

Juvenile Justice

Advocating for a Child
with a Mental Illness



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YOUTH



nami

National Alliance on Mental Illness

MINNESOTA

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NAMI Minnesota champions justice, dignity, and respect for all people affected by mental illnesses. Through education, support, and advocacy we strive to eliminate the pervasive stigma of mental illnesses, effect positive changes in the mental health system, and increase the public and professional understanding of mental illnesses.

JUVENILE JUSTICE

Advocating for a Child with a Mental Illness

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INTRODUCTION

Advocating for your child with law enforcement officers and courts can be difficult, stressful and intimidating, but it can also make a big difference. Your advocacy is important because it may help improve your child's situation.

This booklet is for parents, grandparents and guardians advocating for a young person who has a mental illness, emotional disorder or substance abuse problem and is involved in Minnesota's juvenile justice system. This booklet does not offer legal advice.

Far too many children and teenagers with mental illnesses are caught up in the juvenile justice system. In Minnesota, 70% of young people in the juvenile justice system live with a mental illness. More than half have more than one diagnosis, and 100% of the youth at Red Wing Juvenile Correctional Facility have at least one mental health diagnosis. As many as four in five youth in the juvenile justice system have a substance abuse problem.

There are also large racial disparities in Minnesota's juvenile justice system. According to a 2010 report to the state legislature by the Office of Justice Programs, African American youth are five times more likely to be arrested, one and a half times more likely to be securely detained and twice as likely to have their cases moved to adult court than their white peers. Native American youth face even greater disparities. Youth of color are also about twice as likely as white youth to be placed out of the home.

What's more, African American, Latino and Native American young people are far less likely to receive mental health treatment in the community. While most youth receiving mental health care in the juvenile justice system are African American, most youth receiving mental health care at residential treatment facilities are white.

NAMI works to ensure that community mental health services and supports are available for children and teens living with mental illnesses so they can attend and do well in school, have friends, enjoy their favorite activities and live with their families. NAMI also advocates for treatment and services for young people with mental illnesses who get involved with the juvenile justice system so that they are able to recover and keep the cycle from repeating.

HELPFUL HINTS

- ▶ **Try to find allies in the system** who can help your child get the help and support they need. Many people working in the juvenile justice system are understanding and dedicated and will try to ensure the best possible outcomes for your child. That said, don't be afraid to advocate for your child.
- ▶ **Get support for yourself.** Reach out to leaders in your faith community, teachers, mentors or community members who know your child and ask them to help support you. Having this support can make the process easier to manage. Not only is there another person to remember what was said, but it shows that there are people who care about your child.
- ▶ **Keep 3 big issues in mind.** 1) Could this case lead to your child being placed out of your home? 2) Could this case give your child a public record of delinquency? 3) Could this case be transferred to an adult court?

The juvenile justice system may seem similar to the adult criminal justice system, but there are a lot of important differences. One purpose and goal of the juvenile justice system is to provide services and supports to help young people get their lives back on track. The juvenile justice system also tries to protect public safety and hold children accountable for their acts. Some of the juvenile court's actions are like punishments adults receive.

Many of the terms are different from the adult system as well. A juvenile is not arrested; instead they are taken into immediate custody. They are not convicted of crimes but rather adjudicated delinquent. They are not sentenced but given dispositions. These may seem like technical differences, but it's important to understand the terms being used so you can advocate effectively for your child. You should also know that if your child is adjudicated delinquent, the court has control over your child until age 19. This is true even if the child's crime seems minor.

The juvenile justice system is also different because it has two tiers based on age:

- 1. YOUTH AGES 10 AND UNDER:** Offenses will be treated as child protection issues and dealt with by a county human services department. This approach is more focused on helping rather than punishing your child.
- 2. YOUTH AGES 10 TO 17:** Most offenses will be treated as delinquencies and are similar to adult criminal charges.

Children and teenagers going through the juvenile justice system have almost all of the same rights as adults who are accused of a crime. They have the right to an attorney, the right to not speak with police without a lawyer and the right to be presumed innocent until proven guilty. It is very important that your child understand their rights.

In this booklet, the young person involved with the juvenile justice system will be referred to as “your child.” While it might be possible for individuals who are not parents or legal guardians to advocate in some way, most of the time only immediate family will be able to come to court. However, if your child is 16 or older, court will be open to anyone and may give your child a public record.

At every stage in the system (simplified below), there is a chance that your child could be released or diverted into the community mental health system. The next chapters will explain what to expect with each step in the system.

FLOW CHART OF EVENTS



The juvenile justice system can be confusing. To make this booklet easier to follow, it has been divided into chapters, and “helpful hints” have been pulled out into boxes to make important points easier to find. To keep from being overwhelmed, focus on specific sections as your child passes through each stage in the system. Terms you may need to know are at the end of the booklet. ■

ENTERING THE JUVENILE JUSTICE SYSTEM

There are several ways your child can enter the juvenile justice system. *Your child could be ordered to appear in court if they:*

- ▶ Are accused of a crime
- ▶ Miss too much school
- ▶ Run away from home
- ▶ Violate their probation
- ▶ Have a mental health crisis

Ways Youth Enter the System

Accused of a Crime (Delinquency)

There are four levels of juvenile offenses, which range in seriousness and consequences:

- 1. JUVENILE PETTY OFFENSE:** This is a civil (non-criminal) offense. Examples include staying out after curfew, smoking tobacco, drinking and other activities that would be legal for adults but are not legal for minors. Most non-violent misdemeanor crimes, like “petty theft” and “disorderly conduct” are also juvenile petty offenses if it is the child’s first offense. Repeat offenses like this may become real misdemeanors. Your child cannot be held in a secure detention facility for these offenses, but they may be placed in a shelter-care or other non secure facility if they do not have a safe place to go. You will usually be given a notice to appear in court, and fines or community service are often the only consequences. However, if your child fails to appear in court on a petty offense, they may be taken into custody. In most cases, a public defender is not provided for these offenses.
- 2. MISDEMEANOR:** This is the least severe criminal offense. Misdemeanor offenses include “simple assault” (e.g., punching someone), disorderly conduct, theft of property worth less than \$500, destruction of property with damage under \$1,000 or a first time driving while impaired (DWI) offense. But, because a misdemeanor is a delinquency, the court may have control over the child until age 19.
- 3. GROSS MISDEMEANOR:** This is a more serious criminal offense that may result in your child being brought into custody. Gross misdemeanor offenses include theft of property worth between \$500 and \$1000, a repeat DWI or a more serious assault.
- 4. FELONY:** This is the most serious type of offense. Felonies cover a wide range of offenses, such as major drug offenses, theft of or dam-

age to property worth over \$1,000 and murder. A felony will almost always mean your child is taken into custody. Penalties vary widely, but an out-of-home placement is likely if your child is found guilty. Fingerprinting and DNA samples are required for all felony-level offenses.

Missing Too Much School (Truancy)

Starting in the 2014–15 school year, truancy law applies to children ages seven through 17 (instead of 16, the previous truancy age). This means that, by law, every child ages seven through 17 must receive instruction unless the child has graduated.

CONTINUING TRUANCY: A child is labeled a “continuing truant” after a certain number of school absences in a single school year without a valid reason, such as sickness or a family emergency. For elementary school students, this happens after your child misses three days. For middle school, junior high or high school students, this happens after your child misses three or more class periods on three different days.

If your child is labeled as a “continuing truant,” a letter is sent home explaining the situation, and a meeting is usually held between yourself, your child, your child’s teachers, school administrators, school social workers and possibly the county attorney’s office. The purpose of the meeting is to figure out why your child isn’t in school and to try to find a solution. At the meeting, someone is supposed to explain to your child what might happen if they keep missing school.

HABITUAL TRUANCY: If your child is under 17 years of age and misses enough days without a valid excuse, they will be declared “habitually truant” and will enter the juvenile justice system. For elementary school students, this happens after missing seven school days per school year. For middle school, junior high or high school students, this happens after missing one or more class periods on seven different days per school year. Students who are 17 and have not lawfully withdrawn from school are also found “habitually truant” after missing one or more class periods on seven different days per school year.

Habitual truancy is handled differently from county to county. Some counties have intervention and diversion programs. Some counties will place children on juvenile probation. In some cases, your child may go into an out-of-home placement.

Truancy is a child protection issue, so it is slightly different than other juvenile offenses. With truancy, you as a parent are legally responsible for getting your child to school if they are under 12 years old. Two things can happen to parents who do not prevent truancy:

1. You may be asked to work with the school district's attendance review board or the county attorney's truancy mediation program. These programs are not available everywhere, but they are available in many areas of the state. If one of these programs is available and you don't participate, a Child in Need of Protection or Services (CHIPS) petition can be filed against you. (See the CHIPS section at the end of Chapter 2 for more information.)
2. You can be charged with a petty misdemeanor and ordered to take certain steps to make sure your child attends school.

If your child is age 12 or older, they are responsible for attending school. If truant, your child might have to pay a fine of \$100, perform community service or sentence-to-serve (STS), undergo a chemical dependency screening and possible treatment, lose their driver's license until their 18th birthday and/or take part in court-ordered services or programs. Public defenders are not used for truancy offenses except when your child could go into an out-of-home placement.

Running Away from Home

Your child could also end up in court for running away from home. This, like truancy, is a child protection issue. The consequences for running away from home are similar to truancy. However, in this case if you cannot afford an attorney, your child has the right to a public defender.

Violating Conditions of Probation

If your child is on probation and is not following the rules set by the court (e.g., going to school), they could be brought back to court and might face more serious consequences.

Having a Mental Health Crisis

Too often, youth get involved in the juvenile justice system because of a mental health crisis. The next section provides information about how to prevent this whenever possible.

How to Handle a Mental Health Crisis

When a mental health crisis or severe behaviors occur, parents often don't know what to do. A crisis can occur even when a parent has used de-escalation techniques or other options to address the crisis. It's often nobody's fault. Crisis situations can be unpredictable and can occur without warning.

If you are worried that your child is in crisis or nearing a crisis, seek help. Assess the situation before deciding whom to call. Ask yourself:

Is your child in danger of hurting themselves, others or property? Do you need emergency assistance? Do you have time to start with a phone call for guidance and support from a mental health professional or crisis team? **Most importantly—safety first! In a crisis situation, when in doubt, go out.**

Mental Health Crisis Phone Lines and Crisis Response Teams

In Minnesota, each county has a 24-hour mental health crisis phone line. Some crisis lines serve more than one county. Crisis lines are staffed by trained workers who assist callers with their mental health crisis, make referrals and contact emergency services if necessary. If the call is made after normal business hours, the crisis line will connect the caller to a mental health professional within 30 minutes.

In addition to crisis phone lines, most counties also have a mobile crisis response team. Mobile crisis teams are teams of two or more licensed mental health professionals or practitioners that can meet your child at the scene of the crisis or wherever your child feels most comfortable. Response times for mobile teams may vary depending on your child's location and the location of the mobile team staff.

Crisis teams are meant to be accessible to anyone in the community at any time. They are available 24 hours a day every day of the year, including holidays. The team can meet with your child, conduct a mental health crisis assessment and create a crisis treatment plan.

Crisis teams can help your child and your family:

- ▶ Cope with immediate stressors
- ▶ Develop practical strategies to help your child when they are in crisis
- ▶ Figure out what led to the crisis
- ▶ Suggest techniques to avoid future crises
- ▶ Conduct a diagnostic assessment
- ▶ Identify available resources and supports
- ▶ Develop and write a crisis plan
- ▶ Provide phone consultation and support
- ▶ Make a referral to a crisis center or hospital
- ▶ Consult with outside mental health professionals as needed
- ▶ Respond in non-urgent situations to help prevent a future crisis

The crisis team will ask questions to determine the best way to address the situation.

They may ask you:

- ▶ Your name and your child's name
- ▶ Your relationship to your child
- ▶ The address where the crisis is occurring

- ▶ A phone number to call in case you are disconnected
- ▶ The nature of the problem
- ▶ If safety is a concern
- ▶ If your child has harmed themselves or is threatening harm
- ▶ The possible cause of the crisis
- ▶ Mental health and hospitalization history
- ▶ Medical insurance information

The crisis team is required by law to maintain a file on anyone who receives mobile crisis intervention or crisis stabilization services.

This file will include:

- ▶ The crisis treatment plan for your child
- ▶ Signed release forms
- ▶ Your child’s health information and current medications
- ▶ Emergency contacts
- ▶ Case records detailing the intervention
- ▶ Any clinical supervision that may be required
- ▶ Summary of any case reviews
- ▶ Any other information the team would like to have in the file

When you call your mental health crisis team, they will triage the call to determine the level of crisis services needed. If your child is in immediate danger to themselves or others, the crisis team will refer the situation to 911, and law enforcement will respond. If the situation is not as urgent, the crisis team will assess the level of intervention required: information and referral, a phone consultation, an emergency room visit or an immediate site visit.

When the crisis team makes a site visit, they assess the situation to determine if your child is a danger to themselves or others. Crisis staff may decide that law enforcement needs to intervene, that your child should be seen at the nearest emergency room or that your child should be directly admitted to a psychiatric unit at the nearest hospital. Some mobile crisis teams will transport people to emergency rooms; if they don’t and transportation is needed, the crisis team may contact paramedics or law enforcement or request that you provide transportation.

Your child does not have to have a mental health diagnosis to receive crisis services. Crisis teams will respond and address the situation regardless of whether or not your child has insurance. If your child has insurance, the crisis team will bill their insurance company for services they provide. Some crisis teams offer interpreter services for non-English speakers who require assistance, although those who need an interpreter may have to wait longer to receive crisis services depending on the interpreter’s availability.

Stabilization Services

The crisis team may recommend crisis stabilization services. These services may be provided in your child's home, the home of a family member or friend, in the community or at a short-term licensed residential program. Services are available for up to 14 days after crisis intervention. Crisis beds are also available to people who are having a mental health crisis or have been referred by a crisis team. These beds may be located in a foster care facility or crisis home, and there are specific requirements for staffing in these facilities.

Stabilization involves the development of a treatment plan that is driven by the diagnostic assessment and your child's need for services. It must be medically necessary and must identify your child's emotional and behavioral concerns, goals and objectives. The treatment plan will also identify who is responsible for the interventions and services, the frequency or service intensity needed and the desired outcomes. Treatment plans must be completed within 24 hours of beginning services and must be developed by a mental health professional or mental health practitioner under the supervision of a mental health professional.

At a minimum, a treatment plan will include:

- ▶ A list of problems identified in the assessment
- ▶ A list of your child's strengths and weaknesses
- ▶ Concrete and measurable short-term goals and a timeline for achieving these goals
- ▶ Specific objectives directed at achieving each goal
- ▶ Documentation of participants involved in the service planning
- ▶ What kind of services will be initiated and how frequently they will occur
- ▶ A crisis response action plan in case of a new crisis
- ▶ Clear notes on desired outcomes

Stabilization services may also include brief solution-focused strategies, referrals to long-term care agencies, rapid access to psychiatrists, coordinated crisis plans and a referral to your county's children's mental health services.

In Immediate Danger

If the situation is life-threatening or if serious property damage is occurring, **call 911** and ask for law enforcement assistance. When you call 911, tell them your child is experiencing a mental health crisis and explain what is going on. Saying that it is a crisis involving a child with a mental illness increases the chance that law enforcement will send an officer trained to work with people with mental illnesses. Be sure to tell them—if you know for certain—whether your child has access to guns, knives or other weapons.

When providing information about a child in a mental health crisis, always be very specific about the behaviors you are observing. Instead of saying, “My son is behaving strangely,” for example, you might say, “My son hasn’t slept in three days, he hasn’t eaten anything substantive in over five days, and he believes that someone is talking to him through his iPod.” Report any active psychotic behavior, significant changes in behaviors (such as not leaving the house or not taking showers), threats to other people or increase in manic behaviors or agitation (such as pacing or irritability). Focus on the situation at hand—you need to describe what is going on right now, not what happened a year ago.

Finally, in a crisis situation, remember: **when in doubt, back off or go out.** Do not put yourself in harm’s way.

Emergency Department

Taking your child to the emergency department (ED) may be the best option if the situation can’t be resolved on site or if the crisis team or law enforcement officer recommends it. Bringing your child to the ED does not guarantee they will be admitted. The admission criteria vary and depend on whether a doctor decides it is medically necessary to admit your child. Mental health crisis teams can talk with staff when your child first arrives at the ED. They may also refer your child to the hospital for an assessment, which may make it easier to get your child admitted. Crisis teams do not typically transport children to emergency rooms; if transportation is needed, the crisis team may contact paramedics or law enforcement or request that you provide transportation.

When you arrive at the ED, **be prepared to wait several hours.** You may want to bring a book, your child’s favorite toy, iPod, game or activity if that helps your child stay calm. Bring any relevant medical information, including the types and doses of all medications. If you have a crisis kit, bring a copy with you to the emergency department or hospital. (For more information see NAMI’s booklet, *Mental Health Crisis Planning for Children.*)

If your child is not admitted to the hospital and the situation changes when you return home, don’t be afraid to call the crisis team back. The crisis team will re-assess the situation and make recommendations or referrals based on the current situation. Your child may meet the criteria for hospital admission later. If your child is hospitalized and you believe they will need more intensive services and possible residential treatment, be certain to read about your rights and responsibilities under a voluntary foster care agreement. (For more information, see NAMI’s booklet, *Keeping Families Together.*)

Health and Welfare Holds

A law enforcement officer or judge can place your child on a “health and welfare hold” if they believe your child’s health or welfare is in danger. This type of hold is most often used for young people over age 15. After age 15, your child can refuse treatment. If they refuse treatment, a psychiatrist can place a 48-hour hold on your child for further assessment. (See the “CHIPS” and “Civil Commitment” sections for more information.)

HELPFUL HINTS

- ▶ **When in doubt, back off or go out.** Do not put yourself in harm’s way.
- ▶ **If you call 911,** ask for an officer familiar with mental health crises. Be sure to tell them that your child is having a mental health crisis. If you know for sure, tell them whether your child has access to guns, knives or other weapons. Be very clear about what your child is doing.
- ▶ **Call your county mental health crisis team** instead of 911 if your child is in crisis but not at risk of hurting themselves or someone else.

Civil Commitment or Emergency Holds

Although the commitment law applies to people ages 18 and over, Minnesota laws are confusing about how commitment applies to teenagers ages 16 and 17. Some counties apply the commitment law to teenagers at these ages, providing all the due process requirements. Other counties may allow parents to consent to treatment, use juvenile courts or even use the CHIPS petitions for 16 or 17 year olds that are refusing treatment. Because practices vary so much, check with your county. (For more information about Minnesota’s commitment law, see NAMI’s booklet, *Understanding the Minnesota Civil Commitment Process.*)

In serious cases when the commitment law applies, an emergency hold could be ordered to temporarily confine your child in a secure facility, such as a hospital. An emergency hold could be ordered if your child poses a threat to themselves or others. Emergency holds last for 72 hours each (not including weekends and holidays). The purpose of the hold is to keep your child safe while awaiting a petition for commitment to be filed or while the pre-petition screening team reviews the matter. An emergency hold doesn’t necessarily initiate the commitment process; it’s simply a way to assess your child to determine if commitment is necessary. In order to be committed, your child must have recently: attempted or threatened to physically harm themselves or others; caused significant property damage; failed to obtain food, clothing,

shelter or medical care as a result of their illness; or be at risk of substantial harm or significant deterioration.

Interacting With Law Enforcement

For young people, interacting with law enforcement can be stressful and scary. The best advice you can give your child in these situations is to try to stay calm. When an officer arrives at the scene, they have a lot of options about what to do next. Law enforcement officers can decide whether to write your child a citation (ticket), give them a notice to appear in court, detain or hospitalize them or do nothing. It all depends on the situation.

When the law enforcement officer arrives, provide as much relevant and concise information about your child as you can.

Information to provide:

- ▶ Diagnosis
- ▶ Medications
- ▶ Hospitalization history
- ▶ Living situation (do they have a place to stay?)
- ▶ Whether your child does or does not have a history of violent behavior or criminal charges

Lay out the facts efficiently and objectively, and let the officer decide what to do next.

Once 911 has been called and the officers arrive on the scene, **you do not control the situation.** Depending on the law enforcement officers involved, they may take your child to detention instead of to a hospital emergency room. Law enforcement officers have broad discretion in deciding whom to arrest, whom to hospitalize and whom to ignore. You can encourage and advocate for the law enforcement officers to view the situation as a mental health crisis. **Be clear about what you want to have happen without disrespecting the law enforcement officer's authority.** Once 911 is called and law enforcement officers arrive on the scene, they determine if a possible crime has occurred, and they have the power to arrest and take into custody a person that they suspect of committing a crime. If you disagree with the officers, don't argue—instead, later call a friend, mental health professional or advocate for support and information.

Law enforcement can (and often does) call the county mental health crisis teams for assistance in children's mental health crises. The crisis team may assist law enforcement in deciding what options are available and appropriate for your child and your family. The crisis team may also decide to respond together with law enforcement. It is also

possible that the law enforcement officer will decide to take your child to the emergency room.

Some counties have Crisis Intervention Team (CIT) officers. CIT officers are trained to recognize and work with individuals who have a mental illness. CIT officers understand that your child's behaviors are the result of a mental illness and are trained to de-escalate the situation. CIT officers recognize that children with mental illnesses sometimes need a specialized response, and they are familiar with mental health resources in the community. You can always ask for a CIT officer when you call 911, although there is no guarantee they will be available.

For misdemeanor or felony charges, your child could be brought to a temporary juvenile detention facility. For petty offenses, your child cannot be securely detained (placed in a locked facility), but they could be brought to a shelter or other non-secure facility if they are in danger or don't have a safe place to go.

Depending on what happens, your child could end up with a juvenile record. A juvenile record can affect your child's ability to attend certain schools or get certain jobs for the rest of their lives. (See the section titled "Juvenile Records" for more information.)

Receiving a Notice to Appear in Court

If police believe that your child has committed a delinquent act (crime), you and your child could receive a notice to appear in court. This notice will be given as soon as possible, but it can take time.

The notice will tell you:

- ▶ When and where to appear in court
- ▶ Where your child is being detained (if applicable)
- ▶ What the charges are

If you and your child receive a notice to appear, make sure your child shows up for court on time. If your child doesn't make it to court, the judge will issue a bench warrant (a more serious order to appear in court), and police will bring your child into custody. Parents who receive notice are also required to be in court. If you do not appear, a warrant could be issued for your arrest.

In rare cases, a notice may not arrive at all. If you think it's possible that your child has a court date and you have not received notice, contact your county's juvenile court.

Going into Immediate Custody

Police will decide whether to bring your child into custody. Immediate custody is like an arrest in the adult criminal justice system.

Law enforcement officers might be forceful when dealing with your child. While officers are not allowed to use excessive force, they are trained to do what it takes to gain control if they think your child is resisting. This can be very upsetting.

Sometimes, like when a warrant has been issued, your child may be able to turn themselves in rather than waiting to be taken in. In most countries, the sheriff's office handles this. Authorities might be more understanding if you let them know that your child has a mental illness.

Especially for minor offenses, the sheriff's office may tell your child to surrender early in the morning, before court, so they can see the judge as soon as possible. By turning themselves in, your child may be able to avoid detention (placement in a secure facility) or at least shorten their stay because it shows the judge they are serious about dealing with the issue.

If you are concerned about how an officer is treating your child:

- ▶ Write down everything you remember as soon as possible.
- ▶ Stay calm. Step back and calmly tell your child to go quietly with the officer. Even this might prompt a negative response from the officer.
- ▶ Avoid asking officers for their names and badge numbers. Some will treat this as interference with their work, which is a crime, and they may arrest you as a result. You can easily get the identity of the officer from the reports or notices the officer must file afterwards.
- ▶ Do not resist if officers decide to take your child into custody.
- ▶ Once the situation is under control, officers may be willing to hear about any special needs your child has.
- ▶ If you feel an officer acted inappropriately or used excessive force with your child, talk with your child's defense attorney before doing anything. How the officer acted might affect the outcome of the case.

Going into Temporary Detention

Temporary detention in the juvenile justice system is like jail in the adult criminal justice system. The law enforcement officer will decide whether to detain your child. For minor offenses, officers tend to release children and issue notices, especially if your child has a place to stay, has identification and doesn't appear to be a threat. Detention is more likely for serious offenses or if the officer thinks your child won't show up for court or will be a risk to themselves or others.

If your child is placed in detention, the first thing you should do is make sure they are safe. As soon as you know your child is in detention:

1. Notify the nurse or mental health staff at the facility about which medications your child needs.
2. Notify the facility's nurses and staff if your child is suicidal. *Most youth who die by suicide in detention usually do so in the first few days. Notifying detention facility staff that your child may be suicidal could save their life. The first 24 hours are the most important.*

The staff at most facilities try to be helpful, but keep in mind that their main concern is safety.

Law enforcement officers are required to take steps to let you know where your child is being held. You will get a short description of the charges as well. This will happen right after your child has been admitted. Your child will be allowed to call you and a lawyer immediately after being processed.

Do not assume you will receive a notice on time. Although law enforcement officers are required to provide a notice, they don't always do it right away. If your child does not call you or you have not received notice, you can call facilities to find out if your child is there. Juvenile detention facilities and juvenile courthouses are listed in the county government section of the phonebook or on the county website. Once you know where your child is being held, call the facility or go there and talk to the staff in person. Your child will be listed by their name and birth date.

Once your child is taken into detention, they will be searched and "booked" or "processed." This involves fingerprinting, photographing and running a criminal background check. This can take a long time. Your child will probably have to wait in uncomfortable conditions before being booked. If your child appears to have serious mental health issues, they could be placed in a room by themselves. Once booking is over, your child can call you.

As a parent, you have the right to visit your child once booking is over. You can visit any time within the first 72 hours after your child is booked. After the first 72 hours, you will only be allowed to visit during the regular visiting times. Check with the facility to see when visiting hours are.

While in detention, your child must be kept completely separate from adult inmates and in most cases will not even be in the same facility. "Completely separate" means your child must be out of sight and out of earshot of any adults being detained in the same facility. However, there are five exceptions to this rule for children 14 years and older:

1. If a judge decides that your child is a threat to the safety of others, your child can be transferred to an adult jail. However, they still must be kept completely separate from adult inmates. The facility must also be approved to detain juveniles.
2. If the head of the detention facility finds that your child is a threat to the safety of others, they can place your child in an adult facility. Your child will be kept completely separate from adult inmates and can only be there for six hours at a time.
3. If your child has just been charged with an offense and the judge or intake officer decides detention is necessary, they can be placed in an adult facility. Again, your child will be kept completely separate from adult inmates and can only be there for six hours at a time.
4. If your child has violated their juvenile sentence in an extended jurisdiction case (see the section called “Extended Jurisdiction Juvenile Cases”) and there are no available juvenile facilities, they can be held in an adult facility for up to 24 hours (excluding weekends and holidays) before going to court. Again, they must be kept completely separate from adult inmates.
5. If your child has had their case transferred to adult court, they will be housed in an adult facility and will not be kept separate from adult inmates.

HELPFUL HINTS

- ▶ ***Ask the law enforcement officers where your child is being taken if you're present when your child is taken into custody.***
- ▶ ***Keep in mind that your phone calls may be recorded, and your conversation could be used against your child in court. It's a good idea to visit your child in person as soon as possible to talk about what happened and find out what they need. In-person conversations will not be recorded.***

Detention Hearing

Within 36 hours of your child's being brought into detention, not including weekends and holidays, a judge will hold a hearing to decide if your child should stay in detention. Your child's attorney (a public defender in most cases) will be there. As a parent, you have the right to attend the hearing as well.

If your child has a public defender, there is a small chance that the attorney may not be able to go to this hearing. The public defender's office tries hard to avoid this, especially for juvenile cases, but it's

important to know that it's possible. Public defenders have faced many budget cuts, and this is one of the results of those cuts.

If your child has been arrested for a minor offense, the judge may decide to release your child as long as you and your child promise to appear in court at a later date.

Depending on which county your child has been charged in, they could be released and given conditions to follow, such as attending school, remaining on electronic home monitoring, not contacting other people involved in the incident or meeting regularly with a probation officer or social worker.

If your child is not released right away, a judge could set bail, although this almost never happens in juvenile cases. If this happens and you can afford bail, your child can be released until their next court date. You may either pay the bail or contact a bail bondsman. A bail bondsman will usually ask you to pay 10% of the bail right away and agree to pay the rest if your child doesn't show up for court. After bail has been posted, your child will be released. Bail bondsmen don't usually take cases where bail is less than \$1,000.

If your child is not released based on their promise to appear or by posting bail, the judge can decide to keep them in detention for up to eight days. After eight days, the judge has to decide whether your child should or should not stay in detention.

This will continue every eight days until your child is released or transferred. A notice will be given to you and your child each time this happens. **You, your child, your child's attorney or the prosecuting attorney all have the right to request a formal court review instead.**

Mental Health Screening and Assessment

If your child is in detention, doesn't have a mental health diagnosis and is not receiving treatment, they may receive a mental health screening while they are in detention. A mental health screening is a short tool to see if your child has any mental health concerns. Mental health screenings are never used to diagnose a child. If the screening results are "positive," the facility should refer your child to the county social service agency, which will help your family arrange for an in-depth mental health diagnostic assessment.

In many cases, but not always, parents must consent before a child receives a mental health screening. You must consent if your child:

- ▶ Is found to be delinquent
- ▶ Has committed a juvenile petty offense for the third or subsequent time

- ▶ Has been placed in court-ordered detention after the initial detention hearing

Otherwise, parents must be notified by the court or county before a child receives a mental health screening, and they must be given the option to prevent the screening. The court can order a mental health screening without parental consent if the judge thinks it is in your child's best interest.

Letting your child receive a screening and assessment can help ensure they receive treatment and support. If you would like your child to receive a screening, talk with their lawyer.

A screening can also impact what consequences your child receives. If your child is adjudicated delinquent (found guilty), the judge will review the results of the screening. The judge will use these results when deciding on consequences or services for your child. The results cannot be used to decide whether or not your child is guilty.

Your child's attorney can ask the judge to review the screening earlier in the process. Discuss this with your child's attorney to see if this could help.

HELPFUL HINTS

- ▶ ***Try to contact the detention center nurse or staff to arrange medication and other treatment needs before the detention hearing.*** Screening will not take place until after the detention hearing, so it's important for the nurse or other staff to have the right information before then.
- ▶ ***Mental health screenings can be vital.*** They give detention staff critical information to help them address your child's needs. The outcome of the screening may also require a mental health professional to complete an assessment, which can lead to treatment.
- ▶ ***Make sure anyone who works with your child has the screening or assessment results*** whenever your child is transferred to a new facility, to a social service agency or back into the community.

If the screening finds that your child might have mental health needs, the judge may order a diagnostic assessment. A diagnostic assessment is more in-depth than a screening. The judge can consider the results of an assessment to connect your child with treatment or services but cannot use it to decide if your child is guilty.

Keep in mind that the results of a screening or assessment might not always end up with the right people or get where it needs to go. If you

know your child has had a screening or assessment, make sure that your child's attorney and facility staff who are working with your child know the results.

Mental Health Services and Medications in Detention

All Minnesota juvenile detention facilities provide access to health care and mental health services. However, this access differs from facility to facility.

How to ask for mental health services for a child in detention: First, contact the medical staff at the facility, generally the nurse. This may be difficult. **Be polite but persistent.** Say something like:

“My son/daughter _____ (name) was taken into custody and is in your facility. _____ (name) has a mental illness. Their diagnosis is _____ (specific condition), and they take ___ milligrams (dose) of _____ (medication) and _____ milligrams (dose) of _____ (medication) twice a day. Their doctor can be contacted at this number _____. S/he has a history of suicide attempts. I will call you back tomorrow morning.”

HELPFUL HINTS

- ▶ ***Write down the name and phone number of everyone you speak with.*** Consider following up on a regular basis about the information you have shared. You may want to keep notes about your conversations.
- ▶ ***Make sure the detention center gets the medication.*** Be sure that the medications are in their original bottles, and include the prescription instructions. It is up to your child to take the medicine when offered. The staff or nurses will not force your child to take medication.
- ▶ ***You may ask to participate in your child's treatment, both while they are in detention and after they are released.***

Share any information you think staff might need to know about your child. Even if staff at the facility knows that your child has a mental illness, they probably won't have good information about your child's specific treatment needs unless you share it with them.

If your child is at risk of attempting suicide, ask that they be put on suicide watch. This may involve placing them in seclusion, where they will be checked on more often.

You may also have important information about your child's medication that the facility's medical staff need. If your child has been taking

medication regularly, detention facilities are required to continue to provide it.

If your child is seeing a psychiatrist, the psychiatrist may be able to go to the detention center. A few facilities offer limited access to doctors and psychiatrists.

Education While in Detention

While in detention, your child will be able to continue their education. The facility should be in touch with your child's school so they can get credit for the classes they are taking.

If your child has an Individualized Education Program (IEP), the facility must follow it. If your child receives special education, they have the right to continue receiving these services and supports while in detention.

Diversion

Some counties have created "diversion" programs that connect youth with services, supports, treatment or other options instead of going through the court process. Talk with your child's attorney to see if this is possible. In certain counties, your child will have a lawyer at their detention hearing whose job it is to advocate for alternatives other than detention.

Juvenile Detention Alternatives Initiative (JDAI)

Four Minnesota counties have a program known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI addresses issues of overcrowding, the negative impact detention has on young people and the disproportionate number of youth of color who are detained. The program seeks to divert young people out of detention and into community programs instead. In Minnesota, the program exists in Hennepin, Dakota, Ramsey and St. Louis Counties.

The results have been positive. Between 2005 and 2010, the program has reduced the number of young people in detention by 55% and reduced the number of youth of color in detention by over 60% in Hennepin, Dakota and Ramsey Counties. The program has also dramatically reduced the number of youth who fail to show up for court and who are re-arrested. For more information, visit the above counties websites or www.jdai-mn.org. ■

GOING TO COURT

Defense Attorneys

If your child has to appear in court, they have the right to be represented by an attorney. You may hire an attorney for your child. If you cannot afford an attorney, in most cases the court will appoint a public defender. However, a public defender is not guaranteed if your child is accused of a petty or traffic offense (except runaway) or truancy (except in cases of out-of-home placement). Even if you can afford a private attorney, you may request a public defender, but you might have to pay a fee.

Parents and guardians are allowed to have an attorney as well. As a parent, you may be able to be represented by a public defender if you cannot afford a private attorney, but this almost never happens. It is up to the judge to decide. You are guaranteed the right to an attorney if you cannot afford one and the county is proposing to terminate your rights as a parent. This is important because it is very hard to regain your parental rights once you lose them.

Public Defenders

The court will usually assign a public defender to your child's case if the court finds that your family cannot afford to hire a private attorney. You may have to pay a fee depending on your income and the county you are in. Your child will be eligible for a public defender if they are accused of a:

- ▶ Felony
- ▶ Gross misdemeanor
- ▶ Misdemeanor if out-of-home placement is proposed
- ▶ Repeat of a juvenile petty offense

Once a court agrees, the local chief public defender decides which attorney will handle the case. Each public defender's office also has a social worker on staff, who can help connect your child to the supports and services they need.

Public defenders are usually hard-working and dedicated. However, public defenders have huge caseloads and work with very limited resources. Try to be patient, but be persistent. Encourage your child to do the same. Do not expect to have long conversations with your child's public defender.

Public Defender Offices in Minnesota

JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
First Judicial District	Carver Dakota Goodhue Le Sueur McLeod Scott Sibley	919 Vermillion St. Suite 200 Hastings, MN 55033 Phone: 651-480-0122 or 651-480-4829
Second Judicial District	Ramsey	101 E. Fifth St. Suite 1808 St. Paul, MN 55101 Phone: 651-757-1600
Third Judicial District	Dodge Fillmore Freeborn Houston Mower Olmsted Rice Steele Wabasha Waseca Winona	400 South Broadway Suite 204 Rochester, MN 55904 Phone: 507-285-7370 or 507-455-5887, ext. 106
Fourth Judicial District	Hennepin	701 Fourth Av. S. Suite 1400 Minneapolis, MN 55415 Phone: 612-348-7530
Fifth Judicial District	Blue Earth Brown Cottonwood Faribault Jackson Lincoln Lyon Martin Murray Nicollet Nobles Pipestone Redwood Rock Watsonwan	12 Civic Center Plaza, Suite 2070 PO Box 1059 Mankato, MN 56002 Phone: 507-389-5138

Public Defender Offices in Minnesota

JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
Sixth Judicial District	Carlton Cook Lake St. Louis	1400 Alworth Building 306 W. Superior St. Duluth, MN 55802 Phone: 218-733-1027
Seventh Judicial District	Becker Benton Clay Douglas Mille Lacs Morrison Otter Tail Stearns Todd Wadena	816 W. St. Germain St. Suite 410 St. Cloud, MN 56301 Phone: 320-255-3753
Eighth Judicial District	Big Stone Chippewa Grant Kandiyohi Lac Qui Parle Meeker Pope Renville Stevens Swift Traverse Wilkin Yellow Medicine	432 SW Litchfield Av. Willmar, MN 56201 Phone: 320-231-6064
Ninth Judicial District	Aitkin Beltrami Cass Clearwater Crow Wing Hubbard Itasca Kittson Koochiching Lake of the Woods Mahnomen Marshall Norman Pennington Polk Red Lake Roseau	619 Beltrami Av NW Suite 240 Bemidji, MN 56601 Phone: 218-755-4333

Public Defender Offices in Minnesota		
JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
Tenth Judicial District	Anoka Chisago Isanti Kanabec Pine Sherburne Washington Wright	433 Jackson St. Suite 120 Anoka, MN 55303 Phone: 763-422-3350
Appellate Office	All	540 Fairview Av. N. Suite 300 St. Paul, MN 55104 Phone: 651-201-6700

There are also three public defense corporations in Minnesota. They serve specific communities and are available to families that cannot afford an attorney.

Public Defense Corporations in Minnesota			
ORGANIZATION	COUNTIES SERVED	COMMUNITIES SERVED	CONTACT INFORMATION
Legal Rights Center	Hennepin County	All	Phone: (612) 337-0030 www.legalrightscenter.org
Duluth Indian Legal Assistance Program	Aitkin County Bois Forte Tribal Court Carlton County Cook County Lake County St. Louis County	Native American	Phone: (888) 249-3205 www.ilap-duluth.com 218-727-2881
Neighborhood Justice Center	Dakota Ramsey Washington	All	Phone: 651-222-4703 www.njcinc.org

Criminal Defense Attorneys

Families with enough money to hire a private defense attorney are not entitled to a public defender. Even if you qualify for a public defender, you can still hire a private attorney. Attorneys can be very expensive, and you should think hard before going into debt to hire an attorney. Carefully look at all your options before making a decision.

If you decide to hire an attorney, try to find someone who is experienced and effective. You can call the Minnesota Bar Association (1-800-292-4152) to make sure that an attorney specializes in juvenile cases. Try to find an attorney that has experience working with both juveniles and people with mental illnesses.

The Minnesota Board of Professional Responsibility (1-800-657-3601) can tell you whether an attorney has had any complaints against them. You can also search for an attorney's record online at <http://lprb.mncourts.gov/LawyerSearch/Pages/default.aspx>.

Other Options

Your child has the right to ask the judge to allow them to represent themselves, except in misdemeanor cases or when out-of-home placement is possible. This is known as “pro se representation.”

First, your child must meet with their attorney to go over the disadvantages of representing themselves. Next, your child's attorney must file a “waiver of counsel,” either in writing or at the next court appearance. The judge will decide whether your child understands the consequences of representing themselves and whether they made the decision on their own. The judge will also consider your child's age, maturity, intelligence, education, life experience and ability to understand the legal process.

Waiving the right to an attorney is almost never a good idea, especially in felony cases or when an out-of-home placement is possible. If your child is allowed to represent themselves, the judge will ask them before each court appearance if they would like to change their mind.

As a parent, you are not allowed to represent your child unless you are an attorney.

Working with an Attorney

Working with the defense attorney is the best way to find out what's happening with your child's case between court dates. The attorney's law clerk or legal secretary is usually the easiest person to reach. They can pass information back and forth between you and the attorney.

You may want to contact the defense attorney for two reasons:

- 1. THE DEFENSE ATTORNEY MAY HAVE INFORMATION YOU WANT.** They are the only person in the juvenile justice system who knows your child's side of the story. They also know the police and victims' versions. They will also know what your child wants to do (e.g., take a plea bargain or go to trial). It is a good idea to ask what options your child has, since sometimes children choose pleas that aren't in their long-term best interest.
- 2. YOU MAY HAVE INFORMATION THE ATTORNEY NEEDS TO HELP YOUR CHILD.** The defense attorney probably knows very little about your child's history, including whether they have a mental illness. Most attorneys have no training in mental health issues and may not know to ask your child about their mental health. Even if the defense attorney learns that your child has or may have a mental illness, he or she might not think to talk to you or your child's mental health providers about it. By contacting the defense attorney, you have the chance to educate them about your child and their situation.

Your child's defense attorney should be the one to speak directly with both the prosecutor and the judge. Do not talk to the judge on your own unless the defense attorney says it's a good idea. You will usually have a chance to talk to the judge at one of your child's court dates. Talk with the defense attorney before deciding what to say.

HELPFUL HINTS

- ▶ ***Call the defense attorney a day or two before each court date so they can explain what they expect to happen that day.***
- ▶ ***Practice sharing your story before calling your child's attorney. Be brief, and try not to use jargon and technical language.***
- ▶ ***Don't speak directly with the judge or prosecutor unless your child's defense attorney says it's a good idea.***
- ▶ ***Keep the attorney's contact information in a safe place***

Do not talk to the prosecuting attorney. The defense attorney can tell the prosecutor anything they need to know. Information you think might be helpful could actually hurt your child's case in the hands of a prosecutor. In a best-case scenario, the prosecutor might understand that your child has a mental illness and work with the defense attorney to make sure your child receives treatment.

Talking to the Defense Attorney

Once you get a hold of the defense attorney, be brief. Don't tell them your child's whole story.

Share only the most relevant facts, including:

- ▶ Information about your child's mental illness, recent hospitalizations, medication and treatment
- ▶ Contact information for their mental health treatment and service providers (psychologists, psychiatrists, school counselors, social workers, case managers, etc.)
- ▶ People who can confirm their mental illness (family members, teachers, etc.)
- ▶ Brief information about what stressors might have been happening in their life at the time of the offense
- ▶ Your child's history with the juvenile justice system
- ▶ Support systems and help your child uses in the community

Tell the attorney or clerk who you are calling about and that you have important information. Let them ask you questions, and answer them. Politely ask the attorney to explain any legal terms you don't understand.

You can also provide the information in writing. This way you can make sure the attorney has information even if you can't reach them by phone.

Public defenders have social workers on staff, called dispositional advisors, who can help find out whether there are good alternatives to detention available for your child. Depending on the situation, a dispositional advisor might recommend treatment instead of detention or probation. To make that recommendation, the dispositional advisor looks at things like whether the child has a mental illness and whether treatment could help.

Changing Attorneys

Your child is the only person who can request a different attorney. Even if the attorney is hired and paid for by your family, the attorney must act on your child's wishes whether or not you agree with the decisions your child makes. You may think of the court as a source of help for your child, while the attorney is thinking of risks like out-of-home placement or a permanent record. The attorney also considers your child's constitutional rights.

If your child is unhappy with a private attorney, they can request that the attorney be "relieved" from the case and hire a new attorney. Your child must tell their attorney they want to do this, and the attorney will tell the judge at the next court date.

If your child has a public defender, it is never a good idea to have them relieved. Your child will not receive a new attorney, and it will make things very difficult.

Judges almost never grant requests for a new attorney. A judge can deny a request for a new attorney for any number of reasons. If your child has already made a request and did receive a new attorney, the judge will likely deny any new requests.

The defense attorney can ask to be relieved from representing your child as well, but this is rare.

Initial Court Appearance (Admit/Deny Hearing)

The initial court appearance, called an arraignment, is the first time your child will appear before a judge, aside from any detention hearings. It has three purposes:

- 1.** Letting you and your child know what they are being charged with
- 2.** Letting your child either admit to the charges or go to trial
- 3.** Figuring out what happens next

If your child is in detention, the arraignment will happen within five days. Your child has the right to see the charges at least three days before the arraignment.

Your child will meet with their attorney before the arraignment. The first meeting will be between your child and their lawyer alone. It is illegal for anyone else, including parents, to participate in this meeting. Most attorneys will talk with you about the case after the first meeting.

The court will let you know the date, time and location of the hearing, and you will be required to attend.

Available Plea Options

Your child will have to decide whether to admit to the offense. This is called a “plea.” Your child could be charged with more than one offense. They will need to enter a plea with the judge for each charge. The plea options will vary depending on how serious the offense is. The various plea options for your child could include:

- 1. PETTY OFFENSE, TRUANCY, RUNAWAY OR PROBATION VIOLATION:**
Your child has the option to admit to or deny the offense they are charged with. Admitting to a charge has the same effect as pleading guilty in a more serious case. Denying a charge has the same effect as a not guilty plea.
- 2. MISDEMEANOR, GROSS MISDEMEANOR OR FELONY:** Your child has the option to plead guilty or not guilty to a charge. Usually people

don't plead guilty to serious offenses at the arraignment. If your child pleads not guilty, a new court date will be set.

It is important to understand that a plea is just a step in the process. Even though a not guilty plea means the case will continue, it can be vital. Often, a lawyer will recommend that your child plead not guilty if they need more time to build a good case or to make sure your child has the best outcome possible. The lawyer has a duty to investigate the case.

Most guilty pleas happen after the defense attorney and the prosecutor agree about how to resolve the case. If your child pleads guilty, the judge will order a “pre-disposition report” to give the judge more information before deciding how to sentence your child (see the section called “Disposition Hearing”).

It is extremely important that your child understand the consequences of pleading guilty. The consequences will be based on a wide range of factors, but the more serious the offense and the more times your child has been in legal trouble, the more serious the consequences will be.

Plea Bargain

Most juvenile cases never go to trial. Typically, the attorneys work out a deal before that happens, often on the day of the trial. This agreement is called a “plea bargain.” Usually plea bargains include an agreement to drop some of the charges in exchange for pleading guilty to others. In a plea bargain, the prosecutor usually agrees to lesser consequences than they would ask for at trial. For children with mental illnesses, community service, community based treatment or residential treatment are much better options than placement in a correctional facility. Your child has to decide whether to accept the plea bargain.

Other Common Outcomes

CONTINUANCE WITHOUT PLEA: The prosecutor may offer your child a “continuance for dismissal” if the offense is minor. This means that the case will be put on hold, usually for six months to a year. During this time, your child must stay out of trouble and follow certain steps, such as taking medication, going to treatment, paying restitution to victims, completing community service or paying fines. If your child does everything the judge orders, the charges will be dismissed, and the case will be over. If not, charges can be re-filed, and the process starts all over again. A continuance could be offered in more serious cases as well, but the conditions will be much stricter.

CASE DISMISSED: If the prosecutor has not filed charges against your child, the judge will dismiss the case. If your child is in detention, they will be released unless the prosecutor asks for more time to investigate.

If the case is dismissed because no charges are filed, make sure that the prosecutor has your child's correct address. If new charges are filed and you and your child miss the new court date, your child could be taken into custody.

Extended Jurisdiction Juvenile Cases

If your child has been charged with a serious felony, for example, if a gun is involved, the prosecutor or judge may decide to make the case an extended jurisdiction juvenile (EJJ) case. If your child is found guilty in an EJJ case, they will be given a juvenile sentence and a "stayed" adult sentence. This means that, if your child follows all the requirements of the juvenile sentence, the adult sentence will never take effect. The juvenile sentence can last until your child's 21st birthday, and probation can continue even longer. If your child violates their juvenile sentence, the adult sentence can take effect and could include serving time in an adult jail or prison.

Adult Certification

If your child is 14 or older at the time of the offense and is charged with a felony, they may be certified as an adult and tried in adult criminal court. The prosecutor must show that your child committed a felony offense and that public safety would not be served by keeping the case in the juvenile justice system. Once certified as an adult, your child will be treated as an adult criminal defendant.

If your child is age 16 or 17 at the time of the incident and is accused of either a violent crime or a crime that would result in prison time for an adult, the certification process begins automatically. If the judge chooses not to move the case to adult court, it will be handled as an EJJ case.

If your child is age 16 or 17 at the time of the offense and is charged with first-degree murder, Minnesota law allows them to be tried as an adult without going through the certification process. If your child is found guilty, they will receive an adult sentence.

For more information on navigating the adult criminal justice system, see the NAMI booklet, "Advocating for People with Mental Illnesses in the Minnesota Criminal Justice System."

No Contact Orders

A judge may issue a no contact order in some cases. A no contact order means that your child has to stay away from a specific person or place. A no contact order could be issued if your child is charged with hurting someone else or damaging property.

If a no contact order is issued to your child, try to help them understand the order and follow it. Your child risks serious consequences if they don't. Even if your child thinks the order is wrong, they should obey it. If the order is causing problems for your child, they can ask their attorney to try to have it lifted.

Warrants

A warrant is a court order for police to bring your child into custody so that they can appear in court. A warrant could be issued if your child is suspected of committing an offense, is in danger or has not followed a judge's orders. For example, a judge may issue a warrant for your child if they:

- ▶ Fail to appear at a scheduled court hearing
- ▶ Do not complete their court ordered community service
- ▶ Leave a detention or treatment facility without permission,
- ▶ Violate the terms of their probation

The warrant will likely be issued the same day as the missed court date or within days or weeks of not following a judge's order.

Your child's probation officer can also ask the judge to issue a warrant if your child doesn't follow the rules of their probation and efforts to resolve the situation have failed. It is hard to know how long it will take for a warrant to be issued for a probation violation. It can take months.

Probation officers can also issue an order to detain your child if they violate their terms of probation. This is usually used for serious violations. If your child is detained because of one of these orders, they must be released or returned to court within 36 hours (not counting weekends and holidays). If they return to court, the judge will order that your child either stay in detention or be released. Often a "release plan" will be put in place that includes consequences or treatment recommendations.

How aggressively law enforcement tracks down warrants will vary. The officers may come to your home the same day the warrant was issued. Warrants can also be served at school. Usually, the more serious the offense, the more effort they will put into finding your child.

Clearing Up a Warrant

If your child believes there is a warrant for a probation violation and wants to clear it up, call the probation officer. Ask whether a warrant has been issued. If no warrant has been issued, try to stop one from being issued and try to arrange a new court date for your child. If a warrant has been issued, ask the probation officer to give your child another chance. Your advocacy can help your child stay out of custody.

If you find out your child has a warrant, contact their defense attorney. Explain there is a warrant and tell them if your child has a good excuse. The attorney should tell you when and where to go to deal with the warrant, and they may be able to meet you there.

If you can't reach the defense attorney or they can't help clear up the warrant, you can still help your child respond to the warrant. Gather as much specific information as you can about when and where to go. You can find this out from either the agency handling the warrant (e.g., the sheriff's office) or from the court that issued it. Sometimes your child may have to be brought into custody before seeing a judge. Other times, your child will be able to simply schedule a new court date.

If you have the option of going to court, show up early and explain to the court officers that you want to clear up a warrant. When you arrive, if you have not arranged to meet the defense attorney, you should ask a court officer whether there is an attorney who can "stand up" for your child when the case is called. If an attorney can help, explain any excuses your child has for the warrant. Be ready for a long wait; it can take all day.

Remember, your child will have to deal with not only the warrant but also the reason for the warrant, such as missing court or violating probation. As a result, your child might face new consequences.

Two key things will affect what happens if your child returns to court: (1) whether your child has a good excuse and (2) whether the warrant is new or old. Chances are good that your child won't face any new consequences if they have a good excuse (being hospitalized, family emergency, etc.) or if the warrant was issued only a few days ago. Usually your child will just have to correct the mistake that caused the warrant to be issued in the first place. Examples of ways to do this can include showing up for court, paying a fine or completing community service. If it's impossible to do what the court is asking, explain the situation to the judge. If you can, bring a letter from your child's treatment provider as well.

If your child does not have a good excuse for the warrant, the consequences could be worse than before the warrant was issued, especially if more than a few days have passed. A warrant could mean that your child is placed in custody before going to court or given an out-of-home placement rather than probation or community service. If the case is an EJJ case, the juvenile sentence could end, and your child would serve the adult sentence instead.

The best thing you can do is to help your child understand all their options. Explain how you can help if they decide to clear up the warrant, and give them time to think about it.

As a parent, you have to attend hearings too, and you could face court orders yourself. If you fail to appear in court or don't follow the court's orders, you could be subject to a warrant and possibly arrest.

HELPFUL HINTS

- ▶ **Ask the court when and where your child should appear** if there is a warrant for them. You don't have to tell anyone how to find your child, even if you know. If someone asks you, explain that your child plans to deal with the warrant.
- ▶ **Clearing up a warrant is very important.** Do not ignore a warrant. Even if law enforcement doesn't show up right away, the warrant still exists, and your child will be arrested if they have contact with police. Warrants do not disappear by themselves, and they never expire.
- ▶ **Warrants for some felonies can put Social Security Income (SSI) at risk.** Your child can't receive SSI if they have a warrant for these felonies: flight to avoid prosecution or confinement, escape from custody or flight-escape. Your child may have to pay back SSI received while there is a warrant for any of these felonies. Clearing up a warrant can keep your child from losing SSI or having to pay back SSI.
- ▶ **Even if your child is sure they will never have another encounter with police, clearing up a warrant relieves stress.** As long as your child has an outstanding warrant, they are considered a fugitive, no matter how minor the offense. The stress of worrying about a warrant is often worse than clearing it up.
- ▶ **Your child will face less severe consequences if they clear up a warrant before law enforcement brings them in.** Judges are impressed when a young person shows responsibility.

Rule 20 Proceedings

You may hear people talk about Rule 20. This can refer to either Rule 20.01, which deals with whether your child is competent to stand trial, or Rule 20.02, which deals with whether your child is mentally competent to be held responsible for the offense. These rules are part of the Minnesota Rules of Juvenile Procedure. The fact that your child has a mental illness is relevant to both.

Rule 20.01: Competence to Stand Trial

Your child must be competent to stand trial if they are charged with an offense. “Competent” means that your child can discuss the case with their attorney, understand what’s happening and participate in their defense. If either the prosecutor or the defense attorney doubts that your child is competent because of a serious mental illness, they must tell the judge. The judge will then assign a physician, psychiatrist or psychologist to do a “competency examination” for your child. Any new court dates are put on hold once the decision is made to have your child examined.

The competency examination can happen in one of three places:

1. At the doctor’s or psychologist’s office
2. In a juvenile detention facility
3. In a hospital, when medically necessary

Both the prosecutor and defense attorney are allowed to hire their own qualified examiner and have them present during the examination.

A report about the examination will include:

- ▶ A diagnosis of your child’s mental condition
- ▶ An opinion about your child’s ability to understand what’s happening and to participate
- ▶ An opinion about how likely it is that your child will eventually become competent
- ▶ Any recommendations about treatment
- ▶ How they came up with these results

This report is given to the judge, prosecutor and defense attorney. The judge then decides whether your child is competent to stand trial based on the report and any objections from the attorneys. If the judge finds your child is competent to stand trial, the case will continue.

If the judge finds your child is not competent to stand trial, what happens next depends on the seriousness of the offense. Petty, traffic or misdemeanor cases are dismissed automatically. In gross misdemeanor cases, the judge can decide to either dismiss or suspend the case. Felony cases will be suspended.

Once your child has been found to be not competent to stand trial and the case has been either dismissed or suspended, the judge has three options:

1. Commit your child to a hospital or residential program for treatment. If your child is already civilly committed, their commitment will continue;

2. Declare your child as a Child In Need of Protection or Services (CHIPS) and move their case to social services so they can receive treatment and services.
3. Release your child.

If the case is suspended, your child will receive treatment until they are well enough to be tried. The person in charge of your child's case must report to the court on your child's mental health and whether they can return to court. These reports must be done at least once every six months. At any time, the court can hold a new hearing about your child's competency. There is no limit on the number of these hearings. Your child cannot enter a plea, be tried or be sentenced for any offense as long as they are considered not competent to stand trial.

If your child is not brought back to court, the case will be dismissed either one year after the date your child was first found to be incompetent or by their 19th birthday (21st birthday for EJJ cases), whichever comes first. However, the prosecutor may file a "notice of intent to prosecute" any time before this. If this notice is filed, the case will be put on hold for another year. If your child could be certified as an adult, the case is put on hold for three years. Murder charges cannot be dismissed because your child is found not competent to stand trial.

Rule 20.02: Mental Illness Defense

Rule 20.02 refers to the mental illness defense, which is sometimes called the insanity defense. In Minnesota, the test to decide whether a person is not responsible for their actions because of mental illness is known as the M'Naghten standard. This standard says that your child's mental illness was so serious at the time of the offense that they did not understand what they were doing or that it was wrong.

This is a very high standard, and it is very hard to meet. Even if your child is having hallucinations or delusions or has a thought disorder, they would not automatically meet this standard.

For a few different reasons, defense attorneys usually do not try to use this defense. First, it is very difficult to win. Second, a successful mental illness defense immediately triggers a civil commitment hearing except in rare cases where the court is willing to waive it. If civilly committed, your child may be held in a secure treatment facility for much longer than they would have been detained if they were found guilty.

Trial

If your child's case ends up going to trial, you will be required to attend unless the judge excuses you. A judge will decide whether your child

is guilty. Your child does not have a right to a trial by jury except when the case has been transferred to adult court or when it's an EJJ case.

Juvenile court hearings are closed to the public except for felony cases against teenagers 16 and older, EJJ cases or when your child has been certified as an adult. Records of these cases are public, but not directly accessible over the internet. Members of the public may access the records at the courthouse. In some cases, it may be possible to have the juvenile court records “expunged” or sealed. Child in Need of Protective Services (CHIPS) cases are also open to the public (see the “CHIPS” section for more details).

If the case is closed to the public, the only people allowed in court besides attorneys and court staff will be the victim, one support person for the victim, your child's probation officer, you and other immediate family members. The court can temporarily exclude anyone but the guardian ad litem and attorneys if it's in the child's best interest.

Parents, grandparents (if your child has lived with them within the past two years) or legal guardians are allowed to participate in the proceedings. Talk with your child's defense attorney about how you can best support your child.

Disposition Hearing

If your child has admitted to an offense or been found guilty by a judge following a trial, the next step is the “disposition hearing.” At the disposition hearing the judge will decide what consequences and services are right for your child. This is called a “disposition” and can include anything from community service to treatment (outpatient or residential) to placement in a correctional facility.

The prosecuting attorney and your child's defense attorney will each make arguments about what type of disposition your child should receive (treatment, probation, out-of-home placement, etc.).

Your child can make a statement if they wish, but they don't have to. You or your child may present evidence at this hearing to help influence the judge's final decision. This can include letters of support or information related to your child's mental health issues.

You should give these letters to your child's attorney before the hearing so they can be shared with the judge and the prosecutor ahead of time. These letters can be extremely helpful. Try to collect as many letters of support for your child as possible from family, community members, faith leaders, teachers and others who know your child's situation and can speak positively about them.

The exact disposition your child receives will depend on the seriousness of their offense, any past juvenile record, letters of support, arguments made by both attorneys and other factors, including the results of a mental health assessment. Unlike the adult criminal system, there are no sentencing guidelines that judges must follow. However, there are limits to what consequences a judge can order. Talk with your child's defense attorney about what will likely happen to your child. You and the defense attorney may also want to talk with the dispositional advisor, who might recommend treatment instead of detention.

Adjudication

As part of your child's disposition, the judge will decide to either "adjudicate your child delinquent" or "withhold adjudication." If your child is adjudicated delinquent, the court has the right to supervise your child's progress and order consequences until their 19th birthday. These charges will appear on your child's juvenile record.

If the judge decides to withhold adjudication, the court's authority over your child only lasts 6 months.

Probation is usually a part of the disposition whether or not your child is adjudicated.

Appeal

If your child is unhappy with the results of the case (they have been found guilty of an offense they did not commit, they received an overly harsh disposition, etc.) it may be an option to appeal the case. An appeal is a request to a higher court to review the juvenile court's handling of the case. The appeals court may overturn the juvenile court's order, or may send the case back for a new trial or disposition. Public defenders are available for appeals as well.

Juvenile Records

In most cases, juvenile records are not available to the public, cannot be used for employment background checks and expire once your child turns 18. However, juvenile records are not as private as people think.

There are several situations where juvenile records may not be private:

- ▶ Felony-level and EJJ cases involving youth 16 or older are always open to the public.
- ▶ EJJ cases where the juvenile sentence is revoked are available to the public no matter how old your child is.
- ▶ Law enforcement agencies may share information with each other from your child's record when investigating a crime.

- ▶ School officials will be informed about your child’s juvenile record if your child:
 - Is adjudicated delinquent (for gross misdemeanor or felony offenses)
 - Is placed on probation
 - Committed the offense at school
- ▶ Juvenile records may be used for background checks later in your child’s life if they apply for:
 - Adopting a child
 - A foster care or home day care license
 - A license to possess or carry a firearm
 - Housing, especially public housing (can impact your housing as well)
 - Military service
 - Job training programs
 - Work or volunteering serving children. Only information about violent offenses or offenses against a child can be released in this case.

If your child commits two or more felony offenses after age 14 and then commits another felony as an adult before they turn 25, the juvenile offenses can be added to their criminal history score. This can lead to a harsher sentence.

Even if your child’s juvenile record is not supposed to be available to the public, this is not always the case. With the internet and other technology making information more available, their record could still be available to employers and others.

Child in Need of Protection or Services (CHIPS)

The county handles habitual truancy, runaway offenses and cases involving children under age 10. These cases are known as CHIPS cases. The process for CHIPS cases is similar to other juvenile cases, but you as the parent will be more involved. Some type of treatment or services is likely with these cases, and your child may end up on probation if they are charged with habitual truancy or runaway offenses. CHIPS cases are always open to the public.

Emergency Protective Care Hearing

A judge will order an emergency protective care hearing if they believe your child is in a dangerous situation at home or if they have been out of your custody for six months without a court order. The hearing is meant to decide if your child is in danger and whether they can stay at home or will be placed somewhere else. If a judge orders this type of

hearing, you can ask for your child to be placed with a caregiver of your choice instead of in a shelter. You as a parent have the right to an attorney in these cases, even if you can't afford one. Each county has its own plan for providing these attorneys.

Termination of Parental Rights

In some cases, your rights as a parent could be terminated either voluntarily or involuntarily. You may be allowed to terminate your parental rights if you have a good reason and give your consent in writing. This is a serious decision and should not be made lightly.

A judge can also terminate your rights as a parent. Your parental rights may be terminated if the court suspects you are responsible for your child being neglected, harmed or abused. The court may also terminate your parental rights as part of a disposition (sentence) from your child's case.

Before your rights are terminated, you have a right to a trial and an attorney. A judge will make the final decision. If your parental rights are terminated, it will be much easier to terminate your rights to your other children in the future. This is rare and usually only happens in very serious cases. ■

DISPOSITION (SENTENCING) OPTIONS

If your child is found guilty of an offense, the judge will decide what consequences and/or services your child needs. The set of services and consequences your child receives is called a disposition. The judge can choose from several disposition options, including community based treatment, residential treatment, juvenile probation or an out-of-home corrections placement. This chapter describes these options.

Treatment

Treatment is an important part of the juvenile justice system. If your child has mental health or substance use issues, treatment will be a part of their disposition.

Treatment can take place either in the community or in a residential facility. The court could order your child to receive treatment in a residential facility if:

- ▶ A mental health professional says that placement in a residential treatment facility is necessary.
- ▶ A county team evaluates your child and finds that residential placement is the best way to meet your child's needs and protect public

safety. They must show that it will be helpful for your child and cost-effective.

- ▶ The judge overrules a county team’s recommendation against placement. Both your child’s attorney and the prosecutor will be able to argue this before a final decision is made if they believe placement is not appropriate.

Unless it is found that your child has been the victim of abuse or neglect, placing your child in out-of-home treatment will not cause you to lose your parental rights.

If the judge decides that your child needs mental health or chemical dependency treatment or services, you or your insurance company might have to pay for them. If you can’t afford it, the judge may order the county to pay for them.

HELPFUL HINTS

- ▶ ***If your child is found guilty, explore treatment or probation.*** Talk with your child’s attorney about what programs and services are available in your area. Think about your child’s needs and your ability to provide structure and supervision.
- ▶ ***The court cannot transfer legal custody of your child just because you can’t provide care or treatment,*** unless the court finds that your child’s disability is the result of abuse or neglect on your part.

Juvenile Probation

Probation will most likely be a part of your child’s disposition. Probation is often used instead of an out-of-home placement, but youth in an out-of-home placement can also be on probation. Youth on probation, known as “probationers,” are supervised in the community. They must follow court orders, called “rules of probation,” which are set by the probation officer and the judge. The details of these rules are decided in court with input from the prosecutor, your child’s attorney, you and your child.

Probationers must report regularly to their probation officer. How often your child has to check in with their probation officer will depend on their situation. If your child doesn’t follow the rules of probation, the probation officer can ask the judge for a new hearing and could ask for a new (and harsher) disposition.

In some cases, particularly if your child has not been meeting with the probation officer or showing up for court, the probation officer may ask the judge to issue a warrant for their arrest. If this happens, a judge

will decide whether to continue probation or give your child a new disposition.

The Probation Process

Probation can last anywhere from 90 days to several years depending on the offense, the risks and needs of your child and their progress while on probation. The decision about the length of probation will be made in court by the judge with input from everyone involved.

If your child violates their rules of probation, the judge may increase supervision. For example, the judge could decide to order random drug testing, more intensive treatment, additional meetings with the probation officer or a longer probation period. The judge could also decide to end probation and put your child in an out-of-home placement.

The judge can continue to extend probation until your child turns 19 (21 for EJJ cases) if they think your child needs more time to finish their programs or needs more supervision.

Depending on the county where your child has been prosecuted, the probation will be overseen by one of three organizations: County Probation, the Department of Corrections or Community Corrections. If your child is on probation in a county that uses either County Probation or Community Corrections, you may have to pay some fees.

HELPFUL HINTS

- ▶ **Contact your child's probation officer before there is a problem.** Call the probation officer and introduce yourself. If you make contact early, the officer will be more likely to call you if a problem comes up. Stay in touch with your child's probation officer throughout the probation period and try to be as involved in the process as you can.
- ▶ **Educate your child's probation officer about your child's specific needs.** In some counties, a single probation officer may supervise more than 100 other young people and does not have enough time to find out everything about each one. By helping a probation officer understand your child's mental health issues, you can help prevent your child from violating their rules of probation.

Hammergren Warning

It's possible that the judge will issue your child a Hammergren Warning. The purpose of this warning is to let your child know that violating their rules of probation may result in a criminal charge called contempt of court.

Out-of-Home Placement

It is important to continue to advocate for your child if the judge orders them into an out-of-home placement. When the judge is considering an out-of-home placement, it is important to provide information about your child's needs.

There are many different out-of-home placement options across the state. Some are more restrictive than others. Each offers different programs and services and serve youth with different needs. Some programs are licensed by the Department of Corrections and offer services designed to correct behaviors and address "criminal thinking." Others are licensed or certified by the Department of Human Services to provide mental health and/or chemical dependency treatment.

If your child is placed out-of-home, be sure to find out:

- ▶ The location of the facility
- ▶ The contact information for the facility, including how to get in touch with your child
- ▶ The rules for phone calls, emails, mail and visiting
- ▶ The phone number for the person who will be your main contact for information at the facility

HELPFUL HINTS

- ▶ ***Make sure staff at the facility understand your child's mental health status***, including diagnosis, medications, history and any other information you have.
- ▶ ***Learn the rules for visitation***, including what you can and cannot bring when you visit.
- ▶ ***Your support and advocacy matter***. It can go a long way for your child to know that you continue to support them and that you have confidence in their ability to do well in the program.

Most facilities offer programs to meet the needs of youth with specific issues. These programs work on teaching your child skills and helping them address issues they are having. The programs can last from 30 days to a year or longer.

How long your child will have to stay and how much freedom they will have will depend on how serious their offense was and how well they do in the facility.

Correctional/Secure Programs

Secure juvenile corrections centers are the most restrictive type of out-of-home placement and are more likely to be used if your child has a long juvenile record or if they committed serious felonies.

If you have concerns about your child's mental health or substance abuse treatment while in out-of-home placement, contact the person in charge of the facility. If you are not sure who this person is, call the facility and ask.

Umbrella Rule

In 2004, the "Umbrella Rule" took effect in Minnesota, requiring standards for all children's residential programs for chemical dependency, mental health and corrections. Under this rule, treatment programs under the Department of Corrections are licensed the same way as those in the Department of Human Services and have to meet the same basic standards. If your child has been assessed as having mental or chemical health issues, any of these programs are required to address their needs. However, programs certified to provide mental health treatment can offer more services onsite than correctional programs.

As part of this rule, you, your child or anyone involved in your child's life has the right to file a complaint if there are any problems with the way your child is being treated while in an out-of-home placement. If you would like to file a complaint, let the facility know. Facilities have a set of rules they must follow when people file complaints. The facility must:

- ▶ Give you all the forms you need and help make sure your complaint is filed correctly
- ▶ Tell you who is responsible for dealing with your complaint
- ▶ Respond to the complaint within five days
- ▶ Keep records of the complaint and what was done on file

Once you file a complaint, the facility will do an investigation and let you know what they find and what was done.

You have the right to appeal if you don't like how your complaint was handled. The facility must give you all the forms you need to do this. You can also ask the facility to give your complaint to the head of the facility.

Your child cannot be punished in any way because they or someone else filed a complaint.

Seclusion and Restraints

There are rules limiting how treatment facilities, juvenile detention facilities and juvenile correctional facilities can use seclusion (placing your child in a locked room) and restraints (physically holding your child). Seclusion and restraints are also known as "restrictive procedures."

Restrictive Procedural Rules

- ▶ Seclusion and restraints can be used only in emergency situations when your child is endangering themselves or others.
- ▶ They can't be used when a less restrictive approach will work.
- ▶ They must stop using restraints as soon as the threat of harm ends.
- ▶ Your child must be constantly observed during the restraint or seclusion.
- ▶ The use of seclusion or restraints has to be under the supervision of a mental health professional or the facility's program director.
- ▶ Physical restraint or seclusion can only be used as allowed in your child's treatment plan.
- ▶ Staff must receive specific training before they can apply restrictive procedures.
- ▶ When the need for restraints or seclusion ends, staff must assess your child to make sure they can safely return to normal activities at the facility.
- ▶ Staff must treat your child respectfully throughout the process.
- ▶ Staff must document the use of seclusion or restraints every time they are used.
- ▶ Any room used for seclusion must be clean, well-ventilated and well-lit, and it has to have an observation window.
- ▶ Anything your child could use to harm themselves must be removed from the seclusion room before they are placed there.

It is important to know that juvenile correctional facilities also have "disciplinary time-out rooms," which do not have to follow the same procedures as seclusion rooms. Also, all facilities are required to have a plan for using seclusion and restraints. You can ask for a copy of their plan.

Life in any juvenile justice facility can be hard. A young person with a mental illness may have trouble understanding and following the rules and may spend more time in seclusion. While some facilities have special units designed for youth with mental health issues, others do not. Try to be as involved as possible, and advocate strongly for your child. Stay in contact with staff at the facility to make sure your child is receiving their medication as well as the treatment and supports they need. Be patient, but be persistent!

Cultural Issues

Young people of color who are in an out-of-home placement face their own set of challenges. While the majority of youth in placement are not white, the facility may not have many staff of color or be culturally competent.

If your child is not fluent in English, it may be hard for them to understand what is happening and follow all the rules. However, your child has the right to “culturally sensitive” services while in an out-of-home placement, including an interpreter. Work with staff at the facility to make sure your child’s needs are met. If problems come up, use the complaint process mentioned above.

Gender Issues

Girls in an out-of-home placement have their own unique issues, and the system is not always designed to meet their needs. Try to work with staff at the facility to make sure your daughter is receiving the best possible care. Some facilities have programs designed just for girls. Talk with your daughter’s attorney during the disposition process to see if this could be an option. If problems come up, use the complaint process mentioned above.

Leaving an Out-of-Home Placement

Before your child leaves an out-of-home placement, you will want to actively participate in “discharge planning.” Discharge planning means setting up a plan for when your child leaves the facility and returns to the community. The plan is required by the licensing rules and should outline how your child will be connected to the services that will help them succeed.

Before your child returns home, a plan should be in place for how they will obtain medications, treatment and help with living arrangements (if necessary).

Depending on the facility, your child may also be assigned a reentry support team consisting of probation officers, community members, mentors and possibly yourself.

You can ask to be involved in this process. Discharge planners can share information with you, and you may be able to help them. Ask specific questions about your child’s reentry plan to make sure that they will have their medications (if any), case management services, mental health services, school records and housing or residential treatment services (if necessary) available right away when they are released. The discharge planning process is different from facility to facility—some do a lot, and some do very little.

Some juvenile correctional centers also use supervised furloughs to make it easier for young people to return to the community. If your child receives one of these furloughs, they will be allowed to return home as long as they follow certain rules, such as attending school or looking for a job. They will also have to report to a case manager on a regular basis.

HELPFUL HINTS

- ▶ **Contact the mental health staff or the discharge planner a few months before your child's release date.** Working closely with the facility before your child's discharge is a good way to make sure your child stays on track and can keep services and supports they need.
- ▶ **Be involved in the discharge planning process as much as possible** and help support your child when they return to the community. You can also ask to participate in your child's treatment.
- ▶ **How this all works may differ depending on the county,** program and facility. If you're not sure about something, be sure to ask.

CONCLUSION

Advocating for your child in Minnesota's juvenile justice system can be confusing, frustrating and overwhelming. Try to find people who can help you through the process. **Be patient, but be persistent!**

This booklet does not offer legal advice. It is designed to help you understand the basics of the juvenile justice system so that you can effectively advocate for your child.

If you have comments or suggestions for future printings of this publication, please send them on the postcard at the end of this booklet or contact the NAMI Minnesota office.

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COMMON TERMS

Adjudicated: having been found guilty of a delinquent act; similar to a conviction in the adult criminal justice system.

Admit: an admission of guilt; the equivalent of a guilty plea used for a petty offense, truancy, runaway or probation violation.

Apprehension and Detention Orders: a court order allowing probation officers to take your child into custody because they violated their terms of probation or are at risk of not showing up for court. Under one of these orders, your child can be detained for up to 72 hours, at which point they must either appear in court or be released.

Arraignment: the first time your child will be in court (other than a detention hearing) after your child they have been charged with an offense. The purpose is let you and your child know what the charges are and enter a plea (guilty/not guilty).

Bail: the amount of money your family must pay to have your child released before their next court date if they are in detention.

Bail Bondsman: a person who receives a nonrefundable fee, usually 10% of the bail, to pay the bail on behalf of a juvenile or their family.

Certification: the process by which your child's case can be transferred to the adult criminal justice system.

CHIPS: Child in Need of Protection or Services. These are cases where your child has been brought into juvenile court, usually by the social services agency, because of issues they are having at home, such as abuse or neglect. CHIPS cases can include child protection, termination of parental rights, truancy, runaway and delinquencies under the age of 10.

Citation (Ticket): a notice requiring a person to appear in court, pay a fine or take other actions.

Competency Evaluation: an assessment, ordered by a judge and carried out by a health care professional, to decide if a juvenile has mental health issues that are so severe they are not able to continue with the court process.

Continuance: delaying a case or at least the time between court dates.

Delinquency: a crime committed by a person between the ages of 10 and 18.

Delinquent Child: a juvenile who is between the ages of 10 and 18 who has committed an act that would be a crime if committed by an adult.

Deny: the equivalent of a not-guilty plea used for a petty offense, truancy, runaway or probation violation.

Detention: temporarily holding your child until their next appearance in juvenile court. Usually lasts one week at most.

Detention Hearing: a hearing to determine whether your child will be kept in a detention facility until their next court appearance.

Disposition Hearing: a hearing to decide the consequences and/or services for your child once they have been found guilty; similar to a sentencing hearing in adult court.

Diversion: an alternative procedure in which the case is handled outside of the court.

Extended Jurisdiction Juvenile (EJJ): a juvenile who has committed a serious offense that would have resulted in a prison sentence if they were an adult. To be considered for EJJ your child must be between 14 and 17 years old at the time of the offense. The judge sets both a juvenile sentence and a stayed adult sentence. If your child violates the terms of the juvenile sentence, they may have to serve the adult sentence. The adult sentence could include incarceration in an adult correctional facility. In this type of case a juvenile can remain on probation until they turn 21 (19 on all other cases).

Forensic: relating to the law or the legal process.

Guardian ad Litem: a person appointed by the juvenile court to represent the best interests of your child in court.

Hammergren Warning: a notice to your child that if they violate their probation, even for petty offenses, they may be charged with contempt of court and subject to more serious consequences.

Indigent: poor, usually unable to afford an attorney.

Jurisdiction: the right and power to interpret and apply the law. Authority over your child.

Mental Health Screening: a brief, culturally sensitive process designed to identify children and adolescents who may be at risk of having a mental illness.

Neglect: term for parents who fail or refuse to provide care and supervision for their child.

Out-of-Home Placement: a disposition where your child is required to live in a foster home, residential treatment facility or secure facility for a set period of time.

Parole: community supervision of your child when they have been released from a juvenile correctional center.

Petition: legal document that describes the offense your child is accused of; similar to a complaint in the adult system.

Pre-dispositional Report: a report to the court about your child's criminal, family, work and school history. Also includes a summary of the risks and needs your child has, along with recommendations for the judge.

Pre-Placement Screening Team: group of professionals who review potential out-of-home placements for juvenile offenders.

Probable Cause: enough evidence to take additional actions.

Probation: a sentence of supervision within the community.

Prosecutor: an attorney representing the "people of the state of Minnesota" whose job it is to prosecute juveniles accused of delinquent acts. The prosecutor does not represent victims of crimes.

Public Defender: a defense attorney who is paid by the government to represent juvenile defendants whose families cannot afford to hire an attorney.

Release Plan: a plan set out by a judge that your child must follow if they are released from temporary detention before their next court date.

Reference: a hearing to decide whether your child’s case should be transferred from juvenile court to the adult court system.

Restitution: a court order to pay the victim of a crime for any money loss, property damage or harm.

Search Warrant: a court order allowing a law enforcement officer to search for and hold specific people, property or contraband.

Stay of Adjudication: a suspension of your child’s adjudication of delinquency. If your child follows all of the judge’s orders, the judge can dismiss the charge and there will be no record of the adjudication.

Suicide Watch: when a juvenile in detention is believed to be suicidal is checked on regularly to keep them from harming themselves.

Termination (of parental rights): a court order that takes away your rights as a parent. This can be either voluntary or involuntary depending on the situation. ■

RESOURCES

Department of Corrections (DOC)

www.doc.state.mn.us

DOC: Children's Residential Facilities Licensing Information

www.doc.state.mn.us/org/communityserv/juvenileserv/umbrellarule/default.htm

Juvenile Detention Alternatives Initiative (JDAI)

www.jdai-mn.org

Juvenile Justice Coalition of Minnesota

www.jjcmn.com

Minnesota Council of Child Caring Agencies (MCCCA)

www.mccca.org

National Alliance on Mental Illness of Minnesota (NAMI)

www.namihelps.org

National Juvenile Justice Network

www.njjn.org

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