

# Know Your Rights

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## HOW DO I GET A LAWYER?

**You have a right to a lawyer** when OCS has filed a Child in Need of Aid (CINA) Petition involving your child(ren).

If you cannot afford a lawyer, the court will appoint a lawyer for you. Call the clerk at the court house **as soon as possible** to ask how to get an appointed lawyer for your Child In Need of Aid case.

If the court does not appoint you a lawyer before the temporary custody hearing:

- (a) Ask for a lawyer AT THE HEARING
- (b) and: You have the right to ask that the hearing be continued (moved to a later date). Say to the judge "I want to wait to have the hearing until I have a lawyer. I would like a continuance please."

**OCS JUST  
Removed Your Child  
The First 24 Hours!**



## OCS JUST TOOK MY CHILD – NOW WHAT?!

If OCS has taken emergency custody of your child(ren) – you have certain immediate rights.

**First:** Within 24 hours of taking your child, OCS must either:

- (a) file a Petition with the court for a Child in Need of Aid (CINA), **OR**
- (b) release custody of your child to you, or certain relatives or friends.

OCS will **ONLY** release your child at this point to a relative or friend if a safe placement is possible and the custodial parent(s) must give consent. Giving consent to placement is not the same as terminating your parental rights.

### CHOOSING THE RIGHT RELATIVE FOR PLACEMENT

Ask OCS to release your child(ren) to a family member or friend. The person you choose will need to pass a background check. If you ask to have your child go to a friend or relative, you will need to agree in writing. The written agreement should say something like this:

- “I appoint (name of friend or relative) as my attorney in fact.”
- “I grant (name of friend or relative) authority regarding the care, custody, property, support, medical treatment, and education of my child, and the power to give or withhold consent to any and all actions regarding the above.”

- “This delegation does not include the power to consent to adoption or marriage of the child.”
- “This delegation will be effective for one (1) year after which it expires.”

Sign this in front of a notary if possible (but this is not required). This temporary agreement does not terminate your parental rights.

## OCS IS GOING TO FILE A CHILD IN NEED OF AID PETITION FOR MY CHILD. WHAT ARE MY RIGHTS?

**OCS Requirements** – The OCS worker **must**:

1. review the Petition with you to ensure that you understand what you are accused of.
2. explain the court procedures
3. notify you of your right to an attorney, including your right to have an attorney appointed for you by the court if you cannot afford one
4. give the location, date, and time of your hearing and provide you with a copy of the Petition if the hearing has already been set, and
5. contact your child's tribe if he or she is Alaska Native.

Your CINA Petition must:

1. state any safety threats believed to be present, and
2. provide the court's phone number, the OCS worker's phone number, and the phone number for the OCS worker's supervisor.

The temporary custody hearing will occur within 48 hours of when OCS filed the petition.

**Visitation** – You and your child's other family have a right to reasonable visitation.

## HOW DO I ENFORCE MY RIGHTS?

**Contact with OCS:** You have a right to have your tribal representative present during the initial stages of investigation and when you speak with OCS on any occasion – **call your Regional Tribal Representative for advice ASAP!**

**Placement of your child with a friend or relative within 24 hours:** If you have suggested a safe family member or friend for your children to stay with, and OCS has not contacted them or conducted a background check within 12 hours or sooner – immediately contact your ICWA tribal representative.

**Visitation:** If OCS refuses visitation and you have not seen your child, you and your family have the right to request a review hearing. Contact your attorney or your tribal representative for help.

## I HAVE MORE QUESTIONS. WHO SHOULD I CALL?

**Tribal Representative:** If your children are Alaska Native, your tribal representative may be able to answer many of your questions.

**Attorney:** If OCS files a Child In Need of Aid (CINA) Petition you have a right to an attorney and you should contact your attorney as soon as possible. 