

CHECKLIST: CHILD CUSTODY

This checklist is part of a larger Manual titled “Protecting Assets and Child Custody in the Face of Deportation,” released by Appleseed in 2017. For more info and to read the full Manual, please visit www.AppleseedNetwork.org/DeportationManual.

This checklist is not legal advice. You can search for a lawyer at <http://www.ailalawyer.org/>.

“Child Custody” is a collection of various legal rights to care for a child and make important decisions about that child’s life. Usually, parents both have custody rights (known as “joint custody”) of their kids, especially if they are married; that means either parent can make legal decisions for the kids or care for the kids. If parents are divorced or were never married, then custody may be different. Talk to a lawyer or check out Chapter 1 of Appleseed’s Manual for more info and so that you can best prepare.

In general, if both parents have custody and live with or near their kids, then no further work is needed in case one parent is detained. But if only one parent has custody, or if it is possible that both parents could be detained, here are a few steps you can take to prepare:

Identify a person who can take care of your kids

Find a person you trust who can take care of your kids if you aren’t around. If possible, the person should have valid immigration status or be a U.S. citizen, but that is not always required in certain states. Remember that the person may need to take care of your kids for a long time, so think about any special medical or other needs your kids might have.

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Prepare the right paperwork

It is important to make formal arrangements with the person who will take care of your kids when you are gone – just talking about it is not enough to give them the legal right to take care of your kids.

Each state has different ways to create “temporary guardianship” for kids – this is the term that describes when someone is taking care of your kids for a short amount of time. Usually, the process includes the guardian (the person taking care of your child) filing paperwork in a court. Then, the court has a hearing and figures out whether it is in the best interests of your child to have this person become a guardian.

It can often take a long time for a court to decide whether the guardian should be allowed to take care of the child, so it is important to start the process as soon as possible. **However, one very important thing to remember is that once the new guardian has been approved by the court, parents may no longer have custody of their kids — even if they are still in the country and have not been detained.**

In some places, parents can give someone “standby guardianship.” These agreements allow another person to care for kids and make medical or school decisions only when a specific event takes place in the future (like detention or deportation). It is important to talk to a lawyer about your options depending on where you live.

Remember: The plan is to have a plan. You are taking the right steps to protect your family. Don't be afraid to ask for help so you get answers you can trust: try your lawyer or caseworker, or ask your child's school or doctor's office.

CHECKLIST: POWERS OF ATTORNEY

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A power of attorney (POA) is a legal document that allows a person (who will be called the “principal” in the POA) to choose someone else (who will be called the “agent” in the POA) to act for them on their children, finances, or business. A POA is very useful, especially if you don’t have very much time to prepare to leave the country. For example, a POA can give the person you choose the power to sign checks for you or make decisions about your kid’s school.

In general, a POA starts with a paragraph that includes information about the state and county you live in and gives the names of the principal (you) and agent (someone else). Then it has a paragraph about what the agent can do for the principal. Finally, it usually says whether the POA takes effect right away or when a particular event happens in the future. POAs are different in every state so before trying to write one, search the Internet for a sample POA from your state or talk to a lawyer. Here are the steps to take:

- Think about whether you want the POA to be “general” or “special”/ “limited.” You can write a general power of attorney to one person who can handle everything or you might want to have different POAs for different people and different reasons. You might give a power of attorney to your aunt to make decisions about your kids and a separate one to your brother to handle your bank account or sell your car.
- Think about whether you want the POA to start right away, or to start at some point in the future (a “springing” POA).
- Be careful in choosing someone to give your POA, especially if they will have access to your bank account. Here are some things to think about:
 - A person who lives in the same state where the POA will be used, since different states may have different rules for writing a valid POA;
 - A person who can be trusted to do what you want with your money and kids;
 - A person who can take the time and do the work to deal with your money and property;

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- A person who is comfortable dealing with banks and who has a basic understanding of financial issues; and
- A person who is a U.S. citizen or has legal status, if possible.

- Write the power of attorney document. Think about the following when writing it:
 - How long the power of attorney should last — Different states have different rules on how long POAs last so you should make sure to be specific.
 - Try to provide as many details as possible. For example, list the names of the banks, the account numbers, the car registration numbers and the location of your property.
 - Find out the legal rules for a power of attorney in your state. If you have already left the U.S., a power of attorney can be drafted, but this may require an authentication process depending on which country it is drafted in.
- Give the original power of attorney to the person or people you have chosen. Keep a copy for your records.
- Give copies of the POA to anyone else who you think would need it or need to know about it. Keep a list of everyone you gave the POA to because they need to know about any change or cancellation later on.
- Ask the person or people with POAs to keep clear records of everything they did for you under the power of attorney. If another person won't accept the power of attorney, contact a lawyer.
- If you need to, you can always make changes to POAs or cancel them. When you do that, make sure you send a copy to everyone who got the original POA and make sure you use certified mail or some other method that provides a record.

Remember: The plan is to have a plan. You are taking the right steps to protect your family. Don't be afraid to ask for help so you get answers you can trust: try your lawyer or caseworker, or ask your child's school or doctor's office.

CHECKLIST: RESIDENTIAL LEASES

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A lease is a contract where one person is given permission to use or rent the other person’s land or property for a certain amount of time. Leases usually cover apartment or house rentals, and can also cover businesses or pieces of equipment. This checklist will give you guidance on apartment and house leases.

- First, try to find out if you have a written lease. You may have signed one when you first moved in to the apartment or house you rent. If you do have a written lease, the process of leaving the house or apartment should be described in that document. If not, there should be guidance provided by the local laws in your city or state.
- If you need to move out and end your lease, find out how much notice you must give your landlord (in other words, how soon before moving out do you have to let them know), whether you will have to pay the remaining rent due under your lease, and how much time you will have to get your things out of the house or apartment.
- Make a copy of your keys and give them to someone you trust so that they can get your stuff out of the house or apartment if you are detained. You have the right to enter your home to remove your property within a reasonable time, usually three days or less, after a lease is ended. If you don’t remove your stuff within a reasonable time, you may owe the landlord for expenses associated with storing or disposing it.
- If you have friends or family members who want to stay in your house or apartment and continue your lease, you have three options:
 - Continue the original lease with the landlord’s permission;
 - End the original lease and start a new lease with the landlord’s permission; or
 - “Succeed” the lease through an assignment or sublease from you.

In all cases, open and honest communication with the landlord is important. If that is not possible or if you are having problems dealing with your landlord, reach out to local legal organizations for legal advice.

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CHECKLIST: BANK ACCOUNTS

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The first thing to do is to decide whether to close your bank account(s) or leave them open. Here are some options for how to deal with your bank accounts whether you want to close them or leave them open.

If you want to keep your bank account open:

- Decide whether it is best to manage your account from outside the US or if it would be easier open a joint account with someone you trust. You may also consider giving someone you trust a financial or limited “power of attorney” to manage your account for you. Check out Chapter 11 of Appleseed’s Manual for more info.
- If you want to manage your bank account yourself, find out if you can access your account outside the US through local branches, ATMs, telephone or internet. Make sure you also ask about fees, how to avoid being flagged for fraud, and how to avoid letting the account become inactive.
- If you are going to open a joint account, pick someone you trust, go to the bank together and add that person to your account.
- If you are going to grant a financial or limited power of attorney, ask the bank if it has special requirements for accepting a power of attorney.

If you want to close your bank account:

- Contact the bank to find out what you need to do to close your account. If you are closing your account from outside the US, you will most likely have to send a signed letter with specific information.
- Before closing your account in the US, it is best to open a new one in your home country if you can. Make sure all checks and automatic payments have cleared the account you are closing. Transfer any recurring payments to your new account if you have one.
- Decide how you want the money left in your bank account sent to you. Most banks allow either check, bank draft or wire transfer to your home country. You can give someone you trust financial or limited power of attorney to help with this process.

Remember: The plan is to have a plan. You are taking the right steps to protect your family. Don't be afraid to ask for help so you get answers you can trust: try your lawyer or caseworker, or ask your child's school or doctor's office.

CHECKLIST: PROTECTING MONEY AND BENEFITS FOR YOUR CHILDREN

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- Start by deciding whether you want to take your kids with you if you need to leave the country. You can check out Chapter 1 of Appleseed’s Manual for help deciding.

- Create a list of all your bank accounts, credit cards, health insurance accounts, insurance policies, phone and utility bills, leases, cars, etc. Write down account numbers and passwords. Keep this list in a safe place.

- If your kids are leaving the country with you:***
 - Start the process of selling your things and your kid’s things or figure out how you will take stuff out of the country.
 - If you have property or money in your kid’s name, consider giving those to someone you trust who will remain in the U.S. if you leave.
 - Consider giving “power of attorney” to someone who will remain in the U.S. to take care of your property, money, or possessions (see Chapter 11 of Appleseed’s Manual for help).
 - Get your kid’s paperwork together before you leave including birth certificates, passports, medical records, etc.

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If your kids are staying in the U.S.:

- You will need to set up guardianship paperwork so a trusted adult can take care of your kids. You can check out Chapter 1 of Appleseed's Manual for help.
- Plan for your kid's finances:
 - Review the list you created with the adult who will take care of your kids. Decide how they will access these accounts. Think carefully about who you trust with your passwords.
 - Look at the list you created and if possible, make sure all accounts have both your kid's name and the name of an adult on them.
 - Think about creating an agreement to transfer things to another trusted adult under the Uniform Transfer to Minors Act (UTMA). The agreement can either start right away or sometime later. See Chapter 2 of Appleseed's Manual for help.
 - You can always ask for information on how your possessions or money are being handled.
- Plan for your kid's healthcare and benefits:
 - Make a list of the services and benefits your kids use or need; include health insurance, Medicaid or Medicare, disability services, SNAP, day care vouchers, bus tokens, or other services. Write down account numbers, passwords and contact information and add them to the first list you created.
 - Find out how to make sure those services will continue. Talk through these benefits with the person who will take care of your kids.

Remember: The plan is to have a plan. You are taking the right steps to protect your family. Don't be afraid to ask for help so you get answers you can trust: try your lawyer or caseworker, or ask your child's school or doctor's office.

CHECKLIST: CREDIT CARDS, PREPAID & DEBIT CARDS

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- The first step is to gather info about your credit cards, prepaid cards and debit cards. **Use the chart on the following page** to fill in info about each card including the account number, security code, expiration date, phone number for card company, etc.

Once the chart is filled in, keep it in a safe place that you can get to if you leave the US and think about giving a copy to someone you trust who will stay in the US.

- The second step is to contact the banks or companies that gave you the credit, prepaid or debit cards and find out if you can use them outside of the country, how much it will cost if you use them outside of the country, how you can receive bills or statements outside of the country, and how or if you can cancel your credit or debit accounts if you are not in the US.

Write everything down and put in a safe place that you can access if you must leave quickly (or give it to a trusted friend who can get it to you).

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