

# Planning for a Family Emergency

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All families should plan for who will care for your children in an emergency. This packet includes information to help you make a plan with special advice for immigrant families.

## General planning

- **Talk as a family**, about your emergency plan. Include your children. Decide who will take care of the children, where to keep important documents, who to call in an emergency.
- **Gather important documents**: collect important documents like birth certificates and passports. Keep them in a safe place where your family knows where to find them.
- **Know your rights**: Everyone in the U.S. has constitutional rights, learn how they can protect you. Find out your rights and go to a training.
- **Get immigration help**: if immigration is one of your main worries, try to get immigration advice. See a list of free Massachusetts legal services in this packet.



## Child Care Plan

Plan for who will care for your children if you cannot. Talk to your children and the caregiver you choose, so everyone knows the plan and agrees to it. Some steps you can take are:

- **Fill out a caregiver information page for each child**: include important information about your child, like school information, medical information, allergies and medications, and other details that are important to your child's daily life. See the Child's Vital Information Sheet in this packet.
- **Update school contacts**: contact your child's school. Make sure they have the correct contact information for a few people you trust to pick your child up from school in case you cannot.

- Tell the school you want to “opt-out,” or not be included, in any directory information the school puts out. This helps protect your information.
- **You may want to choose someone to care for your child if you cannot:** You can choose from 2 different forms to give someone else the legal responsibility for your child. You do not have to go to court. Both forms are included in this packet.
  - **Caregiver authorization affidavit** gives the caregiver the power and responsibility to make decisions about your child’s education and medical care.
  - **Temporary agent authorization** allows the “agent,” or person you choose, to make any decisions a parent can make for your child for up to 60 days.
- **Register your child’s birth with your foreign consulate:** if either parent is not a U.S. citizen, you may want to register your child’s birth with your consulate. If your child wants to travel or move to your home country, it could be easier if their birth is already registered with the consulate.
- **Apply for passports for your child:** most governments require that both parents give permission for their child to get a passport. If you have sole legal custody you may not need the other parent’s permission.
- **Write a travel letter:** If your child needs to travel outside the U.S., they may need a notarized letter that gives them permission to travel with a trusted adult, or the other parent. You may want to contact an airline or your consulate to get exact instructions.

**This packet has only general information. It is not legal advice. If you have questions about your situation, speak with an Immigration Specialist.**

## Who will take care of my child in an emergency?

Think about these questions when you pick a caregiver for your child:

1. Is the person at least 18 years old? Only an adult can be a caregiver
2. Is the person responsible?
3. Is the person able and willing to care for my child?
4. Does the person have any history with the Department of Children and Families (DCF)?
5. Does the person have any criminal history?

After you pick a caregiver, you need to decide the kind of legal arrangement you will have with them. You have options.

### Informal option

You can always make an informal plan with your family and friends, but this may not be the best option because it does not give the caregiver legal rights. Your plan can include talking to the people you want to care for your child or writing down what you want to happen in an emergency. An informal plan is the easiest, but your child's school or doctor might not follow your plan and the caregiver may have to go to court to help your child.

### Caregiver Affidavit Authorization

A caregiver affidavit authorization is a good option if your main concern is your child's education and health. Many schools and doctors are already familiar with these forms.

The affidavit says who you want to be the caregiver and that your child will live with them. It gives the caregiver the right to make decisions about your child's health care and education for up to **2 years**.

You do not give up any of your rights when you sign it. And you can end the authorization at any time.

The caregiver authorization affidavit only needs the signature of one parent.

You need 2 witnesses to sign the form with you. And you all must sign it in front of a notary.

The caregiver must also sign the affidavit. The caregiver will sign the form and use it whenever the child lives with him or her.

This packet includes a Caregiver Affidavit Authorization form you can use. This form is different from the form you can get from the court. There is space for you to add another caregiver if the one you picked is not available.

**Caregiver Affidavit Authorizations** are useful for any family.

**Temporary Agent Authorizations** are useful if the caregiver needs to make decisions about your child's finances or property.

Give the original form to the caregiver and keep a copy with your important documents.

You do not have to put all your children on one form. You can fill out a form for each child. Each child needs their own form if they have different caregivers.

### **Temporary Agent Authorization**

The temporary agent authorization gives a caregiver more powers than the Caregiver Affidavit Authorization. A Temporary Agent Authorization gives a caregiver the power and responsibility to make more than healthcare and education decisions for your child. A Temporary Agent can also make decisions about your child's property and finances. The person you choose to be the Agent can have any power you do. **But** the Agent cannot give permission for your child to marry or be adopted.

The authorization says you give the agent the power to make decisions in your child's life for up to **60 days** after you are detained or unavailable. You have the right to end the authorization at any time. After 60 days, you can renew the authorization, but you must complete a new form.

If you know where the other parent is and they are able and willing to care for your child, both parents must sign the Temporary Agent Authorization. If the other parent can care for the child, you may not need to fill out this form.

You need 2 witnesses to sign the form with you.

The agent must also sign the authorization.

You can add a second person to the form, in case the person you picked to be Temporary Agent is not available.

This packet includes a Temporary Agent Authorization form you can use. This form is for families who are afraid that immigration enforcement may separate them from their child. If you need an authorization for a different reason, like you are having surgery and you will not be available for a few weeks, the form in this packet is not right for you.

Give the original form to the Agent and keep a copy with your important documents.

You do not have to put all your children on one form. You can fill out a form for each child. Each child needs their own form if they have different caregivers or parents.

### **Guardianship**

A legal guardian has all the rights a parent has to make decisions for your child. Only a court can make someone a guardian, or end a guardianship. Someone that you choose to be a caregiver may need to become a legal guardian in the future if they need to take care of your child for a long time. If you plan for your child to live in the U.S. permanently, with the caregiver, you may want to prepare the guardianship paperwork so it can be filed if needed.

If someone becomes the legal guardian of your child, they have the right to make decisions about your child **instead** of you. If you want to end the guardianship, you will have to ask a judge to end it and the guardian can object. Think carefully before you decide to make someone you're your child's Guardian. You will be giving up your rights as a parent. You can find information about guardianship online (<http://www.mass.gov/courts/selfhelp/guardians/guardian-child.html>) or at the probate and family court closest to you.

### **Advice for Survivors of Domestic Violence**

If you are a survivor of domestic violence the person who abused you may try to take your child. You may need to collect documents that show why your abuser should not get custody. The caregiver you choose may need to go to court if the person who abused you tries to get custody of your child. Talk to your domestic violence counselor if you have one or reach out to a domestic violence program for more information and for safety planning. You can find a list of domestic violence organization here – [http://www.janedoe.org/who\\_we\\_are/members\\_list](http://www.janedoe.org/who_we_are/members_list).

## Know Your Rights and How to Find Legal Help

Every person in the United States has rights. If you are a citizen, or an immigrant, or if you are undocumented – you have rights. The constitution protects everyone. Some of your most important rights are the ones you have when you talk to anyone from law enforcement, including Immigration and Customs Enforcement (ICE).

### What Are My Rights?

- You do not have to talk to an immigration officer (ICE) or answer their questions – you can tell them that you want to stay silent.
- You can ask to talk to a lawyer.
- You can ask if you are free to leave – if the officer says yes, calmly and slowly leave.
- You can refuse to sign anything before talking to a lawyer.
- You do not have to open your door for ICE if they do not have a “warrant.” A warrant is a court order, signed by a judge. If ICE knocks on your door:
  - Ask if they have a warrant, ask them to slide it under the door
  - Check if the information is correct – if your name and address are not correct on the warrant, you can ask them to leave.
  - Check if a judge actually signed the warrant – often ICE uses warrants that are signed by an ICE supervisor. This warrant, does not give ICE permission to come into your house.
- If you are arrested you have the right to call your family, a lawyer, and your consulate.

### Red Cards

Red cards can help you tell an immigration officer that you are using your rights. Show the card to the officer or slide it under the door.

<p>Usted tiene derechos constitucionales.</p> <ul style="list-style-type: none"><li>• <b>NO ABRA LA PUERTA SI UN AGENTE DE SERVICIO DE INMIGRACION ESTA TOCANDO A LA PUERTA</b></li><li>• <b>NO CONTESTE NINGUNA PREGUNTA DEL AGENTE DEL SERVICIO DE INMIGRACION SI EL TRATA DE HABLAR CON USTED.</b> Usted tiene derecho a mantenerse callado. No tiene que dar su nombre al agente. Si está en el trabajo, pregunte al agente si está libre para salir y si el agente dice que sí, váyase. Usted tiene derecho de hablar con un abogado.</li><li>• Entregue esta tarjeta al agente. No abra la puerta!</li></ul>	<p>I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5<sup>th</sup> Amendment rights under the United States Constitution.</p> <p>I <b>do not</b> give you permission to enter my home based on my 4<sup>th</sup> Amendment rights under the United States Constitution unless you have a warrant, signed by a judge or magistrate with my name on it that you slide under the door. I do not give you permission to search any of my belongings based on my 4<sup>th</sup> Amendment rights.</p> <p>I choose to exercise my constitutional rights. <i>These cards are available to citizens and noncitizens alike.</i></p>
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### Things to Remember

- Stay calm

- Do not run away
- Do not answer questions
- Do not show fake documents
- Do not sign anything
- Carry your red card and use it
- Ask to speak to a lawyer
- Ask for an interpreter if you are detained or questioned

### **More Resources**

For more information, look at these websites for know your rights material.

- National Immigrant Law Center: <https://www.nilc.org/get-involved/community-education-resources/know-your-rights/>
- American Civil Liberties Union: <https://www.aclu.org/know-your-rights>
- Immigrant Legal Resource Center: <https://www.ilrc.org/community-resources>
- Immigrant Defense Project: <https://www.immigrantdefenseproject.org/category/resources-for-communities/>

### **Finding Legal Help**

You may want to talk to an Immigration Specialist. They can help you figure out the best options for you. Be careful of immigration fraud and scams. Check with an organization you trust before you start any immigration process. See a list of free legal service providers.