

Child Abuse/Neglect Petitions In Circuit Court Involving Domestic Violence

Considerations for Filing a Child Abuse/Neglect Petition (Chapter 49)

- Imminent danger to the child;
- Level of threat or injury to the child
- Level of cooperation of parents
- Capability of parents
- Whether or not the harm can be controlled with outside factors (relatives, accessible/available services) to demonstrate reasonable efforts to prevent removal (except when reasonable efforts are not required by law)

Circuit court child abuse/neglect petitions can be effective in holding batterers accountable for the abusive behaviors while protecting both the child and adult victims.

Petitions where both parents are at fault	Petitions where CPS co-petitions with Adult Victim	Petitions advocating for battered parent adjudication
<p>Batterer is at fault for abuse to adult victim and child</p> <p>Adult victim is at fault for knowingly allowing abuse/neglect or direct abuse and neglect that is co-occurring with DV (physical abuse to child, illegal drug use impairing parenting, etc.)</p> <p>Parent refuses to identify who caused the abuse/neglect</p> <p>CPS can't determine who did what</p> <p>Both parents receive counsel</p>	<p>Batterer is at fault for abuse to adult victim and child</p> <p>Adult victim took reasonable steps to protect child while under threat of harm (not knowingly allow), and does not have other form of co-occurring threat of harm to the child</p> <p>Adult victim feels safe to co-petition</p> <p>Adult victim & CPS can make separate verifications</p> <p>Both parents receive counsel</p> <p>Petitions can be amended if circumstances change or are discovered</p> <p>Adult victim must identify abuser and admit that child abuse/neglect occurred</p> <p>Can terminate parental rights of batterer</p>	<p>Batterer is at fault for abuse to adult victim and child</p> <p>Adult victim did not condone abuse, but could not stop it because of DV perpetrated by the batterer §49-1-3 (c) (Carefully assess adult victim accommodating batterer vs. condoning)</p> <p>Adult victim does not feel safe to co-petition or cooperate with CPS</p> <p>Both parents receive counsel</p> <p>Burden of proof is on the department to show the adult victim as battered parent</p> <p>Adult victim must identify abuser and admit that child abuse/neglect occurred</p>

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Supporting Adult and Child Victims of Domestic Violence When Circuit Court Petitions are Necessary

Domestic Violence Advocates and child protection workers each have a role in supporting and protecting adult and child victims of domestic violence. Below are some guidelines for supporting adult and child victims of domestic violence when circuit court petitions are necessary.

	Petitions where both parents are at fault	Petitions where CPS co-petitions with Adult Victim	Petitions advocating for battered parent adjudication
DV Advocates	<ul style="list-style-type: none"> • Include the adult victims in the reporting process — including empowering adult victims to make the report with the DV advocate • Assist the adult victims with services to decrease the risk of harm to the children • Provide services to children to promote healing/protection • Collaborate with CPS worker to provide protection for adult and child victims 	<p>Empower the adult victim to co-petition by understanding the advantages:</p> <ul style="list-style-type: none"> • Right to counsel • Can remove batterer from home • Custody can remain with adult victim • Review hearings hold batterer accountable • Can provide better protection than PO • Batterer required to complete services before gaining access to children • Can terminate parental rights of batterer <p>If CPS does not co-petition, consider advocating with CPS for co-petitioning or battered parent when appropriate</p>	<p>Inform the adult victim of the ramifications battered parent adjudication:</p> <ul style="list-style-type: none"> • Custody can be with adult victim or state • “Battered parent” is a “no-fault” finding (not abusing or neglecting) • Services will be offered to decrease the risk to adult victim and children • Adult victim’s parental rights can be terminated if parenting skills are seriously impaired and if adult victim is unwilling or unable to provide safety through an appropriate safety plan • If CPS does not advocate for battered parent, adult victim’s attorney can
CPS Workers	<ul style="list-style-type: none"> • Consider services to protect the adult and child victims while also holding the adult victim accountable for her/his abusive/neglecting behaviors • Hold batterer accountable for child victimization caused by domestic violence 	<ul style="list-style-type: none"> • Use co-petitioning unless the adult victim is abusing or neglecting or unwilling to co-petition • Refer adult victims to DV advocates to assist them throughout the process • Invite and involve DV advocates throughout the process 	<ul style="list-style-type: none"> • If co-petitioning is not used, the state has the burden of proof for battered parent or abusing/neglecting • Adult victims may appear non-cooperative due to extreme fear of batterer • Explain to adult victim the ramifications of battered parent adjudication