

What happens to my children while I am in prison, and how can I regain access/custody?

The Child and Family Services Act says that a welfare agency can lawfully apprehend a child for their protection.

The main aim of this law is to keep your child safe from serious harm. The law also tells us that when a child is taken into custody, parents have important rights. You can question the agency's decision, and you have the right to a fair court hearing to decide if your child should stay in custody.

The agency **must**:

- tell the parents that their child has been apprehended.
- tell the parents the reasons for taking their child.

Some of the reasons an agency can take your child:

- the child is without proper care.
- the child is in the care of someone who is not able to provide care to the child, or endangers the life, health, or well-being of the child.
- the child is neglected, or the caregiver does not provide proper medical care or treatment for any health concern.
- the child is abused or in danger of abuse (including child pornography).
- leaving a child under the age of 12 unattended.

The law also says that the **child's best interests** are **most important**. This means thinking about what's best for the child, including their culture, relationship with their family, point of view, and emotional and physical needs. The agency must request a hearing within four days of taking the child. During the hearing, the judge tries to find the best person to care for the child, preferably someone other than the agency. The court will typically place the child with family if a family member is available and able to care for the child.

At the Child Protection Proceedings, the judge may:

- order for the child to come home under conditions imposed by the Agency and judge;
- order the child to be placed with someone else, or another person to have guardianship.

Parents who have served time in the past have been able to regain access and/or custody by showing a judge that it would be in the best interests of the children to be in the parent's care. This is usually done by fixing the problems that led to the apprehension of the children in the first place.

Generally, it is **highly recommended** that the parents follow the orders of the court and agency to regain their parental rights/access. In past cases these orders have included:

- attending anger management programs;
- attending individual counselling or therapy as recommended;
- making sure the children would reside in a clean and safe place;
- making sure the parents were taking their required medications;
- maintaining sobriety.

For more information:

1. The Child and Family Services Act
(<https://web2.gov.mb.ca/laws/statutes/ccsm/c080.php>)

- Important Sections are 2, 17, 21, 24, 27, and 38.