

# My neighbor falsely reported me to DYFS. What can I do?

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Dear Ask the Attorney:

My neighbor and I have a hate-hate relationship. Recently, in retaliation for complaining to the town about garbage in their front yard, my neighbor called up DYFS and reported that I was abusing my children. It is not true! I love my children and would never harm them, but DYFS showed up at my house and are now planning to investigate. Can they do this? What do I do?

Scared Mom

***Our guest blogger today is Michael R. Ascher. Esq. Mr. Ascher is a partner in the firm and is engaged in a litigation practice handling both criminal and complex civil matters. His practice includes all categories of criminal cases including drunk driving defense, sex offenses, drug and white collar crimes, computer crime, conspiracy, fraud & theft cases and matters involving the Division of Youth and Family Services (DYFS).***

Dear S.M.,

Under the law, the Division of Youth and Family Services, now known as the Division of Child Placement and Permanency has a statutory obligation to investigate all referrals concerning either child abuse or neglect. These investigations must be begun immediately upon receipt of the referral. Referrals can be made anonymously and without any corroborating information. The Division will send out an investigating officer to interview you and your children. Although you have a right to refuse the Division access, it can go to court and obtain an Order for Investigation which would permit them to interview both you and your children. Often times, the Division will simply show up at a child's school to interview the children without your prior knowledge or consent. When confronted with a DYFS investigation, it is vitally important to obtain advice from an attorney who has experience with the Division. Parents do have rights and should enforce them.

DYFS referrals can turn into criminal investigations also. Under the statute, the Division and county prosecutors are required to exchange information where there are allegations of either abuse or neglect. Therefore, it is vitally important that you seek advice of an attorney. An experienced DYFS attorney would insist upon being present during any interview of you. An attorney's presence is vital to protect your rights in any DYFS proceeding or a resulting criminal prosecution. If the Division feels that your children are in imminent danger of harm or the risk of harm, they can initiate a removal. This would permit them to actually remove your children without a court order.

Even though you know that you have neither abused nor neglected your children, it is important that you do not confront any Division workers on your own. During the investigatory stage, parents are at a disadvantage since they do not know the full extent of the allegations made against them. The Division does not have to disclose all of the allegations that have been made. Often times, Division workers will threaten to remove your children in an effort to have you sign a "safety plan" which could adversely impact your rights as a parent. Before agreeing to any DYFS intervention or safety plan, you should seek the advice of an attorney to guide you through the difficult procedure confronting you.

It is important that you understand that you have significant rights that you should seek to enforce. After the Division has made its investigation, they will "substantiate" allegations of abuse or neglect, or will deem it "unfounded". If the allegations are substantiated, your name will be placed in a central registry. However, you would have the right to appeal from that substantiated finding. An unfounded finding would result in no further action, but the referral would remain in the Division's file for three years. Substantiation may result in the Division taking court action against you.

Being placed in a central registry may bar you from some types of employment, from becoming a foster parent or adopting a child in the future. As you can see, you have rights following a DYFS investigation and the following conclusion if it is found to be substantiated. During the entire process, you should seek advice of an experienced DYFS lawyer to assist you during this incredibly emotional time.

*"Ask the Attorney" is a blog in which answers to your legal questions submitted to [asktheattorney@einhornlawyers.com](mailto:asktheattorney@einhornlawyers.com) may be answered. The answers to the questions are for informational purposes only and are not to be construed as legal advice or the creation of an attorney-client relationship. The facts of each case are different and you should therefore seek competent legal representation.*