



South Dakota Parents' Guide to Foster Care

DSS 
Strong Families - South Dakota's Foundation and Our Future



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Why is my child in foster care?

The job of the Department of Social Services' Division of Child Protection Services (CPS) is to make sure children are safe. Your child is now in foster care because someone contacted Child Protection Services or law enforcement to express concern about you and your child.



At this time, a Family Services Specialist and/or law enforcement officer has visited, asked questions and listened. It was decided that your child was not safe in your home. In South Dakota, only law enforcement offices, circuit court judges, tribal judges or intake officers may remove a child from a home and have that child placed into emergency custody with Child Protection Services.

Where is my child living?

When a child is removed from their home, the State must place him or her in a temporary home where they will be safe and well cared for. The people who are taking care of your child agree to do so until your child can safely return to your home. Child Protection Services will attempt to place your child in the least restrictive setting within reasonable distance of your home. When placing your child, Child Protection Services will also take into account any special needs he or she may have.



There are several different types of foster care placements, including:

Kinship Care: If you have any relatives who can take care of your child, you must tell your Family Services Specialist. Child Protection Services may be able to arrange for your child to live with relatives.

Foster Home: In this situation, your child lives with a licensed foster family in their home. In order to become licensed, the family applied to the Department of Social Services and a Family Services Specialist visited their home to learn about the family. The family also received special training in taking care of children who are unable to live with their parents. The family was then approved by Child Protection Services and became licensed by the State of South Dakota.

When a child lives in a foster home, a Family Services Specialist will visit the home to make sure the child is receiving safe care. The family will receive some monetary reimbursements to help pay for food, clothing and other necessities for your child.

Shelter Care Facility: In this type of care, your child lives with a group of children and is taken care of by trained specialists. Shelter care facilities must be licensed. Children can only live in a shelter care facility for 30-40 days.

Group Care or Residential Treatment Programs: If your child has special physical or emotional needs, he or she may live with other children who receive special care. The program is licensed and will have specific rules.

Placement of Indian Children

When an Indian child is placed in foster care, preference shall be given to placing the child with:

- A member of the Indian child's extended family.
- A foster home licensed, approved or specified by the Indian child's tribe.
- An Indian foster home licensed or approved by an authorized non-Indian licensing authority.
- An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet an Indian child's needs.
- The above placement preference shall be given unless there is good cause not to do so.

Definitions:

Extended Family Member: Shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent.

Indian: Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation, as defined in 1606 of Title 43.

Indian Child: Any unmarried person who is under age 18 and is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

Indian Child's Tribe: The Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe is the tribe with which the child has the most significant contacts.

Indian Custodian: Any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of the child.

What is juvenile court?

If your child is removed from your home, you will go to juvenile court to talk about what is happening with your family. This is not a criminal proceeding. In South Dakota, there are two different court systems. If you reside on a reservation, you will most likely appear in tribal court. You are responsible for contacting the prosecutor's office to find out when the emergency custody hearing is scheduled.

If you do not reside on a reservation, you will appear in state court. You need to contact your state's attorney's office to find out when the emergency custody hearing is scheduled. It will be held within two business days of your child leaving home.

No matter which court system you are in, it is important to attend all court hearings because the judge will make the final decisions about where your child lives. The judge will explain your rights within the legal system. The judge will also need to know what you have done to make your child's return home possible.

You may also ask about a court-appointed attorney. If the case continues in juvenile court, your child may also be appointed an attorney. In many areas of South Dakota, Court Appointed Special Advocates (CASA), are appointed by the judge to

observe and make recommendations about your family. If your child remains in foster care, or your child is returned home and the court retains legal custody, you will have ongoing court hearings scheduled.

Child Protection Services believes that every child deserves a permanent family. The Division will work with you to develop a permanent plan for your child. Child Protection Services believes that no child should be in foster care for more than 12 months and that a permanent plan should be in place within six months of the child leaving home.

The Adoption and Safe Families Act, Public Law 105-89, is a federal law that states the court must have a hearing no later than 12 months from when your child enters foster care. During this hearing, the court must decide on a permanent plan for your child.

In order for your child to return home, you must work with your Family Services Specialist to resolve any problems keeping your child from living with you. If your child cannot be returned to your care after 12 months, Child Protection Services will request that the court consider terminating your parental rights. If you are not making progress toward fixing the issues keeping your child from returning home, Child Protection Services may request termination of your parental rights prior to the 12 month deadline.



Visitation

Your Family Services Specialist will meet with you to discuss ways you can talk with your child, including letters, telephone calls and visits. Visits may take place at the office, where your child is living, or at another place. You and your Family Services Specialist can talk about which method of visitation is best for you, your child and the people caring for your child. When a date is scheduled for you to visit, your child expects you to come. If you cannot visit, please contact your Family Services Specialist before the visitation.

Visits are important for you and your child. For this reason, you are expected not to drink or be under the influence of drugs, argue, swear or say negative things about the place where your child is living. If this happens, your visit may end and future visitations may be affected (increased level of supervision, change in location, etc). Any concerns you have about your child's foster care should be discussed with your Family Services Specialist rather than with your child.

When the visit is over, ask your Family Services Specialist when you can visit next. It may be hard to visit your child, but visits can help smooth the transition when your child is able to return home.

Other things you can do to make your child more comfortable include telling your Family Services Specialist important information about your child. Items you could share include:

- Foods your child likes.
- Your child's daily schedule and activities.
- Any health problems your child may have.
- How your child shows he or she is happy, sad or hungry.
- What your child likes to do best.
- Pictures of your family and your child's favorite toy may help your child feel less alone.

Your Rights

You will continue to have rights as a parent even though your child is not living with you. When you go to court, the judge may discuss some of your rights. The judge makes the final decision about your child and your rights. Some of your rights are:

- Visitation with your child.
- Access to information about your child such as whether your child has been moved to another home or how your child is doing.
- Responses to your concerns.
- Your approval of surgery or serious medical care unless it is an emergency and you cannot be reached.
- Knowledge of Child Protection Services' expectations of you before your child will be returned home.



How your Family Services Specialist can help

It is important to talk with your Family Services Specialist; he or she wants to help you so your child can return home. Your Family Services Specialist will make recommendations to the court about where your child will live. Your Family Services Specialist will:

- Talk about your concerns such as housing, financial issues, finding employment, alcohol or drug use, anger, family violence or other problems you may be having.
- Suggest places you can go to get help.
- Visit your child and the people taking care of him or her.
- Tell the people who are caring for your child about any concerns.
- Explain why your child was not safe in your home.
- Explain what changes need to be made before your child can come home.
- Work with you to create a plan that details what behaviors or conditions need to change and how you want to make those changes.

You should notify your Family Services Specialist of family, friends, neighbors and community members who are willing to be part of a safety plan. A safety plan is created with people who agree to help keep your child safe when he or she returns home.

When can my child come home?

Child Protection Services works to strengthen families. In order for your child to return home, you will need to work with your Family Services Specialist to change the behaviors and conditions that caused your child to be unsafe. Other things you need to do are:

- Work with your Family Services Specialist to develop a plan to change behaviors or conditions so your child will be safe at home.
- Visit your child at the time and place agreed upon by you and your Family Services Specialist.
- Follow the court's orders.
- Follow professional recommendations and attend all scheduled appointments such as therapy and chemical dependency evaluations.
- Tell your Family Services Specialist about any important changes in your life such as a change of address, phone number, job, living arrangements or marriage. These changes do make a difference to your family.
- Pay for all or some of the costs of your child's care, when applicable.

What if my child cannot return home?

The Adoption and Safe Families Act states that Child Protection Services will request termination of your parental rights if your child is unable to return home within 12 months. Child Protection Services may request termination of your parental rights prior to 12 months if you are not making significant efforts for your child to be able to return home.

If you cannot be a permanent home, you can help Child Protection Services make plans for your child to live with relatives or to be adopted. In some circumstances, foster parents agree to care for a child until they are 18.

My child is coming home!

If you work with your Family Services Specialist and change the behaviors or conditions that made your child unsafe, the judge may agree your child can come home.

Child Protection Services hopes the information in this booklet is helpful to you. Remember to talk to your Family Services Specialist with any questions.

Important Numbers:

My Family Services Specialist: _____

Phone: _____

State's Attorney's Office Number: _____

Prosecutor's Office Number (Tribal): _____

**South Dakota Department of Social Services
Division of Child Protection Services
700 Governors Drive
Pierre, SD 57501**

www.dss.sd.gov

For more information:

For a list of local DSS offices, visit:
www.dss.sd.gov/offices

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