

Representing Incarcerated Parents in Child Welfare Cases

SUPREME COURT OF TEXAS CHILDREN'S COMMISSION

APRIL 30, 2026



Incarcerated Parents' Rights



Incarcerated Parents' Rights

Incarcerated parents are afforded the same rights and duties as parents who are not incarcerated, including the right to:

- Court-appointed counsel.
- Participate in the case and have a service plan.
- Review legal documents.
- Request communication with the child.
- Receive information about the child.
- Have a say in where the child lives.



DFPS Policy 6351

Although a parent who is incarcerated may not be able to participate fully in their child's case, the parent must be:

- Notified of any court hearings or legal actions that will be taken regarding his or her child;
- Interviewed to gather information to fully assess the family;
- Provided with information about the child;
- Provided with appropriate services (to the extent available); and
- Included in case planning as appropriate.



DFPS Incarcerated Parents Guide: Guidelines for Caseworkers to Engage Incarcerated Parents

- Meet with the parent face-to-face or arrange for another DFPS staff member to do so.
- If a face-to-face meeting is not possible, communicate with the parent via mail and provide self-addressed postage-paid envelopes so the parent can respond.
- Caseworkers should:
 - Explain the concerns and allegations that have been presented to the agency and discuss the incarcerated parent's rights, available services, and expectations as part of the process.
 - Explain the caseworker's role.
 - Discuss the safety plan in place and the rationale for it.



DFPS Guidelines for Caseworkers to Engage Incarcerated Parents, cont.

- Inform the parent of the dates of any future court hearings and provide the parent with contact information for their attorney, if one has been appointed to them.
- Provide the brochure appropriate to the stage of service (AR, INV, FBSS, or CVS) and any other available resources that could be helpful.
- Make every effort to obtain the identity of relatives and fictive kin of the parent as support for the child, support for the parent, and as potential placement options for the child.



Jail? Prison? What's the difference?



Different Types of Institutions

- **Federal Prison** is operated by the Federal Bureau of Prisons (BOP) and holds people convicted of a federal crime.
- **Texas Department of Criminal Justice (TDCJ) Prison** holds individuals convicted of Texas state felonies.
- **State Jail** (specific to Texas) houses individuals who have committed certain kinds of felony crimes that have a maximum sentence of 2 years (180 days to 2 years) for property or low-level drug-related offenses.
- **County Jail** holds defendants awaiting trial or those who have been convicted and sentenced to county jail for misdemeanor offenses.

* Note: For the purpose of this presentation, we are going to use “jail” to represent all carceral facilities.



How do I find my client?



Due Diligence to Locate Client

- Always start by asking DFPS if they know where your client is but do initiate your own search efforts as well.
 - It is important to search jail and prison facilities for your client, especially if you are searching for the Unknown or Alleged Father.
 - BOP inmate search: <https://www.bop.gov/inmateloc/>
 - TDCJ inmate search:
<https://inmate.tdcj.texas.gov/InmateSearch/start> -- this will show their current facility and status
 - Unit directory:
https://www.tdcj.texas.gov/unit_directory/index.html
- * Note: Inmates can be transferred to a new facility at any time.



Due Diligence to Locate Client, cont.

- County Jail Search:
 - This may require visiting the official site for each county to try to locate your client.
 - Contact a local bonding company! They can provide details regarding current charges, court dates, and bond amounts in every county.
 - Public Data website (requires paid account) can provide prior criminal history and arrests. It also sometimes includes current charge and arrest information, depending on the reporting county.
- ICE Detention Center Search: <https://locator.ice.gov/odls/#/search>
 - It is helpful to have the A-Number to help search.
 - Client will not show up in search if they have already been deported.
 - Will likely not be able to visit, but you can send a letter.
 - ICE Detained Parents Directive: <https://www.ice.gov/detain/parental-interest>
 - ICE Attorney Information and Resources webpage: <https://www.ice.gov/detain/attorney-information-resources>



Visitation and Communication for Attorneys



Attorney-Client Visitation and Communication

- Inmates are transferred between facilities all the time. Make sure to verify the facility's current contact information before sending legal documents or attempting communication.
- Make sure all communication is privileged!
 - Written communication should include “PRIVILEGED ATTORNEY-CLIENT COMMUNICATION” on the outside of the envelope.
 - Include self-addressed stamped envelopes for your client to respond.
- In-Person Visitation
 - Wear professional attire, but it does not necessarily have to be a suit (shoulders must be covered).
 - Bring your ID and Bar Card (it may also be a good idea to have a copy of your order of appointment).
 - Do not bring in certain items, such as paperclips, documents with staples, phones, and (sometimes) pens or pencils.



Communication with a Client in Federal Prison

- Federal Bureau of Prisons Attorney Resources webpage: https://www.bop.gov/resources/attorney_resources.jsp
- Electronic Messaging: TRULINCS (<https://www.bop.gov/inmates/trulincs.jsp>)
 - Inmates can only send and receive electronic messages from individuals on their approved contact list. Requires inmate to have “money on their books” to use it.
 - You must sign up at Corrlinks (<https://www.corrlinks.com/en-US/login>) to exchange emails.
 - Messages are monitored (no privacy for attorney-client communications) and can be rejected if they are deemed to threaten safety or security of the facility.
- Telephone Calls
 - Must request “unmonitored” legal calls on your client’s behalf.
- Mail
 - All correspondence is screened. Letters from attorneys marked “Special Mail-Open Only by Institution Staff” are opened only to check for contraband and not read.
- In-Person Visits
 - You may need to schedule your visit in advance to ensure the client is available and a private room is provided.



Attorney-Client Visitation at TDCJ

- Typically, it is *much* easier to visit a client in a county jail than in a state jail or prison.
- Rules Governing Inmate Access to the Courts and Counsel:
<https://www.tdcj.texas.gov/documents/policy/BP0381.pdf>
- TDCJ Visitation
 - Must provide credentials, like ID, bar card, and appointment order.
 - I-162 form: Attorney/Inmate Telephone Call Application
 - I-163 form: Attorney Application to visit TDCJ inmate
 - Phone calls are typically coordinated through the law library in the unit.

Visitation and Communication for Family Members



Parent-Child Visitation

- When possible, children should have face-to-face visits with the parent.
- To set up visitation, the caseworker should contact the facility to determine the visitation policy, see if there is a social worker or chaplain to help coordinate visits, and see if there are any special visitation programs (MATCH/PATCH).
- CPS evaluates the child's psychological safety before approving facility visits.
 - Factors include the child's age, emotional readiness, and the nature of the parent's offense.



DFPS Incarcerated Parents Resource Guide: Guidelines Visitation

Caseworkers should:

- Engage the parent and child in visitation planning.
- Discuss the different types of contact currently available and permitted between the child and parent.
 - Share any issues that may initially affect the quality and quantity of the contact.
 - Make sure the parent knows and understands what the needed steps are to increase the level and type of contact they have with their child.
- Prepare the child and caregiver for what it will be like to visit the jail or prison.



DFPS Incarcerated Parents Resource Guide: Guidelines Visitation, cont.

- Assist the parent in talking with the child and answering difficult questions about their relationship, the incarceration, or other appropriate topics.
- Assist the parent in working through feelings of fear, shame, isolation, rejection, anger, or depression concerning the restrictions or lack of contact with their child during their incarceration.



DFPS Incarcerated Parents Resource Guide: Guidelines Visitation, cont.

- Prepare for the possibility of resistance from the child's caregivers.
 - Caregivers may want to protect the child from the incarcerated parent and from the prison environment, citing the child's behavior and mood before, during, and after visits as a reason for discontinuing visits.
 - The caseworker needs to be prepared to help the caregiver better understand that it is natural for children to have emotional reactions to visiting their incarcerated parents no matter where the parents are, because they miss them, worry about them, want to go home, and understand family connections matter.



Family Member In-Person Visitation at TDCJ

- TDCJ inmate visitation schedule:
<https://visitation.tdcj.texas.gov/Visitation/viewPublicHoursAction.action>
- Days 1-30: Individual arrives, undergoes processing, and receives permanent TDCJ number. They can send their visitation form to approved family and friends. Children do not have to be approved.
- Weeks 3-8: The facility processes the submitted visitor questionnaire for approval.
- Only one visit per weekend, 2 adults for 2 hours, not including children.
- Schedule through online visitation portal:
<https://visitation.tdcj.texas.gov/Visitation/startLoginAction.action>



Family Member Written and Electronic Communication

- General Information Guide
https://www.tdcj.texas.gov/documents/General_Information_Guide_for_Families_of_Inmates_English.pdf
- Communication over the phone
 - Phone numbers must be registered for clients in TDCJ at texasprisonphone.com
 - Remind clients calls are recorded and conversations can be used against them.
- E-messaging (TDCJ)
 - Register at www.jpays.com; electronic stamps must be purchased to send e-messages
- Video visitation
 - <https://www.tdcj.texas.gov/php/prod/visitation/index.php>
- Written communication
 - For the most part, easiest method of communication.
 - Inmates may not have access to stamps to send letters.



Family Member Visitation at County Jail

- Family members can obtain visitation information from the holding county's website for the inmate's visitation availability and the facility's visitation process.
- The website might not be completely accurate – you might consider going in person or calling to verify the facility's in-person and virtual visitation and phone call policies.

Services in the Facility



DFPS Incarcerated Parents Resource Guide: Service Planning for the Incarcerated Parent

Caseworkers should:

- Ask for the parent's input on the child's plan of service.
- Identify special challenges and issues facing the parent or the child, including literacy, learning disabilities, physical or mental disabilities, or indigence, and ensure that the identified challenges are addressed in the family's plan of service with specific steps and action items.
- Ensure any letters written to the incarcerated parent are written in a way that the parent can understand them.
- Find out what services are available to the parent in their facility and incorporate them as appropriate into parent's service plan and encourage participation.



Services

- Many facilities offer parenting classes, counseling, and substance abuse programs that fulfill the family service plan requirements.
 - However, access to the services may be limited for a number of reasons, including inmate eligibility, long waitlist times, and unavailability of services in languages other than English.
 - Inmates must undergo a classification process and submit a formal request to participate in the courses before they they can be registered or placed on a waitlist.
- Services for women are often more limited than services for men because there are fewer facilities for women (especially in federal prison).
- Edovo Learn: <https://www.edovo.org/platform/edovo-learn>
 - Edovo Learn is a self-directed software application built exclusively for corrections, offering a comprehensive suite of educational, vocational, and rehabilitative programs at no cost to incarcerated individuals.



Services, cont.

- Caseworkers should help parents identify resources designed for successful reentry into society.
- Consider requesting an extension of the dismissal deadline if the parent will be released from jail during the child welfare case and was not able to complete many services while incarcerated.
- For parents who are being released from prison, TDCJ has a reentry case manager and a website dedicated to helping formerly incarcerated people find employment.
- DFPS Incarcerated Parents Resource Guide: A best practice is for the (DFPS) caseworker to review the TDCJ website and share relevant information and resources with the incarcerated parent, including contact information for the TDCJ reentry case manager.



Participation in Court



Bench Warrant

- Incarcerated parents have a right to notice and meaningful participation in hearings, but they are not necessarily entitled to be physically present.
- When properly issued for a client in TDCJ, TDCJ will transfer the inmate to the local county jail until the hearing or trial has concluded.
 - Explain to your client that this is a long process, with a lot of waiting involved.
 - Your client may want the opportunity to be in court and to see their child in person, if the child will be there.



Bench Warrant, cont.

- Do not assume your client wants you to request a bench warrant. Your client may not want to be bench warranted for various reasons, including the fact that they:
 - Cannot earn credits for good behavior while in the county jail
 - Could be stuck in county jail for a long time until they get transferred back
 - Will lose their current bed/placement on waitlists
- Speak to your client about their preference ahead of time, and file the bench warrant as soon as you know the date of the hearing – notify everyone (clerk, bailiff, court coordinator) of your request.
- It is best practice to bench warrant your client to court if they wish to execute a relinquishment.



Zoom or Virtual Participation in TDCJ

- **TDCJ:** For an inmate to participate in a teleconference or video conference court hearing, the TDCJ shall require a court order, or a letter signed by the judge, on official letterhead, requesting the inmate to participate in a telephone or video conference.
 - The court order shall contain the inmate's name, TDCJ number, date of requested hearing, beginning time, estimated ending time, and telephone number for a telephone conference or appropriate information to facilitate a video conference.
- Teleconference coordination is through the Access to Courts staff at the inmate's unit.



Zoom or Virtual Participation, cont.

- **Video/Zoom:** Send court order, no later than 14 business days before the proposed date of the video conference, to e-mail TDCJVirtualCourt@tdcj.texas.gov. Questions concerning the coordination of a videoconference court hearing should be directed to the TDCJ Access to Courts, Counsel and Public Officials Department, Virtual Court Office in Huntsville Texas, at [\(936\) 437-3419](tel:9364373419) or [\(936\) 437-3406](tel:9364373406), or e-mail TDCJVirtualCourt@tdcj.texas.gov.
- For inmates in county jail, the Zoom information typically has to come directly from the court coordinator.
 - The bailiff is a good person to help figure out who, exactly, needs to get the information to facilitate the hearing.
- Some ICE detention centers *may* have a line to call to participate.



Meaningful Participation in Mediation

- Do not assume your client cannot participate in mediation just because they are incarcerated.
 - A lot of mediations now are virtual, so parent can likely participate with advanced notice and planning.
 - There might be a conference room or visitation space in the jail where all parties can meet.
 - Depending on how the jail and courthouse are structured, it might be possible to bring the parent to a location in the courthouse.
- Always talk to the parent before mediation to explain the issues that will be discussed and what you can agree to.



Trial Preparation

- If you are planning for a jury trial, request that your client be allowed to appear in court in professional clothes instead of jumpsuit.
 - Some nonprofits can help you get a suit that you can then donate back after trial.
- Just because reunification to your client at trial may not be an option does not mean termination is necessary.
 - If there is placement with a relative or return to the non-incarcerated parent, possessory conservatorship is an option.
 - Existing relationship with the children and visitation or letters during incarceration can support the best interest argument.



Other Representation Considerations



Zealous and Effective Advocacy

- If your client has not been served, don't waive service by participating in the hearing.
 - If you want your presence at a hearing noted, announce "Present, but not appearing for" your client.
- Advocacy differs depending on whether the parent will be incarcerated for a long time versus a short time.
- Other things to keep in mind: why the client is incarcerated, the relationship with the child before and after incarceration, and the criminal history.

Family and Kinship Placements

- It is incredibly important to get information for potential placements.
 - Get with your client to fill out the Caregiver Resource Form.
 - Reach out to the potential caregivers and discuss the possibility for long-term care for the child.
 - The incarcerated parent has the same right to family or kinship placement as the non-incarcerated parent.
 - Connection with relatives is especially important if you client is going to give birth while incarcerated.



Case Law



(P), Formerly (Q) Grounds

- The two years is prospective from the date of filing the petition and considers the sentence, not when the parent *might* get out. **In re A.V., 113 S.W.3d 355 (Tex. 2003).**
- Then, parent must produce evidence of how they will care for the child, and the Department has to show the arrangement is not adequate. **In re J.G.S., 574 S.W.3d 101 (Tex.App.—Houston [1st Dist.] 2019, pet. denied).**
- An incarcerated parent cannot meet his burden merely by producing evidence that there is an unincarcerated family member who is willing and able to care for the child; the parent must present evidence that the alternative caregiver is providing care on behalf of the parent. **In re H.R.M., 209 S.W.3d 105 (Tex. 2006).**



Reasonable Efforts

- It is not enough for the Department to just create a service plan for an incarcerated parent if there is no way for the parent to complete or comply with the services during incarceration. **In re P.Y., No. 14-25-00696-CV, 2026 WL 363515 (Tex. App.—Houston [14th Dist.] Feb. 10, 2026, no pet.)**.
- Efforts to place the child with relatives may constitute legally and factually sufficient evidence to support the trial court's finding that the Department made reasonable efforts. **In re P.Y.; In re J.G.S., 550 S.W.3d 698 (Tex. App.—El Paso 2018, no pet.)**; **In re D.S.A., 113 S.W.3d 567 (Tex. App.—Amarillo 2003, no pet.)**.



Helpful Resources

- DFPS CPS Handbook: <https://www.dfps.texas.gov/handbooks/cps/>
- DFPS Incarcerated Parents Resource Guide: https://www.dfps.texas.gov/handbooks/CPS/Resource_Guides/Incarcerated_Parents_Resource_Guide.pdf
- TDCJ General Information Guide: https://www.tdcj.texas.gov/documents/General_Information_Guide_for_Families_of_Inmates_English.pdf
- TDCJ Rules Governing Inmate Access to the Courts and Counsel: <https://www.tdcj.texas.gov/documents/policy/BP0381.pdf>



Questions?

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Thank You!

Questions related to MCLE self reporting may be sent to:
cctraining@txcourts.gov

