

# RIGHTS OF PARENTS AND CHILDREN

A lawsuit filed against the Department of Human Resources (hereafter referred to as DHR) and known as R.C. versus Hornsby, was settled in 1991. That settlement resulted in an agreement between DHR and the attorneys representing children to whom DHR provides or might later provide services.

The agreement was the beginning of many changes for the DHR. As changes began, one of the early efforts was to identify rights which parents and children have. These rights have resulted in new services being developed. DHR continues to develop policies and guidelines which explain and protect your rights, explain and direct service planning and delivery, and which guide your social worker's action.

*These rights are listed below in bold print. An explanation of each right follows its listing.*

**You and your child have the right to be told and to understand all of your rights as stated in the R.C. Consent Decree.**

**You and your child have the right to receive services that strengthen your family and meet your family's special needs. Your child has the right to receive services that will let him or her remain with family, unless the child's needs for safety cannot be met at home.**

Your child age 10 or older (unless he or she is severely mentally retarded), your child under age 10 who can understand, and you have the right to be full decision-makers in the planning and receiving of services for yourselves. You also have the right to services that fit your individual needs and help you reach your goals.

Assistance will be provided to give your child and you the opportunity to participate as partners. This assistance will be provided by the social worker and by a team of people who will help you and your child plan services. Meetings will be held to plan your services. Others included on the team who will attend the meetings may be your child's teacher and your counselor. If your child lives in a foster home, the foster care provider(s) may also attend. You have the right to bring others such as a friend, family member, or a professional person to the meeting who will encourage, support, and speak up for you (please see the end of this booklet for a list of professional groups who can provide such help).

These meetings to plan services are for your family. Your social worker will provide any assistance you need so that you can attend and participate in the planning meetings. Your social worker is also responsible for helping you identify a convenient time and place, and for informing everyone of the meeting. You may request and receive help with transportation, meals, babysitting, or other needs in order to be able to attend. You also have the right to

receive help in understanding letters or forms and in preparing anything you would like to say to the team.

You, your family, and the team will set your goals. The team of people will also assist you in listing your family's strengths, needs, and ways to meet those needs. You and your child will be given a copy of the service plan and any revision made, after you and the team have decided upon them. Any questions you have about the plan will be answered honestly and as quickly as possible. Services listed in the plan may be obtained from other agencies or individuals (e.g. schools, health department, mental health, etc.) or may be created by the team. They will be delivered by others in ways that best meet the needs of the family members who are to receive the services.

If services cannot meet the child's need for safety, the child will be placed in out-of-home care. The child will return home as soon as he or she can be safe there.

The DHR worker will respond to your requests for case information concerning your family. You will be given the information, or will be told why it can not be given to you. You have the right to request and receive information about any child abuse or neglect reports, including the findings of the worker.

**If your child is living out of his or her home, he or she has the right to be placed in the most family-like setting, where services that are needed can be given.**

If the services delivered include out-of-home care, your child will be placed in a family-like setting unless the team of people who develops the service plan decides:

- 1) Your child's needs can only be met in a more limiting restrictive placement; and
- 2) Your child's need for therapy, his or her need to communicate and visit with your family, and your family's need to be involved with his or her treatment can only occur in a more limiting, restrictive placement.

**Your child has the right to visit and/or communicate with you while living away from home.**

Necessary services (e.g., transportation, the cost of telephone calls and postage for writing letters, cost of meal expense for out-of-town visits, etc.) will be provided so that you and your child can continue to have contact with each other. Communication may be limited if restricted because of your child's safety needs, the team's decision or a court order.

**Brothers and sisters have the right to live together even when they cannot live with their parents, unless one or more of them has a need(s) that cannot be met while living together.**

Every effort will be made to place brothers and sisters together. When their needs require them to be separated, the social worker or the families taking care of the children will see that they can visit, make phone calls, and write and receive letters. This will happen unless the brothers and sisters can not safely have contact with each other or unless restricted by the team or the court.

**Your child has the right to have his or her culture, race, ethnicity, and religion valued and respected as decisions are made with and for him or her.**

If services delivered include out-of-home care, your child will be placed with a family or individual who best understands and meets his or her needs. This family or individual must be able to respect and reflect the healthy behaviors, values, and attitudes of your family and community. To accomplish this, the family taking care of your child should be of the same culture, background, and have similar experiences. At times, such a family may not be immediately available who can meet your child's needs. Every effort will be made to locate such a family or individual from your neighborhood or community, or to prepare a family or individual to understand and nurture your child's cultural identity and heritage who can also meet the needs your child has.

**Your child has the right to talk to his or her lawyer(s) and to someone at court.**

The social worker will provide your child the names, addresses, and telephone numbers of persons providing legal services with whom your child wishes to speak. A phone will be made available to your child, and he or she will be given sufficient privacy during phone conversations.

**Your child has the right to appropriate educational services.**

The service plan which you and other members of the team develop will identify your child's educational needs and the specific services to meet those needs. A member(s) of the team will take an active role(s) in helping your child and you obtain the service(s) if such help is needed. When special education services are needed, the social worker or another member of the team will be available to attend Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) meetings with you at your request.

Appropriate discipline can teach a child to manage his or her behavior in a healthy way. If your child has received unsuitable or inappropriate punishment at school, then members of the team will work with the school to find a better way to discipline.

**Your child if eligible for Medicaid, has the right to be enrolled in the EPSDT (Early Periodic Screening Diagnosis and Treatment) program and to receive services when needed.**

The social worker will work with you to see that your child gets regular medical exams provided through the Medicaid program and recommended services to diagnose and treat conditions he or she may have. If you need it, you will get other assistance, which can include transportation

and help with understanding and following instructions (e.g., prescriptions, physical therapy follow-up appointments, lab tests, etc.).

**Your child has the right to receive all assistance needed in order to apply for the Supplemental Security Income (SSI) program.**

SSI pays monthly checks to disabled or blind children whose families do not have a lot of income. Children are considered "disabled" for SSI purposes if their handicap affects their ability to do things and behave like other children their age. The social worker will help you identify which of your children should apply. The worker will make sure your child or children have the services needed to apply for SSI or to appeal a denial of the SSI application. These services may include transportation, as well as help in understanding and responding to letters and application forms.

**Your child has the right not to be given any drug(s) that affects his or her thoughts and behavior unless the drug(s) is the best way to help him gain self-control.**

The use of the drug(s) must be ordered by a doctor who is trained in its use and who has decided the drug(s) best meets your child's needs. You and your child (if old enough) must agree to the use of the drug(s) before it can be given.

**Your child has the right not to be disciplined by (1) being placed alone in a locked or unlocked room for a long time or (2) by being held securely so he or she cannot move. These methods can only be used if needed to help your child gain self-control or for protection.**

Use of these methods of discipline (e.g., seclusion, restraint) must be approved by a specially trained doctor, nurse, social worker or psychologist, and must be the best ways of protecting your child and others. The person(s) using these methods must be specially trained as well. When these methods are used and your child gains self-control, he or she must be released from the room or from being held securely.

**If your child has been sexually abused, he or she has the right to services.**

Services that are needed to address problems of sexual abuse can be identified by your child and the team of people who help develop the service plan with your child and family. Services may include counseling, health services, services to protect your child at home, and participation in groups which help your family members share and understand their feelings about sexual abuse.

**If you have an older child who is preparing to leave out-of-home care to live independently, he or she has the right to appropriate services. Your child also has the right to receive help in finding employment, which will support him or her.**

Services needed by your child to live on his or her own will be developed by you, your child, and the team. Services which may be provided before, during and after the move include: (1) counseling, (2) employment, health, educational and legal services, and (3) financial and housing assistance.

**Your child and you have the right to know about people who you are willing to speak or write for you or to help you do this yourself.**

The following list describes agencies or organizations that may be able to help you. If you would like to talk with one of their representatives, call or write or ask your social worker to call or write for you.