

HAMILTON COUNTY DEPENDENCY CASE ROADMAP

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1) Cases typically originate with a call to 241-KIDS. A call can come from a mandated reporter (teacher, medical professional, judge/magistrate, etc.) or from a layperson.

A) HCJFS Intake/Assessments Department investigates allegations: investigation can result in allegations being: substantiated (allegation found to be true), indicated (some evidence to support allegation but not enough to substantiate), or unsubstantiated (little or no evidence found to support allegation or allegation found to be untrue).

B) If evidence of *imminent risk of harm*, intake/assessments will:

- i) set up safety plan (in-home or out-of-home), or
- ii) seek an emergency order (EO) for interim custody.

2) Safety Plan: can last 30-60 days, sometimes extended;

A) Not court-involved.

B) Voluntary agreement between HCJFS and parent(s) or legal custodian(s).

C) Often involves placement of children with relative or family friend and supervision of contact between parent(s) and child(ren).

D) HCJFS will offer services to the family to alleviate or address the safety concern (mental health counseling, substance abuse services, etc.).

E) If safety plan is violated or disrupted, HCJFS will typically seek an EO.

3) Emergency Order (EO):

A) Most often granted ex parte (always a magistrate on-call for after-hours EOs).

B) Standard applied is *imminent risk of serious physical or emotional harm*.

C) If EO granted, HCJFS receives interim custody and case is set for an immediate hearing the same day or following day (or next court day, if granted on weekend).

4) Day 1/EO hearing: the court hearing to address an ex parte grant of temporary custody.

A) Parents contacted and informed of their right to appear.

B) Parents entitled to qualify for court-appointed counsel.

C) Two panel attorneys assigned as "Day 1 attorney" each day to take any cases that come in on an emergency basis.

D) Parents can contest the ex parte removal or not contest.

E) Regardless of whether parents contest, the case will be set for a formal trial on the HCJFS complaint.

F) HCJFS represented by the Hamilton County Prosecutor's Office.

G) Guardian ad Litem (GAL) will be appointed in every case to represent the children.

i) GAL will almost always be from Hamilton County Public Defender GAL Division (some attorneys and some non-attorney GALs; non-attorney GAL will have his or her own attorney) or ProKids.

ii) In rare cases where PD GAL office and Pro Kids are conflicted off case, panel attorney will be appointed as GAL.

**At Day 1/EO hearing the rules of evidence DO NOT APPLY (hearsay allowed) and the burden for HCJFS is fairly low; safety of children is prioritized over rights of parents.

**In some situations attorney can negotiate agreement with HCJFS/prosecutor to protective orders of supervision (allows kids to remain in parent's custody with orders like access to home for HCJFS and GAL, participation in services, etc.). Even if HCJFS does not agree to protective orders, can ask the magistrate to grant them after a contested hearing as an alternative to continued removal of the children from the home.

H) Parents can ask for relatives or family friends to be investigated for possible placement (to avoid foster care).

I) Parents' visitation will be addressed at the hearing.

5) Day 7 hearing: If parent(s) fails to appear at the Day 1/EO the court will set a Day 7 hearing the following week to allow parents a chance to appear and get qualified for counsel; issues in the case can be addressed that day, but extremely rare to change interim custody at a Day 7.

6) Adjudication: Formal trial on allegations in Complaint.

A) Rules of Evidence apply (hearsay that can come in at Day 1/EO is no longer allowed, unless a valid exception applies).

B) Higher standard of proof (clear and convincing).

C) Adjudication is often resolved by negotiations to arrive at a stipulated set of facts; parents can ask for allegations to be removed or changed to something they can agree is accurate;

i) If stipulations are reached parties can still argue to the Court whether the stipulated facts constitute abuse, neglect, or dependency.

ii) Partial stipulations are also common, and can narrow down the issues that need to be tried to the Court.

D) Any allegations not resolved through stipulations are tried to the Court in a contested hearing.

E) Following submission of stipulations and/or a contested trial, the magistrate will make a finding of abuse, neglect, or dependency.

i) If the Court determines that the facts do not constitute abuse, neglect, or dependency, the complaint will be dismissed and court involvement will end.

ii) If Court makes findings of abuse, neglect, or dependency, the case proceeds to Disposition.

7) Disposition: What is the plan for the child(ren)/family?

A) Any party has a right to request bi-furcation, which requires the Court to hold the dispositional hearing on a different day after the adjudication. If bi-furcation is waived by all parties, the dispositional hearing will occur immediately after adjudication.

B) Disposition can be contested or not contested. If contested, the rules of evidence are again loosened/suspended (hearsay can come in).

C) Most common disposition is Temporary Custody to HCJFS.

i) Lasts up to one year from date of removal;

ii) Can be extended for up to two six-month extension periods by motion of a party;

iii) Allows parents to participate in services to achieve reunification.

iv) HCJFS must create a caseplan that lays out changes that must be made so that the children can safely be returned to the parent's custody. HCJFS must provide the family with services to achieve reunification.

D) Other dispositions are Legal Custody to Relative or non-relative, Planned Permanent Living Arrangement, and Permanent Custody (termination of parental rights and placement of child for adoption).

8) Interim Review Hearings: Following children being adjudicated abused, neglected, or dependent, unless the case is resolved with an immediate disposition of legal custody to a relative, PPLA, or PC (all very rare as initial dispositions), the Court must hold periodic hearings to review the family's progress toward reunification.

A) Typically occur every 2-3 months;

B) Court will address parents' progress through services and can add/remove/alter services;

C) Any party can bring up issues or problems with the case (parents aren't getting enough visits, communication issues, etc.)

9) Annual Review Hearing:

A) Must be set following the dispositional hearing and will be set approximately 11 months from the date the children were first removed from the home.

B) Prior to the annual review HCJFS must file a motion to indicate what it wants to happen in the case. The motion can be to extend temporary custody (or

protective orders if the agency does not have temporary custody) for 6 months (only two 6-month extensions may be granted by law), remand custody to parents (with or without protective orders), grant legal custody to a relative, or take permanent custody of the child(ren) and terminate parental rights.

C) All parties have a right to contest any proposed disposition contained in the HCJFS motion. If contested, the Court will pick a trial date at the annual review hearing.

****Good resource for more in-depth primer on Dependency cases in Hamilton County:**

<https://www.supremecourt.ohio.gov/JCS/CFC/resources/local/practicManual.pdf>

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