

Be Sure Your Child is Cared For and Safe

Frequently Asked Questions

What is the purpose of this flyer?

Be Sure Your Child is Cared For and Safe is a flyer to help parents who have been arrested plan for their children. While the flyer does not provide legal advice, it does explain various short- and long-term options that help parents plan appropriately for their children's care and provides information about resources that can be helpful to parents, their children and their children's caregivers.

Why is this flyer so important?

When parents—primary caregivers—are arrested, taken into custody, detained or incarcerated, the experience can be traumatic for the parents and their children. Consider some of the initial unknowns for a parent: how long will I be unable to care for my children; what will happen to my children—will they be taken from me. Such unknowns can contribute to parents' reluctance to admit they have children. Children can also agonize about these and many other factors. To make certain children are safe and cared for appropriately, parents need to arrange for a suitable caregiver immediately, a caregiver who can make educational and health decisions and help them through the unknowns. It is also in the parents' best interests. Knowing that their children are taken care of and safe, they can focus on their criminal proceedings. Failure to plan can be deemed neglect. Parents can help avoid short- and long-term trauma and consequences by knowing what to do, by planning for the immediate and on-going safety and well-being of their children.

Who is the intended audience?

The targeted audience includes parents who need to identify a caregiver for their children because they are the primary caregiver and are unable to care for their children as a result of being taken into custody, detained or sent to jail or prison. The intent is that this flyer increases the focus and steps taken—immediately and over time—to keep children safe and to reduce the trauma associated with the circumstances. Caregivers are also a targeted audience.

When should this flyer be distributed?

Since the flyer is intended to provide parents with immediate and longer-term options for the planning and care of their children, the flyer should be available throughout the parents' criminal justice involvement. Regardless of how long a parent will be unable to care for his or her child, the parent needs to identify a caregiver immediately and make plans for more long-term care if needed. Planning appropriately avoids complications and trauma that could have long-term consequences. Planning for children during an incarceration is an ongoing process. The flyer should be distributed immediately and made available throughout the parents' criminal justice involvement.

Where should the flyer be made available?

Since planning for children is an ongoing process, the flyer is useful to parents and caregivers throughout the parents' confinement. For immediate distribution, options include having the flyer available when the parent is arrested, taken into custody, at arraignment, and at holding. For parents who did not make plans at these early points or for those who need to reassess their plans, options include having the flyer available at sentencing, upon entering a facility, at court appearances and during incarceration.

Should this flyer be provided to a parent who is arrested for having abused or maltreated the child?

No, the flyer should not be distributed to the parent and the forms should not be used in these cases. Established protocols will provide for the care and safety of the child and the local child protective services will have responsibility for the child.

What if the child appears to be in danger?

If you have reasonable cause to suspect a child may be in danger, you must call the Child Abuse Hotline immediately at 1-800-342-3720. If you believe that a child is in immediate danger, call 911 or your local police department.

What if it turns out the parent did not have the legal right to designate a person in parental relation?

If the parent did not have the legal right to designate a person in parental relation, the person with the legal right to custody of the child supersedes any parental designation.

By providing a parent with this flyer, does it imply that I approve of the parent's designation?

No, the flyer is a resource for the parent and it is intended to be self-explanatory. The forms included in the flyer to designate a person in parental relation are designed to be easy to fill out. In particular, the form to designate a person in parental relation for 30 days or less, called Parental Appointment of Your Child's Caregiver for 30 Days or Less, is especially simple and in most instances should not require assistance.

By providing a parent with this flyer, does it appear I am giving legal advice to the parent?

No, the flyer clearly states that the parent should talk to a lawyer. There is also a disclaimer included on the flyer: "This flyer should not take the place of speaking with a lawyer about any of these issues. All individuals involved with the Family Court or Criminal Court are encouraged to speak with a lawyer."

Who are the intended distributors?

The distribution strategy is broad. It includes organizations and agencies, both public and private, that come into contact with or work with incarcerated parents, their families and their children's caregivers. This includes, but is not limited to, arresting officers; sheriff and police; court, probation, and jail/prison personnel; district attorneys; attorneys providing representation in criminal proceedings; not-for-profit service providers; informational websites; informational tables; and jail ministries.

Is this flyer available on the web?

Yes, this flyer is available on the NYS Permanent Judicial Commission on Justice for Children's website at www.nycourts.gov/ip/justiceforchildren/incarceratedparents.shtml. The information provided in the flyer is also broken down into information sheets that are available as independent documents downloadable on the Commission's website, including A Fact Sheet on Options for Incarcerated Parents, Parental Appointment Forms ("designation of a person in parental relation") and A Resource Sheet for Incarcerated Parents and Their Children's Caregivers.

How do I order copies of this flyer?

Copies of the flyer can be ordered in English and Spanish on the NYS Permanent Judicial Commission on Justice for Children's website order form at www.nycourts.gov/ip/justiceforchildren/incarceratedparents.shtml.

Is the flyer available in languages other than English?

Yes, the flyer has been translated into nine languages other than English that are common in New York State: Spanish, Arabic, Bengali, Simplified Chinese, Traditional Chinese, French, Haitian Creole, Korean, and Russian. The translated flyers are available for download on the Commission's website at www.nycourts.gov/ip/justiceforchildren/incarceratedparents.shtml. Only the English and Spanish versions can be ordered on the Commission's website.

Are the "parental designation of person in parental relation" forms available for parents who are not arrested or incarcerated?

Yes, during the development phase of the flyer, there was much interest in having similar forms for a wider audience. As a result, both forms were developed without references to arrest, jail or prison. The forms are in the flyer, which is currently available for download in English, Spanish, Arabic, Bengali, Simplified Chinese, Traditional Chinese, French, Haitian Creole, Korean, and Russian on the NYS Permanent Judicial Commission on Justice for Children's website at www.nycourts.gov/ip/justiceforchildren/publications.shtml under Children of Incarcerated Parents. A full size version of these forms are available in English and Spanish, and located on the same website under Parental Appointment of Caregiver.

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Working to improve the lives and life chances of children involved with New York courts.