

What to Do If You Are Detained: Essential Steps for Migrant Parents for Preventing Family Separation

Immigration enforcement is on the rise. Immigrant parents can and should take steps to prepare for the possibility of separation from their children. This will increase the likelihood that they can reunify with their children if they are detained or deported.

Please note that this information is provided for informational purposes only and does not constitute legal advice. It is always advisable to seek the assistance of an attorney. If you try to access government services (including talking with your children's school or going before a court) you could risk arrest, especially if your state has passed anti-immigrant legislation. Please make decisions carefully and, if possible, ask someone with legal status to help you.

What to do if you are detained:

- 1. Ask for help.** If you are in immigration detention and you do not know who is taking care of your children, ask Immigration and Customs Enforcement (ICE), detention center staff, a librarian, chaplain, lawyer, or a relative or friend for help.
- 2. Call someone.** If you are worried about your children, ask ICE immediately if you can call someone to take care of your children. When you talk to your children's caregiver, tell them where you are being held. If you need to make more than one call, ask ICE or detention center staff.
- 3. Tell police and immigration officials that you have children and ask to be considered for "prosecutorial discretion" and release.** Tell everyone you interact with —ICE officials and others—that you have children and that you need to take care of them. If you have an immigration lawyer, be sure to tell them, too. If you are the primary caregiver for your children, make sure to clearly communicate this to the ICE officials. Keep asking for help.
- 4. Get a lawyer.** Parents and legal guardians have legal rights to their children. A lawyer will help you figure out child welfare systems and family court systems, which can be very different by state and county. The lawyer will help you understand how to work with the laws and systems where your children are living. You may be able to obtain a free lawyer if you have a child welfare case. Ask for help in getting a lawyer. You can ask: immigration lawyers, librarians, chaplains, volunteers, friends, or relatives.
- 5. Stay in touch with your children and their caregiver(s) if you are detained.** Phone calls from detention can be very expensive, but it is important that you stay in touch. Your family and your children's caregiver should call the phone company and ask them to make sure they can receive collect calls from a prison.
- 6. Contact your consulate,** unless there is a reason you do not want to contact your government. Contact information for your consulate should be posted in the detention center. Ask the guards or your deportation officer if you do not know how to find this information. You have

the right to contact your consular official.

7. **If you expect to be deported, tell your deportation officer whether you want to take your children with you.** Immigration officials generally will not let your children travel with you, but they may be willing to help if they know your wishes.
8. **If your children are placed into the custody of the child welfare system or in foster care, your rights as a parent may be challenged. If you receive a letter from child protective services** (note this agency has different names in different states) **it is VERY important that you communicate with that office IMMEDIATELY.** Make sure you:
 - a. Tell them where you are being detained in ICE custody. If you are transferred, you must tell them— they will not know where you have been taken.
 - b. Tell them whether you want to take your children with you if you are deported.
 - c. Stay in touch with your children’s caseworker and try your best to follow any steps they tell you to take.
 - d. If you receive a letter from a family or criminal court, tell your deportation officer right away and ask to be taken to your court date or to participate by video.
 - e. Do as much of this in writing as possible and keep copies.
 - f. Maintain as much contact with your children as possible—through phone calls and letters—and keep copies of anything you send or receive (handwritten if necessary).

See next page for more resources.

More Resources

Immigrant Legal Resource Center Red Cards on Constitutional Rights (<https://www.ilrc.org/red-cards>)

Make a Plan: Migrant Parents' Guide to Preventing Family Separation (<https://www.womensrefugeecommission.org/research-resources/make-a-plan-essential-steps-for-migrant-parents-for-preventing-family-separation>)

Detained or Deported? Short Guide to Maintaining Custody of Your Children (from 2014)

English: https://www.womensrefugeecommission.org/wp-content/uploads/2020/04/Parental-Rights-Toolkit-ENGLISH_web-1.pdf

Spanish: <https://www.womensrefugeecommission.org/wp-content/uploads/2020/04/Parental-Toolkit-SPANISH-Web-1.pdf>

Read the current directive on the rights of parents in ICE custody (<https://www.womensrefugeecommission.org/ice-directive-parents-rights>)

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Women's Refugee Commission

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