

Rights When There is a Child Protective Investigation

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If there is an investigation in NY by Child Protective Services (CPS), a parent or caretaker has the following rights:

1. The parent or caretaker is not required, unless court ordered, to permit the child protective services representative to enter the residence of the parent or caretaker;
2. The parent or caretaker who is the subject of the investigation is entitled to be informed of the allegations being investigated;
3. The parent or caretaker is not required, unless court ordered, to speak with the child protective services representative, and any statement made by the parent, caretaker or other family member may be used against the parent or caretaker in an administrative or court proceeding;
4. The parent or caretaker is entitled to seek the advice of an attorney and to have an attorney present when the parent or caretaker is questioned by a child protective representative;

Note: There is a right to free court assigned counsel if and when a court petition is filed naming you as a person legally responsible for the children who are the subjects of the petition.

5. The parent or caretaker is not required, unless court ordered, to allow a child protective services representative to interview or examine a child;
6. The parent or caretaker is not required, unless court ordered, to agree to any requests made by a child protective services representative, including, but not limited to, requests to sign a release of information, to take a drug or alcohol test, or to submit to a mental health evaluation;

7. You may request contact information for resources which may be available to parents and caretakers during a child protective services investigation, including legal services from a designated organization.

In October 2021 there is proposed legislation in New York that parents or caretakers must be advised of these rights, "at the initial point of contact." Unless or until this legislation is passed, there is no requirement that people be informed that they have these rights, which never-the-less currently exist. As of September 2023 this proposed legislation has not been made a law.

There is a right to free assigned counsel when CPS becomes involved. You can contact your local Family Court to request assignment of counsel.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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