

# **Child in Need of Care Handbook:**

## **Foster Care**

### **A Guide for Families**



This handbook gives families general information about child in need of care cases. It is not legal advice. The information in the handbook is only an overview and does not cover all situations or legal options. Legal advice depends on your unique situation. You should only take legal advice from your attorney. Please ask your attorney to answer any questions you have.

## Introduction

Welcome to Jefferson Parish Juvenile Court. Being involved in a child welfare case can be confusing, scary, and stressful. We want to help you understand what is happening and what to expect. Keep in mind that your child's wellbeing is the Department of Children and Family Services and the court's top priority. The health, safety, and best interest of your child is the most important concern while your case is ongoing.

Keep this handbook with you so you can write the names and contact information of people in your case and the dates of your meetings and court hearings.

Jefferson Parish Juvenile Court is located at 1546 Gretna Boulevard in Harvey. Our clerk of court is located in our courthouse. The court and clerk of court's phone number is 504-367-3500.

## My Contacts

Agency/Position	Name	Contact Information
DCFS case worker		
DCFS case supervisor		
My attorney		
My child/ren's attorney		
Court Appointed Children's Advocate (CASA)		

My docket number is \_\_\_\_\_. My case is in section \_\_\_.

The dates I have to come to court are: \_\_\_\_\_

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## **What is this Handbook?**

This handbook describes what happens when the Department of Children and Family Services investigates a report of child abuse and/or neglect and the case comes to court. This handbook does not give legal advice. Each case is different. Every possible situation cannot be covered in a handbook like this. Your case might not go exactly the way this handbook describes. This handbook will tell you about how these cases work most of the time. Please ask your attorney any questions you have.

To make this handbook easier to read, while you may have one or more children, this handbook will just use the word “child.” It also shortens the phrase “health, welfare and safety” to “wellbeing.” Any time you see the word “wellbeing” that means “health, welfare, and safety.”

If you would like to read the laws about child in need of care, they are written in a book called the Louisiana Children’s Code Handbook. The laws start at article 601 and end at article 725.

This handbook covers foster care cases. A different handbook covers family services cases.

## **What is the Department of Children and Family Services?**

The Department of Children and Family Services is called DCFS for short. It is a state agency that runs different programs to help children and families. For example, DCFS runs the food stamps program. DCFS also helps with disaster relief after a hurricane. This handbook only covers what DCFS does in child welfare. Child welfare cases are called child in need of care cases or CINC.

When someone is worried about a child’s wellbeing, they make a report to DCFS. DCFS meets with the family and gathers information to see if the report is true. If DCFS finds that a child’s wellbeing is at risk, DCFS will file papers with the court asking the judge to supervise the family. DCFS considers how serious the risk is to the child, the family’s ability to protect the child from the risk, and the child’s ability to protect themselves. Depending on those factors, DCFS will either ask the court for a safety plan or for custody of the child.

DCFS also helps families get the services they need like parenting classes or counseling so the family can fix the reasons why a report was made to DCFS.

## **How is DCFS organized? What is the difference between foster care and family services cases?**

DCFS employees are divided into different programs:

**Child Protection Investigators (CPI):** CPI investigates the reports that are made to DCFS. They create safety plans for family services cases.

**Family Services:** When the CPI finds that the child’s wellbeing is at risk but that the child will be safe if the parents follow certain rules, a family services case is opened.

**Foster Care:** When the CPI finds that the child’s wellbeing is at risk and the child must be removed from their parent’s custody to keep the child safe, a foster care case is opened.

## **Foster Care Cases**

### **What is a foster care case?**

A foster care case is when a court gives legal custody of a child to DCFS.

When DCFS finds that a child's wellbeing cannot be protected unless the child is removed from their parent's custody, DCFS asks the judge for custody of the child. If the judge agrees, the judge grants DCFS custody of the child.

### **Why did DCFS remove my child from my custody?**

DCFS got a report that your child's wellbeing was at risk due to abuse and/or neglect. DCFS then sent a Child Protection Investigator (CPI) to meet your family and see if the report is true. The CPI found that your child's wellbeing could not be protected without removing your child from your custody.

DCFS then called the judge and explained why your child's wellbeing is at risk and why it is not safe for your child to stay in your custody. The judge agreed with DCFS and granted DCFS custody of your child. DCFS then took custody of your child.

### **What are my rights?**

You have the right to an attorney. If you cannot afford an attorney, the public defender's office will give you an attorney for free at your first court hearing. If you have any questions about your case, ask your attorney. Your attorney will come to all court hearings with you. Your child will be appointed a different attorney to represent them. Each parent will have their own separate attorney.

You have the right to know when court hearings will be held. You have the right to attend all court hearings. You should attend all court hearings.

### **Who is taking care of my child?**

The most important thing is your child's wellbeing. Please tell your attorney and your DCFS case worker if your child has allergies, takes medication, has an upcoming appointment or has any other special needs.

When DCFS is granted legal custody of your child, DCFS decides where your child lives. The law says that DCFS has to place your child with a relative or other "suitable" individual if possible. Tell your DCFS case worker and attorney about any relatives or people who can care for your child. If you do not have any "suitable" relatives or friends, DCFS will try to place your child in a certified foster home. A certified foster home means that the foster parent(s) have had special training and passed background checks. If there are no certified foster homes, your child may be placed in a group home.

## **What happens after my child is removed from my custody?**

DCFS wrote down the reasons why it is unsafe for your child to stay in your custody. The reasons why (also called allegations) are written in a document called an Instanter Order (or hold order). DCFS filed that order with the court and asked that your case be set for a hearing in front of a judge.

Within three (3) days after your child is removed from your custody, you will have a hearing in front of a judge. That hearing is called a continued custody hearing. When counting the three (3) days, weekend days and legal holidays do not count. At this hearing, you will be given an attorney if you cannot afford to hire one. Your child will also be given an attorney.

In order for your child to stay in DCFS's custody, DCFS must prove to the judge that "there are reasonable grounds to believe the child is in need of care and that [removal from your custody] is necessary for the health, welfare and safety of the child." You can show evidence or call witnesses to prove that custody of your child should be returned to you. Tell your attorney about any evidence or witnesses that can help.

At this hearing you can:

1. Stipulate to DCFS keeping custody of your child without admitting that the claims (allegations) of abuse and/or neglect against you are true OR
2. A hearing will be held. DCFS will present evidence and you can present evidence. The judge then decides if your child should be returned to your custody.

## **What happens if the judge decides my child should stay in DCFS custody?**

If stipulate OR after the hearing the judge orders that your child will stay in DCFS's custody, your child will stay in DCFS's custody.

If your child stays in DCFS's custody, the district attorney must file a petition with the court. A petition is a document that the district attorney writes and files with the court. The petition lists the reason why DCFS believes that your child's well-being is at risk and why it is not safe for your child to stay in your custody. The list of reasons is also called allegations. The petition has to be filed within 30 days after the continued custody hearing. If a petition is not filed, your case is dismissed.

The petition also asks the court to set your next court date. Your next court date is called an Appearance to Answer (also called an Answer Hearing).

## **What is an Appearance to Answer Hearing?**

When the petition is filed, the court will set your case for an Appearance to Answer Hearing (also called an Answer Hearing) within 15 days.

At this hearing you can:

- Admit: that means that you agree that the claims (allegations) in the petition are true OR
- Deny: that means that you deny that the claims (allegations) in the petition are true OR

- Stipulate: that means that you agree that your child is in need of care but you do not admit that the claims (allegations) in the petition are true.

If you deny, the court will schedule your Adjudication Hearing (trial) within thirty (30) days.

If you admit or stipulate the court will schedule your Disposition Hearing within thirty (30) days.

The decision to stipulate, admit, or deny and go to adjudication (trial) is an important decision. You should discuss this decision with your attorney.

### **What is Discovery?**

Discovery is the process of attorneys reviewing and exchanging information about evidence and witnesses they plan to use at the adjudication hearing. Be sure to give your attorney all of the evidence that you have and tell them about any witnesses that can help you.

### **What is a Prehearing Conference?**

Any attorney can request a prehearing conference. At this hearing, the attorneys make sure that all discovery has been received and shared before the adjudication hearing. You are not required to attend this hearing but check with your attorney to see if they want you to attend.

### **What is an Adjudication Hearing?**

An Adjudication Hearing is the juvenile court word for trial. Trials at juvenile court are different than trials in adult court. In juvenile court, there is no jury. Instead, a judge hears the evidence and witnesses and decides the case. In juvenile court, hearings are not open to the public. They are confidential.

At the Adjudication Hearing the district attorney must prove that the list of reasons why your child's wellbeing is at risk and the reasons why your child is not safe in your custody are "more likely than not" true. That is called the preponderance of the evidence standard.

At the Adjudication Hearing, your attorney can show the court evidence and take testimony to prove that the allegations are not true. Your attorney can question other witnesses (like your DCFS case worker).

If the judge finds that the district attorney did not prove the claims in the petition, your case will be dismissed. If the judge finds that the district attorney did prove the claims in the petition are more likely than not true, your case will be set for a Disposition Hearing.

### **What is a Disposition Hearing? What is a Case Plan?**

The Disposition Hearing is set within thirty (30) days after the Adjudication Hearing or Appearance to Answer Hearing if you admitted or stipulated.

Before this hearing you will have a Family Team Meeting. This is a meeting between you and DCFS employees like your case worker. Your attorney can also attend but you must make arrangements with them if you want them to attend. If you want custody of your child returned to

you (called reunification) you will discuss how to do that at this meeting. Everything you need to do to reunify with your child will be written in a document called a case plan. For example, you may have to complete parenting classes or anger management classes. You will also be told how long you have to complete all the tasks in your case plan.

At the Disposition Hearing the judge will review and approve your case plan and order you to complete it. If possible, you should start doing the things in your case plan as soon as possible. You do not have to start working on your case plan until after this hearing, but if you start earlier, it shows DCFS and the court that you are serious about getting your child back. It is very important that you follow your case plan. If you do not make significant progress on your case plan for a year, you could permanently lose your parental rights to your child.

Your DCFS case worker will help you meet your case plan goals. They will help you sign up for and complete the services you need, like parenting classes. If you feel like you need more help in completing your case plan, please let your DCFS worker and your attorney know.

### **What is a Case Review Hearing?**

About three months after your Disposition Hearing, you will have your first Case Review Hearing. At these hearings, the judge will look to see what progress you have made on your case plan. These hearings are called case review hearings because the court reviews your progress on finishing your case plan.

Tell your attorney about any evidence that proves you are working on your case plan or any witnesses who can tell the judge you are following your case plan. For example, keep a record of every class or meeting you attend. Give those records to your attorney.

If you need more help from DCFS to finish your case plan, please tell your case worker, your attorney and the judge. For example, if you keep calling for a mental health evaluation and no one will call you back, tell your attorney and DCFS case worker as soon as possible.

If the case plan needs to be changed, the judge can order changes to your case plan at this hearing. You will have review hearings every three to five months so the judge can keep checking on your progress and seeing how your family is doing.

### **What is a Permanency Hearing?**

If your child stays in DCFS's custody for a year, the court will hold a Permanency Hearing. At this hearing the judge decides what the permanent plan for your child will be. A permanent plan can be reunification (when you get custody of your child back), granting guardianship to a relative, or adoption. What the permanent plan for your child is depends on if the issues that led to your case being filed are fixed or are getting better.

If the judge decides that you have followed your case plan and it is safe for your child to return home, a transition plan will be made. It will explain the steps for how best to return your child to your custody.



The judge can return custody of your child before this hearing if you complete your case plan sooner and show that you can keep your child safe.

If the judge decides that custody of your child cannot be safely returned to you or you are not working on your case plan, the case plan goal may be changed to adoption or some other permanent arrangement outside of your home (like guardianship to a grandparent).

## **Visitation**

Regular visits with your child are very important and should be your first priority. The purpose of your visits is to spend quality time together. Visits help your child feel close to you and help to strengthen your relationship. Visits should be a positive experience for you and your child. Do not say negative things about your child's foster home or case worker in front of your child. If you are having problems or need to talk about something, talk to your case worker or attorney when your child is not around.

Your DCFS case worker will schedule visitation. If the visits are held when you are not available, let your DCFS case manager and attorney know and explain the reasons why you cannot make it. Depending on where your visitation is held, you might want to bring things to share with your child like toys, games, and healthy snacks.

DCFS and/or the court may require that your visits are supervised. If you have supervised visits the DCFS worker or a person that DCFS and/or the court approves of must be with you when you visit with your child. If your DCFS worker supervises your visits, they will testify in court about how the visits go. At the end of your visit and after your child has left, ask the worker how you did and for any tips on how to make the next visit go better.

As you participate in and finish the services in your case plan, the court will usually let you have longer visits and visits more often. Usually, the court lets the parent have supervised visits first. If those go well and you are doing well, the court will likely give you unsupervised day time visits. If those visits go well, you will get unsupervised overnight visits or weekend visits. How quickly the court increases visits and decreases your supervision depends on the reasons your child was removed from your custody, the progress you are making on your case plan, the child's needs and your behavior during visits.

## **Things to Remember**

1. When you have questions, ask your attorney and/or your DCFS case worker.
2. Stay in contact with your attorney and DCFS case worker. Let them know if you have a life change such as moving houses or getting a new job. Always make sure they have your contact information. Make sure you have a voice mail and you check it often.
3. Do everything that your case plan says to do. Ask for help when you need it. You might have a bunch of different things to do and it can be overwhelming. Ask for help.
4. Visit with your child as much as you can.
5. Keep records of everything you are doing. Share them with your attorney.
  - a. Write down all of your appointments and dates you visit with your child.

- b. If you get a certificate for finishing a program give it to your attorney.
6. Go to every court hearing. Listen carefully and write down information. Ask questions. Follow the judge's orders. If you cannot go to a court hearing, tell your attorney as soon as possible.

## **Family Preservation Court**

### **What is Family Preservation Court (FPC)?**

Family Preservation Court is a program that started in June of 2022. Their mission is to help parents who have a child in need of care (CINC) case mostly due to the parent's substance use issues. Parents with a foster care case can join FPC. FPC is a voluntary and intensive program.

FPC takes a team approach to cases. The FPC staff, DCFS, and the Jefferson Parish Human Services Authority (JPHSA) all work closely together to help the parent be successful in substance abuse treatment and in meeting their case plan goals. In addition to a DCFS case worker, parents will have an FPC case manager and peer support from JPHSA. A peer support specialist is a person with "lived experience" meaning that they have struggled with addiction and are in long term recovery. They understand what parents are going through and can help them be successful. FPC helps parents get into services they need like domestic violence prevention classes or parenting classes. FPC will also help children get any services they need (such as tutoring, counseling, or medical needs).

Parents will come to court more often than they do in a regular CINC case. Parents will build supportive relationships with the judge and the rest of the team. The team is here to support parents and hold them accountable when necessary.

To be eligible for FPC the parent (or caretaker) must be eighteen (18) years of age or older. The parent must sign a release of information form so that the team can manage your care and stay up to date on how the parent is doing. Parents will meet with professionals from JPHSA who assess them to see if they qualify for FPC. Parents must be willing and able to start treatment. Parents who have a recent violent criminal history or who have been a perpetrator of sexual crimes are not eligible for the program.

If you are interested in this program, please talk to your DCFS case worker or call Courtney, the coordinator, at 504-227-7869.

## **APPENDIX: Glossary of Terms and Acronyms**

### **Abuse**

Any of the following acts that seriously put a child's physical, mental or emotional health, welfare and safety in danger:

- 1- Inflicting (or trying to inflict) or allowing the infliction of physical or mental injury upon the child by a parent or other person.
- 2- Exploiting or overworking a child by a parent or other person (includes commercial sexual exploitation)
- 3- Involving a child in a sexual act or allowing/tolerating the child to be involved in:
  - a. Any sexual act with any other person, pornographic displays, or any sexual activity that is a crime under Louisiana Law.
  - b. A coerced abortion conducted upon a child.
    - i. Coerced abortion is the use of force, intimidation, or taking away food or shelter (or threats to do so) by a parent or other person to make a child have an abortion against her will whether or not the abortion happened or was attempted.
  - c. Female genital mutilation of the child or of a sister of the child.

### **Adoption and Safe Families Act (ASFA)**

A federal law that governs child in need of care cases (CINC). It sets out timelines and policies that affect CINC cases.

### **Adjudication Hearing**

A trial where the district attorney has to prove that the claims of abuse or neglect in the petition are more likely than not true. Your attorney can bring evidence and ask witnesses questions.

### **Appearance to Answer or Answer Hearing**

Within fifteen (15) days after the district attorney files the petition, the appearance to answer will be set. At that hearing you tell the judge whether you admit that the petition is true, deny that the petition is true, or stipulate to the petition. Stipulating means that you agree that your child is in need of care but you do not admit that the allegations in the petition are true.

### **District Attorney/Assistant District Attorneys (DA/ADA)**

Attorneys who represent the state of Louisiana in CINC cases.

### **Department of Children and Family Services (DCFS)**

A state agency that oversees programs to keep children safe, and help people and families become self-sufficient. DCFS investigates reports of child abuse and neglect and helps families get the services they need so parents can keep their children safe.

### **Caretaker:**

An adult who lives with a child and is responsible for a child. Anyone legally obligated to provide or secure care for a child, including a parent, guardian, legal custodian, and foster home parent

**Court Appointed Special Advocates (CASA)**

Volunteers who work with children in child in need of care cases (CINC). They get to know the child and tell the judge about how the child is doing and what they think is in the child's best interest.

**Case review hearing**

It is a hearing for the judge to see how a case is going. The purpose of the hearing is to see what kind of progress the parent is making in their case plan and if the issues that led to the case being filed have been fixed. The judge will also want to hear how the child is doing and when it may be safe to close the case.

**Child**

A person under eighteen years of age who has not been emancipated.

**Child in Need of Care (CINC)**

A court case that deals with child welfare. DCFS brings these cases to juvenile court if they believe a child has been abandoned or is being abused or neglected.

**Clerk of Court (COC)**

The office that keeps court's records. If a petition or motion is filed, it is given to the clerk of court. The clerk of court enters the information into the court's database and sends the document to the court.

**Continued Custody Hearing**

The hearing held within three (3) days after the court grants DCFS custody of a child. When your child is removed from your home, this is the hearing that will be held within three days. DCFS has to prove to the court that the child's wellbeing could not be protected without being removed from their parent's custody.

**Disposition Hearing**

A hearing that takes place thirty (30) days after the adjudication hearing. The case plan requirements are reviewed and approved by the court so you know what you need to do to get your child back.

**Family Preservation Court (FPC)**

A collaboration between the court, DCFS, and JPHSA designed to help parents or guardians with a substance use disorder who have a child in need of care case (CINC).

**Foster care**

A living arrangement for a child who is removed from their parent's custody. The child could be placed in a foster family home, a relative's home, a residential facility or other living arrangement that is approved of and supervised by DCFS.

**Foster parent**

The person providing shelter and care to a child in foster care. DCFS supervises foster parents.

**Indian Child Welfare Act (ICWA)**

A federal law that applies to child in need of care (CINC) and adoption cases when Indian Children are involved.

**Instantner Order**

Emergency permission from a judge given to DCFS so they can remove a child from their parent's custody. An order prepared by DCFS and signed by the judge that grants custody of a child to DCFS. It describes all the reasons why DCFS thinks your child is not safe in your custody. Once the instantner order is signed by the judge the continued custody hearing will be set within three (3) days. Weekend and holiday days do not count when counting the three days.

**Jefferson Parish Human Services Authority (JPHSA)**

Provides primary health care and behavioral health (mental illness, addictive disorders, developmental disabilities) care for adults and children.

**Neglect**

The refusal or failure of a parent to give the child food, clothing, shelter, care, treatment or counseling for any injury, illness or condition and as a result the child's physical, mental or emotional health, welfare and safety is substantially threatened or impaired.

Neglect includes prenatal neglect.

If the parent cannot provide for the child due to poverty, that is not neglect.

**Newborn:**

A child who is less than thirty days old.

**Other suitable individual**

A person who has a close, established, significant relationship to the child but is not related to the child. Examples are a neighbor, god parent, teacher, or close friend of the parent.

**Permanency hearing**

A hearing that determines what the permanent plan for the child will be. Examples of a permanent plan are reunification, adoption, guardianship to a relative.

**Permanent placement**

A permanent placement for a child can be

- (a) Return of the legal custody of a child to his parent or parents (called reunification) OR
- (b) Placement of the child with adoptive parents pursuant to a final decree of adoption OR
- (c) Placement of the child with a legal guardian.

**Petition**

A document created by the district attorney that lists all of the allegations against the parent(s). Allegations are the reasons why DCFS believes a child's wellbeing is at risk.

**Prenatal neglect**

Exposure to chronic or severe use of alcohol/illegal controlled dangerous substance which results in symptoms of withdrawal in the newborn, a positive drug test upon birth, or noticeable harmful effects in physical appearance or functioning of the newborn.

**Protective capacity**

A parent's ability to protect their child against dangers. The cognitive, behavioral, and emotional knowledge, abilities, and practices that prevent or control threats of danger to children.

**Public Defender's Office/Public Defender (PDO/PD)**

The office that employs public defenders.

A public defender is a defense attorney who works for parents who cannot afford to pay for an attorney. Public defenders work for their clients, not for the state or for the court.

**Reasonable efforts**

The law requires that DCFS make reasonable efforts (the exercise of ordinary diligence and care) to provide parents with services and supports to prevent or eliminate the need to remove a child from their home or to reunite the family. What reasonable efforts are in each case depends on the facts of the case and the needs of the family.

**Relative**

A person who has established a significant relationship with the child who is related to the child.

**Removal**

When DCFS takes the child out of their home and places them with someone who is not their parent during or after an investigation of abuse or neglect. The child is removed from the home to protect their health, welfare, and safety.

**Reunification**

When a child who has been removed from their parent's custody is returned to their parent's custody.

**Safe and safety**

Not being unsafe. Whether a child is unsafe depends on the circumstances of each family including the threat of danger to the child, whether the child is vulnerable to the threat and the parent's ability to manage or control the threat.

**Threat of danger**

Exists when the behavior of a parent/caretaker or the family situation shows that there is a possibility of serious harm, in the near future, to the child's physical, mental, or emotional health, welfare, and safety.

**Vulnerable**

The inability to protect oneself from identified threats of danger. For example, a newborn cannot protect themselves from danger but a fifteen-year-old can protect themselves from certain dangers.

**Report made to DCFS:** A report is made to DCFS that a child is abandoned, neglected, or abused.

**DCFS Investigation:** DCFS investigates the report of abandonment, abuse or neglect.

**DCFS requests Safety Plan:**  
See Family Services Chart

**DCFS requests Instanter Order:** DCFS finds the child cannot be protected without removing the child from their parent's custody. DCFS requests custody from the court.

**Judge Grants Instanter Order:** Child is removed from parent's custody. Custody of child granted to DCFS.

**Judge Denies Instanter Order:** Child is not removed from parent's custody.

**Continued Custody Hearing:** Judge decides if child stays in DCFS custody or if the child can safely return home. This hearing must be held within 3 days of the child's removal from the parent's custody.

Judge finds child is not at risk can return home. Case closed OR referred to family services.

Parent stipulates to the claims in the Instanter Order or judge finds claims are true. Child stays in DCFS custody.

**District Attorney files Petition:**  
Petition lists the reasons why the child is in need of care. Petition must be filed within 30 days of the continued custody hearing.

**Answer Hearing:** Parent can admit, stipulate or deny the claims in the Petition. Hearing held 15 days after D.A. files the petition.

Parent admits or stipulates to claims in petition.

Parent denies claims in petition.

**Adjudication Hearing:** Trial where judge decides if the claims in the petition are true. Judge decides if the child is in need of care. Hearing held 30 days after the DA files the petition.

Judge finds claims are not true. Case dismissed.

Judge finds claims are true and child is in need of care.

**Disposition Hearing:** Judge decides what kinds of supervision and help the family needs (ex. mental health counselling, parenting classes, substance abuse treatment). The services and supervision are a part of the case plan. The judge will approve the case plan and it will become a court order. This hearing is held within 30 days after the Adjudication Hearing.

**Case Review Hearing:** Regularly scheduled hearings where the judge checks on the parent's progress on their case plan and the child's wellbeing. These hearings are held every 3-5 months, starting after the Disposition Hearing.

**Permanency Hearings:** Judge decides what should be the permanent plan for the child. This hearing must be held within 9 months after the disposition hearing if the child was removed before to the disposition hearing.

Parent completes case plan and fixes the reasons why DCFS removed the child. Child returned to parent's custody.

Parent fails to complete case plan. Reason why child removed not fixed.

Guardianship or legal custody to a relative or suitable person.

**Termination of Parental Rights:**  
Court terminates the parents' rights so child can be adopted.

If child is over 16, child stays in least restrictive, most family like alternative permanent living arrangement.