



What About My Children? Preserving Family Unity and Protecting Parental Rights When Facing Deportation

A Guide for Parents, Attorneys, and Advocates

Immigration enforcement is increasing nationwide. If you are taken into Immigration and Customs Enforcement (ICE) custody, you may be deported to your country of origin very quickly – maybe even within a few days. This is especially likely if you have lived in the US for less than two years or returned to the US after being deported in the past.

Many families have created safety plans to help ensure that children will be taken care of if a parent is detained and deported. Whether or not you have a safety plan, if you are detained there are things you should try to do as soon as possible to ensure that your children are cared for and to protect your parental rights, including your right to make decisions about where your children will live in the future.

Parents – *you will not have access to this information in detention. Review these tips now and try to remember them to help you make arrangements for your children if you are detained. The most important thing you can do to protect your children is to tell your immigration attorney about them!*

Attorneys and Advocates – *Be sure to ask your detained clients if they have children and be prepared to help them take these steps to arrange for childcare and custody*

Ask for a phone call to arrange care for your children. You may need to ask repeatedly.

- You do not need to tell ICE the reason for your call (though they may be more willing to give you a call if they know there is a child involved).
- Be sure to tell your chosen caregiver that you are in the custody of ICE and may be deported soon.
- If you do not know where your children are, they may be in the custody of a child welfare agency. Call 1-800-4-A-Child (1-800-422-4453) and ask to be connected to the child welfare agency in the city or county where your children live.
- If your children are in the custody of a child welfare agency, your rights as a parent may be challenged. You must stay in contact with the child welfare caseworker and family court even if you are deported. Be sure they know how to find you. You may be able to reunify with your children, but you must first do all the things the child welfare agency and family court require.
- If your children are undocumented or have a pending immigration case, they may be in immigration custody. Ask a relative or friend to look for them using the ICE Online Detainee Locator: <https://www.ice.gov/overview>. Undocumented children may also be in the custody of the Office of Refugee Resettlement (ORR). An attorney, relative, or friend can try to locate them for you using the Division of Children's Services (DCS) Hotline; 1-800-203-7001.

Try to talk to an immigration attorney

- Although you do not have the right to a government-paid lawyer in your immigration case, **you have the right to talk to an attorney when you are in ICE custody.**
- Ask ICE to let you make a phone call to contact an immigration attorney.
- Be sure to tell the attorney that you have children, who is caring for them, and where you want them to live if you are deported. If you cannot find your children, tell the attorney and ask if they can help find them.
- Ask the attorney about a stay of removal. This will not keep you from being deported, but if it is granted it may give you some more time to make arrangements for your children.

Consider telling ICE you have children. Your decision may depend on whether your children are US citizens and on whether you want your children to stay in the US or join you if you are deported.

- **Your US citizen children are not the property of the US government.** You have the right to decide where your children will live if you are deported. (If your children are in the child welfare system, the family court will decide where they will live).
- **If your children are US citizens or lawful permanent residents (have a green card),** there is little risk in telling ICE about them. ICE cannot deport US citizens.
- **If your children or the person caring for them is undocumented,** telling ICE may result in their arrest. But if you want your children to join you in your country of origin, it may be worth the risk.
- **If you tell ICE about your children, they may be able to arrange for you to travel together.** Your consulate may also be able to work with ICE to coordinate your travel and your children's travel.

Contact your consulate - unless you do not want your government to know where you are.

- **You have the right to talk to your consulate.** ICE should provide you with contact information for your consulate, or it may be posted in the facility where you are held.
- **If you want your children to live in your country of origin, you may need to register their birth with your government.** Registering US citizen children with your consulate will not affect their US citizenship.
- You may not have time to register your children before you are deported. **Ask your consulate if you can register them once you are back in your country of origin, and how to do it.**
- If your children are in the custody of the US child welfare system, your consulate may be able to find them and help you do the things you will need to do to get them back. The consulate is more likely to help you if your children are citizens of your country or have been registered with the consulate.
- **If you do not know where your children are, or are afraid they are unsafe,** give their full names, dates of birth, last known address(es), and the name of their school(s) to the consulate and ask if they can help look for them. You or your attorney, a relative, or a friend can also contact the local child welfare agency or local police in the area where your children live and ask them to look for your children or protect them but keep in mind that calling child welfare or the police could have immigration consequences depending on where they live.

Get a power of attorney for child care and custody. You can do this after you are deported if you are not able to do it while you are in ICE custody.

- A power of attorney for child care and custody is a legal document that authorizes someone to temporarily care for your children and make decisions on their behalf. It may be called something else in the state where you live.
- **If you already gave someone your power of attorney for child care and custody before you were apprehended by ICE, contact that person as soon as possible.** It is ok if you cannot contact them until after you are deported.
- **If you do not have a power of attorney for child care and custody, try to get one as soon as possible after you are deported.** Once you arrive in your country of origin, contact a US lawyer or legal services organization in the state where your children live and ask them to help you prepare a power of attorney.
- **Be sure your power of attorney says whether you want your children to stay in the US or join you in your home country.**
- Your children's caregiver will not be notified if you are deported. **Contact your children's caregiver as soon as possible after you return to your country of origin.** Be sure they know how to contact you.

If you are not allowed to do these things while in ICE custody, contact the **ICE Detention Reporting and Information Line (DRIL)** at **1-888-351-4024** and tell them that you need to make arrangements for the care of your children before you are deported. If you do not have access to the DRIL hotline where you are detained, ask your lawyer, a relative, or a friend to call for you.

MORE RESOURCES:

For more information on power of attorney, protecting your parental rights, and participating in a child welfare case if you are detained or deported, see Women's Refugee Commission's Resources for Separated Families:

<https://www.womensrefugeecommission.org/rights/gbv/resources/1409-resources-for-families-facing-deportation-separation>

For information on ways ICE can help you participate in a child welfare case from detention, see the ICE Parental Interests Directive: https://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf

The Women's Refugee Commission advocates for laws, policies and programs to improve the lives and protect the rights of refugee and internally displaced women, children and young people, including those seeking asylum—bringing about lasting, measurable change

IF YOU ARE ARRESTED BY ICE INSIDE THE UNITED STATES:

1. You have the right to make decisions about your children regardless of your immigration status. The U.S. Constitution protects the rights of families.
2. You do not have to answer questions from ICE about your children and their nationality or immigration status unless ICE has a warrant with your child's name on it.
3. You have the right to make arrangements for your children's care, even if your children are not physically with you at the time of your arrest. Ask for a phone call or whatever else you need so you can make those arrangements, both at the time of apprehension and while you are detained.
4. If you are not able to make childcare arrangements at the time you are being apprehended, ask ICE what they will do to ensure your children are being cared for. Also ask how you will be able to contact your children.
5. If your children are in the foster care system, you have the right to participate in child welfare proceedings from detention and after deportation as long as the judge has not terminated your parental rights.
6. You have the right to talk to an attorney. Tell them where you want your children to live if you are deported.
7. If you are being deported, you have the right to decide whether you want your children to join you in your country of origin. ICE may be able to arrange for you to travel together. Your consulate may also be able to help.

For more information about protecting your parental rights, go to:
www.womensrefugeecommission.org
