



Preventing Custody Loss

Suggestions for Parents with Psychiatric Disabilities

“I often have a first contact with parents as they head into their Termination hearing. If they had implemented the suggestions in this parenting tool early on, a Termination hearing might never have been scheduled!”

*Gina Caruso
Coordinator, Parenting Plus**

According to a recent study by the UPenn Collaborative, mothers with serious mental illnesses are almost three times more likely to experience out-of-home-placement than those without a mental illness. In addition, fear that they will lose custody of their children may prevent parents with mental illnesses from seeking the treatment they need, which could increase the likelihood of subsequent legal intervention.

While parents with psychiatric disabilities should have the same opportunity for keeping their families together (reunification) as parents without psychiatric disabilities, the Americans with Disabilities Act (ADA) does not yet provide adequate protection for parents threatened with custody loss.

THE BEST PROTECTION IS PREVENTION!

The best way to prevent custody loss is to have a plan that helps you improve your parenting skills while managing your psychiatric disabilities. This plan has a double purpose: to protect the best interests of the child and to demonstrate your maturity as a parent. Here are some suggestions:

1. Address any parenting weaknesses and document progress.

If you have any problems that may affect your ability to be a good parent, find ways to address them; this demonstrates to the authorities your desire and ability to be a good parent. Parents commonly seek guidance from outside resources, such as books, family members and friends who have already raised children, or are currently raising children. You can also turn to a parenting expert, parenting classes or a parenting support group. It may be helpful to use a combination of these resources.

Try new behaviors and note your child’s response. If your new action is not successful after a fair amount of time, consult one of these resources. Keep a good record of dates, actions taken, and results.

2. Meet regularly with a mental health professional to monitor your child’s well-being.

The meetings will also help identify any parenting weaknesses from the child’s perspective. In case of litigation, the expert’s opinion can be valuable in providing evidence of your parenting efforts. In the event that you have temporarily lost custody, this expert may also help identify and develop reasonable modifications to reunification services.



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3. Meet regularly with a mental health expert [professional] to monitor your disability.

These meetings will show your ability to maintain your recovery. A mental health expert can also help develop a plan to minimize psychiatric symptoms and/or their reoccurrence and reclaim your recovery. This expert's opinion would also be valuable in court, if the need arises. Lastly, the expert may help identify and develop reasonable modifications to services aimed at helping you maintain or regain custody of your children.

4. Make an advance plan that can be used in case you are temporarily unable to care for your child due to illness or hospitalization.

The best thing you can do for your child and yourself is to MAKE A PLAN about what to do BEFORE YOU NEED IT. It's extremely difficult to make arrangements when you're not feeling well! Having a written and practical backup plan in place demonstrates your ability to consider the child's best interests and your ability to plan ahead for their well-being.

A. Have a plan in place that includes written instructions about who should care for your child and what needs to be done to ensure your child's safety and well-being.

Having someone whom you trust to care for your child will keep him or her safe and give you peace of mind while you work on your recovery. However, it is especially important that you choose one or more responsible adults to care for your child if you have a psychiatric disability. Losing custody of your child while you are incapacitated is a real possibility unless you have made an advance plan for their care and safety. Custody loss by parents diagnosed with a psychiatric disability happens much more frequently than for the general public.

Here are suggestions for important information to include in your plan:

- Names and contact information for responsible adults who you would like to have temporary custody of your child while you are incapacitated
- Names of people who should NOT be allowed to have custody of, or access to, your child
- Names of doctors and other health care professionals who care for your child
- Medications your child is taking
- Any allergies, medical conditions and/or special needs and how to best address them
- School information, including how to contact your child's teacher and/or the school counselor
- Permission and contact information for friends your child might like to play with during your absence
- Special, personal information that might make your child feel more comfortable while s/he is not with you, such as: favorite foods, television programs, games, interests, etc..



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Here are suggestions for ways to help your child cope better with a temporary separation:

- If at all possible, choose a caregiver with whom your child feels safe and comfortable
- Make it clear that this is a TEMPORARY, short-term arrangement. Reassure your child, as well as the person(s) who will care for him or her, that you will be back to take charge as soon as possible.
- Give your child a letter, prepared ahead of time when you are feeling calm and clear about what you want to say, that discusses how you made this plan out of love and the desire to make sure that s/he is safe during your absence.

B. Create a plan for your own mental health care and update it regularly.

Having a written plan in place is crucial to effectively managing your illness and getting “back on your feet” as soon as possible. One way to do this is to create a **psychiatric advance plan or directive**. Use your plan to instruct mental health crisis and/or hospital staff about how to best meet your specific needs and preferences for a faster recovery.

The UPenn Collaborative offers a free guidebook and planning sheets to help you create a psychiatric advance plan or directive called the **Advance Self-Advocacy Plan**. It includes sections that let you make plans for yourself and for your child. Click on the following link for a free download of these resources:

http://www.upennrrtc.org/resources/view.php?tool_id=200

Keep a copy of your plan in a safe place and also make copies for:

- People who will be involved in your mental health care and
- People who care for your children while you are not well. Update it at least once a year or whenever there are any significant changes.

5. Keep a detailed record of your actions and the actions of others involved in your care and that of your children, including any progress made.

Make sure that your record includes dates, actions taken and a description of progress. Update it regularly.

IN CASE OF LITIGATION: (see next page...)



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IN CASE OF LITIGATION:

- A. **Raise ADA accommodation issues early.** You should bring up these issues immediately if you find that the customary services are inappropriate. You should also work with your mental health expert(s) to develop individual modifications that adequately address your psychiatric disability. Cases that raise ADA issues too late in the process may not be as successful.

- B. **Find one or more experts to present reasonable accommodations and supports for your disability.** These experts could include a family practice lawyer as well as mental health professionals who have worked with you and your child. Ideally, they should have some knowledge about accommodations that have proved successful in keeping families together. Accommodations that are individually tailored to your situation are essential to building a good case that has a reasonable chance of success.

RESOURCES:

The Advance Self-Advocacy Plan (ASAP): A New Tool for Creating Mental Health Crisis Plans & Psychiatric Advance Directives. A practical and easy-to-use tool that eliminates many of the obstacles frequently encountered when creating a psychiatric advance plan.
http://www.upennrrtc.org/resources/view.php?tool_id=200

Child Welfare & Custody Issues: Discussion, suggestions and useful resources.
http://www.upennrrtc.org/resources/view.php?tool_id=36

Parenting Resources Worksheet: Use this worksheet to create a list of local resources for parents with psychiatric disabilities, including legal, housing, emergency respite childcare, etc.
http://www.upennrrtc.org/resources/view.php?tool_id=178

Understanding Child Abuse and Neglect in Pennsylvania: A General Guide that Can Be Adapted for Parents in Other States: A key guide for parents who have lost custody - or are facing custody loss - of their children. Includes a detailed overview of what constitutes child abuse and neglect in Pennsylvania plus a discussion of parents' rights, options and choices about regaining custody (family reunification).
http://www.upennrrtc.org/resources/view.php?tool_id=118

Positive Parenting & Child Resilience: Discussion, suggestions and useful resources.
http://www.upennrrtc.org/resources/view.php?tool_id=37

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Preventing Custody Loss: Suggestions for Parents with Mental Health Challenges

RESOURCES (cont):

Parenting With A Mental Illness: Programs and Resources Guide is a comprehensive resource to help parents, providers, and advocates find information about programs in their area. (http://www.upennrrtc.org/resources/view.php?tool_id=128)

Keeping Your Children or Getting Them Back! This new two part training tool educates parents in recovery from psychiatric disabilities about child abuse laws and the child protective service system. http://www.upennrrtc.org/resources/view.php?tool_id=173

REFERENCES:

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"Health and Outreach: Statistics." 15 February 2008. National Institute of Mental Health. <http://www.nimh.nih.gov/health/topics/statistics/index.shtml>

"Child Custody Laws List a Mental Illness or Disability as Grounds for not Providing Reasonable Efforts to Reunify a Family" UPenn Collaborative on Community Integration. Accessed September 30, 2008. <http://www.upennrrtc.org/var/tool/file/194-LRS%20Fact%20sheet%20061008%20FINAL.pdf>

* Parenting Plus is an education and support program of the Mental Health Association of Southeastern Pennsylvania for parents with mental illness and/or mental health issues.

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