



Child Protection Services Pro Se Help Kit
Video Series

#5 – Your Rights To Court Appointed Attorney

Family Preservation Foundation, Inc.

- Hello, I'm Dwight Mitchell the founder of Family Preservation Foundation. Welcome to our Child Protection Services Pro Se Help Kit video series.
- I hope you enjoy the content and it allows you to better understand your rights and options while involved with CPS.

- After a 22-month battle, I successfully defeated Dakota County Social Services in Minnesota State court and had my children returned. Although filled with anguish, it was an education to say the least, and I will be passing on the benefit of my knowledge, and “Lessons Learned”, while cross referencing Minnesota State Statutes, and case law which is readily available on Google Scholar.

- I would like to advise you that I am not an attorney, licensed to practice law, nor am I providing legal services. I recommend you obtain your own attorney if possible and review my video in this series titled “Working with your Attorney”. This is a very important unit in our series, and will assist you in not being misguided.

- This video series is for education purposes only. I will go over the beginning, middle and the end of the CPS process and what you can do in your defense and fight against CPS! This will be hard work for you, and a lot of reading, but nothing worthwhile in life is free. The Minnesota templates I provide are examples only and must not be used as is.

- You must create your own court filings while acting in a Pro Se capacity. I do not have examples of everything, but ask other group members, because they may be able to help you. **BUT REMEMBER**, you are not allowed to stand in court and say that someone helped you, or told you to do it a certain way. You are doing this for yourself. You must read, review and submit court filings for yourself.

Appointment of Court Order Attorney

- Minnesota Statute 260C.163, Hearings (CPS)
 - Subdivision (3); Appointment of Counsel
 - (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.
 - (b) If the child desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older.

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- (c) If the parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the parent, guardian, or custodian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel under the guidelines set forth in section [611.17](#)

- (d) In any proceeding where the subject of a petition for a child in need of protection or services is ten years of age or older, the responsible social services agency shall, within 14 days after filing the petition or at the emergency removal hearing under section [260C.178](#), subdivision 1, if the child is present, fully and effectively inform the child of the child's right to be represented by appointed counsel upon request and shall notify the court as to whether the child desired counsel.

- (e) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with this subdivision.
- Counsel for the child shall not also act as the child's guardian ad litem.

- (g) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, including informing the child of the right to appointed counsel and asking whether the child desires counsel, if the child is of suitable age to express a preference.

- (h) The court may appoint only one counsel at public expense for the first court hearing to represent the interests of the parents, guardians, and custodians, unless, at any time during the proceedings upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent a separate interest of other parents, guardians, or custodians subject to the jurisdiction of the juvenile court.