



Detained or Deported?

Short Guide to Maintaining Custody of Your Children

Detained and deported parents can take steps to protect their children and maintain their parental rights (that is, the right to keep their children and make decisions about what happens to them).

If you have children and are apprehended by immigration authorities, do the following:

- 1) ASK FOR HELP.** If you cannot understand this information, ask Immigration and Customs Enforcement (ICE), detention center staff, a librarian, chaplain, lawyer, or a relative or friend for help.
- 2) TELL ICE YOU HAVE CHILDREN. ASK TO MAKE A PHONE CALL TO ARRANGE FOR YOUR CHILDREN'S CARE.** Keep asking. Make sure your Deportation Officer knows you have children.
- 3) TRY TO GET RELEASED.** If you have children and you do not know who is taking care of them, tell ICE immediately. You can also ask your Deportation Officer about "Humanitarian Parole," "Release on Recognizance," "Supervised Release," an "Alternative to Detention," or for a bond hearing.
- 4) ASK FOR "PROSECUTORIAL DISCRETION."** Tell your Deportation Officer (sometimes called a Case Officer) you have children, especially if you are the main person who cares for your children ("primary caregiver"). Ask the Officer about an exercise of "prosecutorial discretion" in your case.
- 5) GET A LAWYER.** Parents and legal guardians have legal rights to their children. A family lawyer will help you figure out child welfare systems and family court systems, which can be very different by state and county. The lawyer will help you understand how to work with the laws and systems where your children are living. You may be able to obtain a free lawyer if you have a child welfare case. Ask for help in getting a lawyer. You can ask: immigration lawyers, librarians, chaplain, volunteers, friends or relatives.
- 6) IF YOUR CHILDREN WILL LIVE WITH A RELATIVE OR FRIEND, CONSIDER GIVING THAT PERSON FORMAL PERMISSION TO SERVE AS THEIR CAREGIVER.** You may give that person your temporary permission to make decisions about your children (through a "power of attorney," or "poder"). Another option is to give that person long-term legal guardianship. Talk to a family lawyer about your options. Call the bar association in the state where your children are living and ask them for information about a family lawyer.
- 7) IF YOU DO NOT KNOW WHERE YOUR CHILDREN ARE, FIND OUT IF THEY HAVE BEEN PLACED INTO THE CHILD WELFARE SYSTEM.** Call the local child welfare agency in the state where your children are living, or call ChildHelp at 1-800-4-A-CHILD (1-800-422-4453). Ask them to transfer you to the correct local child welfare agency.
- 8) MAKE SURE THE CHILD WELFARE SYSTEM KNOWS WHERE YOU ARE DETAINED AND HOW TO CONTACT YOU.** Give child welfare (1) your full name and any other names you are known by, (2) the detention center address where you are held, (3) your date of birth, (4) your country of birth and (5) your alien registration number (A #). If you are transferred to a different detention center, be sure to inform child welfare.
- 9) CONTACT YOUR HOME COUNTRY'S CONSULATE IF YOU ARE COMFORTABLE DOING SO.** They may be able to help you find a family lawyer, coordinate between ICE and the child welfare agency, and participate in your child welfare case if you are deported.
- 10) STAY IN TOUCH WITH YOUR CHILDREN, THE PERSON CARING FOR THEM, AND/OR THE CHILD WELFARE**

CASEWORKER. Have your children visit you in detention, if possible. If this is not possible, call them and write to them regularly. Showing that you want to maintain a relationship with your children is very important for getting them back. Make sure that the child welfare agency and anyone else involved in caring for your children know that you want to be reunited.

- 11) PARTICIPATE IN THE CHILD WELFARE REUNIFICATION PLAN. MAKE SURE THAT THE CHILD WELFARE AGENCY AND THE FAMILY COURT KNOW ABOUT YOUR EFFORTS TO DO SO.** If you cannot do the things the plan requires because you are detained or have been deported, tell child welfare and the family court about your efforts. Ask to change the plan to include things you can do in detention or in your home country.
- 12) PARTICIPATE IN ALL FAMILY COURT HEARINGS.** You have the right to participate in family court hearings. You can participate in person, by video, and/or by phone. If you are detained, show ICE the notice from the family court and ask them to help you participate. Find a copy of ICE’s “Parental Interests Directive” (also known as the Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities Directive). You can download one here: (http://wrc.ms/ICE_par_dir). This directive lays out steps that the agency should take to help you participate in family court proceedings. Ask ICE to help you participate long before the court date. If ICE will not allow you, ask the court to provide an order requiring you to participate.
- 13) MAKE SURE YOUR CHILDREN’S CARETAKER HAS ORIGINALS OF YOUR CHILDREN’S IMPORTANT PAPERWORK SO THAT YOUR CHILDREN CAN JOIN YOU IN YOUR HOME COUNTRY IF YOU WANT THEM TO.** This includes passports, visas, school records and medical records. Get copies of these documents for yourself. If you are facing deportation and your children are not in the child welfare system, ask ICE if they will help arrange for you and your children to depart together.
- 14) COORDINATE CARE OR TRAVEL FOR YOUR CHILDREN IF YOU ARE GOING TO BE REMOVED.** If you are subject to a final order of removal and ICE is planning to remove you, ICE will do what it can to assist you in making arrangements for your children (as long as you have maintained your parental rights). Such arrangements may include your efforts to arrange guardianship for your children so that they may remain in the United States, or your efforts to obtain travel documents for your children so they can accompany you to your country of removal. If your children are in the child welfare system, child welfare will decide whether they can join you in your home country. Tell child welfare your wishes and ask them to continue working to reunite you with your children.
- 15) CONTINUE TO PARTICIPATE IN THE CHILD WELFARE AND FAMILY COURT PROCESS EVEN AFTER YOU HAVE BEEN DEPORTED.** If you are deported and your children are in the child welfare system, you will still need to comply with the reunification plan and participate in family court in order to get them back. If the family court schedules a hearing about termination of your parental rights, you can ask the U.S. government for humanitarian parole to briefly return to the U.S. to attend court.

When asking ICE for help, contact ICE at the detention center first, then the local ICE ERO Community Field Liaison where you are detained. A friend or relative can find the contact information for this person at:

<http://www.ice.gov/contact/ero>. If you are not satisfied with their response, or if they are not giving you the help you need, then you, or a relative or friend, may call the ICE ERO Community and Detainee Helpline at 1-888-351-4024.

For more information, see “Detained and Deported: What About My Children?” a detailed toolkit for detained parents prepared by the Women’s Refugee Commission. This toolkit is available on the computer in your detention center’s law library and can be found online at www.wrc.ms/detained-parents-toolkit.

Download in English: <http://wrc.ms/1qYqvrP>

Download in Spanish: www.wrc.ms/1wTsmwa

For more information, visit: www.wrc.ms/detained-parents-toolkit