



## IMMIGRATION ISSUES: CHILDCARE OPTIONS IF DETAINED OR REMOVED

\*This tip sheet can help guide your family with discussions and decisions to prepare for emergencies such as detention and removal. It is not legal advice.

### SHARING THE PLAN

- Talk with your child about what will happen if there is an emergency
  - Be honest—you don't want to scare and worry your child, but you also want them to be prepared for what may happen so they can feel secure
  - Tell your child who will care for them and share the "plan" for care
  - Let your child know who can, and who cannot, pick them up from school
  - Help your child to know how to contact this trusted person/caregiver
- Update all emergency contact information
  - Make sure that school, childcare, sports teams and all activities have the person(s) who may care for child listed as the emergency contact

### INFORMAL OR FORMAL CHILD CARE PLAN?

The person(s) you would like to care for your child if you are detained or removed may be *a relative or trusted friend*. Pick a person who has a stable or permanent immigration status. Below are some of the ways that you can ask them to care for your child:

#### VERBAL AGREEMENT

Have a discussion with a relative or trusted adult friend. Tell them your wishes for your child if you are detained or removed and talk about whether they will meet those wishes to care for your child if you cannot. They can help temporarily if you are detained for a short or long time. If you both agree, then you make a *VERBAL AGREEMENT*.

- **BENEFIT:** Easy and informal; no need for court or formal legal process; your parental rights are not affected
- **LIMITATION:** A person caring for your child under this agreement does not have legal authority to make medical or school-related decisions for your child. So if you are deported, then this could make caring for your child very difficult.

\*\*\*Note- your pediatrician or specialist office may have "*consent by proxy*" forms that you can sign to allow someone else to bring your child for medical care.

#### GUARDIANSHIP

If you want someone to care for your child in your absence more permanently and more formally, then you can ask the court to appoint a *GUARDIAN*. This will *not* terminate your rights as a parent, but it will put them on hold. The guardian will have full legal and physical custody.

- **BENEFIT:** Guardian has custody and can handle all decisions and care for your child without any other papers or arrangements
- **LIMITATION:** Must be done formally through court- you cannot write out guardianship papers on your own; to resume parental duties, you must return to court to remove guardianship

\*\*Before taking the step to guardianship, please consult with an attorney.

## **POWER OF ATTORNEY**

This written document gives the power to act or make decisions for you in very specific ways. For example, if you are detained for 6 months, you can make someone power of attorney for that time to pay your bills, take care of your child's medical needs, and handle school-related decisions while you are away. (NOTE- In California, an alternative to POA is available- "Caregiver's Authorization Affidavit")

- It **DOES** allow you to give the power to another adult to make medical, educational, financial, and family/care decisions for your child.
- **DOES NOT** transfer custody of your child- only a court has that power.

*\*\*Before taking the step to Power of Attorney, please consult with an attorney.*