



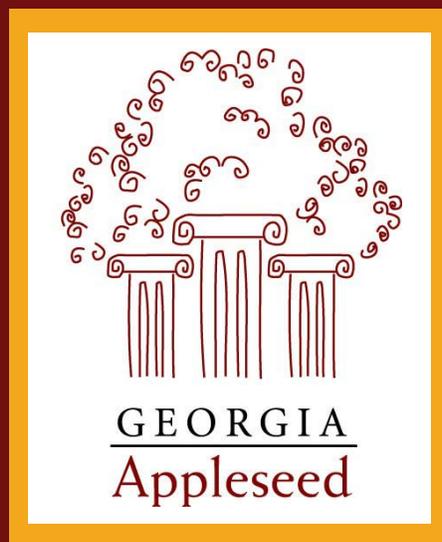
FINDING THE PATH TO EQUAL JUSTICE

A Handbook For Adult Defendants with
Intellectual Disabilities and Their Families

RESOURCE



Sowing the Seeds of Justice throughout Georgia



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Finding the Path to Equal Justice

A Handbook for Adult Defendants with Intellectual Disabilities and Their Families



Georgia Appleseed

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Sowing the Seeds of Justice throughout Georgia

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Georgia Appleseed Mission

"To listen to the unheard voices of the poor, the children, the marginalized; to uncover and end the injustices that we would not endure ourselves; to win the battles for our constituency in the courts of public opinion or in the halls of justice that no one else is willing or able to fight."

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Georgia Appleseed presents the information in this handbook as a service for persons with intellectual disability and their families. While we worked to provide accurate and up-to-date information, this handbook is not intended to provide legal advice. Non-lawyers should seek the advice of a licensed attorney in all legal matters. Georgia Appleseed makes no warranties, express or implied, concerning the information contained in this handbook or other resources to which it cites.

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SECTION 1

For Persons with Intellectual Disability

A note about language.

In this handbook, the term *intellectual disability* is used to identify the state of functioning that is referred to as *mental retardation*. While *mental retardation* is still used as a diagnostic label, the term is currently considered to be hurtful and stigmatizing to those to whom it has been assigned. In recognition of this, the term *intellectual disability* is now being used to refer to the condition historically called *mental retardation*. State and federal agencies and national organizations are removing the term from their names, and the term *intellectual disability* is being used for research and publication.

While the term mental retardation is still sometimes required for diagnostic or legal purposes, use of the term should be limited. In keeping with the requests of men and women with disabilities and in reflection of current respectful language, this document will use the term *intellectual disability* wherever possible.

For more information about the definition and application of the terms intellectual disability and mental retardation, please visit the website of the American Association on Intellectual and Developmental Disabilities (AAIDD) at <http://www.aamr.org>.

YOU HAVE BEEN ARRESTED.

This may be the first time that you have gotten into trouble and been arrested. What is going to happen next? Who can help you?

A lawyer CAN help you – and this book tells you how to find a lawyer. A lawyer is someone who went to school to learn about the law and who knows how to talk to judges. A free lawyer will be available if you tell the judge and police that you can't afford to pay a lawyer.

This book also tells you things you need to know about how to get help when you are in trouble with the law. Ask your family or a friend to read this book, too, so they will know how to help you.

WHY DID I GET IN TROUBLE?

What is a crime? A crime is something that you do that hurts people or their things and that is against the law. Taking something from a store without paying for it is an example of a crime.

There are many laws that people don't know about. You can get in trouble, even if you did not know that you were doing something wrong and broke the law. So...

- Do not let your friends talk you into getting drunk, using drugs, or carrying a gun. Some examples of illegal drugs are marijuana, cocaine, or other drugs that you buy on the street instead of in a store.
- Do not drink if you are under 21.
- Do not have sex with someone who is under 16.
- Do not have sex with someone who does not want to have sex with you.
- Do not take something from a store that you do not pay for.
- Do not go into a house or building unless the people who live or work there say it is okay.
- Do not go to the bathroom outside.
- Do not get into a fight with someone.
- Do not let anyone talk you into doing something that you think is wrong.

If you think it is wrong, don't do it. Ask someone you trust if you are not sure.

I HAVE BEEN ARRESTED...WHAT SHOULD I DO?

The first things that you should do are:

- 1) **Ask to see a lawyer before you talk to the police.** Say, "I need a lawyer," or "I do not want to talk to anyone before I talk to a lawyer." A lawyer can help you when you are in trouble with the police. If you can't pay for a lawyer, one will be given to you for free.
- 2) **Tell the police about your disability.** Telling the police that you have intellectual disability is your personal decision. Telling the police about your disability is important because there are special rules that may help you. The police need to know about your disability, so they will know to use the special rules.
- 3) **Be nice to the police and stay calm.** Do not try to run away. Running away may make the police think you did something wrong.
- 4) **Ask the police to call your family or a friend to help you.** If the police will not call your friend or family, ask them if you can call them.
- 5) **If you take medicine that a doctor has given you, and you don't have your medicine with you, tell the police you need it.** For example, if you take medicine for any problems that you have with your health like seizures, diabetes, or a mental illness, you should tell the police so that they can make sure you have the medicine you need. An example of a medicine you would need to tell the police about is insulin. Insulin is used for treating diabetes.

SHOULD I TALK TO THE POLICE ABOUT WHAT HAPPENED?

Part of a police officer's job is to find out who did something wrong. The police may say they are your friends, but if they ARREST you, then they think YOU could have done something wrong. If you aren't sure whether you have been arrested, ask the police.

It is okay to tell the police your name, your address, your phone number, and where you work. However, the police may also ask you questions to find out if you did something wrong. They may say things like, "I really feel sorry for you. I would have done the same thing. Anybody would have done it. Just tell me what happened and you can go home."

The police may give you a soft drink or something to eat, but that doesn't mean that they are your friends. They will not let you go home if they think you did something wrong.

They may say they know you did something wrong, even if they don't really know that. They may say they found something that proves you did something wrong, but that may not be true.

You should not talk to the police unless you have a lawyer there to help you. Tell them you want a lawyer any time they try to ask you questions. You are not doing anything wrong by keeping quiet; you are helping yourself. It is smart to wait until your lawyer is with you before you talk to the police.

WHAT ARE MY "MIRANDA RIGHTS?"

When they arrest you, the police will tell you or read to you a list of "Miranda rights." This is a list of things that YOU DO NOT HAVE TO DO even if the police ask you to do them. You can say "NO" and not get into any more trouble.

1. The police will say: "You have the right to remain silent."

This means that you will not get into trouble if you stay quiet and don't say anything. You do not have to talk to the

police about the crime – even if they want you to talk to them about it. Do not talk to the police even if they tell you that you can go home if you will talk to them. If you are arrested:

- DO NOT talk to the police officer about the crime.
- DO NOT answer any questions about the crime.
- DO NOT try to talk your way out of being in trouble.
- DO NOT say you did something that you did not do.
- DO NOT say something just to make the police happy.
- DO NOT sign anything.

2. The police will say: “Anything you say can and will be used against you in a court of law.”

This means that the police can tell a judge anything you say to them. Sometimes, what you tell the police can be used to keep you in jail. If you talk to the police about the crime, it may be harder for your lawyer to help you later.

If you talk to your lawyer about what happened, the lawyer cannot tell anyone else. That is why it is okay for you to talk to your lawyer about what happened. But if someone else asks you why you are in jail – even someone who is in jail – you should not talk to that person about it unless your lawyer tells you it is okay.

3. The police will say: “You have the right to talk to a lawyer and have the lawyer present at any time during questioning.”

This means that no one – not even the police – can stop you from talking to a lawyer if you ask to do that. Your lawyer can be with you when the police are asking you questions. You do not have to answer any questions or talk to the police before you have talked to your lawyer.

If the police ask if you want to talk to an “attorney,” they are talking about a lawyer. An attorney is the same thing as a lawyer.

4. The police will say: “If you cannot afford a lawyer, one will be appointed for you without cost.” This means that if you can’t pay for a lawyer, the judge will get you one for free.

After they tell you your Miranda rights, the police will ask you if you understand them. If you do not understand, do not be afraid to say so. Tell the police about your disability, and tell them that you need a lawyer. Tell them that you will not talk to them until you have a lawyer.

WHY DO I NEED A LAWYER?

You need a lawyer because a lawyer will know how to help you better than anyone else. Even if you did something wrong and you want to tell the police and the judge that you did it, a lawyer will be able to help you talk to them in a way that will not get you into more trouble. Your lawyer will also tell you what will happen next and what your choices are.

But you may have done nothing wrong – even if others say you did.

The judge must find out who is telling the truth. If you go to court, the other side will have a lawyer – called a prosecutor – who believes you did something wrong and will try to show that to the judge. You need a lawyer to help you tell the judge what really happened.

WHEN WILL THE JUDGE GIVE ME A LAWYER?

The police will take you to see a judge one or two days after your arrest. The judge will tell you why you were arrested, and what your “bail” is. Bail is money that you pay the court so that you can stay at home until your trial. If

you cannot pay it, you will have to stay in jail until your trial.

The judge will also ask you if you want a lawyer. You should tell the judge that you do want a lawyer. Your lawyer is supposed to talk to you, or send you a letter, very soon after the judge decides which lawyer will help you.

You should also tell the judge about your disability. This will help you. Do not talk to the judge about why you were arrested.

DO I GET TO CHOOSE WHICH LAWYER THE JUDGE GIVES ME?

No. You will only get to choose your lawyer if you are going to pay the lawyer. But if you tell the judge about your disability, it may help the judge pick a lawyer who will know the best way to help you.

WHAT IF I DO NOT LIKE THE LAWYER THAT THE JUDGE GAVE ME?

If you are not paying for the lawyer, there is not much that you can do. The judge may give you a new lawyer if you can show that the lawyer is not doing a good job, but this does not happen very often.

If your lawyer is not talking to you about your case, and does not call you back, tell the judge about it. It will help if you write down the days and times that you tried to call your lawyer and the lawyer did not call you back.

IF I GET OUT ON “BAIL,” WILL THE JUDGE STILL GIVE ME A FREE LAWYER?

Yes, if the crime that you are accused of doing is one that is punished by going to jail. The judge will look at how much money you have and, if you cannot afford to hire a lawyer, the judge will give you one even if you are out on bail.

HOW DO I GET A LAWYER IF THE JUDGE DOES NOT GIVE ME ONE?

If the judge decides that you have enough money to pay for a lawyer, you will have to pay for one on your own. If you have a friend or a relative who is helping you, you should ask them if they could help you find a lawyer. Make sure the lawyer you find to help you is someone you can talk to, especially about your disability, and who explains things in a way you understand. Tell the lawyer that you have a disability, and ask if this lawyer has any experience helping people who have a disability. If you need help to talk to your lawyer, ask your family or a friend to come with you to see your lawyer. Your lawyer should be someone that you can trust.

If your family or friends cannot help you find a lawyer, call The Georgia Advocacy Office, Atlanta Legal Aid, Georgia Legal Services, or your state, county, or local bar association. You can also call or go to the website for the Georgia Division of Mental Health, Developmental Disabilities, and Addictive Diseases (MHDDAD). Its website offers a service locator for its regional and county offices. People who work at these numbers may be able to call someone to help you or give you the phone number for a lawyer. **Their phone numbers are in the back of this handbook.**

WHAT IS MY LAWYER’S JOB?

- To defend you until your case is finished. Your lawyer should treat you with respect, no matter what crime you are accused of doing.
- To help you get out of jail after you have been arrested, so that you can stay at home until the day of your trial.
- To pay attention to your case. To talk to you about it, and explain it to you. Your lawyer should explain all of your choices to you so that you will be able to decide what to do. You are the only person who can make some of the choices, but your lawyer should help you understand what can help you the most.
- Your lawyer will help you get the best deal – and will work to get your needs met.

WHAT SHOULD I TELL MY LAWYER?

Your lawyer will be able to help you the best if you tell the lawyer the truth. Your lawyer cannot tell anyone else the things that you tell the lawyer unless you say it is okay to do so. If you have intellectual disability, you should tell your lawyer. Hiding information about your disability can be bad for you. You should answer your lawyer's questions. Tell the lawyer about your life, and about what happened before you were arrested. Any information you can tell your lawyer about problems you have had at home, at school, or with the police can make it easier for the lawyer to help you.

Do not be afraid or embarrassed to tell your lawyer about your disability, or that you don't know what is happening in jail or in court. If you don't understand something that your lawyer tells you, don't be afraid to ask questions. No question is "stupid" – it is very smart to ask questions.

If you do not remember something, tell your lawyer. Do not make something up. Make sure that you tell your lawyer if you told the police you did something that you didn't do. It's okay to tell your lawyer you did this – it will help your lawyer help you better.

You should also tell your lawyer if you have had a mental illness, or if you have taken medicine for a mental illness. If you need medicine that a doctor gave you and you do not have it in jail, tell your lawyer about it. Remember, your lawyer will not tell other people what you have said.

You should also tell your lawyer if you drink or use drugs. If you want help because you drink or use drugs, your lawyer may be able to help you get it.

WHAT SHOULD I DO WHEN I AM IN COURT?

If you are going to be in court to see the judge, you should:

- Dress neatly. Do not wear a cap, and do not wear a lot of make up or jewelry. Do not wear gang colors. If you are a woman, wear a skirt or nice pants and a nice shirt. If you are a man, wear nice pants and a nice shirt. If you have a suit, wear a suit. Your lawyer can also talk to you about what you should wear.
- Be nice to everyone, including the judge and the prosecutor.
- Always listen. If you don't understand something, ask your lawyer to explain it to you.
- Always call the judge "Your Honor."
- Try not to smile or laugh, even if you are very nervous.
- Do not sleep in court. It is important to look like you are listening to everything that is being said, even when you get tired.
- Do not try to take notes. It is your lawyer's job to take notes and make sure that you understand everything that happens in court.

WHO ARE THE OTHER PEOPLE IN COURT?

- The **judge** is the person who will decide who is right and who is wrong. The judge decides what punishment to give to people who break the law. The judge will wear a black robe, and sit behind a desk in the front of the courtroom.
- The **jury** is a group of 12 people, chosen by the lawyers, who come to help the judge decide who is right and who is wrong. They must listen to both sides.
- The **court officer** protects the jury and keeps order in the courtroom. The officer usually wears a uniform and a badge.
- The **court reporter** takes notes for the judge on a machine that looks like a typewriter. Everything that

anyone says will be written down by the court reporter.

- The **sheriff** brings people who are still in jail to court, and stays with them while they are there.
- The **lawyers** are there to help each side tell their story. You will have a lawyer, and the other side will have a lawyer called a **prosecutor**.

If you are nervous about going to court, ask your lawyer to show you a courtroom and explain where everyone will sit, and what will happen during the trial.

WILL I GET TO TELL MY SIDE OF WHAT HAPPENED TO THE JUDGE?

Your lawyer will talk to you about whether you should testify, or tell your side in court. It is your choice. Your lawyer will tell you whether this may be best for you. Sometimes telling your side of the story will only make it harder for your lawyer to get the best deal. It is important to listen to what your lawyer says about this.

WHAT IF MY LAWYER WANTS ME TO PLEAD GUILTY?

“Pleading guilty” means that you are saying you did something wrong. If you do not want to do this, you should tell your lawyer.

Part of your lawyer’s job is to decide whether the prosecutor can show that you did something wrong. If your lawyer thinks the prosecutor can do this, it may be best to plead guilty. However, you are the only one who can decide whether to plead guilty.

WHAT IS A “PLEA BARGAIN?”

A plea bargain is a deal or agreement that your lawyer makes with the prosecutor. To get this deal, which may mean less punishment, you have to say that you did something wrong. Your lawyer may think that you will get a better deal this way than if you go to trial.

If you do not understand the plea bargain, tell your lawyer. It is your lawyer’s job to make sure that you understand all of your choices. Your lawyer has to explain the deal to you, and also has to tell you what all of your other choices are. Your lawyer will tell you whether a plea bargain may be best for you, but you are the only one who can decide to plea bargain – if you do not want to accept this deal, tell your lawyer.

WHAT IS PROBATION?

If the judge or jury decides that you did something wrong, you may be given probation instead of going to jail. Probation means you **MAY** go home **OR** to a special treatment or habilitation program, but you still have to do some things to stay out of jail. The judge may say that you need to:

- See someone at the local or regional MHDDAD center;
- Go to get help for your drug or alcohol problem -- the judge and your probation officer will tell you where to go;
- Earn money to pay the person you hurt when you got into trouble;
- Do volunteer work; or
- Go to counseling.

You will have to meet with your probation officer to report whether you are doing what the judge has asked you to do. If you do not do what the judge has ordered you to do when you are on probation, the probation officer will have to tell the judge. The judge may then decide that you will have to go to jail.



SECTION 2

For Families of Persons with Intellectual Disability

MY FAMILY MEMBER HAS BEEN ARRESTED...WHAT CAN I DO?

Try to get in touch with your family member. Talk to your family member's lawyer about the intellectual disability. It is important that the lawyer know about your family member's intellectual disability as soon as possible. There may be jail diversion programs in your county that are designed for individuals with intellectual disability. If your family member has not yet hired or been appointed a lawyer, encourage your family member to disclose your family member's disability to the judge at the first court appearance, so that the judge will appoint a lawyer who is qualified to work with a client with intellectual disability.

You may also want to offer to help your family member communicate with the lawyer. This can eliminate misunderstandings and relieve your family member's anxiety.

Be sure your family member knows not to talk to the police or anyone else before meeting and speaking with a lawyer. You should also warn your family member not to sign anything before speaking with a lawyer.

AM I RESPONSIBLE FOR HIRING A LAWYER FOR MY FAMILY MEMBER AND PAYING THE LAWYER'S FEE?

No. Adults who cannot afford to hire a lawyer are entitled to a court-appointed lawyer. A person's eligibility to receive a court-appointed lawyer or public defender is based on that person's income, not the family's income, if the person is age 18 or over. Family ties and loyalties may lead you to offer financial assistance to your family member or to offer to pay for a private lawyer. But you are not legally obligated to pay for the defense of your adult family member. If you can, help your family member to collect financial information to present to the judge at the first court hearing so the judge has a true picture of your family member's inability to afford a lawyer.

WHAT'S THE DIFFERENCE BETWEEN A COURT-APPOINTED PRIVATE LAWYER AND A PUBLIC DEFENDER?

Public defenders are lawyers whose sole job is to represent defendants in criminal cases who cannot afford a private lawyer. They typically appear in the same court on a daily basis and handle the cases assigned to that court. They are paid a salary and work for a government agency or a non-profit organization that has a contract with the government. However, they are paid to represent the interests of their clients, not the interests of the government.

Court-appointed private lawyers are appointed to handle individual cases and are usually paid a certain amount by the county for each case they handle. The judge who appoints the lawyer must approve the payment. Whoever is appointed to handle your family member's case should put your family member's interests first and foremost.

DO I HAVE TO PAY MY FAMILY MEMBER'S COURT FEES OR FINES?

Court fees and fines are your family member's responsibility, not yours. Sometimes, the court will make arrangements for a payment plan or some type of volunteer work to be done if court fees cannot be paid. Your family member may be required to pay certain fees or fines, including a monthly probation fee, if probation is granted. Failure to pay these fees can result in your family member being put back in jail. Many families end up paying these fees and fines for their family member since the family member may not be able to work or may not receive any regular income. In some instances, if a probation officer has evidence that your family member is disabled and

cannot work, the officer can ask the judge to drop the monthly probation fee. Each judge handles these requests differently.

IF I KNOW SOMETHING ABOUT MY FAMILY MEMBER'S CASE, WHOM SHOULD I TELL?

Having discussions about the case with your family member could put you in a very uncomfortable position. Georgia does not regard conversations between parents and their adult children as confidential. This means that you could be called to testify at the trial either for or against your family member. You should tell your family member to talk with the lawyer first if your family member wants to discuss the case with you. A police officer or prosecutor may call you about your family member's case. You do not have to talk to them. If you are called to testify, you should avoid talking about your family member's case with other witnesses and avoid contact with jurors or potential jurors. If you know something about that could help the case, you should talk with your family member's lawyer.

IF I HAVE RECORDS OR INFORMATION ABOUT MY FAMILY MEMBER'S DISABILITY, SHOULD I GIVE THIS TO SOMEONE?

In proving that a defendant has intellectual disability, defense lawyers have to show that the onset of the person's disability occurred before their 18th birthday. They often do this by looking at school records, medical records, or records of social services that were provided to the defendant as a result of their disability. If you have any information that would show that your family member's disability was identified before their 18th birthday, this information would be helpful and should be given to his or her lawyer.

Your family member's lawyer may also contact you to interview you about the family member's history. You may also be asked to discuss this with a social worker who is hired by your family member's lawyer to help provide evidence of intellectual disability. If you have a diary or baby book in which you recorded your family member's developmental milestones, you might share this with the social worker during the interview. Sometimes these personal diaries can be helpful in showing the age of onset for your family member's disability.

WHAT CAN I DO IF MY FAMILY MEMBER'S LAWYER WILL NOT RETURN MY CALLS?

Try to establish open lines of communication with the lawyer from the beginning, before any court appearances. Most lawyers will try to keep up communications with you. However, there are times when the lawyer cannot communicate with you because your family member has asked the lawyer not to speak with you. Remember, in the end, the lawyer represents your family member, not you. If the lawyer consistently does not return your calls, try sending a letter to the lawyer outlining your attempts to contact the lawyer and describing what information you need or what you would like the lawyer to know about your family member or the case.

WHAT DO I DO IF I BELIEVE MY FAMILY MEMBER'S LAWYER IS NOT PROVIDING GOOD REPRESENTATION?

First, talk to the lawyer about your concerns. Be very specific. For example, you may believe the lawyer has not followed up on leads, or you may believe that the lawyer has ignored evidence. You may feel the lawyer is too busy to fully represent your family member or that the lawyer has requested too many delays in your family member's case because of lack of preparation. You may feel the lawyer is not explaining all the options to your family member.

If you are paying for the lawyer, you can fire the lawyer, and hire a new lawyer. This, of course, will delay your family member's case. If the lawyer is court-appointed, you and your family member can try to contact the judge to get a new lawyer appointed. Be very specific with the judge about your concerns. In extreme cases, your family member can file a grievance against the lawyer with the State Bar of Georgia. However, this will not offer an immediate solution to your problem or help to get a new lawyer appointed.

I THINK THE LAWYER SHOULD EMPHASIZE MY FAMILY MEMBER'S DISABILITY DURING TRIAL, BUT THE LAWYER DISAGREES. WHO DECIDES?

You and the lawyer may disagree about the role that your family member's intellectual disability played in the alleged offense or the way to use this information as part of the defense. If you suspect that this may be because the lawyer doesn't understand intellectual disability and the many ways it might influence a person's thoughts or behavior, do your best to teach the lawyer about intellectual disability. Send the lawyer information about your family member's intellectual disability and past history.

Based on their experience and training, however, some lawyers believe that juries are unsympathetic to a defense based on intellectual disability, especially when violent crimes are involved. Talk with the lawyer about this matter.

SINCE I AM PAYING FOR MY FAMILY MEMBER'S LAWYER, DO I HAVE THE RIGHT TO BE CONSULTED ABOUT HIS CASE, INCLUDING ANY PLEA BARGAINS?

No. Even though you are paying the lawyer's fees, the lawyer's duty and loyalty is to your family member and not to you. It is up to your family member and the lawyer to decide whether or not to accept a plea bargain. Good lawyers will not allow you to direct or determine what happens with the case just because you have paid the bill. In fact, as frustrating as this may be to you, confidential communications between your family member and the lawyer cannot be disclosed to you without your family member's consent. If you and your family member agree that it would be best for you to talk about some matters with the lawyer, confidentiality can be waived. Talk with the lawyer about this.

CAN I TESTIFY ON MY FAMILY MEMBER'S BEHALF OR TALK ABOUT HIS OR HER HISTORY OF INTELLECTUAL DISABILITY IN COURT?

Before the case goes to court, talk to the lawyer about your interest in testifying on your family member's behalf. The lawyer has expertise in court matters and will know best what will help your family member's case. You will have to trust the lawyer's judgment about whether or not your testimony would be helpful. Lawyers sometimes call expert witnesses to testify in a trial about intellectual disability because they feel it will help the case. Even if the lawyer thinks it is not in your family member's best interest for you to testify, you may be able to assist the lawyer in identifying people to interview regarding your family member's disability. You may also be able to help the lawyer obtain medical or school records, hospital records, employment records, and the like.

WHAT IF MY FAMILY MEMBER ALSO HAS A MENTAL ILLNESS?

If your family member also suffers from a mental illness, make sure the lawyer knows this. Some counties have defense lawyers who are specifically trained to work on cases involving defendants with mental illness. Some judicial circuits in Georgia have set up special mental health courts that are designed to address the special needs of criminal defendants with mental illness. If your family member's lawyer is not trained in the area of representing people with mental illness, the lawyer may ask the judge to appoint someone who is. If you are concerned about whether or not your family member's lawyer meets the county's qualifications for representing defendants with a mental illness, you can contact the Georgia Public Defender Standards Council, the Office of the Mental Health Advocate, at (404) 232-8900, to find out what the qualifications are in your county.

You should also let the lawyer know of any psychiatrist, psychologist, or social worker who has treated your family member and of any medications that your family member has taken for mental illness. Just as you should help provide information about your family member's intellectual disability to the lawyer, you should also try to help provide information about any history of mental illness. Let the lawyer know of any treatment or mental health records that might be helpful.

If your family member takes medication, tell the judge, the jail nurse, the jail doctor, and the sheriff that your family member needs medication and what types of medication he or she has been taking. You may want to write a letter to the sheriff and send it certified mail, return receipt requested. You may also speed up the process by taking your family member's current medication bottles to the jail.

Your family member has a right to receive treatment while being held in jail or prison. The jail must provide your family member reasonable access to medicine, and cannot use lack of staffing or resources as an excuse not to provide treatment. Your family member may not get the medication when desired or needed, and it may not be the same kind of medication your family member was taking before entering the jail - but medication should be provided. Most jails have strict rules about when and how medicines can be taken by people in custody.

Your family member may also qualify for special housing, away from other inmates. This may be helpful if your family member is not able to take care of himself or herself, and if other inmates are victimizing your family member. If there is special housing available that your family member qualifies for, contact the lawyer and the sheriff and let them know that he or she needs to be moved to the special housing.

WHAT CAN I DO TO HELP MY FAMILY MEMBER THE MOST?

Listen to your family member. Visit them in jail to provide emotional support, comfort, and encouragement. If you notice any problems during your visits, report these problems to the lawyer and jail officials. Stay involved. If your family member has been prescribed a medication for a mental illness or any other condition, make sure the lawyer is aware of this and that your family member continues to receive the proper medication.

Jails are not always safe places for people with intellectual disability. Your family member may not be treated well by jail staff or other inmates, and may be afraid or unable to complain. If you suspect or know your family member was taken advantage of or mistreated, you should report this to his or her lawyer and to the sheriff. Let the jail staff know if your family member cannot take care of himself or herself. Be a voice and an advocate for your family member.

Try to establish good, open communication with your family member's lawyer and stay involved. Perhaps the most helpful thing you can do for him or her is to provide the lawyer with current, accurate information about your family member. Share information about your family member's health history, school history, job history, and any previous problems with the law. Give the lawyer copies of medical records, assessments of intellectual disability or mental health needs, hospital records, and the names and numbers of doctors and caseworkers. Let the lawyer know if your family member is now receiving or has ever received drug or alcohol treatment or has been hospitalized.

Tell the lawyer if your family member receives Supplemental Security Income (SSI) payments or other payments for a disability. Let the lawyer be the judge of whether this information is important to the case. You may also be able to assist the lawyer with locating witnesses or collecting evidence. Let the lawyer know that you care about your family member and what happens with the case. Teach the lawyer about intellectual disability, if needed. Let the lawyer know you are paying attention to how the case is being handled. Keep track of court dates and times so you can attend your family member's hearings.

Finally, seek out some support for yourself. Contact The Georgia Advocacy Office, 1-800-537-2329 or 404-885-1234, The Governor's Council on Developmental Disabilities, 1-888-275-4233 or 404-657-2126, or The Aging and Disability Resource Connection (ADRC) at the Atlanta Alliance on Developmental Disabilities (AADD), 404-881-9777, ext. 223. You may also call your regional MHDDAD office. Ask if there are support groups for family members available. Ask for people to talk to and things to read that will help both you and your family member through this difficult time.

Your caring involvement can make a difference in your family member's case.



RESOURCES

Family Resources

The Georgia Advocacy Office
1-(800) 537-2329 or (404) 885-1234
<http://www.thegao.org>

The Governor's Council on Developmental Disabilities
1-(888) 275-4233
<http://www.gcdd.org>

The Arc of Georgia
(404) 657-8904
<http://www.thearcofgeorgia.org>

The Arc of Carroll County, Inc.
(770) 834-6232

The Arc of Telfair County
(229) 868-0023

Arc – Macon
(478) 477-7764
<http://www.arc-macon.org>

Institute on Human Development and Disability
University of Georgia
(706) 542-3457
<http://www.ihdd.uga.edu>

Georgia Division of Mental Health, Developmental Disabilities, and Addictive Diseases; MHDDAD

Behavioral Health Link: 1-800-715-4225 (to get information about obtaining mental health and addictive diseases services from MHDDAD offices throughout Georgia)

Metropolitan Atlanta MHDDAD numbers:
(404) 657-2258, (404) 657-5737, (404) 463-8037
<http://www.mhddad.dhr.georgia.gov>

Regional MHDDAD contact numbers for developmental disabilities services

Region 1
Regional Office: 1-(800) 646-7721, (706) 802-5272
Intake and Evaluation team: 1-(877) 217-4462, (770) 387-5440

Atlanta Alliance on Developmental Disabilities
The Aging and Disability Resource Connection
(404) 881-9777, ext. 223
<http://www.aadd.org>

The Arc of the United States
(301) 565-3842, 1-(800) 433-5255
<http://thearc.org>

Arc of Walker County
(706) 638-0962

Newnan-Coweta Arc
(770) 253-1189
<http://www.rutledgecenter.org>

MHDDAD Regional offices provide community habilitation and support services, Medicaid waivers, and other services for clients with intellectual disability and their families. Contact your regional office to obtain information about service providers for persons with intellectual and developmental disabilities.

Counties Served:

Bartow County, Butts County, Carroll County, Catoosa County, Chattooga County, Coweta County, Dade County, Fanin County, Floyd County, Gilmer County, Gordon County, Haralson County, Heard County, Lamar County, Meriwether County, Murray County, Paulding County, Pickens County, Pike County, Polk County, Spalding County, Troup County, Upson County, Walker County, Whitfield County

Region 2
Regional Office: 1-(866) 380-4835, (706) 792-7733
Intake and Evaluation team: 1-(877) 551-4897, 706-792-7741

Banks County, Barrow County, Burke County, Clarke County, Columbia County, Dawson County, Elbert County, Hancock County, Glascock County, Greene County, Forsyth County, Franklin County, Habersham County, Hall County, Hart County, Jackson County, Jasper County, Jefferson County, Jenkins County, Lincoln County, Lumpkin County, Madison County, McDuffie County, Morgan County, Newton County, Oconee County, Oglethorpe County, Richmond County, Rabun County, Screven County, Stephens County, Taliaferro County, Towns County, Union County, Walton County, Warren County, Washington County, White County, Wilkes County

Region 3
Regional Office: (770) 414-3052
Intake and Evaluation team: (770) 414-3052

Clayton County, Cherokee County, Cobb County, DeKalb County, Douglas County, Fayette County, Fulton County, Gwinnett County, Henry County, Rockdale County

Region 4
Regional Office: 1-(877) 683-8557, (229) 225-5099
Intake and Evaluation team: (229) 225-5099

Baldwin County, Baker County, Bibb County, Calhoun County, Chattahoochee County, Clay County, Colquitt County, Crawford County, Crisp County, Decatur County, Dooly County, Dougherty County, Early County, Harris County, Houston County, Grady County, Jones County, Lee County, Macon County, Marion County, Miller County, Muscogee County, Mitchell County, Monroe County, Peach County, Pulaski County, Putnam County, Quitman County, Randolph County, Schley County, Seminole County, Stewart County, Sumter County, Talbot County, Taylor County, Terrell County, Twiggs County, Thomas County, Webster County, Wilkinson County, Worth County

Region 5
Regional Office: (912) 303-1670
Intake and Evaluation team: 1-(800) 348-3503, (912)-303-1649

Appling County, Atkinson County, Bacon County, Ben Hill County, Berrien County, Bleckley County, Brantley County, Brooks County, Bryan County, Bulloch County, Camden County, Candler County, Charlton County, Chatham County, Clinch County, Coffee County, Cook County, Dodge County, Echols County, Effingham County, Emanuel County, Evans County, Glynn County, Irwin County, Jeff Davis County, Johnson County, Lanier County, Laurens County, Liberty County, Long County, Lowndes County, McIntosh County, Montgomery County, Pierce County, Tattnall County, Telfair County, Tift County, Toombs County, Treutlen County, Turner County, Wheeler County, Wilcox County, Ware County, Wayne County

Disability Resource Group (formerly Georgia ADA Exchange)
(770) 451-2340
<http://www.gaada.info>

National Down Syndrome Society
1-(800) 221-4602
<http://www.ndss.org>

National Down Syndrome Congress
1-(800) 232-6372, (770) 604-9500
<http://ndscenter.org>

National Association of Councils on Developmental Disabilities
(703) 739-4400
<http://capwiz.com/nacdd/home>

United States Department of Justice
ADA Information Line
1-(800) 514-0301
<http://www.usdoj.gov/crt/ada>

United States Department of Health and Human Services
Office for Civil Rights
1-(800) 368-1019, (404) 562-7886
<http://www.hhs.gov/ocr>

Legal Assistance (Referrals or direct representation)

Atlanta Legal Aid Society (Atlanta-downtown)
(404) 524-5811

<http://www.atlantalegalaid.org>

Cobb County, (770) 528-2565

DeKalb County – Decatur (404) 377-0701

Gwinnett County (678) 376-4545

South Metro Atlanta (404) 366-0586

AIDS/Cancer and ALS Legal Initiative (404) 614-3969

Grandparent/Caregiver Project (404) 614-3911

Georgia Seniors Hotline 1-(888) 257-9519

Hispanic Outreach Law Project (404) 377-5381

Georgia Legal Services Program

Administrative Office (404) 206-5175, 1-(800) 498-9469

<http://www.glsp.org>

Albany Office (229) 430-4261, 1-(800) 735-4271

Augusta Office (706) 721-2327, 1-(800) 248-6697

Columbus Office (706) 649-7493, 1-(800) 533-3140

Dalton Office (706) 272-2924, 1-(888) 408-1004

Gainesville Office (770) 535-5717, 1-(800) 745-5717

Macon Office (478) 751-6261, 1-(800) 560-2855

Piedmont Office-Downtown Atlanta (404) 894-7707, 1-(800) 822-5391

Savannah Office (912) 651-2180, 1-(888) 220-8399

Valdosta Office (229) 333-5232, 1-(800) 546-5232

Waycross Office (912) 264-7301, 1-(877) 808-0553

American Civil Liberties Union

404-523-5398

<http://www.aclu.org>

Legal Aid-Ga.

<http://www.legalaid-ga.org>

State Bar of Georgia

Pro Bono Project

(404) 527-8762

<http://www.gabar.org>

Georgia Public Defender Standards Council, Office of the Mental Health Advocate

(404) 232-8900

<http://www.gpdsc.org/omha-main.htm>

Georgia Justice Project

(404) 827-0027

<http://www.gjp.org>

Cobb County Bar Association Lawyer Referral Service

(770) 424-7149

<http://www.cobbbar.org/referrals.htm>

Atlanta Bar Association Lawyer Referral Service

(404) 521-0777

<http://aba.affiniscap.com/index.cfm>

DeKalb Bar Association Lawyer Referral Service

(404) 373-2580

<http://www.dekalbbar.org/search>

Attorney Search Network

1-(800) 215-1644

<http://www.georgialawyerreferral.com>

Southern Center for Human Rights

(404) 688-1202

<http://www.schr.org>

Atlanta Volunteer Lawyers Foundation

(404) 521-0790

<http://www.avlf.org/>

Georgia Law Center for Homeless Persons

(404) 681-0680

<http://www.galawcenter.org>

FindLaw for the Public

<http://lawyers.findlaw.com/lawyer/state/Georgia>

Georgia Court Appointed Special Advocates, Inc.

(404) 874-2888, 1-(800) 251-4012

<http://gacasa.org>



GLOSSARY

Appearance before a magistrate -an initial proceeding which must occur within 48 hours of arrest where the accused person appears before a judge (usually a justice of the peace or municipal judge), is informed of the charge against him or her, and has bail set. The accused person is given the opportunity to request a lawyer at this appearance and should be informed how to make that request.

Appeal –a request for a higher court to review a lower court’s decision.

Arraignment -a court proceeding prior to trial where the accused person is formally advised of the charges against him or her and his or her rights. The accused person enters a plea.

Bail –an amount of money set by the judge that must be paid by the defendant if he or she fails to appear in court at an appointed time after being released from custody. It is a guarantee that the accused person will come back to court for the next court date.

Bond -a document, usually signed by a lawyer or bondsman, that guarantees the payment of the bail amount and permits a person to leave jail. A refundable cash bond can be posted, returnable in full if all court appearances are kept. Sometimes a “personal recognizance” bond is permitted that allows a person to leave custody based only on the person’s signed promise to appear in court.

Brief –a written argument given to the court that states the relevant facts and laws that apply to the case.

Burden of proof -the evidence that must be presented to convince the judge or jury beyond a reasonable doubt that a person is guilty of the offense.

Complaining witness -most often the victim of the crime; some cases can be dropped or dismissed if the complaining witness requests it.

Continuance -a delay or postponement of a court hearing.

Court-appointed lawyer -a lawyer appointed and paid by a judge to represent a defendant who cannot afford to hire his or her own private lawyer.

Defendant -the person charged with a crime.

Defense lawyer -the lawyer representing the defendant or accused.

District/County attorney -the person who prosecutes the case against the defendant in court on behalf of the “state” or the “people.” This person is also known as the prosecutor.

Docket –a written record of the cases to be heard in court.

Felony -an act or crime that carries the potential punishment of imprisonment for more than one year. Less serious crimes are called misdemeanors.

Grand jury -An appointed body of 12 citizens that meets in a closed, secret proceeding to hear the case against the accused and to determine whether an indictment or formal accusation should be returned and the defendant should be prosecuted for committing a felony offense.

Incarceration – the detention of a person in jail or prison, or holding a person in jail or prison.

Indictment -a formal accusation returned by a grand jury that has heard information about the case and determined there is a reason to try the case. This is usually required for prosecution of felonies and other serious crimes.

Indigent –someone who is unable to pay the fees and costs related to the case.

Magistrate -a judge or judicial officer.

Misdemeanor -a criminal offense that is less serious than a felony. The punishment is usually a fine or imprisonment one year or less.

Motion –A request made to the court for an order or ruling.

Nolo contendere -a plea in which the accused person does not admit guilt but does not contest the charge. It is treated the same as a guilty plea by the court.

Parole -the release of a person from prison to mandatory supervision in the community.

Perjury –lying while testifying under oath, or deliberate false testimony under oath.

Plea bargain -an agreement between the lawyer representing the defendant and the prosecutor specifying a specific, usually lesser punishment agreed to if the defendant pleads guilty. The agreement may be rejected by a judge.

Pretrial release -a program available in some counties for some defendants where a person is released from custody before trial without having to post a bond if he or she meets certain conditions.

Probation -the granting of freedom to an offender who has been convicted or has pled guilty and agreed to certain conditions set by the court, such as community supervision by a probation officer for a specified period of time; often available for non-violent offenders, and for minor offenses.

Prosecutor -a public official, usually a district or county attorney, who conducts criminal prosecutions in courts against defendants on behalf of the “state” or the “people.”

Public defender -a licensed lawyer employed by the county government or an agency that contracts with county government solely to represent defendants who cannot afford a private lawyer.

Revocation -the cancellation of probation or parole, which may result in a person’s returning to incarceration, due to an allegation that a new crime has been committed or that some other requirement of probation has been violated such as failing to pay court-ordered fines or fees or failing to show up for meetings with the probation officer.

Restitution -payment to a victim by the defendant for damage or loss caused by the defendant.

Sentence -punishment handed down to a defendant who has been convicted of a crime or pled guilty.

Sentencing hearing -a proceeding held in the absence of a plea bargain if the defendant pleads guilty or if the jury finds the defendant guilty. Punishment is decided by a jury unless the defendant waives that right.

Time served -a phrase used to describe the situation in which a person pleads guilty, usually for a misdemeanor offense, and is released because the time he or she has served in jail before the plea is considered adequate punishment for the crime charged.

Waiver of jury -cases can be tried before a judge rather than a jury in the event the prosecutor, defendant's lawyer, and defendant all agree to do so.



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