and is explained in more detail below.

### EXPLANATION

If a person dies without a will (wills are described below), his or her property is divided up according to Connecticut’s laws of “intestate succession.” These laws apply to everyone—whether in or out of prison. The laws of “intestate succession” state the following: [1] The

proceeds of any life insurance policies that the person who died (the “decedent”) may have owned are given to the person listed as the “beneficiary” on the life insurance policy. [2] Any bank accounts or property that the decedent held jointly with another person, such as a house, become the sole property of that other person. [3] If the decedent leaves behind a spouse, the spouse takes: a) everything, if the decedent does not have children or parents; b) up to the first \$100,000, plus 50% of the remaining balance if the decedent leaves behind children, all of whom are also children of the spouse; c) 50% of the decedent’s property if he or she leaves behind any children who are not children of the spouse;<sup>111</sup> or d) up to the first \$100,000, plus 75% of the remaining balance if the decedent has no children but leaves behind at least one parent. [4] If the decedent leaves behind children—including adopted and illegitimate children—they take whatever is left, in equal shares, after the property is given to the surviving spouse. If there is no surviving spouse, the children take everything in equal shares. If any of the decedent’s children die before the decedent, that child’s descendants, if any, take that child’s share of the decedent’s property.<sup>112</sup> [5] If the decedent leaves behind parents but no children, the parents take whatever is left, in equal shares, after the property is given to the surviving spouse. If there is no surviving spouse and no children, then the parents take everything, in equal shares.<sup>113</sup> [6] If there is no surviving spouse, no surviving child, and no surviving parent, then the decedent’s property passes to the decedent’s brothers and sisters, in equal shares, or to the descendants of any brother or sister who dies before the decedent.<sup>114</sup> [7] If there are no surviving brothers or sisters, the property goes to the next closest relatives.<sup>115</sup>

## Q What is a will, and how do I write one?

A Many people, whether they are in or out of prison, decide to write a will. A will is a document that says who should inherit your property. “Property” includes any money or possessions that you might have. If you want to write a will, or to change a will that you already have, you should talk with a lawyer if you can. We have included the basic formula for writing your own will in case you do not have access to a lawyer who can help you.

### EXPLANATION

People often wish to control what happens to their property, and they can do so by writing wills. A will is a written document that allows you to get around the “laws of intestate succession,” described under the previous question. There is, however, one law that you cannot change by writing a will. This law, called the spouse’s “elective share,” says that your spouse will receive some of your property, no matter what you write in your will.<sup>116</sup>

Because the laws regarding wills are extremely complicated, you should talk to a lawyer if possible. You can find a brief guide to writing a will in the **Useful Forms** section of this handbook; please be aware that a will created according to these instructions will probably not be as good as a will written by a lawyer.

Any person who is of “sound mind” and is more than 18 years old may make a will.<sup>117</sup> To be effective, a will must be in writing (typed or handwritten), signed by the person whose property it disposes of, and signed by two witnesses in the presence of the person whose property the will disposes of.<sup>118</sup> A will should state that it is a will and whose will it is.

In addition to stating what should happen to your property, a will can also be used to suggest who should be the guardian of your children, and who should be the custodian of your children’s property, after your death. Note that a court may ultimately decide about guardianship, based on what the court believes to be the “best interests of the child.”<sup>119</sup> For example, if your child already has a guardian, that person may be assigned by the court to continue serving as guardian, regardless of what you might say in your will.

The procedures for “executing” a will—making it effective—are very important. If they are not followed correctly, the will may not be followed by the courts. The following are instructions for executing a will: [1] Have two witnesses and a notary public present in the same room, and make sure that no one leaves until the procedure is finished. Do not use a person who might receive property under the will as a witness, since that person might be disqualified as a non-neutral, or “interested,” witness. [2] You should say the following: “This is my will. I have read it and understand it. It disposes of my property according to my wishes. I request that you witness the signing of my will.” [3] With the witnesses watching, you should sign your name on the last page of the will and sign the will on each of the earlier pages—any place in the margins, but not on the top of any of the typed or handwritten text. [4] One of the witnesses should read, aloud, the first paragraph under the heading marked “Attestation.” [5] Each witness should then sign the first signature lines under “Attestation,” including his or her name and address. [6] Each witness should then sign on the next set of signature lines under “Attestation.” [7] The notary public should sign and seal the will.

If the will has been executed according to these instructions, it should be followed by courts of law. The only ways to make a will invalid are: [1] to destroy the original copy, for example, by tearing it up, or [2] to write and execute a later will. If you want to make changes to your will, you should write and execute the whole thing over again. If you try to change the original copy, a court may decide that you actually meant to destroy the entire thing. Once again, because the laws relating to inheritance can be complicated, you should consult a lawyer if you can.

# Endnotes

- 1 See, e.g., *M.L.B. v. S.L.J.*, 519 U.S. 102, 116-17 (1996) (“Choices about marriage, family life, and the upbringing of children are . . . sheltered by the Fourteenth Amendment against the State’s unwarranted usurpation, disregard, or disrespect.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (considering the rights of unwed fathers, the Court finds that “[t]he integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment . . .”) (internal citations omitted).
- 2 In re Jessica M., 217 Conn. 459, 464 (1991) (“[T]he interest of parents in their children is a fundamental constitutional right that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection’”) (*quoting Stanley v. Illinois*, 405 U.S. 645, 651 (1972)); see also, In re Lukas K., 300 Conn. 463, 470 (2011) (“[T]he respondent has an important, constitutionally protected interest in preserving his parental rights”); In re Juvenile Appeal, 187 Conn. 431, 436 (1982) (“[T]he respondent’s interest in retaining his parental rights to his son, is clearly both compelling and constitutionally protected”).
- 3 The right of parents and children to remain together is one of a set of family-based liberty interests that have been derived from the Fourteenth Amendment to the Constitution’s provision that “no state shall deprive any person of life, liberty, or property without due process of law.”
- 4 In re Christina M., 280 Conn. 485 (“[B]oth the parents and the children have a mutual interest in the preservation of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship”).
- 5 *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (“Family members have an interest in being together . . . a constitutional interest in familial integrity, or put more plainly, a right not to be forcibly separated”).
- 6 *Parham v. J.R.*, 442 U.S. 584 (1979) (“[A] State is not without constitutional control over parental discretion in dealing with children when their physical or mental health is jeopardized.”); *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158 (1944) (“[T]he family itself is not beyond regulation in the public interest...and...the rights of parenthood are [not] beyond limitation....The state has a wide range of power for limiting parental freedom and authority in things affecting the child’s welfare”).
- 7 This arrangement is approved under C.G.S.A. §17a-114.
- 8 C.G.S.A. §17a-114(b) as amended by Public Act 01-70.
- 9 C.G.S.A. §17a-114(b)(2); Regulations of Connecticut State Agencies CT ADC §17a-145-152(a) - (d).
- 10 Regulations of Connecticut State Agencies CT ADC §§17a-145-152(a)-(d), 17a-114-29.
- 11 *Id.* at §17a-145-152(a) - (d).
- 12 *Id.*
- 13 *Id.* at §17a-145-152(d).
- 14 Involuntary TPR is discussed in Part C.
- 15 See, e.g., In re. Lukas, 300 Conn. 463, 467 (2011) (“[P]etitioner filed a motion to terminate the parental rights of the respondent in Probate Court . . . . Subsequently, the Probate Court granted the respondent’s motion to transfer the case to the Superior Court for juvenile Matters”).
- 16 See *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).
- 17 C.G.S.A. §45a-715 at § 17a-112 (j)(1).
- 18 *Id.* (“ . . . unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required . . .”).
- 19 *Id.*
- 20 See, e.g., In re Juvenile Appeal, 187 Conn. 431, 446 A.2d 808, 811 (1982).
- 21 In re Shafari B., 2007 WL 155169 \*15 (Conn. Super. 2007) (unpublished) (“A respondent’s imprisonment . . . does not, in and of itself, excuse DCF from providing her with visitation”). DCF generally encourages visitation, especially when the goal is reunification. See DCY Policy Manual 34-10-7.1, Visitation (“The Department shall ensure that children under the Commissioner’s care and custody be provided with visitation with their parents and siblings.”) However, DCF does not have a policy specifically addressing visitation for incarcerated parents.
- 22 C.G.S.A. § 45-61d(b)(1) (“The court shall cause notice of the hearing to be given to . . . the parent . . . of the minor child . . . including any parent who has been removed as guardian”).
- 23 *Stanley* at 656-57 (“Procedure by presumption is always cheaper and easier than individualized determination. But . . . the State cannot, consistently with due process requirements, merely presume that unmarried fathers in general and petitioner in particular are unsuitable and neglectful parents. Parental unfitness must be established on the basis of individualized proof”).
- 24 C.G.S.A. § 17a-112(j)(1).
- 25 See, e.g., In re *Katia M.*, 124 Conn. App. 650, 668 (2010).
- 26 In re Savanna M., 55 Conn. App. 807, 813 (1970).
- 27 In re James S., 120 Conn. App. 712, 732 (2010).
- 28 In re S.D., 115 Conn. App. 111, 122 (2009).
- 29 *James S.*, 120 Conn. App. at 732; see also, In re S.D., 115 Conn. App. 111, 122 (2009).
- 30 *Lukas K.*, 300 Conn. at 471.
- 31 In re Trevon G., 109 Conn. App. 782, 789 (2008). See also, In re Mariah P., 50 Conn. Supp. 594, 616 (2007) (defining rehabilitation under the statute as “rehabilitation sufficient to render [the parent] able to care for [her] children”).
- 32 In re Eden F., 250 Conn. 674, 706 (1999); see also, In re Trevon G., 109 Conn. App. 782, 789 (2008).
- 33 *Katia M.*, 124 Conn. App. at 652 n.2.
- 34 *Id.*
- 35 *Id.* at 664 (“[T]he respondent’s incarceration prevented him from complying with the court-ordered steps that he signed.”).
- 36 *Katia M.*, 124 Conn. App. at 657 (“[D]ue to his incarceration, the respondent did not have adequate housing”).
- 37 *Id.* at 658 (“To improve his bond with the child, the respondent is in need of adequate parenting classes and significant visitation with the child. Because he remains incarcerated, time will not permit the necessary compliance”).
- 38 *Id.* at 661 (“[I]ncarceration may prove to an obstacle to reunification due to the parent’s unavailability, which is the case here”).

- 39 See, e.g., *In re Mariah P.*, 50 Conn. Supp. 594, 617 (2007) (“Regardless of the degree to which he might have and continues to take advantage of the various rehabilitative programs available . . . his ten year sentence makes it impossible for him to resume care and parenting of his children within a reasonable period of time”).
- 40 *Katia M.*, 124 Conn. App. at 659.
- 41 *In re Michael L.*, 56 Conn. App. 688, 694 (2000) (“What constitutes a reasonable time is a factual determination that must be made on a case-by-case basis”).
- 42 *Id.* (“To allow for such further time, easily more than one year after the respondent’s release, runs counter to our courts’ long recognized preference for permanency”).
- 43 C.G.S.A. § 17a-112 (j)(3)(D).
- 44 *In re Shane P.*, 58 Conn. App. 234, 240 (2000) (“ ‘In considering whether an ongoing parent-child relationship exists, the feelings of the child are of paramount importance’”) citing *In re Tabitha T.*, 51 Conn. App. 595, 602 (1999).
- 45 *Id.*
- 46 *Id.* at 238-41 (2000).
- 47 *Id.* at 241.
- 48 *In re Anthony H.*, 104 Conn. App. 744, 763 (2007), *cert. denied*, 285 Conn. 920, 943 (2008).
- 49 *Katia M.*, 124 Conn. App. at 658; see also *Pamela B. v. Ment*, 244 Conn. 296, 314 (1998) (child’s physical and emotional well-being must be weighed against interest in preserving family integrity).
- 50 *In re Quanita M.*, 60 Conn. App. 96, 103 (2000).
- 51 C.G.S.A. § 17a-112 (k)(5) (“[T]he age of the child”).
- 52 *Id.* at § 17a-112 (k)(4) (“[T]he feelings and emotional ties of the child with respect to the child’s parents, any guardian of such child’s person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties”).
- 53 *Lukas K.*, 300 Conn. at 471 (when an incarcerated parent has made no attempt to develop relationship with child who was young infant, trial court properly terminated parental rights for lack of ongoing child-parent relationship) (*citing In re Alexander C.*, 67 Conn. App. 417, 426-27 (2001), *aff’d*, 262 Conn. 308 (2008)).
- 54 *In re Eden F.*, 250 Conn. 674, *re’arg denied* 251 Conn. 294 (1999) (“[L]ong-term stability is critical to a child’s future health and development”).
- 55 *In re Alexander V.*, 25 Conn. App. 741, 748 (1991), *aff’d* 223 Conn. 557, 613 (1992) (“[B]ecause of the psychological effects of prolonged termination proceedings on young children, time is of the essence”).
- 56 *Shane*, 58 Conn. App. at 243 (“Neither we nor the trial court can speculate, as the respondent asks us to do, as to what could happen if she is released earlier than expected”).
- 57 *In re Sole S.*, 199 Conn. App. 187 (2010) (While licensed psychologist, as court-ordered evaluator, opined that in light of father’s recent release from prison and his positive strides it would be in child’s best interest to give him more time to achieve personal rehabilitation, she also stated that if father failed to obtain housing in a reasonable amount of time or returned to jail for any violations of his probation or a new arrest then long-term rehabilitation would seem unlikely, that continued placement with child’s foster parent appeared to be in child’s best interests).
- 58 *In re Mariah P.*, 50 Conn. Supp. 594, 616 (2007).
- 59 *Id.* at 627.
- 60 C.G.S.A. § 17a-112 (k)(1) (“[T]he timeliness, nature and extent of services...made available to the parent and the child by an agency to facilitate the reunion of the child with the parent”).
- 61 *Shane*, 58 Conn. App. at 239, *citing In re Valerie D.*, 223 Conn. 492, 499 (1992) (reversing termination of parental rights where state’s custody of the child created the conditions leading to the lack of an ongoing parent-child relationship).
- 62 *Id.*
- 63 *Shane*, 58 Conn. App. at 241.
- 64 *Id.*
- 65 C.G.S.A. § 17a-112(k)(6)(A) (“[T]he extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent”).
- 66 *Lukas K.*, 300 Conn. 463 at 473.
- 67 C.G.S.A. § 17a-112(k)(3) (“[T]he terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order”).
- 68 *Id.* at § 17a-112(k)(6) (“[T]he efforts the parent has made to adjust such parent’s circumstances, conduct, or conditions to make it in the best interest of the child to return such child home in the foreseeable future”).
- 69 C.G.S.A. § 45a-715.
- 70 *Id.* at § 45a-609.
- 71 *Id.* at §45a-610.
- 72 *In re Drew R.*, 47 Conn. App. 124, 129 (1997) (“Attempts to achieve contact with a child, telephone calls, the sending of cards and gifts, and financial support are indicia of interest, concern or responsibility for the welfare of a child”).
- 73 *In re Kezia M.*, 33 Conn. App. 12, *cert. denied*, 228 Conn. 915, 636 A.2d 847 (1993). (“Abandonment occurs where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child, and demonstrates no concern for the child’s welfare”).
- 74 See *Michaud v. Wawruck*, 209 Conn. 407, 551 A.2d 738 (1988).
- 75 *Id.*
- 76 C.G.S.A. § 45a-715; *Michaud v. Wawruck*, 209 Conn. 407 (1988) (holding that contract between genetic and adoptive parents for visitation does not violate public policy).
- 77 C.G.S.A. § 45a-715(j).
- 78 *Id.* at § 45a-715(k).
- 79 See the Probate Court’s *Termination of Parental Rights and Adoption Procedures* Guide. You can request a copy of the guide by writing to: The Probate Courts of Connecticut, Probate Court Administrator, 186 Newington Road, West Hartford, CT 06110.
- 80 See *Lehr v. Robertson*, 463 U.S. 248 (1983) (“substantial due process protection” exists where unwed father demonstrates full commitment to responsibilities of parenthood but biological link alone does not merit equal protection, and absence of notice of adoption proceedings did not violate due process).
- 81 C.G.S.A. § 45a- 717.
- 82 *Stanley v. Illinois*, 405 U.S. 645 (1972) (Presumption that unmarried fathers are unsuitable and neglectful parents is violate of due process, parental unfitness must be established on basis of individualized proof).
- 83 C.G.S.A. § 45a-724.
- 84 *Id.* at § 46b-172a.
- 85 See Part II for a discussion of child support.
- 86 C.G.S.A §46b-160.
- 87 *Id.* at § 46b-172.

- 88 *Id.* at § 46b-172a.
- 89 See *In re Juvenile Appeal* 446 A.2d 808 (1982) (finding that imprisonment of father does not alone constitute abandonment of child, but inevitable restraints imposed by incarceration do not in themselves excuse failure to make use of available, though limited, resource for contact with distant child).
- 90 *In re Ashley E.* 771 A.2d 160, (2001) (defining abandonment as not “displaying love or affection for a child and demonstrating no concern for child’s welfare”).
- 91 *In re Jamie S.* 994 A.2d 233, (2010) (finding that father’s imprisonment alone did not constitute abandonment but it did not excuse failure to attempt either to contact or visit son; decision premised on father’s failure to take advantage of prison programs which would have allowed contact, failure to provide financial support, failure to maintain regular visits and communication with the child and the father’s threatening conduct towards the mother which compelled her to secure orders of protection, precluding him from having contact with his child).
- 92 C.G.S.A. § 52-362.
- 93 *Id.* at § 52-362d(a).
- 94 In *Turner v. Rogers*, 131 S. Ct 2507 (2011), the Supreme Court ruled that a father cannot be imprisoned for his failure to comply with a child support order if he neither received counsel nor the benefit of alternative procedural safeguards, including clear notice that he could not be incarcerated for an inability to pay.
- 95 *Turner v. Rogers*, 131 S. Ct 2507 (2011).
- 96 C.G.S.A. §46b-220.
- 97 *Id.* at § 53-304(a).
- 98 Conn. Super. Ct. Fam. Matters P. § 25-68(A) (Guaranteeing Right To Counsel For Putative Father In A State-Initiated Paternity Action).
- 99 C.G.S.A. § 53-304(a).
- 100 C.G.S.A. § 46b-86a; *Santoro v. Santoro*, 70 Conn. App. 7, 12, 787 A.2d 567 (2002).
- 101 General Statutes §46b-86a provides that a court may order a modification for an order of support.
- 102 C.G.S.A. § 46b-215e; *Shipman v. Roberts*, 130 Conn. App. 332, 338-339 (2011) (finding that § 46b-215e does not bar a modification of the father’s child support obligation when he was incarcerated for the manslaughter of one of his children, but the deceased child was not the subject of the support order nor the custodial party).
- 103 *Misthopoulos v. Misthopoulos*, 297 Conn. 358, 373, 999 A.2d 721 (2010) (finding that, in the absence of express legislative authorization for retroactive modification of unallocated alimony and support, the trial court has no authority to order such modifications).
- 104 C.G.S.A. §46b-86a; *Turner v. Turner*, 219 Conn. 703, 720 (1991) (finding that legislation allowing modification of child support orders that substantially deviated from the child support guidelines applies retroactively).
- 105 See *Turner v. Safley*, 482 U.S. 96 (1987).
- 106 See *id.* at 98 (quoting 28 C.F.R. § 551.10 (1986)).
- 107 *Id.* at 99.
- 108 See *Hernandez v. Coughlin*, 18 F.3d 133, 136-37 (2d Cir. 1994); see also *Champion v. Artuz*, 76 F.3d 483 (2d Cir. 1996).
- 109 C.G.S.A. § 46b-40(c)(1).
- 110 See <http://www.ct.gov/doc/cwp/view.asp?a=1494&Q=265224&docPNavCtr=|40678>.
- 111 See C.G.S.A. § 45a-437 (1997).
- 112 See *id.* at § 45a-438(a) (1997).
- 113 See *id.* at § 45a-439(a)(1) (1997).
- 114 See *id.* at § 45a-439(a)(2) (1997).
- 115 See *id.* at § 45a-439(a)(3) (1997).
- 116 See *id.* at § 45a-436 (1997).
- 117 See *id.* at § 45a-250 (1997).
- 118 See *id.* at § 45a-251 (1997).
- 119 See *id.* at § 45a-605 (1997).

# Resource Guide for Incarcerated Parents

## SERVICES PROVIDED

Visitation   Legal Services   Reentry Services   Support Group   Job Training   Drug Rehabilitation   Mental Health Services

## ORGANIZATIONS

Center for Children's Advocacy

● ← Provides representation for children

Clifford Beers Clinic

● ●

Community Partners in Action Resettlement Program

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Community Solutions Inc.

● ← For new mothers only

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Evergreen Family Oriented Tree (Faith-based)

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Families in Crisis

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Family ReEntry

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Inmate Legal Assistance Program

● ← Only helps women for family matters

New Haven Family Alliance

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One on One Mentoring Program for Children with Parents in Prison

● ← For children only

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The Virginia Wells Transitional House

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Women of C.H.A.N.G.E.

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# Resource Guide for Incarcerated Parents

## Center for Children's Advocacy

The Center for Children's Advocacy promotes and protects the legal rights of Connecticut's poorest and most vulnerable children. The mission of the Center is to promote and protect the legal rights and interests of poor children who are dependent upon the judicial, child welfare, health and mental health, education, and juvenile justice systems for their care. The Center has a number of different services and projects including: the Child Abuse Project, Girls Juvenile Justice Project, Medical-Legal Partnership Project, TeamChild Juvenile Justice Project, Teen Legal Advocacy Clinic and Truancy Court Prevention Project. The Center provides direct services, engages in systematic advocacy, conducts trainings for attorneys and child advocates and provides consultation.

### **LIST OF DIRECT SERVICES OFFERED:**

Provides direct legal services to children via the Child Abuse Project.

### **CONTACT INFORMATION:**

Center for Children's Advocacy  
65 Elizabeth Street  
Hartford, CT 06105  
Phone: (860) 570-5327 Fax: (860) 570-5256

### **SERVICES PROVIDED TO INCARCERATED PEOPLE:**

None. The Center only represents children in DCF custody.

### **INFORMATIONAL RESOURCES:**

The website provides a series of helpful links to other websites and resources about issues affecting children. The resources are currently not available in prison facilities.  
[http://www.kidscounsel.org/aboutus\\_staffboard.htm](http://www.kidscounsel.org/aboutus_staffboard.htm)

## Clifford Beers Clinic

Clifford Beers Clinic is a place where thousands of children and their families turn when they are in crisis or need mental health services. The clinic is a safe haven where children can talk about their troubles with concerned professionals who will listen and help. It is also a place where struggling parents, who may be frantic about their children's distress, know that they are not alone and that someone cares. The clinic's certified therapists and social workers provide crisis intervention, counseling, and advocacy for children who are struggling with traumatic life experiences. The more

than 2,500 children treated at the Clinic annually face life circumstances that no child should have to face such as:

- Recurrent physical and emotional abuse
- Sexual abuse
- Neglect and poverty
- Domestic and community violence
- Traumatic loss of a loved one

Many of these children are growing up in a household with:

- An alcohol or drug abuser
- An incarcerated family member
- Someone who is chronically depressed, suicidal, or mentally ill
- A mother who is being treated violently
- An HIV or AIDS affected family member

**CONTACT INFORMATION:**

(203) 777-8648 or call 211.

## Community Partners in Action Resettlement Program

**DIRECT SERVICES OFFERED:**

- Food
- Housing
- Clothing
- Other basic needs
- Case Management
- Crisis Intervention
- Referral services
- Re-entry support services
- Community Re-integration

**CONTACT INFORMATION:**

Deborah Rogala, Program Manager, 860-522-7400, drogala@cpa-ct.org  
110 Bartholomew Avenue, 4th Floor  
Hartford, CT 06106

## Community Solutions Inc.

CSI provides comprehensive reentry services to adults and youth across Connecticut.

**LIST OF DIRECT SERVICES OFFERED:**

CSI runs a variety of programs, including residential and non-residential re-entry services in a number of cities. These include Hartford House in Hartford, which has

Residential Re-entry Work Release for adult women, the Mothers and Infants Nurtured Together (MINT) program, and Home Confinement (non-residential) slots provided as needed. They also run several Alternative in the Community (AIC) non-residential programs for both men and women, in cities including Bridgeport, Norwich, New London, Torrington, and Danbury.

**CONTACT INFORMATION:**

860-683-7100; 4 Griffin Road North, Suite 100B, Windsor, CT 06095

**SERVICES PROVIDED TO INCARCERATED PEOPLE:**

**Mothers & Infants Nurtured Together Program:** This is a confinement placement for pregnant incarcerated women who have been approved for community placement. While in the program they receive prenatal care at a cooperating hospital, give birth, and bond with their babies for three months following birth. Groups cover childbirth preparation, parenting classes, life skills, nutritional education, and healthy relationships. At the close of the program, some clients transition to the community whereas others return to a secure setting after making arrangements for the care of the baby.

## Evergreen Family Oriented Tree

Evergreen Family Oriented Tree, Inc., (E.F.O.T) is a non-profit Faith Based Organization that aims to reduce homelessness, addiction, and re-incarceration. The organization's primary focus is to provide a safe, clean smoke-free living environment to men and women, 18 and older. E.F.O.T accepts individuals who are dependent on cocaine/crack, alcohol, opiates, or methamphetamine, methadone users, and individuals living with HIV. The organization's participants are medically indigent and/or maybe at risk of being involved with the criminal justice system, on probation/parole, or involved with the Department of Children and Services.

**LIST OF DIRECT SERVICES:**

Provides recovery resources to released persons for recovery and re-entry services.

**CONTACT INFORMATION:**

122 Derby Avenue

New Haven, Connecticut 06511

Office Phone: (203) 745-4440 (NON WORKING NUMBER)

## Families in Crisis

**LIST OF DIRECT SERVICES OFFERED:**

**Counseling and Support for Incarcerated Parents and their Families:**

Trained professional counselors provide individual, family, group counseling and case management services to people under correctional supervision and their family members. Services are provided at correctional facilities, community programs, and agency offices and within client homes. Counselors focus on the dynamics of the family

unit and the significant role that family relationships play to help offenders rebuild their lives. \*\*Bilingual services available.

- **Family Ties Program for Children of Incarcerated Parents:**

Family Ties assists children who have a parent in prison (and other members of the family) who live in Hartford. The Program offers a comprehensive range of services to children, their community caregivers and their imprisoned parents. The Agency works collaboratively with other social service organizations to provide:

- Counseling (individual, family therapy)
- Weekly peer support groups for children that build emotional health and social competency
- Case management and referrals to needed services for child/family members
- Educational support
- Parent education and support services (in the community and at correctional settings)
- Recreational and leisure activities that create positive social connections
- Mentoring

- **Domestic Violence Offender Services for Men:**

The Agency's Domestic Violence Offender Programs provide a comprehensive and long-term intervention for men who have battered. Upon referral, counselors conduct a thorough assessment to determine eligibility, collect relevant background information, and assess dangerousness and motivation for change. Counselors may also speak with court personnel, law enforcement, probation and other professionals. Following admission to the program, counselors develop individualized service plans and arrange for any other necessary services. Weekly group sessions are held. Counselors facilitate educational presentations and lead discussions that support each man's best efforts to end his controlling and abusive behaviors. Upon completion of the group process, aftercare plans are developed for every man in order that they continue their work towards becoming non-violent.

- **Family Ties Program to Facilitate Communication and Visitation between Incarcerated Parents and their Children**

The Agency offers a multi-component program that targets people in prison who are serving long sentences and their families. Workers facilitate educational and support groups for people in prison that teach the skills necessary to be active and involved father/partners. A meaningful connection to families serves as a strong motivator for positive change. Workers also conduct home visits with families to explain the benefits of the program, address the family's hopes and fears, and provide case management services to meet basic needs.

- **Visitation**

Families in Crisis, Inc. provides regularly scheduled transportation services from the State's major cities to correctional complexes in Connecticut. FIC uses a telephone reservation system which ensures the program operates in a fair and convenient manner for riders. Vans operate at full capacity and are cost effective.

- **Fatherhood Initiative and Father Work Programs**

Families in Crisis, Inc. provides a comprehensive program designed to assist soon to be released young men to develop into loving and supportive fathers. It also works with the Hartford Housing Authority to assist at-risk Hartford fathers involved in the criminal justice system assume their legal, financial and emotional responsibilities for their children and families.

- **Inside Out Dad Program**

The Inside Out Dad Program provides practical and innovative ways to help overcome the physical and psychological challenges that incarcerated fathers face Inside (while incarcerated) and Out (re-entry). The curriculum bridges the gap between the incarcerated father and his children. Through the program, incarcerated dads deal with their pasts in order to discover their futures and the possibility that they can parent differently from their own, often absent, fathers. The Inside Out Dad mantra is: “Fatherhood is not about me . . . it is all about my kids!”

- 13 one-hour core sessions designed to address the specific needs of incarcerated fathers.
- Individual professional counseling addressing any issues connected to the family, parenting and fatherhood.
- Resources regarding Child Support, Advocacy, Visitation and Custody
- Contact between the inmate, family members, other social service agencies and legal professionals.

- **Mentoring**

Boys and girls ages 6-14 that reside in Bridgeport, Hartford, New Britain, Norwalk, New Haven and Waterbury Connecticut and have a parent in prison are eligible for a mentoring program. Referrals can be made by telephone, in person or in writing. A home visit will be arranged with the community parent/guardian to begin the intake and mentor assignment process. Carefully screened and trained mentors are recruited from local communities and matched with a child. Social workers provide counseling and support to their families. Mentors are asked to make at least a one-year commitment. Partners of each mentoring coalition meet on a regular basis to share information, address family needs and coordinate activities.

- **Reentry**

Project *PREP* members and their families are referred to Families in Crisis, Inc. to participate in a Family Education Session that explains the challenges families are likely to face when an incarcerated person returns home. Members are encouraged to mutually assess their strengths and challenges and create a realistic reentry plan. Additional family counseling and support services (family counseling, parent education, support groups) are provided as necessary. In addition, formerly incarcerated people are encouraged to participate in weekly mentoring groups that address key issues to positive community re-entry (i.e. work habits, communication, conflict resolution, positive peer relations. etc.)

#### **CONTACT INFORMATION:**

##### **Hartford:**

60 Popieluszko Court, 2nd Floor, Hartford, CT 06106  
860-727-5800

##### **Waterbury:**

232 North Elm Street, Waterbury, CT 06702  
203-573-8656 telephone

##### **New Haven:**

45 Court St, New Haven, CT 06511  
203-498-7790 telephone

##### **Bridgeport:**

1100 Boston Ave. Building 5, Bridgeport, CT 06610

##### **New London:**

21 Montauk Ave. Suite 303, New London, CT 06320  
860-629-7940 telephone

## Family ReEntry

Family ReEntry's programs help men, women, and youth, whose lives or family members are involved in the criminal justice system. Their programs are located in Bridgeport, Stamford, and Norwalk, as well as in three prisons in Niantic and Cheshire.

#### **CONTACT INFORMATION:**

203-838-0498; 9 Mott Ave # 110, Norwalk, CT 06850.

(Most of their program participants are referred by state agencies such as the Department of Correction, Probation and/or Parole, area schools, and/or Department of Children and Families. Some programs accept direct referrals.)

#### **SERVICES PROVIDED TO INCARCERATED PEOPLE:**

Family ReEntry offers a number of reentry services:

- **Fresh Start Community ReEntry Program** is an innovative, research-based non-residential model which results in the successful reintegration of formerly-incarcerated persons into their families and communities;
- **Fresh Start Enterprise House** is an innovative demonstration project designed to create sustainable community-based opportunities for successful reentry;
- **Fresh Start Enterprises, LLC** is a training and employment social enterprise for formerly-incarcerated persons;
- **The Bridgeport Region Behavioral Health Network** is a behavioral health and substance abuse assessment and treatment program that serves Connecticut Department of Correction Parolees.

- **The Champions Mentoring Program** is a Bridgeport regional mentoring program serving children experiencing the incarceration of a parent or significant family member. The Champions Program provides a range of supportive family services and activities that enhance and strengthen the assets of each family and self-esteem of each child.

## Inmate Legal Assistance Program

### **DIRECT SERVICES PROVIDED:**

The Inmates' Legal Assistance Program (ILAP) helps female inmates in civil matters including representation in family matters, such as divorce, child support, visitation, and custody issues. ILAP helps male inmates with conditions of confinement issues only. ILAP does not actually appear and represent male inmates before any court or administrative body. ILAP does not render legal assistance in criminal matters or non-confinement issues. Inmates' legal assistance program provides legal assistance to incarcerated people in Connecticut. Incarcerated people with problems that initiated in the state of Connecticut may apply by sending an initial letter describing the problem, which includes your address and ID number. In situations of medical emergency, pleading deadline or safety issue, incarcerated people may directly call the ILAP instead of writing. Both English and Spanish are spoken at ILAP.

### **CONTACT INFORMATION:**

78 Oak Street  
PO Box 260237  
Hartford, CT 06126  
(800) 246-1118 phone  
(860) 301-4527 phone

## New Haven Family Alliance

The mission of the New Haven Family Alliance (NHFA) is to improve the quality of life for all families in New Haven. NHFA empowers families to become self-reliant by providing a comprehensive service delivery system, and provides services and resources to foster the development of healthy families. Above all, NHFA believes that families need to be respected and supported at all stages of their development. Programs and services include the Male Involvement Network Program, Intensive Family Preservation and Reunification Program, and Moving to Work.

### **CONTACT INFORMATION:**

370 James St # 201 New Haven, CT 06513  
203-786-5970

## One-on-One Mentoring Program for Children with Parents in Prison

This program serves youth age 8 to 21 who are involved with DCF and who have a parent or both parents in prison. The mentors are involved in the youth's life as guides, friends, and positive role models. They see their mentees at least two times a month and call them once weekly. When appropriate, and if approved by DCF, the mentor facilitates contact between the youth and their parents in prison. The program aims at maintaining these relationships on a long-term basis with a one-year minimum commitment. Ideally, these relationships evolve into permanent, life-long friendships between mentor and mentee and, when possible and appropriate, between mentor and parent.

### **CONTACT INFORMATION:**

- DCF at 860-550-6300;
- Covenant to Care (the provider that DCF works with for Southern Connecticut) at 860-243-1806 or 120 Mountain Ave. Suite 212, Bloomfield CT 06002; or
- Nutmeg Big Brothers Big Sisters (the provider that DCF works with for Northern Connecticut) at 860-525-5437, ext. 112 or 30 Laurel St. Suite 3, Hartford, CT 06106.

## STRIDE

### **DIRECT SERVICES OFFERED:**

- One-on-one counseling
- group support
- pre- and post-release case management services

### **CONTACT INFORMATION:**

Program Director, Julie Scrapchansky,  
860-412-7320, jscrapchansky@qvmc.commnet.edu  
Quinebaug Valley Community College, 742 Upper Maple Street, Danielson, CT 06239

## The Virginia Wells Transitional House

The Virginia Wells House, opened in 2006, is Connecticut's first transitional housing facility dedicated specifically to women on probation, in pre-trial, or transitioning through the judicial system. The House is a program of Project M.O.R.E., which provides re-entry services to people in New Haven.

### **LIST OF DIRECT SERVICES OFFERED:**

Provides transitional housing to women on probation, in pre-trial, or transitioning through the judicial system

### **CONTACT INFORMATION:**

203-848-3100. You must be referred to Virginia Wells House by your probation officer or the court.

**SERVICES PROVIDED TO INCARCERATED PEOPLE:**

Re-entry/transitional services (via your probation officer)

**Women of C.H.A.N.G.E.**

**DIRECT SERVICES OFFERED:**

- counseling and interpersonal skills workshops
- trauma-sensitive counseling
- assistance with job placement and job-skills development
- short-term counseling and referrals to community agencies such as Literacy Volunteers
- job training
- substance abuse
- mental health services

**CONTACT INFORMATION:**

Change Coordinator 203-334-6154

# Family Law Reference Sheets

# What are the most important things I should know about my rights as a parent while in prison?

- ▶ **If DCF is trying to terminate your parental rights, you have a right to an attorney.**

If you cannot afford a lawyer, you must fill out a fee waiver form and ask the court to give you a lawyer.

- ▶ **Tell your social worker, correctional counselor, and attorney about any court dates you have about your child's custody.**

If you want to attend court hearings about your rights as a parent, you have to let your social worker and attorney know. You have a right to attend hearings about your parental rights, but the prison does not have to make sure that you're there. Keep track of your hearing date, and tell your social worker and attorney to make arrangements for you to get transportation to the hearing, or attend the hearing by telephone or videoconferencing.

- ▶ **Make a plan for your child. And have a backup plan.**

Have a backup plan for someone else to take care of your child if the first person you choose can't. If you decide to place your child in foster care with a relative or a friend, DCF will have to license the caretaker, and may decide that your relative or friend is not qualified to be a caretaker. If you decide to place your child with a relative or friend without getting DCF involved, you should still be prepared just in case you need someone else to take care of your child.

- ▶ **Make sure you get visits with your child.**

If your child is in foster care, DCF is required to bring your child to visit at least once a month no matter how far your child lives from the prison. Your attorney may be able to get DCF to bring your child more than once a month; if this is something you want, tell your attorney.

- ▶ **Get your child support modified.**

Your child support order is not automatically reduced when you go into prison. You have to apply for a modification to avoid owing extra child support when you get out of prison.

- ▶ **Keep track of your progress.**

If you complete any programs while in prison, let your social worker know and keep certificates from the programs if you can. When you get out, having these certificates to show to the court may help you reunite with your children faster. If the court orders you to participate in programs the prison doesn't offer or that you're on a waitlist for, tell your attorney to tell the judge about your situation. Give your attorney any documentation you have that shows that you've done everything you can to follow the court's order.

# Private Placement of Your Child With a Relative or Friend

## **Can I have a relative or friend take care of my child while I'm incarcerated?**

Yes, you can have a relative or friend take care of your child while you are in prison. If you want a relative or friend (or a "caretaker") to care for your child you should write down your agreement and both you and the relative or friend should sign it.

## **What should the written agreement with my child's caretaker include?**

The agreement should include three important points: (1) You are giving temporary custody of your child to that person while you are in prison; (2) Your child will be returned to you when you are released; and (3) The caretaker will bring your child to visit you in prison. You may also include other points, such as giving the caretaker power of attorney, which gives them the authority to act on your behalf in legal or financial matters.

## **What does it mean to give my child's caretaker "temporary guardianship"?**

Granting temporary guardianship does not mean that you are permanently giving up your parental rights. The term only means that you are giving someone else permission to care for your child until you are ready to get your child back. You may appoint a temporary guardian for your child by filing an application in Probate Court.

## **If I decide to place my child with a friend or relative, can we both be legal guardians?**

Yes, you can ask the Probate Court to appoint one or more persons to serve as co-guardian(s) of your child. When the court appointment takes effect, the co-guardian(s) have the legal right (and duty) to care for the child. You share this right with the co-guardian.

# Foster Care and Custody

## **What is foster care?**

Foster care is meant to provide for children whose parents cannot care for them. The government has legal custody of children in foster care, which means that the State takes responsibility for the child. Foster care is meant to help families through difficult times and to ensure that children are living in safe and healthy environments.

## **Will I be giving up my parental rights if I place my child in foster care voluntarily?**

No, you do not permanently give up your parental rights by placing your child in foster care. *But if you are going to be in prison for more than twelve months, then placing your child in foster care may create a risk of involuntary termination of your parental rights.*

## **Can I place my child in foster care with a relative?**

Yes. If you have a relative who would like to care for your child, you may be able to arrange for relative foster care. Under this program, your child lives with your relative. Your relative must be licenced by DCF. DCF has legal custody of children in relative foster care, just as it does in any foster care arrangement.

## **What are some of the disadvantages and advantages of relative foster care?**

A disadvantage of relative foster care in comparison with private placement is that DCF will be involved in your relationship with your child. An advantage of relative foster care is that your child's caretaker is eligible for foster care payments.

## **What are the different ways that an incarcerated parent might lose guardianship against their will?**

There are three ways in which an incarcerated parent can lose guardianship involuntarily: (1) through a custody dispute with another parent; (2) through guardianship proceedings initiated by a relative of the child; or (3) through abuse or neglect petitions by DCF.

## **What happens in a custody dispute between biological parents?**

Disputes over child custody between biological parents usually take place in the Connecticut Superior Courts or Connecticut Family Matters Court. The Court considers many factors in resolving custody disputes. The most important factor is the "best interests of the child."

## **If the other parent wins custody, can I still retain visitation rights?**

Even if the court orders a change in custody, the losing parent will probably retain the right to visit their child.

# What Happens If Your Parental Rights Are Terminated?

## **What is Termination of Parental Rights?**

In some situations, DCF may try to convince the Juvenile Court that it is in the child's best interests to terminate, or end, a parent's rights so that the child can be adopted by someone else. When this happens, the parent no longer has any right to be a part of the child's life.

## **What are the basic stages in a termination of parental rights proceeding?**

Termination hearings happen in two stages. First, DCF will try to convince the judge that you are unfit to be a parent. The three arguments DCF is most likely to make are: (1) you abandoned your child; (2) you no longer have a relationship with your child; or (3) that you will not be ready to take on the responsibilities of parenting in the near future. Sometimes, DCF will argue that your conviction or the length of your sentence is part of the problem. Even if the judge finds that you are unfit to be a parent, he or she cannot terminate your rights unless this would be the best outcome for your child. The judge must also find that DCF made efforts to help reunify your family.

## **What are my rights before and during a parental rights hearing?**

You have a right to be told in advance about the hearing. *Parents who are facing termination of their parental rights have the right to an attorney.* If you cannot afford a lawyer, you must fill out a "JD-JM-114: Application for Appointment of Counsel—Waiver of Fees" form in order for the Juvenile Court to appoint a lawyer. You have the right to appeal if a judge terminates your parental rights. No matter what, make sure you request that officials at the prison take you to the hearing, and ask for a lawyer to help you.

## **Can the government take away my kids just because I am in prison?**

Just because you are in prison does not mean that a court can terminate your rights as a parent. However, parents in prison face special challenges that make it more difficult for them to take care of their kids and to maintain a parent-child relationship. If your sentence is longer than fifteen months and your child is in foster care with a non-family member, you may have to go to a hearing to defend your parental rights.

It is important to keep track of all your hearing dates. The facility where you are incarcerated will not automatically make arrangements for you to attend your juvenile court dates. Be sure to be proactive about keeping track of your court dates and tell your correctional counselor about any open cases you may have.

## **If I left my child with a friend or family member, can that person attempt to take away my rights as a parent?**

A family member, friend, or any other person who is taking care of your child while you are in prison can claim guardianship or custody of your child. This means they want to have the legal right to be able to make important decisions about your child's health, education, and other issues. A person seeking guardianship or custody of your child may file a petition in Probate Court.

## **What happens if DCF files a neglect, abuse, or uncared for petition against me?**

In some cases, the Department of Children and Families may file a neglect petition or an abuse petition against you in the Juvenile Court. DCF may try to get custody of your child. If DCF already has custody, it may try to terminate your parental rights. The process happens in

a few different stages, but the most important thing to remember is that you may have the right to a lawyer. You will need to fill out a fee waiver form and ask the court to give you a lawyer. Do not say anything to DCF or anyone else in the court before you have had a chance to meet with your lawyer and discuss the situation with him or her.

### **What obligation does DCF have to re-unify my family?**

DCF must try to find you and get in touch with you by phone or mail. If your child is in foster care, DCF must try to arrange for your children to visit with you. DCF must also try to place your child in “kinship foster care” (with a family member) instead of with strangers.

### **What are the three reasons that DCF most commonly uses to argue that a parent in prison is “unfit”?**

For parents in prison, the most common grounds for termination are: (1) “abandonment,” (2) “failure to rehabilitate,” and (3) “lack of an on-going relationship.” “Abandonment” is when a parent doesn’t act in a way that clearly shows that he or she cares about his or her child. “Failure to rehabilitate” is when a parent will not be able to take on the duties and responsibilities of parenting in the near future. “Lack of an on-going relationship” means that the relationship between the parent and child has broken down—it might mean, for example, that the child has no positive memories of the parent or doesn’t really think of the parent as being his or her mother or father. Among these three grounds, “failure to rehabilitate” is probably the most commonly used by DCF.

### **What is the next step if a judge finds that I am “unfit” because I have abandoned my child, have failed to “rehabilitate,” don’t have an “ongoing relationship” with my child, or for some other reason?**

Even if a judge finds that you are an unfit parent, the hearing isn’t over. The next question the judge has to ask is whether it

would be in the “best interests of the child” to have your parental rights terminated. For example, if your child is a teenager and you have a strong relationship with him or her, it may be against the child’s best interest to be adopted by another family, even if you are going to be in prison for many years. In thinking about children’s interests the judge will consider the child’s age; his or her relationship to you and to other caregivers; stability; and many other factors.

### **Recommended Actions for Parents: Keeping in Touch and Taking Care of Yourself**

The most important things you can do to protect your rights as a parent are:

- stay in touch with your child, whether through visits, phone calls, or letters;
- maintain a good relationship with the social worker from DCF;
- do whatever you can while you are in prison to prepare for being a parent again when you are released.

Preparing means taking advantage of any services or programming that relate to issues that you might be struggling with in your life. Some examples of services and programming are: individual or group therapy; classes relating to anger management, domestic violence, or substance abuse; and any kind of educational opportunities that might help you secure employment in the future.

# Incarcerated Fathers

## **How can I make sure that my rights as a father are protected?**

As a father, your biological link to your child is not enough to protect your rights as a parent. To protect your rights, you must establish yourself as a legal father and stay in regular contact with your child because incarcerated fathers are vulnerable to claims of abandonment.

## **What are the different types of fathers and what rights do they have?**

There are two different categories of fathers within the law: legal fathers and putative fathers. A legal father has the same rights as a mother; a putative father has fewer legal rights.

## **How do I know if I need to establish paternity?**

Establishing paternity is necessary if you were not married to the mother of your child at the time of your child's birth. Even if you lived with the mother of your child, you are not automatically considered to be the child's legal father.

## **How do I establish paternity?**

If you were not married to the mother of your child when the child was born or conceived, you can establish paternity in three ways: (1) the mother of the child can bring a petition to prove paternity in Probate Court; (2) you can submit a sworn acknowledgment of paternity to a court, along with submitting required documents; (3) you can file a claim of paternity under General Statutes § 46b-172a.

## **Once paternity is established what are my rights and responsibilities?**

Once paternity is established you will have all the rights discussed in this manual; however, you will also have a series of responsibilities. Just like with mothers, in order to avoid claims of abandonment or potential termination of your rights it is important that you maintain contact with your child. Also like mothers, you will be legally obligated to provide for your child financially. If you are the non-custodial parent you will be required to pay child support.

# Child Support

## **What is child support?**

Child support is a monthly payment to the custodial party, or the person who has physical custody of the child. For child support obligations to be legally enforceable, payments must be ordered by a court in the form of a child support order. The purpose of a child support order is to provide for the care and wellbeing of children.

## **What must be done to collect child support?**

In order to collect child support from a non-custodial parent three things must happen. First, the non-custodial parent must be found. Second, there needs to be legal proof that he/she is the parent. Finally, a court case is started to get court orders of child support.

## **How does a child support order get established?**

If there is a court hearing establishing paternity, the court will usually establish a support order at the same time. A child support order can also be established in a separate court proceeding, including custody proceedings. The order for child support is based on the non-custodial parent's ability to pay under Connecticut's Child Support Guidelines.

If the parents agree on a certain amount of child support, that amount can be filed with the court and will become a court order.

## **What is the State Child Support Enforcement System?**

The State Child Support Enforcement System is a federally required state enforcement system that helps parents locate the father, establish paternity, establish support, enforce support, and modify support. Services under the program are automatic if you receive temporary financial assistance (TFA) from the state. If you do not receive TFA, you can apply for and receive these services for free.

## **How do I get help from the Support Enforcement System?**

If you receive TFA, ask your state worker for the name and number of your child support worker. If you do not receive TFA you will need to apply for assistance. Call the Child Support Hotline at 1-800-228-KIDS. You should receive an application for help within five days.

## **What information will the Child Support Enforcement System need to help me get child support as a custodial parent?**

The Child Support Enforcement System will need the name of the non-custodial parent and, if possible, their social security number and the name and address of their current employer. The non-custodial parent cannot find out any information about you or your location through the service.

## **How much time do I have to bring a paternity action?**

A paternity action can be brought any time until your child turns 18. However, if you were on government assistance, you can only get back child support for the previous three years. If you are not on assistance, you can go back for any period of time that you did not receive child support. However, the court is not required to give you back child support.

## **How much do I have to pay in child support?**

Child support obligations are based on income. The court uses required guidelines to make fair and consistent child support orders. The court will generally order the non-custodial parent to pay 22-24% of his or her take-home pay to support one child, about 33-35% to support two children, and about 40-42% for three.

For more information, or to apply for the program, call 1-800-228-KIDS.

### **How do I enforce a Child Support Order?**

There are three tools that the Support Enforcement Service Unit uses to enforce child support orders: income withholding, contempt, and license suspension.

### **What qualifies me for a modification of a child support order?**

Your *child support is not automatically reduced when you are incarcerated*. You must apply for a modification to avoid owing additional child support. A modification for a child support order will be granted if there is: (1) a showing of substantial change in circumstances of either parent; or (2) a showing that the final order for child support does not follow the child support guidelines. “Substantial change in circumstance” may include incarceration, the receipt of Supplementary Security Income, Social Security Disability or a change in custody status.

### **How do I modify a child support order?**

In Connecticut, only a judge or family support magistrate can change child support orders. The easiest way to get a change in your child support order is to ask Support Enforcement Services to assist you. To contact Support Enforcement Services call 1-800-228-KIDS or 1-888-233-7223. You can also file for a modification and represent yourself in court.

# Getting Married and Getting Divorced

## **Can people in prison get married?**

People in prison have a constitutional right to get married. They may be prevented from marrying only when a prison official reasonably finds that the marriage presents a threat to the security or order of the prison or to public safety.

## **Do people in prison have a right to conjugal visits once they are married?**

No, people in prison do not acquire a right to marital privacy and conjugal visits once they are married.

## **Can people in prison get a divorce?**

Yes, people in prison have the right to obtain a divorce. The State of Connecticut Judicial Branch distributes a *Do It Yourself Divorce Guide* that is designed to help people without formal legal training use Connecticut's state courts. People in prison can obtain a free copy of the guide from the Inmates Legal Assistance Program: 78 Oak Street, P.O. Box 2600237, Hartford, CT 06126-0237 (Tel # 860-246-1118, Fax # 860-246-1119).

# Useful Forms & Documents

**PC-184: Waiver of Fees (Probate Court)**

**PC-504: Application/Appointment of Temporary Guardian (Probate Court)**

**JD-JM-114: Application for Appointment of Counsel—Waiver of Fees (Juvenile Court)**

## **FOR CHILD SUPPORT MODIFICATION:**

**JD-FM-174: Child Support Modification Form**

Used to ask the court to change your order

**JD-CL-12: Appearance Form**

Used to make sure you get notices from the court and to let the court know you are representing yourself

**JD-FM-75: Application for Waiver of Fees**

Used if your income is very low and you want to ask the court to allow you not to pay the fees and costs or to pay the fees and costs for you

**JD-FM-6: Financial Affidavit**

Used to show how much money you have coming in, and how you spend it

**JD-FM-164: Affidavit Concerning Children**

This form asks where your child has lived and if there are other court cases about your case.

**Request for assistance with child support modification** (Support Enforcement Services)

Example of a will

**COURT OF PROBATE**  
[Type or print in black ink.]

**TO: COURT OF PROBATE, DISTRICT OF**

**DISTRICT NO.**

PETITIONER

☐ RESPONDENT ☐ APPLICANT IN PROCEEDINGS FOR:

The petitioner represents that the GROSS MONTHLY household income from employment is: \$ 0.00 ,leaving the  
NET MONTHLY INCOME shown below after deductions for:

Federal withholding \$ 0.00 FICA and Medicare \$ 0.00 State withholding \$ 0.00

Union dues \$ 0.00 Wage executions \$ 0.00 Other \$ 0.00

(Please attach a copy of paycheck stub(s) for each employed household member, and explain "Other" deductions on reverse side.)

**NET MONTHLY INCOME FROM EMPLOYMENT:** \$ 0.00

The petitioner further represents that other household income (broken down monthly) is as follows:

<input type="checkbox"/> Welfare	\$ 0.00	<input type="checkbox"/> Pension	\$ 0.00
<input type="checkbox"/> Social Security	\$ 0.00	<input type="checkbox"/> Alimony	\$ 0.00
<input type="checkbox"/> Unemployment Compensation	\$ 0.00	<input type="checkbox"/> Other income (Please explain on reverse side.)	\$ 0.00

**TOTAL MONTHLY INCOME FROM ALL SOURCES:** \$ 0.00

The petitioner further represents that the total value of the petitioner's household assets (bank accounts, etc.) is: \$ 0.00

The petitioner further represents that the basic expenses of the petitioner's household (broken down monthly) are:

<input type="checkbox"/> Rent or mortgage	\$ 0.00	<input type="checkbox"/> Medical and Dental	\$ 0.00
<input type="checkbox"/> Utilities	\$ 0.00	<input type="checkbox"/> Clothing	\$ 0.00
<input type="checkbox"/> Food	\$ 0.00	<input type="checkbox"/> Other (Please explain on reverse side.)	\$ 0.00

Total Monthly Expenses \$ 0.00

The petitioner further represents that the number of household members (including the petitioner) supported by the petitioner is

WHEREFORE THE PETITIONER REQUESTS that the Court grant a waiver of payment of:

☐ Application Fee ☐ State Marshal's Fees ☐ Other costs/fees (Explain below.)

related to the aforementioned proceeding before this Court due to his or her inability to pay for such fees and costs.

**The representations contained herein are made under the penalties of false statement.**

Date:

.....  
Petitioner:

COURT OF PROBATE, DISTRICT OF

DISTRICT NO.

PRESIDING JUDGE: Hon.

The foregoing request having been presented to this Court, the COURT FINDS that the above-named petitioner ☐ is ☐ is not entitled to a waiver of fees and costs as indicated above.

WHEREFORE it is ORDERED and DECREED that a waiver of payment of all court costs and fees as indicated above ☐ is granted ☐ is denied.

Dated at: ,Connecticut, on [Month, Day, Year]

.....  
Judge

TO: COURT OF PROBATE, DISTRICT OF

DISTRICT NO.

IN THE MATTER OF

A MINOR CHILD BORN ON

Presently residing at

☐ The minor child is the subject of a pre-existing child support order.

PETITIONER [Name, address, zip code, telephone number, social security number, and legal status of petitioner (e. g. parent, guardian of the person) C.G.S. §45a-622.]

PROPOSED TEMPORARY GUARDIAN [Name, address, zip code, social security number, and birth date.]

PERSONS WHO HAVE GUARDIANSHIP RIGHTS WITH RESPECT TO SAID MINOR CHILD [If any is a minor, give date of birth; if incompetent or in military service, so indicate. Give last known address and zip code. C.G.S. §45a-621. Also give social security number, if known.]  
MOTHER

FATHER [Including an unwed father, C.G.S. §45a-604. If father is unknown, so state.]

GUARDIAN(S) OF THE PERSON OF THE MINOR

Explain why the parent(s) or guardian(s) is/are unable to care for the minor. [E.g., absence from jurisdiction, illness, etc.]

THE PETITIONER REPRESENTS that there is a ☐ no ☐ proceeding pending or contemplated in another court affecting the custody of said minor child to the best knowledge and belief of the petitioner. C.G.S. §52-231a. [If such proceeding is pending or contemplated, complete and attach form JD-FM-164, Affidavit Concerning Children.]

WHEREFORE THE PETITIONER REQUESTS that this Court appoint a temporary guardian of the person of said minor to commence on the date of the Court decree and to terminate one year from the date of said decree OR 20  
In no event shall such guardianship exceed the period of one year.

**The representations contained herein are made under the penalties of false statement.**

Petitioner:

Petitioner:

Date:

Date:

[If petitioner is requesting a waiver of fees, attach PC-184, Request/Order Waiver of Fees - Petitioner.]

**PROPOSED TEMPORARY GUARDIAN(S)**

IF APPOINTED, I/WE WILL ACCEPT SAID POSITION OF TRUST.

Signature(s) .....

Name(s) [Type or print.] .....

Address(es) and zip code(s)

Telephone Number(s):

Clicking on the question marks (?) will give you information about that section of the form.

**APPLICATION FOR APPOINTMENT  
OF COUNSEL/WAIVER OF FEES  
JUVENILE**

JD-JM-114 Rev. 10-11  
C.G.S. §§ 46b-135, 136, 53a-157b, § 52-259b,  
P.A. 11-51, Sec. 19; P.B. §§ 8-2, 30a-1, 32a-1

**Instructions To Applicant**

1. Print or type all information requested.
2. Sign the Financial Affidavit section in front of a court clerk, a notary public or an attorney.
3. Submit this form immediately in person, by mail or fax to the superior court where your case will be filed or is pending.
4. If your application is denied, you may request a hearing on the application.

**Instructions To Clerk**

1. Bring completed form to a judge.
2. If the application is granted, notify the applicant and counsel, if appointed.
3. If the application is denied, and upon the request of the applicant, schedule a hearing on the application.

STATE OF CONNECTICUT  
**SUPERIOR COURT**  
**JUVENILE MATTERS**  
www.jud.ct.gov



**To: The Superior Court**

Name of applicant (Last, first, middle initial) ?		Date of birth	Address of applicant (Number, street, town, state and zip)			
Name of employer		Address of employer (Number, street, town, state and zip)			Telephone (Area code first)	
Relationship to child <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Legal guardian <input type="checkbox"/> Other					Telephone (Area code first)	
Name of child	Date of birth	Name of child	Date of birth	Name of child	Date of birth	
Docket number (if applicable) ?		Address of Court				
Type of proceeding ? <input type="checkbox"/> Delinquency ? <input type="checkbox"/> Family with service needs ? <input type="checkbox"/> Emancipation ? <input type="checkbox"/> Neglect, uncared-for, abused petition ?		<input type="checkbox"/> Termination of parental rights petition ? <input type="checkbox"/> Probate appeal ? <input type="checkbox"/> Probate transfer ? <input type="checkbox"/> Transfer/Reinstatement of guardianship ?		<input type="checkbox"/> Appeal from Juvenile Court Decision <input type="checkbox"/> Other (Specify): ?		

**Appointment of Counsel**

☐ I ask that the court appoint an attorney to represent me.

**Fee Waiver**

I ask that the court order that I do not have to pay fees or costs or order the State to pay the fees and costs below. ("X" all that apply)

☐ Entry fee (fee to file case) ☐ Costs of service of process (delivery of papers by state marshal or other proper officer)  
☐ Filing fee (fee to file motion, etc.) ☐ Other (Specify): ?

**Financial Affidavit**

**1. Dependents**

Number of dependents under 18.....  
Number of other dependents .....  
Total number of dependents (not including yourself) .....

**2. Gross Monthly Income and Assistance - Applicant**

A. Employment .....  
B. State/City Assistance .....  
C. SSI .....  
D. Unemployment Compensation.....  
E. Worker's Compensation .....  
F. Social Security .....  
G. Pension.....  
H. Child Support .....  
I. Alimony .....

**Total Gross Monthly Income** .....

**3. Gross Monthly Income and Assistance - Totals Other Adult Household Members**

A. Employment .....  
Name of employer: .....  
B. State/City Assistance .....  
C. SSI .....  
D. Unemployment Compensation.....  
E. Worker's Compensation .....  
F. Social Security .....  
G. Pension.....  
H. Child Support .....  
I. Alimony .....

**Total Gross Monthly Income** .....

\* **Total Gross Monthly Income of all adult members of the household:** (Add Total Monthly Income of Applicant and any other adults in the household)

**4. Assets - Applicant**

	Estimated Value	Loan Balance	Equity ?
A. Real Estate .....			
Address: .....			
B. Motor Vehicles ....			
Year/Make: .....			
C. Other Personal ? Property.....			
(for example, jewelry, furniture, etc.)			
D. Savings Account Balance (Total of all accounts) .....			
E. Checking Account Balance (Total of all accounts) .....			
F. Other Assets (Specify stocks, bonds, trust, cd's): ? .....			
<b>Total Assets</b> .....			

**5. Liabilities/Debts - Applicant**

(for example, credit card balances, loans, etc.) (Do not include mortgage or loan balances that are listed under "Assets".)

Type of Debt	Amount Owed	Weekly Payment
<b>Total Liabilities</b> .....		

\*If you claim zero Total Monthly Income, explain how you are supported: ?

Please attach copy of recent paystub(s) if available.

Print Form

(Page 1 of 2)

Reset Form

I certify that the foregoing information is accurate to the best of my knowledge and that I can, if requested, document all income, assets, and liabilities listed on the front/page 1. <sup>2</sup>

**Notice** ►

<sup>2</sup>  
**Any false statement made by you under oath which you do not believe to be true and which is intended to mislead a public servant in the performance of his or her official function may be punishable by a fine and/or imprisonment.**

Signed (Applicant) <sup>2</sup>		Print name of person signing at left	Date signed
Subscribed and sworn to before me:	On (Date)	Signed (Notary Public, Commissioner of the Superior Court, Assistant Clerk)	

**Order** <sup>2</sup>

The Court, having found the applicant ("x" all that apply)

☐ Indigent and unable to pay    ☐ Not indigent and able to pay    hereby orders the application:

☐ Granted as follows:

1. Counsel is

- ☐ Appointed
- ☐ Appointed in the interests of justice pursuant to Connecticut General Statutes Section 46b-136.
- ☐ The applicant is ordered to reimburse the Public Defender Services Commission at its approved rate for the costs of providing an attorney and said costs shall be payable upon receipt of an invoice from the Public Defender Services Commission.

2. The following fees are waived    ☐ Entry fee    ☐ Filing fee    ☐ Other (Specify:) \_\_\_\_\_  
(including additional \$5.00, if required)

3. The following fees are ordered paid by the State    ☐ Marshal's fee not to exceed \$ \_\_\_\_\_  
☐ Other (Specify:) \_\_\_\_\_

☐ Denied.

By the Court (Print or type name of Judge)	On (Date)	Signed (Judge, Ass't Clerk)	Date signed
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Clicking on the question marks (?) will give you information about that section of the form.

**MOTION FOR MODIFICATION**

JD-FM-174 Rev. 11-12  
C.G.S. §§ 46b-84, 46b-86  
P.B. §§ 25-26, 25-30, 25-57, 25-65, 25a-18, 25a-30  
(Check one)

STATE OF CONNECTICUT  
**SUPERIOR COURT**  
www.jud.ct.gov

COURT USE ONLY  
**MFMOD**



☐ **Before judgment** ☐ **After judgment** (If the court has ordered you to attach a request for leave with a motion for modification of a final custody or visitation order, you must complete and attach a Request for Leave form (JD-FM-202) to this motion.)

Judicial District of	At (Town)	Docket Number
Plaintiff's Name (Last, first, middle initial)		Plaintiff's Address (Number, street, city, state, zip code)
Defendant's Name (Last, first, middle initial)		Defendant's Address (Number, street, city, state, zip code)

Type of Motion to Modify

☐ Child Support ☐ Alimony ☐ Custody ☐ Visitation ☐ Other (Specify):

I, (Name) ☐ the Plaintiff ☐ the Defendant ☐ a Support Enforcement Officer, respectfully represent that:

1. This Court issued an order dated directing (Name), residing at (Number, street, city, state, zip code) to:

(Complete the boxes that apply to your motion)

Pay current support in the amount of: Per	Pay alimony in the amount of: Per	Pay arrearages in the amount of: Per	Total balance owed	As of (Date)
Have custody of the child/children: (Check one) <input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole custody		Have visitation or parenting time as follows:		Primary residence of children with:
Provide health insurance coverage <input type="checkbox"/> No <input type="checkbox"/> Yes, %		Pay % of unreimbursed medical expenses		
Provide HUSKY/cash medical Per	Contribute to child care % or	Other (Specify):		

2. (Check appropriate box(es). You must explain briefly the facts that are the reasons why you are asking for this modification. Attach additional sheet(s) if necessary.)

☐ Since the date of the order, the circumstances concerning this case have changed substantially as follows:

☐ The order for current child support is substantially different from the current child support and arrearage guidelines' presumptive child support order as follows:

3. The ☐ plaintiff ☐ defendant is a "deploying parent." The facts about that deployment or mobilization are as follow:

**I ask the Court to modify the existing order(s) as follows:**

(Check all that apply)

**Child Support** (You must file a sworn to Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164), a completed Worksheet for the Connecticut Child Support and Arrearage Guidelines (CCSG-1 [JD-FM-220]), and an Advisement of Rights Re: Income Withholding (JD-FM-71) on your hearing date).

☐ Order current support ☐ Find arrearage and order payment ☐ Order immediate income withholding  
☐ Increase current support ☐ Provide HUSKY/cash medical ☐ Provide health insurance coverage  
☐ Decrease current support ☐ Contribute to child care ☐ Other

**Alimony** (You must file a sworn to Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Advisement of Rights Re: Income Withholding (JD-FM-71) on your hearing date).

☐ Increase ☐ Decrease the amount of alimony to be paid.

**Custody** (You must file a sworn to Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164) and a completed Worksheet for the Connecticut Child Support and Arrearage Guidelines (CCSG-1 [JD-FM-220]) on your hearing date).

☐ Modify custody as follows:

Signature	Print Name	Title (If applicable)	Date Signed
Address (Number, street, city, state, zip code)			Telephone (Area code first)

(Continued on back/page 2)

Check appropriate court:

☐ Superior Court

☐ Family Support Magistrate Division

Print Form

Reset Form

Plaintiff's Name (Last, first, middle initial)	Defendant's Name (Last, first, middle initial)	Docket Number
--	--	---------------

**Visitation/Parenting Time** (You must file a sworn to Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164) and a completed Worksheet for the Connecticut Child Support and Arrearage Guidelines (CCSG-1 [JD-FM-220]) on your hearing date).

☐ Modify visitation (parenting time) as follows:

**Other** (Please be specific):

☐

**Note: You must answer the following question about state assistance and HUSKY health insurance.** Are you or is any child that this motion is about now receiving or have you or any child ever received state assistance or HUSKY health insurance?

☐ Yes ☐ No

If you answered "Yes," a copy of this motion must be sent to: The Office of the Attorney General, 55 Elm Street, Hartford, CT 06106. If you do not do that, your motion may take longer to be decided.

### Certification

I certify that a copy of this document was mailed or delivered electronically or non-electronically on (date) \_\_\_\_\_ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was mailed or delivered to\*

\*If necessary, attach additional sheet or sheets with name and address which the copy was mailed or delivered to.

Signed (Signature of filer)	Print or type name of person signing	Date signed
Mailing address (Number, street, town, state and zip code)		Telephone number

### Order For Hearing and Summons (To be completed by clerk or support enforcement officer, if applicable)

The Court orders that a hearing be held at the time and place shown below. The Court also orders the

☐ Plaintiff ☐ Defendant ☐ Support Enforcement Officer to give notice to the opposing party of the Motion and of the time and place where the court will hear it, by having a true and attested copy of the Motion and this Order served on the opposing party by any proper officer at least **12 days** before the date of the hearing. Proof of service must be made to this Court at least **6 days** before the date of hearing.

<b>Hearing to be held at</b> ➔	Superior Court, Judicial District of		Date
	Court Address	Room Number	Time

To any proper officer:

By the Authority of the State of Connecticut, you must serve a true and attested copy of the above Motion and Order For Hearing and Summons on the below named person in one of the ways required by law at least **12 days** before the date of the hearing, and file proof of service with this Court at least **6 days** before the hearing.

Person to be Served	Address	
By the Court	Assistant Clerk/Support Enforcement Officer	Date Signed

### Order

The court has heard this motion and orders it ☐ **Granted** ☐ **Denied** and ☐ **Further orders (if applicable):**

By the Court (Judge/F.S.M./ Assistant Clerk)	Date Ordered
--	--------------

### For Court Use Only

Fee for Motion to Modify: ☐ Paid ☐ Waived

Print Form

Reset Form

Clicking on the question marks (?) will give you information about that section of the form.  
Al hacer clic en el signo de interrogación (?) obtendrá información sobre esa parte del formulario.

## Instructions

1. Type or print.
2. **For Criminal and Motor Vehicle cases:** Fill out the form, including the certification section at the bottom of the form. File the original with the clerk. Mail or deliver a copy of the appearance to the prosecutor. *(Sections 3-4(d) and 3-5 of the Connecticut Practice Book)*
3. **For Civil , Eviction (Summary Process), and Small Claims cases:** Fill out the form, including the certification section at the bottom of the form. File the original with the clerk. Mail or deliver a copy to all counsel and self-represented parties of record. If a party who has been defaulted for failure to appear files an appearance before the entry of judgment after default, the default will automatically be set aside by the clerk. *(Sections 3-4(a), 3-4(b), 3-5 and 17-20 of the Connecticut Practice Book)*
4. **For Family cases:** Fill out the form, including the certification section at the bottom of the form. In addition to selecting plaintiff or defendant, indicate the scope of your appearance. File the original with the clerk. Mail or deliver a copy to all counsel and self-represented parties of record. *(Sections 3-4(a) and 3-5 of the Connecticut Practice Book)*
5. **For Juvenile cases:** Do not use this form. Use form JD-JM-13 Appearance, Juvenile Matters.
6. **For Self-represented parties who have changed their address after filing an appearance:** Check the box at the top of the other side or page 1 of this form. Fill out the form, including your new address in the Mailing Address section of this form. Fill out the certification section at the bottom of the form. File the original with the clerk. Mail or deliver a copy to all counsel and self-represented parties of record or, in a criminal case, to the prosecutor.

Clicking on the question marks (?) will give you information about that section of the form.  
Al hacer clic en el signo de interrogación (?) obtendrá información sobre esa parte del formulario.

## APPEARANCE <sup>?</sup>

JD-CL-12 Rev. 1-12  
P.B. §§ 3-1 thru 3-6, 3-8, 10-13, 25A-2

STATE OF CONNECTICUT  
**SUPERIOR COURT**  
www.jud.ct.gov

Instructions — See Back/Page 2

### Notice To Self-Represented Parties

A self-represented party is a person who represents himself or herself. If you are a self-represented party and you filed an appearance before and you have since changed your address, you must let the court and all attorneys and self-represented parties of record know that you have changed your address by checking the box below:

☐ I am filing this appearance to let the court and all attorneys and self-represented parties of record know that I have changed my address. My new address is below. <sup>?</sup>

Name of case (Full name of Plaintiff vs. Full name of Defendant) <sup>?</sup>

Return date <sup>?</sup>
Docket number <sup>?</sup>

<input type="checkbox"/> Judicial District <input type="checkbox"/> Housing Session <input type="checkbox"/> Small Claims <input type="checkbox"/> Geographic Area number _____	Address of Court (Number, street, town and zip code)
Scheduled Court date (Criminal/Motor Vehicle Matters)	

### Please Enter the Appearance of <sup>?</sup>

Name of self-represented party (See "Notice to Self-Represented Parties" at top), or name of official, firm, professional corporation, or individual attorney <sup>?</sup>	Juris number of attorney or firm
--	----------------------------------

Mailing Address (Number, street) (Notice to attorneys and law firms - The address to which papers will be mailed from the court is the one registered or affiliated with your juris number. That address cannot be changed in this form.)			Post office box	Telephone number (Area code first)
City/town	State	Zip code	Fax number (Area code first)	E-mail address <sup>?</sup>


in the case named above for: ("x" one of the following parties; <sup>?</sup> if this is a Family Matters case, also indicate the scope of your appearance)

- ☐ The Plaintiff (includes the person suing another person).  
☐ All Plaintiffs.  
☐ The following Plaintiff(s) only: \_\_\_\_\_  
☐ The Defendant (includes the person being sued or charged with a crime).  
☐ The Defendant for the purpose of the bail hearing only (in criminal and motor vehicle cases only).  
☐ All Defendants.  
☐ The following Defendant(s) only: \_\_\_\_\_  
☐ Other (Specify): \_\_\_\_\_  
☐ This is a Family Matters case and my appearance is for: ("x" one or both)  
☐ matters in the Family Division of the Superior Court    ☐ Title IV-D Child Support matters

Note: If other counsel or a self-represented party has already filed an appearance for the party or parties "x'd" above, put an "x" in box 1 or 2 below:


1. ☐ <sup>?</sup> This appearance is in place of the appearance of the following attorney, firm or self-represented party on file (P.B. Sec. 3-8): \_\_\_\_\_ (Name and Juris Number)  
2. ☐ This appearance is in addition to an appearance already on file.

I agree to accept papers (service) electronically in this case under Practice Book Section 10-13 <sup>?</sup> ☐ Yes ☐ No

Signed (Individual attorney or self-represented party) <sup>?</sup>	Name of person signing at left (Print or type)	Date signed
		

### Certification <sup>?</sup>

I certify that a copy of this document was mailed or delivered electronically or non-electronically on (date) \_\_\_\_\_ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was mailed or delivered to*				For Court Use Only
Signed (Signature of filer) <sup>?</sup>	Print or type name of person signing	Date signed	Telephone number	
				

\*If necessary, attach an additional sheet or sheets with the name of each party and the address which the copy was mailed or delivered to.

Print Form

Reset Form



I certify that the information on page 1 is true and accurate to the best of my knowledge and that I can, if asked, document all income, expenses, and liabilities listed on page 1. <sup>2</sup>

**Notice ►**

**Any false statement made by you under oath which you do not believe to be true and which is intended to mislead a public servant in the performance of his or her official function may be punishable by a fine and/or imprisonment.** <sup>2</sup>

Signed (Applicant) <sup>2</sup>	Print name of person signing at left	Date signed
Subscribed and sworn to before me:	On (Date)	Signed (Notary Public, Commissioner of the Superior Court, Assistant Clerk)

**Order** <sup>2</sup>

The Court, having found the applicant ("X" all that apply): ☐ Not indigent ☐ Indigent and unable to pay  
☐ Indigent or unable to pay for parenting education program under C.G.S. § 46b-69b,

hereby orders the application:

☐ Granted as follows:

1. The following costs are ordered paid by the State

☐ Costs of service of process not to exceed: \$ \_\_\_\_\_

☐ Other (Specify): \_\_\_\_\_

2. The following fees are waived ☐ Entry fee ☐ Filing fee

☐ Other (Specify): \_\_\_\_\_

3. ☐ All costs for participation in a parenting education program shall be covered by the service provider pursuant to C.G.S. § 46b-69b, because the applicant is found indigent or unable to pay.

4. Counsel is ☐ Appointed (Name): \_\_\_\_\_

☐ Denied. If denied only in part, specify: \_\_\_\_\_

☐ Counsel is not appointed because the applicant does not face potential incarceration.

By the Court (Print or type name of Judge/Fam. Sup. Magistrate)	On (Date)	Signed (Judge, FSM, Assistant Clerk)	Date signed
---	-----------	--------------------------------------	-------------

**Request For Hearing On Denied Application** <sup>2</sup>

The following section applies only to a **denial** of the application for waiver of fees payable to the court or for the costs of service of process. It does not apply to applications for fee waiver for parenting education or to appointment of counsel.

☐ I request a court hearing on the application.



Signed (Applicant)

Date signed

Hearing to be held at the Court location shown on page 1 on the date and time shown below:			
Hearing on (Date)	At (Time)	Room number	Signed (Assistant Clerk)

**Order After Hearing** <sup>2</sup>

The Court, having found the applicant ☐ Indigent and unable to pay ☐ Not indigent hereby orders the application:

☐ Granted as follows:

☐ 1. The following costs are ordered paid by the State

☐ Costs of service of process not to exceed \$ \_\_\_\_\_

☐ Other (Specify): \_\_\_\_\_

☐ 2. The following fees are waived ☐ Entry fee ☐ Filing fee

☐ Other (Specify): \_\_\_\_\_

☐ Denied for the following reason(s): \_\_\_\_\_

By the Court (Print or type name of Judge/FSM)	On (Date)	Signed (Judge, FSM, Assistant Clerk)	Date signed
--	-----------	--------------------------------------	-------------

Clicking on the question marks (?) will give you information about that section of the form.

# FINANCIAL AFFIDAVIT ?

JD-FM-6 Rev. 1-08  
P.B. 25-30

## STATE OF CONNECTICUT SUPERIOR COURT www.jud.ct.gov

COURT USE ONLY  
FINAFF



DOCKET NO. ?

FOR THE JUDICIAL DISTRICT OF ?	AT (Address of court)	NAME OF AFFIANT (Person submitting this form)
NAME OF CASE ?		<input type="checkbox"/> PLAINTIFF ? <input type="checkbox"/> DEFENDANT ?
OCCUPATION ?	NAME OF EMPLOYER	
ADDRESS OF EMPLOYER		

1. WEEKLY INCOME	<b>A. WEEKLY INCOME FROM PRINCIPAL EMPLOYMENT ?</b> (Use weekly average not fewer than 13 weeks) ?										
	DEDUCTIONS (Taxes, FICA, etc.) ?		AMOUNT/WEEK		GROSS WKLY WAGE FROM PRINCIPAL EMPLOYMENT → \$						
	1.		\$		TOTAL DEDUCTIONS → \$						
	2.		\$		NET WEEKLY WAGE → \$						
	3.		\$								
	4.		\$								
	5.		\$								
	6.		\$								
	<b>B. ALL OTHER INCOME ?</b> (Include in-kind compensation, ? gratuities, ? rents, interest, dividends, pension, etc.)										
	SOURCE OF INCOME ?		GROSS AMT/WK ?		GROSS WEEKLY INCOME FROM OTHER SOURCES → \$						
1.		\$		TOTAL DEDUCTIONS → \$							
DEDUCTIONS		AMOUNT/WEEK		NET WEEKLY INCOME FROM OTHER SOURCES → \$							
		\$									
		\$									
		\$									
		\$									
		\$									
		\$									
		\$		ADD "NET WEEKLY WAGE" FROM SECTION A, AND "NET WEEKLY INCOME" FROM SECTION B, AND ENTER TOTAL BELOW:							
		\$		<b>A. TOTAL NET WEEKLY INCOME</b> → \$							
2. WEEKLY EXPENSES	1. RENT OR MORTGAGE ?		\$		11. DAY CARE ?		\$				
	2. REAL ESTATE TAXES ?		\$		12. OTHER (specify below) ?						
	3. UTILITIES ?	Fuel	\$	6. TRANSPORTATION	Gas/Oil	\$		\$			
		Electricity	\$		Repairs	\$		\$			
		Gas	\$		Auto Loan	\$		\$			
		Water	\$		Public Trans.	\$		\$			
		Telephone	\$		Medical/Dental	\$		\$			
		Trash Collection	\$		Automobile	\$		\$			
		Cable T.V.	\$		Home-owners	\$		\$			
	4. FOOD ?		\$		8. MEDICAL/DENTAL ?		\$				
	5. CLOTHING ?		\$		9. CHILD SUPPORT ? (order of court)		\$				
					10. ALIMONY ? (order of court)		\$				
					<b>B. TOTAL WEEKLY EXPENSES</b> → ?		\$				
	3. LIABILITIES (DEBTS)	CREDITOR (Do not include mortgages or loan balances that will be listed under assets.) ?		AMOUNT OF DEBT ?		BALANCE DUE ?		DATE DEBT INCURRED ?		WEEKLY PAYMENT ?	
		\$		\$				\$			
		\$		\$				\$			
		\$		\$				\$			
		\$		\$				\$			
		\$		\$				\$			
		\$		\$				\$			
		\$		\$				\$			
				<b>C. TOTAL LIABILITIES (Total Balance Due on Debts) ?</b> →		\$		<b>D. TOTAL WEEKLY LIABILITY EXPENSE</b> → ?		\$	

Print Form

(continued)

Reset Form

Clicking on the question marks (?) will give you information about that section of the form.

4. ASSETS	A. Real Estate	Home	ADDRESS			VALUE (Est) ? \$	MORTGAGE ? \$	EQUITY ? \$
		Other: ?	ADDRESS			VALUE (Est) ? \$	MORTGAGE ? \$	EQUITY ? \$
		Other: ?	ADDRESS			VALUE (Est) ? \$	MORTGAGE ? \$	EQUITY ? \$
	B. Motor Vehicles	Car 1:	YEAR	MAKE	MODEL	VALUE \$	LOAN BALANCE \$	EQUITY ? \$
		Car 2:	YEAR	MAKE	MODEL	VALUE \$	LOAN BALANCE \$	EQUITY \$
	C. Other Personal Property ?	DESCRIBE AND STATE VALUE OF EACH ITEM						TOTAL VALUE
								\$
	D. Bank Accounts	BANK NAME, TYPE OF ACCOUNT, AND AMOUNT ?						TOTAL BANK ACCOUNTS ?
						\$		
E. Stocks, Bonds Mutual Funds ?	NAME OF COMPANY, NUMBER OF SHARES, AND VALUE						TOTAL VALUE	
							\$	
F. Insurance (exclude children) ?	NAME OF INSURED	COMPANY	FACE AMOUNT ? \$	CASH VALUE ? \$	AMT. OF LOAN ? \$	TOTAL VALUE ?		
			\$	\$	\$			
			\$	\$	\$			
G. Deferred Compensation Plans ?	NAME OF PLAN (Individual I.R.A., 401K, Keogh, etc) AND APPROX. VALUE ?						TOTAL VALUE (less loans) ?	
							\$	
H. All Other Assets ?							TOTAL VALUE	
							\$	
I. Total	E. TOTAL CASH VALUE OF ALL ASSETS ➡ ?						\$	

5. HEALTH INSURANCE ?	NAME AND ADDRESS OF HEALTH OR DENTAL INSURANCE CARRIER (Do not include policy number)
	NAME(S) OF PERSON(S) COVERED BY THE POLICY

SUMMARY (Use the amounts shown in boxes A thru E of sections 1-4.)			
TOTAL NET WEEKLY INCOME (A) ?	\$	TOTAL CASH VALUE OF ASSETS (E) ?	\$
TOTAL WEEKLY EXPENSES AND LIABILITIES (B + D) ?	\$	TOTAL LIABILITIES (TOTAL BALANCE DUE ON DEBTS) (C) ?	\$

#### CERTIFICATION ?

I certify that the foregoing statement is true and accurate to the best of my knowledge and belief.

SIGNED (Affiant) ?	Subscribed and sworn to before me on	DATE	SIGNED (Notary, Comm. of Superior Court, Assistant Clerk)
--------------------	--------------------------------------	------	---

Print Form

Reset Form

**AFFIDAVIT CONCERNING  
CHILDREN**JD-FM-164 Rev. 6-09  
C.G.S. § 46b-115s  
P.B. § 25-57STATE OF CONNECTICUT  
**SUPERIOR COURT**  
**COURT OF PROBATE**  
www.jud.ct.gov**INSTRUCTIONS**

Complete form. You must swear that your statement is true and sign it in front of a court clerk, a notary public, or an attorney who will also sign and date the affidavit.

Court Use Only

**AFFACUS**

Judicial District of	At (Town)	Probate District name and number	Docket number
Plaintiff/Applicant (Last, first, middle initial)		Defendant/Respondent (Last, first, middle initial)	

**Information about the past five years for each child affected by this case is required. Provide information below.  
If more space is needed, use form JD-FM-164A.**

Child's name (First, middle, last)	Date of birth (Month, day, year)
------------------------------------	----------------------------------

Date(s) of residence	Location (Town or city, and state, unless confidential by court order)	Name(s) and present address(es) of person(s) child lived with (unless confidential)	Relationship to child
TO THE PRESENT			
TO			
TO			
TO			
TO			

Child's name (First, middle, last)	Date of birth (Month, day, year)	<input type="checkbox"/> Residence information is same as for child above. (If not same, provide information)
------------------------------------	----------------------------------	--

Date(s) of residence	Location (Town or city, and state, unless confidential by court order)	Name(s) and present address(es) of person(s) child lived with (unless confidential)	Relationship to child
TO THE PRESENT			
TO			
TO			
TO			
TO			

☐ Check here if additional children are listed on JD-FM-164A.

(Continued...)

**PRINT****RESET**

1. (Check one) ☐ I have ☐ I have not been a party or a witness or participated in any other capacity in cases in Connecticut or any other state concerning custody of or visitation with any child listed in this affidavit.  
If yes, identify the name of the court, the court case number and date of determination:

(Check item 2 or 3 below)

2. ☐ I do not know of other civil or criminal proceedings in Connecticut or any other state, now or in the past, that could affect the current proceeding, including enforcement proceedings and proceedings relating to family violence, protective orders, termination of parental rights and adoption.
3. ☐ I know of the following civil or criminal proceedings, in Connecticut or any other state, now or in the past, that could affect the current proceeding, including enforcement proceedings and proceedings relating to family violence, protective orders, termination of parental rights and adoption.

Case name	Docket number	Court location (Including state)
Nature of proceeding		

Case name	Docket number	Court location (Including state)
Nature of proceeding		

4. (Check one) ☐ No one except the plaintiff/applicant and defendant/respondent has physical custody or claims to have custody or visitation rights regarding any child listed here.
- ☐ The following person(s) has physical custody or claims to have custody or visitation rights regarding any child listed here:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

(unless confidential)

5. The mother of the child(ren) named in the Complaint or Application is pregnant.

☐ Yes ☐ No ☐ Do not know

6. A child has been born to the mother named in the Complaint or Application after the filing of the Complaint or Application.

☐ Yes ☐ No ☐ Do not know If yes, complete the following:

Child's name	Date of birth (Month, day, year)
--------------	----------------------------------

Signature	Print name of person signing
Sworn to before me (Assistant Clerk/Comm. of Superior Court/Notary Public)	Date signed

JD-FM-164 (Back) Rev. 6-09

**You have an ongoing duty to tell the court about any case that could affect the current proceeding, in Connecticut or any other state, if you learn about it during this case.**

PRINT

RESET



Dear Parent,

The second page of this informational document contains a request for review and adjustment services. Please complete the request and return it to us to start the review.

If our review shows that the amount of your present support order is different (more than 15 percent) from the amount suggested in *Child Support and Arrearage Guidelines* (the rules that are used to set the amount of support), then we will arrange for the court to hear your case. The court will determine if your support order will go up, down or remain the same.

There are a few things that you should know about the review process. First, after we get your request, we mail you a packet of information. This must be completed and returned to us as soon as possible. Second, the process of reviewing your order and getting it to court usually takes about four months. This timeframe will vary from court to court. Third, Support Enforcement Services staff will assist in getting your case before the court, but our role is to help the court, not represent either parent. And finally, there are other ways of getting your order changed. You can get all the paperwork from the court and complete the process on your own, or you can hire a lawyer to help.

If you have any questions regarding this process, please contact the Child Support Call Center at 1-888-233-7223.

Support Enforcement Services  
Central Processing Unit – Review and Adjustment  
414 Chapel Street, 2<sup>nd</sup> Floor  
New Haven, CT 06510

***Internet Request for Review***

To Whom It May Concern:

Please review my child support order to see if a change the amount is needed. I think my order needs to be changed because:

- ☐ The other parent's income has changed.
- ☐ My income has changed.
- ☐ There is another child that needs to be added to the order.
- ☐ Other \_\_\_\_\_

Case Information (please complete):

Today's Date \_\_\_\_\_

My name \_\_\_\_\_

My Social Security Number \_\_\_\_\_

My Employer or Source of Income \_\_\_\_\_

My income is (amount per week) \_\_\_\_\_

The Other Parent's Name \_\_\_\_\_

My child(ren) name(s) \_\_\_\_\_

\*\*\*\*\*

**Official SES Use Only**

Date Received \_\_\_\_\_

SES File number \_\_\_\_\_

Order amounts \_\_\_\_\_

\_\_\_\_\_

Court Location \_\_\_\_\_

# Example of a will

Any person who is of “sound mind” and is more than 18 years old may make a will. To be effective, a will must be in writing (typed or handwritten), signed by the person whose property it disposes of, and signed by two witnesses in the presence of the person whose property the will disposes of. A will should state that it is a will and whose will it is. For example, it should begin:

---

## LAST WILL AND TESTAMENT

I, [name], living in [town], Connecticut, do make, publish and declare this to be my last will and testament, hereby revoking all wills and codicils heretofore made by me.

Next, it should state what property you want to go to whom, in what amounts, and who should get whatever is left. It should include backups to the last person listed, in case this person dies before you. For example:

I leave to [name], of [address] my [specific property, such as my “record collection”].

I leave to [name], of [address] my [specific property, such as \$100].

I leave to . . .

All the rest, residue, and remainder of the property that I may own at the time of my death, real, personal and mixed, of whatsoever nature and wheresoever situated, including all property that I may acquire or become entitled to after the execution of this will, or other gifts made by this will that fail for any reason, I bequeath and devise to [name], of [address]. If my said [above person’s relation to you, such as “son”] shall not survive me, then I bequeath and devise the said property to my [backup person’s relation to you, such as “grandson”], [name], of [address].

Next, the will should appoint an “executor.” The executor is the person responsible for making sure the will gets carried out correctly. This should be a person you trust, such as a close relative or friend. The executor cannot be incarcerated, however, since it is impossible for someone in prison to fulfill these duties. It is fine for the executor to be a person who is also receiving property under the will. Appoint a backup executor in case the executor dies before you do.

I appoint [name of executor], of [address of executor], to be Executor of this my last will and testament. I direct that the Executor shall not be required to furnish any bond or other security in any jurisdiction, or if a bond is required, shall not be required to furnish any sureties thereon. If the aforesaid shall predecease me or for any other reason shall fail to qualify as Executor hereunder (or having qualified, shall die or resign), then [name of

backup executor], of [address of backup executor] shall act as Executor of my will.

My executor shall have all the powers set forth in Section 45a-234 of the Connecticut General Statutes in effect at the time of the making of this will.

---

The final page of the will should look like this:

#### **TESTIMONIUM**

In Witness Whereof, I have subscribed my name to this my last will and testament and for the purpose of identification I have initialed each such page, in the presence of the persons witnessing it at my request, this [day] day of [month], [year], at [town], Connecticut.

\_\_\_\_\_ **[Signature] ATTESTATION**

The foregoing instrument was signed, published and declared by [name of person whose will it is], the testator, to be [his or her] last will and testament, in our presence, and we, at [his or her] request and in [his or her] presence and in the presence of each other had hereunto subscribed our names as witnesses this [day] day of [month], [year], at [town], Connecticut.

\_\_\_\_\_ **[witness 1] residing at [address]**

\_\_\_\_\_ **[witness 2] residing at**

#### **WITNESSES' AFFIDAVIT** State of Connecticut

County of [county name], City of [city name], this [day] day of [month], [year], at [town], Connecticut.

Then and there personally appeared the within named witnesses [witness 1] and [witness 2], who being duly sworn depose and say that they witnessed the execution of the within will of the within named testator; that said [person whose last will it is] subscribed said will and declared the same to be [his or her] last will and testament in their presence; that they thereafter subscribed the same as witnesses in the presence of said testator and in the presence of each other and at the request of said testator; that the said testator at the time of the execution of said will appeared to them to be of full age and sound mind and memory and that they make this affidavit at the request of said testator, [person whose will it is].

\_\_\_\_\_ **[witness 1]**

\_\_\_\_\_ **[witness 2]**

Notary Public  
[Town], Connecticut

**ARTHUR LIMAN PUBLIC INTEREST PROGRAM**

Yale Law School

P.O. Box 208215

New Haven, CT 06520-8215

