

WHAT IF I'M PICKED UP BY I.C.E. IN ARIZONA?

MAKING A FAMILY PLAN



PREPARING FOR THE POSSIBILITY OF BEING DETAINED,
DEPORTED, AND SEPARATED FROM YOUR CHILDREN

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INTRODUCTION & PURPOSE OF THIS GUIDE FOR ARIZONA

If you are an immigrant parent living in Arizona this guide was written for you, whether you have papers or not. Its purpose is to teach you about the immigration and child welfare systems and to help you plan so you do not lose rights over your children if you are apprehended by Immigration and Customs Enforcement, (ICE). **The best thing you can do to make sure your family stays together is to have information and be prepared!**

This guide is designed to help you do this. It was prepared by a small group of volunteer lawyers, advocates, and family law experts who work with immigrant clients in Arizona.

Generally speaking, you do NOT need to hire an attorney to follow the planning described in this guide. The information presented in this guide is designed to help YOU understand the system and plan without the help of an attorney and does not provide legal advice.

After reading this guide, you may have additional questions, or if you think that your case is more complicated, especially if Child Protective Services (CPS)* has been involved with your family in the past or if you have been arrested or served time for a criminal offense. If this is the case, it is best to seek the advice of an attorney or attend one of the community workshops where this guide is handed out so you can ask further questions about your situation.



This guide is divided into three main parts:

- ➔ (1) Steps you can take NOW to avoid CPS taking custody of your children if you are picked up by ICE, and
- ➔ (2) Actions you can take to protect your parental rights if you have been picked up by ICE and your children are with CPS.
- ➔ (3) Part 3 is a separate folder with many important documents and sources of information for you. Your group or organization will have this folder available for your use.

It is best to read this whole guide because your questions may be answered in different sections!

*As of this printing, Child Protective Services is now the Division of Child Safety and Family Services. However, in this manual, we will continue to use the acronym of CPS.

PART 1

STEPS TO TAKE NOW TO AVOID LOSING CUSTODY OF YOUR CHILDREN IF YOU ARE DETAINED BY ICE

MAKE A PLAN!

If you are at risk of being detained by ICE, it is important that you make plans for the care of your children now. **If you have not made any plans,**

it is more likely that your kids will end up in CPS custody if you are picked up by ICE or arrested for other reasons. Once CPS

takes custody of your kids and places them in foster care it can be very difficult to get them back, especially if you are in a detention center or if you are deported. You must be prepared to advocate for yourself and for your family, and this guide is an excellent place to start. This section focuses on what you should be doing TODAY to make emergency plans for your children so you don't permanently lose custody of your children if you are detained or deported.



❖ **Identify a caretaker for your children**

A “**caretaker**” is a term often used in the US to describe a person who you would ask to take care of your children if something were to happen to you. Most parents already have a person like this in mind, but they don't always make formal plans to assign this person as the official caretaker of their children. Follow these steps to put a plan in place for your children's care in case you are picked up by ICE.

The person who can be your children's caretaker may be your spouse or the other parent of your children. The caretaker may also be your mother or father, or your aunt or uncle, brother or sister, or other relatives. They may be a god parent or a close family friend or neighbor. You may have several possible caretakers in mind. If you have more than one child you may want to identify different possible caretakers for different children.

❖ **Make sure your caretaker is willing and able to care for your children**

After you identify a person to ask to be the caretaker of your children, the next step is to have a conversation with him or her. There are many important things to discuss with the caretaker to make sure you both are comfortable with the plans. Make sure she understands what kind of commitment she is making to care for your children if you are picked up by ICE.

Here are some questions you should think through and ask your possible caretaker when discussing whether she is able and willing to take care of your children if you are picked up by ICE:

- **How long will she be able to take care of your children?** You both may think a situation will only last a few days or weeks, but unfortunately immigration and dependency proceedings can often last months or in some cases more than a year. If you are deported, your children may need to stay in care of the caretaker for an even longer time. **It is best to assume your caretaker will take your children for a long time.** Sadly, many kids end up in CPS custody because a relative or friend only planned to take care of them for a few weeks and couldn't keep them longer.

- **How much will it cost to take care of your children?** Every day your children will need food, shelter, transportation, medical care and personal items like books and clothing. Can she financially provide for your children? Are you able to set money and resources aside to support your caretaker in taking your children in if you are picked up by ICE? Is there someone else, a relative, friend, or pastor, who can contribute money for the needs of your children?

- **Who else is in the household?** Do you know everyone who lives in your caretaker's home? You need to make sure you are comfortable with everyone who will have day-to-day contact with your child. If an adult member of the household has a criminal record and CPS gets involved in your case your children may not be allowed to stay in the household.

- **Is there adequate supervision?** You need to make sure your child will be supervised. Find out who will be watching your child at home and whether the child will be in daycare or school outside the home. Make sure the caretaker's home is safe for a child the age of your child.

- **Does your caretaker know of any special medical needs that your child has?** Does your child have a doctor or medical provider and any kind of medical insurance? If your child is on medication, does the caretaker have the prescriptions and know where medications are purchased?

- **Does your caretaker know which school your child attends?** Will she be able to keep your child in that same school? In Arizona, the caretaker will eventually need Title XIV guardianship (more on this below) to register a child in a school other than the one the child was attending, or if the child moves on to middle or high school while in the caretaker's care.

Important: does my caretaker have to have immigration papers?

It is preferable, but not required by the State of Arizona that the caretaker you choose for your kids has immigration status. Check with your local county court.

❖ **Power of attorney arrangements**

A **power of attorney** is a document that gives another person temporary power to make decisions for your children. You should consider setting up a power of attorney with your chosen caretaker as a way to possibly avoid having your children go into foster care if you are picked up by ICE. **A power of attorney is a private agreement between you and another person and is NOT a court order.** As the parent, you may cancel or “revoke” the power of attorney at any time. The power of attorney document can give your caretaker general authority over all parenting decisions for your children or you can list the specific things you are giving them the temporary power to decide. The power of attorney can last no more than 6 months but you can sign a new document to renew it again. The power of attorney must be signed in front of a witness *and* a notary. You should complete two originals, giving one to your caretaker and keeping one for yourself in a safe place. A sample power of attorney is included in part 3 of this guide.

❖ **Temporary guardianship arrangements**

A temporary **guardianship** arrangement for your children is more powerful and formal than the power of attorney document. If you request your caretaker to be a temporary guardian, that person will file Title 14 guardianship paperwork with the Probate Division of Superior Court. The process to appoint a temporary guardian for your child will take several weeks. You can prepare the papers ahead of time and have them ready for your caretaker to file if you are picked up by ICE.

If you appoint your caretaker as a guardian, he will have the power to make day-to-day decisions about your child for a period of one year. The guardianship can be easily renewed on a yearly basis by filling out paperwork the court provides for you at the time of the guardianship hearing. As the parent you have the power to revoke a temporary guardianship by consent when you are available to take care of your children again.

A Title 14 guardianship is a serious decision and one you should think about very carefully. You are giving up your power to make some decisions about the care of your children for a significant period of time. The guardian you appoint will be able to register your child in school, make decisions about her medical care, and will have some power to prevent your child from being suddenly removed by another relative or by law enforcement. For these reasons, a Title 14 guardianship is a better option for many people than the less powerful power of attorney document, but it also means YOU will not have the power to intervene or make decisions for your children directly. Sample paperwork for filing a temporary guardianship is included in part 3 of this guide.

❖ **Making an emergency contact form**



Because most parents are apprehended by ICE unexpectedly, it is a good idea to create an **emergency contact form** so that all of the important information needed about your plans and the care for your child is in one place. You should write down the names of your child’s parents and any relative or friend whom you want to use as the caretaker or an emergency contact. Also include the person’s telephone number, email address, if any,

and street address, if available. Any person listed on the card should know about your caretaker plans for your child if you are picked up by ICE. A sample emergency contact form is included in Part 3 of this guide.

If you are worried about having a document listing contact information for people who do not have immigration status in your belongings if you are picked up by ICE, you could also set up a plan to make a telephone call to one emergency contact person who has this information in a safe place. This person should generally be available to take your call during the day if you are picked up and should be familiar with your plans for the emergency care of your child.

❖ ***Gathering important documents into one place***

You should make a file for each child and have all of your important documents in this file in a safe place in your home. These documents include your emergency contact form, your child's birth certificate, and/or other suitable identification information, the child's medical records and school records, and any guardianship papers or powers of attorney regarding the child that have been signed and notarized. Making extra photocopies of these records to keep in your file is also a good idea so you don't lose the originals. **Your caretaker or others in your household, such as an older child, should know exactly where this folder is stored so the caretaker can get the documents quickly if you are picked up by ICE.**

❖ ***Saving money for an immigration bond***

In the next section you will learn more about immigration detention and the possibility for some people to be released on bond. If you are picked up by ICE and detained you may be eligible to pay a bond to be released to the community and care for your children. The lowest possible bond ICE or the immigration court can give you is \$1500 and most people without a criminal record receive bonds between \$3000 - \$7500. It is a good idea to plan ahead and think about how you or your family members may be able to pay a bond if you are detained. Many people save money and pay cash while others finance their bonds through a bail bond company.



PART 2

WHAT TO DO TO PROTECT YOUR PARENTAL RIGHTS IF YOU ARE PICKED UP BY ICE. AS A PARENT, REGARDLESS OF YOUR IMMIGRATION STATUS, YOU HAVE RIGHTS!

Part 1 talked about steps to take NOW to prevent your kids from being taken into the custody of CPS if you are picked up by ICE or Border Patrol. This section is on what to do if you are picked up by ICE and are separated from your children, and if you are facing time in detention with the possibility of deportation. In this section we talk about protecting your “**parental rights**”. These are your rights as a parent to make decisions about the care and wellbeing of your children, including who they live with. Even though the government may be trying to deport you, YOU have the right to make these decisions for your children. Whether your children are US citizens or not, they have rights. Tell your attorney to explain those rights to you. YOU must always advocate strongly for yourself as their parent. Start now by gathering information and being prepared for the worst circumstances.

In this section you will learn about the three main parts of the detention and deportation process: (a) apprehension by ICE or Border Patrol, (b) detention and the immigration court process, and (c) deportation.

(a) APPREHENSION

❖ *I am picked up by ICE or Border Patrol. What should I do?*

Most people are apprehended by ICE or Border Patrol very unexpectedly. You may be pulled over for a traffic violation or may have an immigration officer show up at your workplace or home. If your kids are with you at the time, you are in the best position to tell the officers that you must make a phone call immediately so that a caretaker can come take care of your children so they don't go with CPS.

If your children are not there, tell the officer immediately that you have children and that you need to make a phone call to ensure they are safe and taken care of.



Tell ICE or Border Patrol that you have children, that they do not need to detain you, and you will comply with their requirements if they release you. If they do detain you, continue to tell this to every immigration officer you meet.

Shortly after you are picked up, ICE or Border Patrol should let you make a telephone call to your caretaker, another relative or friend to tell them that you are in custody and to make emergency plans for your kids. You may be told that you can't make a telephone call because of security reasons. Be sure to say again and again that you need to make a call to make plans for your children so they don't end up with CPS.

TIPS ABOUT ICE AND BORDER PATROL, AND THE POSSIBILITY OF A QUICKER RELEASE:

The Department of Homeland Security has several components including ICE (Immigration and Customs Enforcement) and CBP (Customs and Border Protection). Both are enforcement branches of the DHS; they can arrest and detain. In the situation described in Part 1, you would either be taken into custody by ICE or CBP. ICE typically arrests an individual when the person is in criminal custody or ICE is engaging in an enforcement operation, like a raid on a workplace. Sometimes ICE will arrest a person based on a tip from the public. CBP typically arrests an individual when they are either at or near the border or they are called to a traffic stop by state or local law enforcement.

CBP and ICE have several offices throughout Arizona. Every office and officer has discretion to handle matters as they see fit under the circumstances. Therefore, it is of utmost importance that you keep a solid record of your life in the United States in case of arrest and/or detention. Depending on the officer and specific office you are held in, ICE and CBP will consider releasing a person “on their own recognizance” (promise to appear for any future court hearings or reporting with ICE) after processing them at one of these offices. Releasing a person on his or her own recognizance means that the person will be released without paying a bond and can go home to their family.

A person may be released on his/her own recognizance, or a low bond is set, when the ICE or CBP office has evidence of that individual’s ties to the United States. Keep examples of documents in a safe place and make sure someone you trust knows where they are. Documents may include:

- **Birth certificates for your children born in the United States;**
- **Evidence of your children who have been granted Deferred Action for Childhood Arrivals (“DACA”);**
- **School records for your children;**
- **Medical records for your children;**
- **Any and all evidence that you have been in the United States for a long period of time including taxes, bills, bank account records, medical records, car payments, rental agreements, utility bills, etc.; and**
- **Letters from family and friends that can attest to the length of your stay in the United States and your good character.**

NOTE: Any documents not in English should be translated to English. Each translated document should include a Certificate of Translation issued by the translator.

Make sure to keep an organized set of copies of ALL these documents. NEVER give your original legal documents to the government. If you are detained, choose a designated family member or friend ahead of time who will bring these documents to the CBP or ICE office where you are located.

In Part III, you will find a list of all CBP and ICE offices in Arizona. It is possible that with all the evidence of your strong ties to the United States ICE or CBP will consider releasing you or setting a bond before sending you to Eloy or Florence for detention. This could save you considerable time and costs in trying to get released from the detention center.

❖ **Where will ICE or Border Patrol take me?**

It is likely that you will spend at least a day or maybe a few days in an immigration facility in Phoenix or Tucson - sometimes referred to as being in “**holding**” - while ICE or Border Patrol decides what to do about your case. Your access to a telephone may be very limited and you may be told very little or nothing about what will happen to you.

There are a few things that may happen after you are in holding. ICE may decide to release you to the community on parole or with an ankle bracelet for electronic monitoring. When you are released, you will probably be given paperwork with a date to show up for a hearing in immigration court. In the alternative, you may not be released, and may instead be taken to an immigration detention center in Florence or Eloy, Arizona, for further processing. If you go to Florence or Eloy, it is still possible ICE may release you. Unfortunately release is less likely at this point and you are probably facing at least a few days or weeks in detention.

In Part 3 you will find the addresses and telephone numbers of the ICE detention centers where you may be taken in Arizona. These are helpful to give to your caretaker and relatives so they can try to locate you if you are not able to call them right away.

❖ **What if I am told to sign for my deportation?**

From the time you are arrested to your first few days in ICE custody, you may be presented with paperwork to sign by different officers. You may be told that you have no case and that you must sign for your deportation. You may be told that the only way to keep your kids is to sign for your deportation, that you will face years in jail if you don't sign right away, and that you will never see your kids again. An officer may even try to physically force you to sign the paperwork. Many parents report pressure to sign paperwork without understanding what it is. **It is very important to stay strong and be clear that you will NOT sign any document unless you understand it completely and have read it in a language you understand.** You have the absolute right to refuse to sign paperwork presented to you if you do not understand it.



Important note about signing documents:

Always ask that all documents you are asked to sign are translated into a language you understand. It is important not to sign any documents that state you are going to accept a voluntary departure or deportation from the United States.

However you should sign a document if it is explained in both English and Spanish that you will be released on your own recognizance. You should always ask about whether you may be released to your family or whether a bond has been set by the government.

❖ *How do I find an immigration attorney?*

Because you are being apprehended by ICE or Border Patrol under civil law and not criminal law, you will not be provided with an attorney. Unfortunately, if you want to speak to an attorney, you will have to hire a private attorney or have your family hire one for you, which usually costs money. You will be provided with a list of attorneys in the area and can try to contact them in your first few days in custody. This can be frustrating since there are many more people who want attorneys than there are good attorneys who can help them. Most people in immigration detention end up fighting their cases without attorneys so you will not be alone if you do not have funds to hire an attorney.

Important: fraudulent attorneys!

Be aware of fraud or misrepresentations by attorneys. There are many good immigration attorneys in Arizona. Unfortunately others take advantage of people in detention. Some attorneys will take your or your family's money where there is little they can do to help under the law. If you or a member of your family is going to hire a private attorney to represent you,—do your homework and ask the attorney for a few references you can call to ask about the quality of their services.

If you are taken to a detention center in Florence or Eloy, you can get free assistance from a nonprofit organization called The Florence Immigrant & Refugee Rights Project, or **The Florence Project**. Although The Florence Project cannot represent you in court, attorneys with the Florence Project will be available to speak to you in the detention center about your case. They will meet with you approximately one week before your first court hearing. Most people in detention appear at their first court hearing without an attorney and are given a continuance by the judge for time to hire an attorney, so you should not panic if you want to hire an attorney but don't have one for your first hearing. The Florence Project can also tell you if you have a possible case and recommend that you hire an attorney if you can afford to do so.

You may be detained for a few weeks before your first hearing and before you see someone from the Florence Project. You can write a letter or send a request form to the Florence Project or call them at 520-868-0191 if you are worried that a lot of time has passed and you haven't seen anyone yet.

❖ *Your "A Number" and deportation officer*

After you are apprehended, ICE will assign you an **alien registration number**, or "**A number**" which is a very important number to write down and give to your relatives and caretaker either over the telephone or by writing them a letter. Generally, the only way your loved ones will be able to get information about where you are detained and about your case is if they have your A number.

You will also be assigned a **deportation officer**. You should tell your deportation officer right away about your kids and your concerns about who will take care of them if you are not released. Your deportation officer works for ICE and is in charge of you while you are in detention. They should meet with you regularly while you are in detention. This officer's role is to process your deportation. Because they work for ICE, you should not trust your deportation officer to give you helpful advice about your immigration case.

❖ **How do I find out if Child Protective Services has my kids?**

If you didn't make arrangements for a caretaker and there isn't anyone available to take your kids immediately, they may end up with CPS. If you think this is possible talk to your deportation officer and ask to contact CPS right away. **CPS has a 24 hour, toll-free hotline 1-888-767-2445.** Choose **Option 2** to be connected to a Spanish language operator. **It is very important to not be angry or emotional when you make this call.** Be calm but assertive and explain that you want to do whatever you can to make sure your children are safe. When you call, give the following information:



BE ASSERTIVE, BUT NOT ANGRY

- ➔ Your full name and identify yourself as the parent;
- ➔ Your children's full names;
- ➔ Explain that you are in immigration detention and are trying to find out if your children are in CPS custody;
- ➔ Be VERY clear that you cannot receive calls from detention, that this is an emergency situation and that you need to know if CPS has an open case so you can contact the caseworker as soon as possible; and
- ➔ **Very important!!** Provide your A number and the name and address of the detention center where you are so they can give this to the caseworker on your case.

If you cannot call the hotline, a friend or relative can call on your behalf and should do so to provide your A number so it is given to the caseworker handling your case. The friend or relative who calls the Hotline WILL NOT be reported to ICE regardless of immigration status.

❖ **Emergency placement and releasing children to your caretaker**

If you learn that your child has been picked up by CPS, they may tell you that your child is in “**emergency placement**” and can be released to a parent, responsible relative, or a non-relative who does not pose a risk or danger. If your child is in emergency placement you should have your caregiver pick him up **within 48 hours** of CPS taking him. Your caregiver should bring the power of attorney or guardianship paperwork to show you have designated them formally to care for your child. This paperwork must be complete and notarized, which is why it is so important to have planned ahead for this possibility.



CPS will conduct an emergency assessment of the caregiver. This includes a criminal background check of everyone in the house over age 18, verification of relationship to the child, and a visit to the home where the child will live. Tell your caregiver to be prepared for this assessment.

If CPS has taken your child on an emergency basis and no one has come forward to care for him within 48 hours, CPS is required by law to file a petition to make your child **dependent on the state**. Once this happens, you and your child will become part of a court process called **dependency** that can be very long and complicated. It could end by ending your parental rights to your child. If your caretaker or another person does not come forward to take your child, he may be placed with a foster family throughout the dependency process. Sometimes, not always, your child could be adopted by that family or another family. Again-this is why it is critical to plan ahead.

❖ ***Will I have a lawyer to help me keep my kids?***

If CPS has taken custody of your child, you are entitled to a lawyer paid for by the State of Arizona, regardless of whether you have lawful immigration status. The lawyer will be assigned to your case but she may not know that you are in an ICE detention center right away. Sometimes the lawyer will not know at all unless you or someone you know notifies CPS so they can find you, as discussed above. **The lawyer's job is to protect your rights as a parent and keep you up to date about your case.**

(b) DETENTION

**AS A PARENT IN ICE DETENTION WITH MINOR CHILDREN IN
CPS CUSTODY, YOU HAVE RIGHTS!**



❖ ***I am detained in Florence or Eloy, how can I get released?***

If you are picked up by ICE and your child is with CPS, the best way to protect your parental rights is to be released from detention. This will allow you to participate in the dependency court process and regain custody of your child. Unfortunately, you may not be released or you may need to pay a high amount of money called a “bond” to get out of detention.

If you are detained in Florence or Eloy, you may be able to request your release to the community through either “**humanitarian parole**” or “**prosecutorial discretion**” or be released by paying a **bond** if you are eligible for bond.

- **Humanitarian Parole** and **Prosecutorial Discretion** are requests to be released from detention based on your case not being a high priority for ICE and you may not be the kind of person they should detain because you don't have a criminal record and have kids you need to take care of in the US. You should tell your deportation officer and the immigration judge that you want to ask for humanitarian parole and prosecutorial discretion to be released from detention or to have the case against you dismissed. The Florence Project can also help you seek humanitarian parole or prosecutorial discretion.
- **Bond:** Not everyone is eligible for bond so you should ask your deportation officer, attorney, or the immigration judge if you can get a bond. If you aren't sure if you have a bond, you should ask the immigration judge for a bond hearing once you receive your supporting documents for your bond hearing. In this hearing you will present evidence to show you are not a **danger to the community** or a **flight risk** and you will also provide an **address** where you will live if you are released, to show that you will appear for any future immigration hearings. You should tell the immigration judge in this hearing about your kids and your need to be released to take care of them and keep custody of them.

More detailed information about how to request humanitarian parole, prosecutorial discretion, and bond can be found in other guides created by The Florence Project, available at www.firrp.org and in the detention center libraries.

❖ *How does the Immigration Court process work and how do I fight my case?*



You may be detained as short as a few days or as long as a few weeks before you have your first appearance before an immigration judge, called a “**master calendar hearing.**” In this hearing, you will appear with other people and will be called up to the front of the courtroom individually. You will be asked what language you prefer to have your hearing in. An interpreter will be available at this hearing if you speak Spanish. If you speak another language, including an indigenous language, the judge will use an interpreter by telephone.

The immigration judge will probably ask you during this first hearing if you want more time to find an attorney. It is a good idea to ask for more time at this first hearing, especially if you haven't been able to speak to your family, if you think you may be able to pay your bond or you are going to have a bond hearing, or if you may hire an attorney.

After this first hearing, you will be scheduled for at least one more group master calendar hearing where the immigration judge will ask you if you are applying for any form of **legal relief**, a **legal defense**, or **filing an application** with the court. All of these phrases will refer to whether you are going to fight your deportation in the court. If you have hired a private attorney or worked with the Florence Project you will get more information about whether you can fight your deportation in court under the law. If you are fighting your deportation in court, you will probably eventually have a **final merits hearing**, which is where you will present your case to the immigration judge through evidence, witnesses, and your own testimony.

Every case is different, but on average most people are detained for several months while they go through this court process. This may seem very daunting and even impossible for you to do, especially since you are separated from your child. But it is very important to think this over and understand that this will be your **ONLY** chance to fight your deportation. If you accept deportation at your first master calendar hearing, it is virtually impossible for you to be able to come back to the US and then fight your case.

❖ ***How do I find out if CPS has filed a dependency petition for my kids?***

If you are detained and your kids are with CPS, after 48 hours CPS will file what is called a “**dependency petition**” in juvenile court. This starts a court process where a state judge will determine whether you should get custody of your kids or whether custody should be given to someone else because you are detained and unable to care for them. Once the dependency process has started, a **CPS caseworker** will be assigned in your case and you will be appointed an attorney at no charge to represent your interest as the parent. If you are in detention and this petition is filed you may not be able to make contact with your caseworker or attorney and they will probably have trouble finding you. To find out if a dependency petition has been filed you should call the CPS hotline at **1-888-767-2445**, and insist the hotline **notify the case manager about where you are, and that you wish to be involved in your child’s case**. Even if you are in detention or deported, you have a right to participate in the CPS case and in Court hearings regarding your children. In most cases, you also have a right to visit with your children while in detention.

You may also try to call the juvenile court directly to find out what is happening with your court case. In Maricopa County (Phoenix and the surrounding area) there are two courts that hear dependency cases and in Pima County (Tucson) there is one court. The location of your hearings usually depends on what court you lived closest to. The contact information for these courts can be found in Part 3, which is a supplement to this guide.

Your ICE deportation officer can arrange for you to make a phone call, and will give you a pencil and paper if you need it. Give CPS your children’s name and birth dates, tell them you are the parent, and ask if a dependency petition has been filed. If a dependency petition has been filed in that court, ask for and write down the following information:

- ➔ The case number. The case number starts with “JD”;
- ➔ The date and location of your next hearing;
- ➔ The name of the juvenile court judge hearing the case; and
- ➔ Your attorney’s full name, phone number, and mailing address.

❖ *What happens in a dependency case?*

There are generally two possible outcomes when a dependency petition is filed in court for your kids:

1. **Reunification:** You, the parent, are ordered to comply with a “**case plan**” and participate in services to prove that you will be a good parent to your children and you are eventually reunified with your children; OR
2. **Severance:** You either don't complete services or the court is not happy with your progress and you do not reunify with your children. If this happens, the dependency court may also move to end your legal rights to your children.

You may hear people involved in your case using these words and this is referring to these two tracks. Ultimately, the juvenile court judge is trying to decide if your kids will be best protected by keeping your family together and letting you raise them or by severing your rights over your children.

You may feel very emotional and overwhelmed by this process and feel it is not fair, especially if CPS is only involved with your children because you were picked up by ICE and you can't lawfully remain in the US. It is extremely important to take the dependency process very seriously and advocate for yourself from detention.

❖ *What can I do from detention to try to keep my kids?*

While it is challenging to navigate your kids dependency case from detention it IS possible to do, especially if you are fighting your deportation in court and have a strong possibility of winning your case and being able to remain in the US. Here are some things you can do from detention.

For more detailed information you should consult the Florence Project's guide called *Protecting Your Parental Rights: A Resource for Immigrant Detainees with Child Custody Issues in Arizona* available at www.firrp.org or by writing a letter to the Florence Project from detention.

➔ **Work with your dependency attorney**

Unlike in immigration court, in dependency proceedings you will be assigned an attorney to represent your interest as the parent at no cost to you. Your attorney should fight for your right to keep your children. If you aren't sure who your attorney is, contact your CPS caseworker or the court to get your attorney's name and contact information and call or write them right away.

You should call and write to your attorney often and make sure she knows where you are detained since she probably does not have this information. It is VERY important that your attorney knows if you are going to get a bond, what kind of immigration case you are fighting, when your next immigration court hearings are, and if you are going to be deported. Don't ever assume your attorney knows this information!



If the dependency case is going forward and you haven't spoken with your attorney and have left many messages, you should write to the court and explain that your attorney is not in contact with you and request a new attorney be appointed for you. If your attorney does not speak your language or have someone on staff you can communicate with you should also tell this to the court, since it is critical that you can communicate with your attorney. The clerk of the court can provide you with your lawyer's contact information and the court can encourage your attorney to communicate better or advocate more strongly on your behalf. You can either call the clerk of the court or write a letter to the judge explaining your concerns.

→ **Work with your CPS caseworker to communicate with your kids**

The CPS caseworker is the person assigned to oversee your child's case. She makes recommendations to the juvenile court judge whether to reunify you and your children or sever your parental rights. The juvenile court judge makes the final decision, but he will rely heavily on what the CPS caseworker tells him. The caseworker also creates your case plan, helps you access services required in your case plan, and checks in on your progress.

Make sure the CPS caseworker knows that you are detained and that you want to stay involved and do whatever you can to follow your case plan while detained. Always be calm and patient when you talk with the caseworker. If the caseworker doesn't answer when you call, ALWAYS leave a message so she knows you are staying involved with your child's case as best as you can. Always write down the date and time that you make phone calls to the CPS casework and anyone involved in your child's case, and if you left a message.

You should also write letters to your child and should be able to receive letters and pictures from your child to stay in contact. Save copies of and take notes on everything you send and receive. You can also ask to see your child's report cards and ask the CPS caseworker to provide you with regular updates about things like any health problems, if she has had to change schools, and activities she is involved in.

In most cases, you can obtain the phone number(s) of the foster parents from the CPS case manager and you can call your child from detention. You can also call your child when the case manager is present with the child. Your deportation officer will help you make arrangements for these calls. Every time you call, write down the time, the date, and a little about what was said.

→ **Participate in all dependency hearings and keep the the juvenile court judge updated on your case**

While you are detained, it is possible to participate in dependency hearings by telephone. This is called a **telephonic appearance**. This can be set up by coordinating with your deportation officer and dependency attorney or by writing to the Florence Project to ask for assistance a few weeks before your hearing. ICE will provide you with a room to make the free telephone call and speak with the juvenile court



judge and attorneys about the dependency case. It is very important to update everyone, especially your attorney, about your immigration case and when your next immigration hearings are. Since dependency cases move very fast, they will be eager to know when your immigration case will end and when you may be released from detention.

If you are not able to participate by telephone, write to the juvenile court judge and to your attorney to explain why this is the case and the efforts you made to try to make these arrangements with ICE.

→ Explain the limitations of detention

You may find your dependency attorney, your CPS caseworker, and the juvenile court judge don't understand why you can't comply with your case plan from detention. They may not know that you don't have access to services like parenting classes in detention. It is very important to explain these limitations to everyone and be clear that you want to do whatever you can from detention to keep your children. You should get involved in any kind of work opportunities or classes that may be offered, save certificates demonstrating completion of the courses, and be creative about your case plan: read books, organize discussion groups with other parents detained with you, or order materials that you can read or complete from detention to demonstrate the efforts you are making.

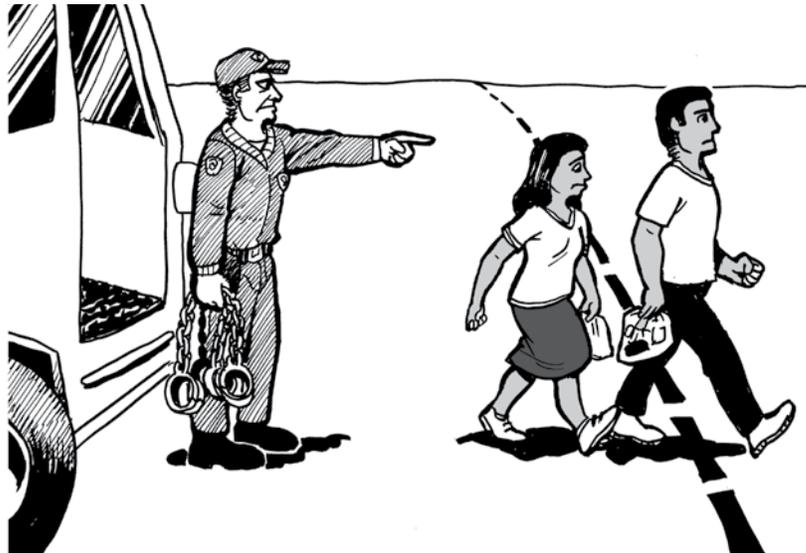
→ Visits with children

Children in CPS custody can visit their parents in detention, when accompanied by a CPS case manager, or other approved adult, including a foster parent OR A RELATIVE during normal visiting hours. ICE will permit a minor child to visit even without a Social Security number or citizenship status. Again, adults may have to provide their date of birth and Social Security number, and be approved prior to the visit. **As of October 2013, ICE does not require citizenship status for adults visiting at Eloy or Florence detention centers.**



(c) DEPORTATION

AS A DEPORTED PARENT, YOU CONTINUE TO HAVE RIGHTS WHEN YOUR CHILD, U.S. CITIZEN OR NOT, IS IN CPS CUSTODY AND IS LEFT BEHIND!



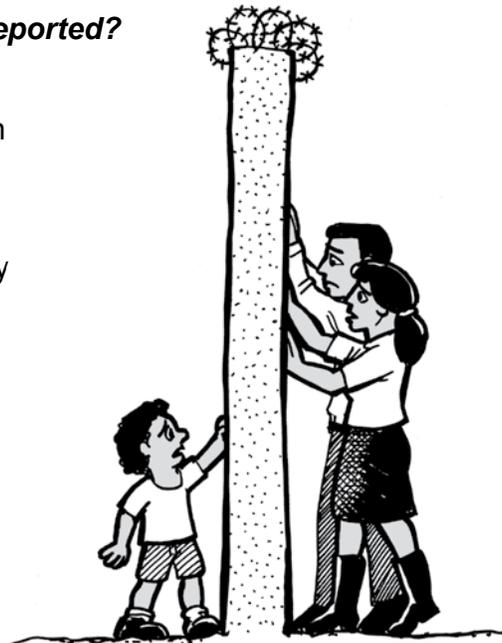
❖ *Can I take my children with me if I am deported?*

If you are ordered deported you are NOT able to take your kids with you at the time of your deportation and you are not given time to make arrangements for your kids. **This is why it is so important to plan and think through your options before you make a decision about whether to sign for your deportation.** If you are from Mexico you will be deported on the same day you are ordered deported, whether you voluntarily sign for your deportation or whether a judge orders you deported. If you have the opportunity to talk with your **consulate**, you should inform him about your kids and ask for assistance in making travel arrangements for them if you want them to relocate with you. They can assist with travel arrangements if your kids are with their caretaker or with other relatives or friends, but not if your kids are with CPS. Contact information for the consulate offices in Arizona are included in part 3 of this guide.

❖ *What happens if my kids are with CPS and I'm deported?*

Once CPS opens a dependency case, it will continue if you are deported and your children will not be able to travel with you. Once you are deported you will need to continue to work on your case plan to be reunified with your kids.

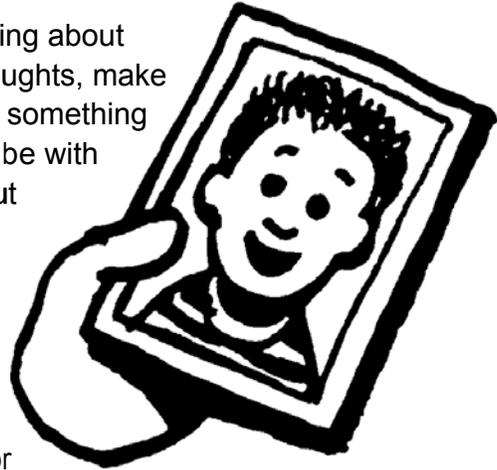
Your consulate can help you continue with your dependency case once you are deported. When possible, you should contact your consulate BEFORE you are deported to seek their help with keeping custody of your children. Your dependency attorney and CPS caseworker can speak with your consulate as well. They can make arrangements with child welfare agencies and locate services in your native country so you can work on your case plan. They can also help you with home studies, visitation, reunification, and communicating with your attorney, the court, and CPS.



❖ ***If I think I will be deported and my kids are with CPS, how can I prepare?***

If your immigration case is wrapping up and you think you may lose your case, or it is on appeal, it is best to start planning for the possibility of deportation. You should explain to your dependency attorney, your CPS caseworker, and the juvenile court judge that you would like to continue working on your case plan and maintain custody of your children even if you are deported. You should provide them with the approximate date you may be deported and a forwarding address if you have one, or the contact information of a trusted relative or friend in the U.S. so they can remain in contact once you have left the country. You should also ask them about the possibility of setting up a guardianship with a trusted relative or friend in your native country while your case goes forward.

At times, you may feel sad, lonely or depressed when thinking about your child. This is normal. Write down your feelings and thoughts, make drawings, read a book, do some crafts, write a poem, or do something that makes you feel good to save for the day when you will be with them again. Write your child a letter, if you can do so without making him worry about you. You may even want to write your child a letter to tell him how you are feeling but save the letter to give him in the future. For your child's sake, be cheerful, let him know how much he means to you, and that he should stay healthy and happy.



If you are deported to Mexico, the consulate can arrange for your child to visit at a prearranged border location. If your child is with CPS, the case manager must obtain permission for the child to visit and then contact the consulate.

Once deported, if you are having trouble complying with the services in your case plan, tell CPS, the juvenile court judge, and your dependency attorney why. It is part of CPS' job to ensure that you are able to comply with the case plan they put together and if there are serious obstacles that are preventing you from being able to comply, notify everyone immediately. Just because you are detained or deported should not mean you should lose your children. Keep on fighting for them, stay in touch with them.

Don't give up! Your children and your family will be proud that you did not give up hope.