

Family Preparedness Planning

Planning



Practitioner Guide

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Purpose of the Guide

Family Preparedness Plans proactively support parents to ensure their children are taken care of in the event of their death, detention, or deportation. The Family Preparedness Packet (English | Spanish) walks families through the process of (1) identifying a trusted adult who can take care of their child if they cannot; (2) filling out a Standby Guardian Designation form; (4) revoking such a form should they change their mind; (5) completing a child care plan that includes emergency phone numbers and other important information the standby guardian should know; and (5) designating Power of Attorney. The packet is also included for ease of reference in the annex to this guide.

While the Family Preparedness Plan can be filled out by the client without the assistance of an attorney, practitioners may provide critical assistance to clients in conducting know-your-rights training, discussing general legal ramifications, counseling on available options particularly in complex situations, and screening for referrals to additional legal services. These clinics are not meant to provide legal representation, but legal information.

This practitioner’s guide is primarily geared towards those operating in the context of a medical/legal partnership but will also be applicable to anyone providing legal services related to family preparedness planning.

Overview of Process

The process envisions three touchpoints: (1) patient referral from the medical team, (2) a same-day general introductory presentation by the legal team, and (3) a follow-up individual consultation/appointment to finalize the forms. A breakdown of each stage, including scripts and a draft presentation, are included below. This process is specifically developed with medical-legal partnerships in mind. For non-MLPs, the referral stage can be adapted to your individual context. Each step is designed to provide tangible tools to clients even in the event that the client does not complete the process.



Step 0: Referrals Process

In the Medical-Legal Partnership (MLP) model, patient referrals for legal services typically come from the medical teams. The patient is seen for their medical appointment and, in the course of speaking with their doctor, raises a legal issue. The medical team then contacts the legal team to add the referral to their patient list. Patient Services schedules the person for their legal appointment.

For the purposes of a family preparedness planning clinic, *anyone with children* should be referred to meet with the legal team to discuss the process and purpose of these documents.

While the primary aim of this clinic is to support parents who may face immigration detention and deportation, these documents can also support families in the case of parental death regardless of

immigration status. Accordingly, a simple script has been prepared for medical teams to follow with each patient. The script is purposefully brief so as not to burden medical teams and to ensure that the legal team controls the flow of information about the process through the introductory/know your rights presentation in step 1.

As soon as a referral is received by the legal team, it should be recorded in a Family Preparedness Planning client tracker system. An example of such a tracking system is included below.

Medical Team Script

To be read to every patient during their medical visit.

Do you have children? (Y/N)

[If yes] Our legal partners are helping people draft documents to ensure their children are taken care of if anything happens to the adult, like an accident, detainment, or deportation. Are you interested in getting these documents for your family done for free? (Y/N)

[If yes] The legal team is conducting information sessions about this process. The next session is at [TIME]. Can you make [TIME]? (Y/N)

[If yes] Please wait in the lobby until the legal team comes to get you.

[If no] Then can I refer you directly to them? They will make an appointment with you when they can. (Y/N)

	A	B	C	D	E	F	G	H	I
1	Name	MRN	Phone Number	Referral	Intro Session	Appointment	Complete?	Notes	
2	Patient 1	1234560	123-456-7890	11/27	12/5	N/A	Yes	Complete	
3	Patient 2	1234561	098-765-4321	11/27	12/5		No	Pt needs to review forms with guardian - schedule appointment two	
4	Patient 3	1234562	456-789-0123	11/27			No	Schedule appointment one	
5									
6									
7									
8									

Step 1: Introductory Session

As soon as the patient is “referred” by the medical team, the patient is invited to a general introductory session held once an hour during the clinic’s operating hours. For example, in a five-hour clinic day, four sessions will be held. This volume is designed to ensure patients do not have to wait long after their medical appointment to be seen by the legal team. These sessions will last twenty-three minutes and will be open to any patients who wish to attend.

The aim of this introductory session is (1) to provide patients with a know-your-rights training should they be approached or detained by ICE and (2) introduce them to the family preparedness process. This training will seek to maximize the information provided to clients even if they ultimately decide not to move forward with the process. Furthermore, providing a detailed overview of the Family Preparedness Process will allow those who do move forward to prepare for their individual consultations by collecting important documentation and to reflect on their chosen guardian.

Introductory sessions will be conducted by an attorney/attorney representative with the assistance of an interpreter. A conference room is ideal for these sessions to allow the streaming of a PowerPoint and to accommodate a number of patients.

A draft PowerPoint presentation and a presenter’s script are included in the annex to this guide.

At the end of each session, patients should be provided with **know-your-rights information** and a **Family Preparedness Packet**. Know-your-rights cards can be purchased (or ordered for free if you are a nonprofit) from the Immigrant Legal Resource Center: <https://www.ilrc.org/red-cards>.

Patients who are interested in signing up for an individual appointment should write down their information for the legal team at the end of the introductory session. When signing up for appointments, the team should make it clear that both parents should be present at the individual appointment in order to fill out the forms. This information will then be provided to Patient Services to schedule appointments. While it is ideal for every patient to attend these information sessions, patients who are unable should still be added to the list for individual appointments.

Expanding the model: Depending upon the capacity of each clinic, these introductory sessions could be advertised more broadly than through the individual referral system. For instance, one clinic plans to advertise these sessions in the waiting rooms of the clinic so that patients can also self-refer.

Step 2: Individual Appointment

Scheduling: Individual appointments will be scheduled by Patient Services. **If the child has two living and actively involved parents, both parents must attend the appointment in order to fill out the forms.** To maximize uptake, a single appointment to prepare and finalize the documents is recommended. Therefore, before each appointment, Patient Services will remind clients to bring any supportive documentation that they have (e.g. marriage certificate, birth certificates for children, orders of deportation for any parent). The client will also be encouraged to bring intended standby guardian to the appointment.

Standby Guardian/Power of Attorney Designee Present at Appointment: To the extent possible, clients should be encouraged to bring the proposed standby guardian to the appointment. While this individual does not have to sign any forms for either the standby guardianship or power of attorney designee at the appointment, the attorney will be able to explain the process and respond to any questions they may have. This also ensures that the standby guardian and/or power of attorney designee will be able to save photos of the documents on their phone in the event of an emergency.

Flow of each appointment: Script included in annex.

- Explain and sign limited scope representation and/or non-representation agreement.
- Explain confidentiality.
- Review the standby guardianship process.
 - Discuss any concerns the parent or appointed standby guardian has.
 - Sign form with witnesses.
 - Explain revocation process and flag form.
- Discuss Childcare Plan (emergency phone numbers and important information about the child).
- Review Power of Attorney form.
 - Discuss any concerns the parent or appointed POA has.
 - Sign forms with notary.
- Excuse third party (appointed standby guardian or POA) from meeting.
 - Prior to leaving, have third party take photos of the documents from their phone for ease of reference.
- Conduct limited legal screener to identify any urgent needs and provide referrals.

Script (English | Spanish): A draft script for the individual session is included in Annex II. The appointments should generally take around an hour but may take longer depending on the inclusion of the limited legal screener.

Limited Scope Representation (English | Spanish): These clinics are geared to support parents to fill out their own forms. They are structured to provide legal advice, not full-scale legal representation. Practitioners have a duty to explain the limited scope of their involvement to clients and obtain their informed consent. An example waiver is included in Annex III.

Forms: The forms are included in the Family Preparedness Packet ((English | Spanish)).

Standby Guardianship Forms: A Standby Guardian Designation grants legal power to care for the child if the parents cannot. The parents can choose when this designation would take effect (i.e. in the event of parent's accident, death, detention, or deportation). The designation lasts until the parent can care for the child again, or one year, whichever is less. Should the standby guardianship need to last longer than the year, the guardian will need to go to probate court to get permission to serve as a "temporary guardian." The parents can also choose to designate back-up standby guardians should they wish to do so. The form also provides a space to provide authorization for other individuals to pick up their children from school. The form does not need to be notarized but does need to be signed by two witnesses. The witnesses cannot be signing the form for any other reason (i.e. cannot be the designated standby guardian). A copy of this form should be provided to the child's school and the child's primary healthcare provider. The parent should also keep a copy for themselves and give the original to the standby guardian. There are two versions of the Standby Guardianship forms included in the Family Preparedness Packet: a set of forms for two-parent households and a set of forms for single parents.

Childcare Plan: A childcare plan includes key information about the child as well important phone numbers. It is designed to provide the standby guardian with an overview of the child's schedule. This form can be filled out at the appointment or provided to the parent to fill out later. A benefit to having the proposed standby guardian at the appointment is to provide time for the parent and standby guardian to discuss this plan.

Power of Attorney Form: The power of attorney form included in the packet is a springing form that will similarly come into effect should the person be detained or deported. The client will designate an agent to act on their behalf in such a situation vis-à-vis their real property, personal property, stocks and bonds, commodities and options, banks and other financial institutions, operation of a business,

insurance and annuities, estates and trusts, claims and litigation, personal and family maintenance, governmental or military benefits, retirement plans and taxes. If a client does not want to authorize one of the categories (A-N), they should strike out that category on the form. Our forms also include the right to receive from any employer any wages owed to the client and access to digital property (which will permit the designated agent to access passwords for online banking, social media, electronic health records, and other electronic matters). We anticipate that these will be particularly useful additions for our clientele. The clients should be instructed to initial the additions to confirm they want them to be in effect. Generally, clients should appoint their spouse to serve as power of attorney. Each parent must fill out their own form. The person can also choose to nominate persons to serve as back-up power of attorney. The power of attorney form must be notarized. It is recommended to have a notary present at each clinic day for this purpose. For the form to be notarized, the client must bring an ID with them.

Important Information for My Agent Form: This form, similar to the childcare plan, provides information from the principal about their wishes for the agent/designated representative. This should be provided to the person designated as the agent.

Certification: The certification form is to be provided to clients but will not be filled out during the appointment. Attorneys should explain the purpose of this form. In the event of detention, deportation, or death, the agent may need to fill out this form to access your banking information. The agent will need two witnesses who are 18 years or older and a notary or attorney to sign.

Witnesses and notary: It is ideal for the clinic to provide volunteers that can serve as witnesses and a notary who can sign the forms for all appointments that day. However, there are three general approaches that clinics can choose from:

- Provide volunteers as witnesses and notaries for the full clinic day. The person helping to prepare the materials can be a witness as can an interpreter – it only cannot be a person who is also signing the form (i.e. the client or the designee). Recruitment of volunteers who are already notaries is recommended. If resources are available, clinics could subsidize a member of their staff to become a certified notary. The process takes about a week and costs \$120. Additional information on the notary certification process can be found at <https://portal.ct.gov/sots/business-services/notary/notary-public-licensing>.
- If the clinic is unable to provide a notary, then clients can be directed to resources for public notaries close to them. Connecticut statute §3-95 sets a \$5 maximum fee for notary services.

- As commissioners of the court, attorneys can sign the Power of Attorney form themselves. As a flag, in the past, some banks were less receptive to these signatures than a formal notary.

Revocation of Standby Guardianship and Power of Attorney: Should the parent choose to revoke their standby guardianship or power of attorney designation, revocation forms for this purpose are included in the packet of materials that the parent should take with them. If the parent later wants to appoint a new standby guardian/power of attorney, they should go through the process again.

- Standby Guardianship Revocation: The parent can sign this revocation form at any time and nullify the original designation. They should keep this revocation with their copy of the standby guardianship forms. They should also provide the signed revocation to the child’s school and primary healthcare provider. I
- Power of Attorney Revocation: A copy should be kept with the previous Power of Attorney form and can be provided to any financial institutions as a precaution.

Limited Legal Services Screener

While these clinics will not be equipped to serve other legal needs, they can provide a touchpoint for referrals for urgent cases. If offered, the clinic should thank and excuse the power of attorney/standby guardian designee from the appointment. They should then explain the purpose of the legal screener to the client and ask if they wish to proceed.

The limited legal screener is designed to identify only a few potential emergency/time-sensitive legal issues.

Where a legal issue has been identified, the clinic should provide a list of resources related to the specific issue, including pro se resources and options for possible representation. While affirmative pathways, such as affirmative U & T-visa applications for clients

who are not currently on anyone’s radar, may not be advisable during this period, clients may wish to prepare these applications defensively (such as reaching out to obtain police reports). Clients should be encouraged to follow-up with these resources.



A draft script for the limited legal screener and a list of referral resources is included in Annex IV. These are also available online (English | Spanish).

Practical Tips for Practitioners

Identifying Standby Guardians/Power of Attorney:

To the extent possible, attorneys should encourage clients to designate someone with **legal status** in the U.S. as their standby guardian/power of attorney. If this is not possible, the attorney should explain the potential need to identify additional back-up designations in the event that their initial choice individual is also detained or deported.

A-Number and Status:

As a general matter, it is helpful to ensure that all clients know their A-Number. This number can generally be found on any USCIS documentation the person may have. A person who has their A Number can access information about their status by phone at 1(800) 898-7180 or online at <https://acis.eoir.justice.gov/en/>.

Second Parent Unavailable to Consent to Designation:

It is likely that clients may not be able to obtain consent from the child's second parent due to (1) death, (2) detainment or deportation themselves, or (3) never having been present in the child's life. Documentation of this absence can be critical for upholding the standby designation even without consent. If possible, in the case of death, the parent should provide a death certificate. In the case of detainment or deportation, a deportation order can be useful documentation. If the parent has never been in the child's life, a birth certificate with no second parent should be attached. It is also possible that this documentation will not be available. *Even without consent or documentation, the standby guardianship form should be filled out.* They still provide insight to a court, school, and healthcare provider as to the parent's wishes regarding the child. A space has been added to the forms to explain individual circumstances.

Documentation:

The clinic should not keep copies of the documents except for the limited scope representation waiver. The client should give the originals to the appointed standby guardian/designated power of attorney. They should maintain a copy for themselves and give copies to the child's school and primary healthcare provider. The documents should be kept in a safe place. The child and the standby guardian should be aware of how to find the documents in the event of an emergency.

Electronic Copy:

Before they leave, the standby guardian/power of attorney designee and the parent should also take photos of the documents and save them to a safe place on their phone. This ensure that, in an emergency, the designee will be likely to have a copy on hand.

Annex I: Introductory Presentation + Script

Information Session Presentation Outline

Before presenting, please ensure that you have:

- *A screen for the PowerPoint*
- *A translator or Spanish speaker*
- *Information packets printed out to hand out*
- *If possible, ILRC Red Cards (which can be requested for free online)*



- I. Welcome everyone to the information session.
 - a. Set expectations about time: This will take 15-20 minutes, and we will have time for some questions.
 - b. Ask if anyone prefers a different language. The standard session will be held in Spanish.
 - c. Note that this will be a general session, and that everyone will have the opportunity to sign up for a free individual session. We will be able to answer questions about their specific circumstances during their individual session, but not during the group session.

Today,
we will
cover...

1. Know Your Rights Information
2. Who Family Preparedness is For
3. What Family Preparedness Does
4. The Documents
5. Next Steps



- II. Today, we will cover...
- a. Know Your Rights Information
 - b. Who Family Preparedness is For
 - c. What Family Preparedness Does
 - d. The Documents
 - e. Next Steps



Please Note



We are law students, not lawyers, but we work under a lawyer. Today, we are hoping to give you information that will help you understand your options regarding Family Preparedness planning.

- III. Please Note *[omit this step/ edit this step to accurately represent attorney involvement in clinic]*
- a. We are ____, not lawyers, but we work under a lawyer. Today, we are hoping to give you information that will help you understand your options regarding Family Preparedness planning.

Know Your Rights: What do I do if ICE talks to me?



1. Stay calm.
2. Do not answer any questions.
3. Do not sign anything without speaking to a lawyer. You have a right to see a lawyer.
4. Do not consent to a search unless they have a warrant.
5. If you're at home, do not open the door unless they have a warrant.
6. If you're in public, ask if you can leave. If they say yes, then leave.
7. You have a right to record and take pictures.

IV. Know Your Rights: What do I do if ICE talks to me

Note: If you have Red Cards, tell the audience that they will be handed around at the end with reminders.

- a. Stay calm: no matter where you are stopped by ICE, it is important to do what you can to stay calm. Running and fighting a stop have been seen as admissions of guilt in the past.
- b. Do not answer any questions: remain silent, and tell the officer that you are choosing to remain silent. You can also say that you will not speak without an attorney present. If you do speak, do not lie.
- c. Do not sign anything without speaking to a lawyer.
- d. Do not consent to a search unless they have a warrant: note that the next slide will show a valid warrant. It is signed by a judge, dated, and distributed by a court.
- e. If you're home, do not open the door unless they have a warrant: Note that they should not open the door when they are asking if the officer has a warrant. Speak through the door, and ask them to slide anything under the door.
- f. If you're in public, ask if you can leave. If they say yes, then leave: *Excuse me. Am I free to go?*
- g. You have a right to record and take pictures: If you choose to exercise this right, then tell the officer that you are doing so.

Example of a valid warrant



This is a judicial search warrant. It DOES authorize agents to enter your home.

AO 93 (Rev. 12/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT - Issued by a COURT.
for the
Eastern District of California

In the Matter of the Search of _____)
(Briefly describe the property to be searched)
or identify the person to be searched and give the location) Case No.
540 Oak Avenue)
Davis, California 95616)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer 2:11-SW-0161EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA.
SEE ATTACHMENT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

Read attachments to make sure they are regarding YOU and YOUR address, not someone else's.
The person or property to be searched, described above, is believed to conceal filed with the return or describe the property to be searched.

SEE ATTACHMENT B ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property Date for warrant, not to exceed 14 days
YOU ARE COMMANDED to execute this warrant on or before 5-9-2011 (not to exceed 14 days)

in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge _____
(Name)

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box). For _____ days (not to exceed 30).
 Until the facts justifying the later specific date of _____

Date and time issued: 5-25-2011 Signed by a JUDGE:
10:00 AM **EDMUNDO F. BRENNAN**

City and state: SACRAMENTO CALIFORNIA **EDMUNDO F. BRENNAN** U.S. MAGISTRATE JUDGE
Printed name and title

- V. Example of a valid warrant
- a. Note: Issued by a court
 - b. Note: Dated with a recent date
 - c. Note: Signed by a judge
 - d. Note: says "warrant"

Who is Family Preparedness For?

1. You have children
2. Both parents are available for signing OR your child has only one legal parent
3. You know who you would want to care for your children



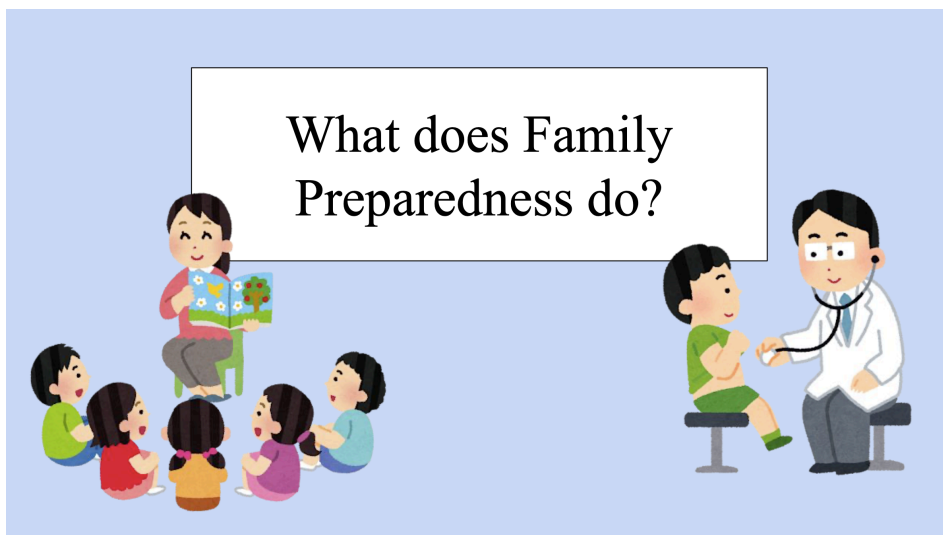
- VI. Who is Family Preparedness For?
- a. You have children: this is expansive! If you are a primary caregiver, if you are on a birth certificate, or if you are a nonlegal parent, anyone who functionally or legally parents a

child should be part of this process. If you are the nonlegal parent, we will talk to you about what your best next steps are individually.



b. Both parents are available for signing or your child has only one legal parent: To make major decisions about a child, you need both parents to sign. If the other parent has died, we need a copy of the death certificate. If the other parent was never on the birth certificate, we need a copy of the birth certificate. If the other parent is unavailable due to any other reason, or the documents are not accessible, we will still fill out these forms for you. We will note your circumstances on the form, but there may be problems in enforcing the form.

c. You know who you would want to care for your children

Note: We will get into specific details about these circumstances during our individual meeting with you.



VII. What does Family Preparedness do?: Note that we believe anyone with a child would benefit from having this plan in place.

If a parent/ both parents become(s) unavailable...	
 WITHOUT Family Preparedness <ol style="list-style-type: none">1. There is no plan2. Children are taken by the state3. It can take weeks or months for relatives to get the children back4. Nobody can access the parent's bank accounts to pay rent or keep up with other expenses5. If a friend or relative gets the kids, they cannot take the children to the doctor or to school	 WITH Family Preparedness <ol style="list-style-type: none">1. Everyone knows what to do2. Children go to the designated standby guardian chosen by the parent immediately3. The designated guardian can take the children to the doctor and to school4. The designated power of attorney can take money out of the parent's bank account to feed and take care of the children

VIII. If a parent/ both parents become (s) unavailable...

Note: Unavailability can be caused by anything. If you get in a car accident or are taken to the hospital, this could cause unavailability. Death, arrest, incarceration, detainment, and deportation are also common reasons parents are unable to reach their children.

a. Without Family Preparedness

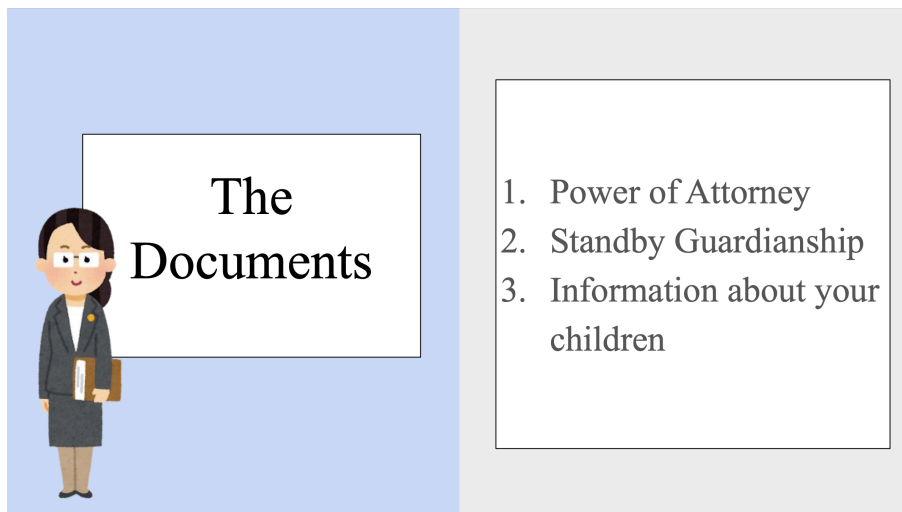
- i. There is no plan
- ii. Children may be taken by the state
- iii. It can take weeks or months for relatives to get the children back
- iv. Nobody can access the parent's bank accounts to pay rent or keep up with other expenses
- v. If a friend or relative gets the kids before the state gets involved, they cannot take the children to the doctor or to school

b. With Family Preparedness

- i. Everyone knows what to do: the child know where to find the documents and who to call. The standby guardian has instructions and can pick up where you left off. The parent knows their children are taken care of.
- ii. Children go to the designated standby guardian chosen by the parent immediately
- iii. The designated guardian can take the children to the doctor and to school.
- iv. The designated agent can take money out of the parent's bank account to feed and take care of the children.

Note: If this goes into effect, then the standby guardian will have to renew after 1 year.

Please let your standby guardian know that, if they ever use the family preparedness packet, they need to take legal steps to take on and maintain guardianship.



The Documents

1. Power of Attorney
2. Standby Guardianship
3. Information about your children

IX. The Documents

- a. Power of Attorney: a legal form that helps someone use your money
- b. Standby Guardianship: a legal form that helps someone take care of your children
- c. Information about your children: a nonlegal form to help the standby guardian to care for your children

Power of Attorney

A power of attorney allows an **agent** to act as you if a condition has been met.

An **agent** is the person you designate.

You can choose what you want to let them do for you.

CONNECTICUT SPRINGING STATUTORY GENERAL POWER OF ATTORNEY

Notice: The powers granted by this document are broad and sweeping. They are defined in the Connecticut Uniform Power of Attorney Act, which expressly permits the use of any other or different form of power of attorney desired by the parties concerned. The grantor of any power of attorney or the agent may make application to a court of probate for an accounting as provided in subsection (d) of section 45a-175, of the general statutes. This power of attorney does not authorize the agent to make health care decisions for you.

Know All Persons by These Presents, which are intended to constitute a GENERAL POWER OF ATTORNEY pursuant to the Connecticut Uniform Power of Attorney Act:

That I, _____, of _____, do hereby appoint _____, of _____, _____ TO ACT

First: In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in the Connecticut Uniform Power of Attorney Act to the extent that I am permitted by law to act through an agent:

(Strike out and initial in the opposite box any one or more of the subdivisions as to which the principal does NOT desire to give the agent authority. The elimination of any one or more of subdivisions (A) to (M), inclusive, shall automatically constitute an elimination also of subdivision (N).)

(A)	Real property;	()
(B)	Tangible personal property;	()
(C)	Stocks and bonds;	()
(D)	Commodities and options;	()
(E)	Banks and other financial institutions;	()
(F)	Operation of entity or business;	()
(G)	Insurance and annuities;	()

X. Power of Attorney

- a. A power of attorney allows an agent to act as you if a condition has been met
- b. An agent is the person you designate
- c. Who makes a good agent? Someone who:
 - i. You trust with access to your bank account, taxes, car, etc. (Would you leave your credit card with them?)
 - ii. You trust to provide financially for your children (buy the right amount of food, pay rent on time, etc)
 - iii. Is highly responsible; you would want representing you at a bank
 - iv. Has a stable income, life, immigration status
- d. You can choose what you want to let them do for you
 - i. Read examples from the list to the right
 - ii. Note that the most basic considerations are bank accounts, paying rent, using a car.
 - iii. Note that agents can only access funds for the purposes you lay out. They cannot buy themselves gifts with your money just because they are your agent and the condition has been met.
- e. To execute, you need a notary.
- f. Note that the packet has a revocation form at the end. If they choose to revoke, then they will require notarization again.
- g. Note that copies of a POA should be given to a bank and other institutions that an agent would interact with.

The Power of Attorney Condition in Our Document

Sixth: EFFECTIVE DATE AND TERMINATION

This Power of Attorney shall take effect if my agent determines that I am incapable of managing my affairs due to my incapacity because I am (i) Missing; (ii) Detained, including incarcerated in a penal system; or (iii) Outside the United States and unable to return.



- XI. The Power of Attorney Condition in Our Document
- i. Read in full: The Power of Attorney shall take effect if my agent determines that I am incapable of managing my affairs due to my incapacity because I am missing, detained, or outside the United States and unable to return
 - ii. Translate to lay speak: If you are missing, detained, or deported, then your agent can decide to use it. If these conditions aren't met, the agent cannot start accessing your belongings.
 - iii. Note that the principal (the parent) never loses access to their bank accounts. A power of attorney just adds another person. It does not replace your ability to do whatever the agent can do.

Standby Guardianship

A standby guardian cares for your child and can make medical and educational decisions for your child.

DESIGNATION OF STANDBY GUARDIAN **STATE OF CONNECTICUT**

I, _____ of _____, Connecticut, appoint
(Parent) (Address)

_____, of _____ as Standby Guardian of my minor children:
(Standby Guardian's name) (Street/City/State)

_____, (date of birth: _____)
(Child's Name)

_____, (date of birth: _____)
(Child's Name)

_____, (date of birth: _____)
(Child's Name)

This guardianship will take effect when one of the following events happens (check all that apply):

I am detained or deported by any United States immigration or customs authority, or by any state or federal law enforcement authorities.

I died, and the standby guardian has a copy of my death certificate.

Other event (specify): _____.

The other parent of my child or children named above is:

(Name of other parent)


- XII. Standby Guardianship
- a. A standby guardian cares for your child and can make medical and educational decisions for your child
 - b. Describe the different parts of the form on view on the slide.

- c. Note that we need the standby guardian's name and address, but not their signature.
- d. Note that we need the other parent's signature, but we will work around this if it's impossible.
- e. This needs two witnesses, but no notary
- f. Note that we will attach a revocation form in the back. If they want to revoke, they have to fill that out with witnesses and give it to anyone they gave the first one to.
- g. Who makes a good standby guardian? Someone who:
 - i. You trust with your children day to day (discipline, bedtime, cooking, etc)
 - ii. You trust with your children in big moments (medical emergencies, educational decisions, etc)
 - iii. Knows your children well
 - iv. Your children like
 - v. Has a stable life, income, immigration status, etc
 - vi. Is highly responsible

Information about your children

This is a **non-legal document** that will help your standby guardian take care of your children. It asks for you to state:

1. Important information about your child, like their doctor, their teacher, their school, their allergies, their health insurance, etc.
2. Emergency numbers and important contact information
3. The contact information of other medical providers, like dentists
4. The rules the child lives by
5. Your child's favorite foods, allergies, and foods they do and do not eat
6. Your child's weekly schedule



- XIII. Information about your children: This is a nonlegal form to help someone stepping into the role of your child's guardian. This is a very practical and important part of the packet.
- a. This is a non-legal document that will help your standby guardian take care of your children. It asks you to state:
 - i. Important information about your child, like their doctor, their teacher, their school, their medical conditions, their health insurance, and more
 - ii. Emergency numbers and important contact information
 - iii. The contact information of other medical providers, like dentists
 - iv. The rules the child lives by
 - v. Your child's favorite foods, allergies, and foods they do and do not eat
 - vi. Your child's weekly schedule.

Note: this is most of the prep work that can be done without us.

Next Steps

We provide all of this document drafting for free.

If you want to proceed, these are the next steps:

1. Sign up for an appointment at the end of this meeting (come to the front)
2. Prepare for your next appointment by:
 - a. Preparing documents
 - b. Deciding who you want to name as standby guardian and agent
 - c. Speaking to your standby guardian and your agent
3. Come back for your appointment
 - a. Talk over the documents
 - b. If ready, sign documents with witnesses. If not ready, then come back for a second appointment.



- XIV. Next Steps *[Edit as appropriate for your clinical model]*
- a. We provide all of this document drafting for free. Note that we also will have witnesses and a notary.
 - b. If you want to proceed, these are the next steps:
 - i. Sign up for an appointment at the end of this meeting
 - ii. Prepare for your next appointment by
 1. Preparing documents
 2. Deciding who you want to name as standby guardian and agent
 3. Speaking to your standby guardian and your agent. Note that it is important to speak with them to know they are willing to take on the responsibility. Though they do not need to sign the forms, they should know that they are part of this plan so they can help if needed.
Note: We will discuss this in more detail on the next slide.
 - iii. Come back for your appointment: Bring the other legal parent (necessary) and the standby guardian/ agent of your choice (highly encouraged, but not necessary)
 1. Talk over the documents
 2. If ready, sign documents with witnesses and a notary. If not ready, then come back for a second appointment

Specifically, please prepare for your appointment by bringing:

1. Documents relating to children: medical information (health insurance, medication list), passports, birth certificates, registry of birth
2. Documents relating to parents: marriage license, A-number/ any immigration documents, driver's license/ ID, Social Security Card or ITIN number, anything else you can think of
3. Decide on your guardian and have their complete legal name and address
4. Write down medical care instructions
5. Gather emergency contacts



- XV. Specifically, please prepare for your individual appointment by bringing:
- a. Documents relating to children: medical information, passports, birth certificates
 - b. Documents relating to parents: marriage license, A number, ID, SSN, divorce papers, death certificates
 - c. Decide on your guardian/ agent and have their complete legal name and address ready. Note that the guardian/ agent does not have to be present, but we strongly recommend it for the individual meeting, so that we can explain the process to them and answer their questions. Note that the agent and guardian can be different people, and they should decide who they want based on the skills required of each. Note that they should select people with stable immigration statuses if at all possible so that the child's back up plan is stable.
 - d. Write down medical care instructions and medicines: we want to ensure this part is accurate
 - e. Gather emergency contact: phone numbers of the school, of doctors, of any professionals that work with your child

After all the documents are prepared, please:

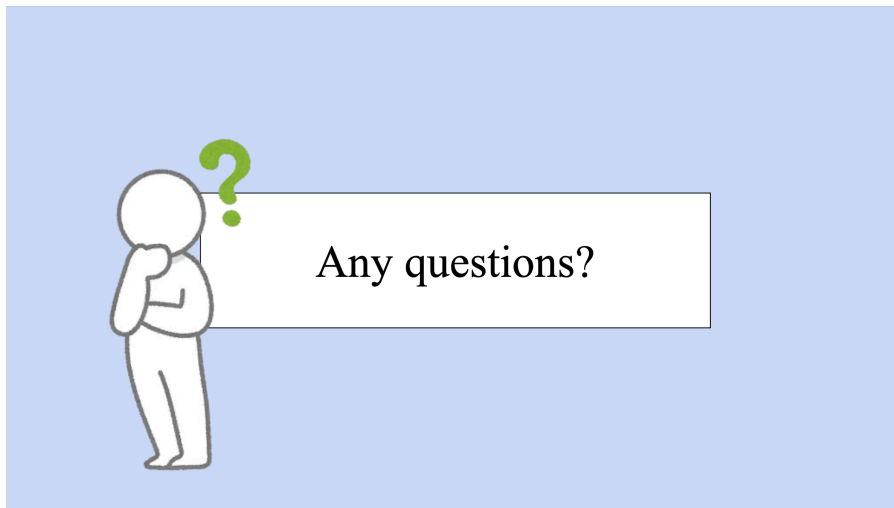
1. Give a copy to your **guardian** and **agent**. Explain to them again what they have agreed to do. Remind them that, if they begin serving as guardian and agent, they must fill out extra forms.
2. Give a copy to your child's **school**.
3. Give a copy to your child's **doctor**.
4. Keep a **copy at home**, and tell your children what it is and what it is for without scaring them.



XVI. After all the documents are prepared, please:

Note: Assure the audience that these are not steps to worry about now, and they will be reminded of this during their final appointment after they sign everything.

- a. Give a copy to your guardian and agent. Explain to them again what they have agreed to do. Remind them that, if they begin serving as guardian and agent, they must fill out extra forms. Note that they can reach out to our clinic if they have questions about this.
- b. Give a copy to your child's school.: This is so that, if the guardian shows up to pick up the children, there will be no holdup.
- c. Give a copy to your child's doctor: This way, they can admit the child and return them to the guardian.
- d. Keep a copy at home, and tell your children what it is and what it is for without scaring them: Please tailor this conversation to your child's age and capacity. In general, you can say that you have documents to make sure the children will be taken care of even if you are not available, like if you're in the hospital. Tell them where to find them and who to call if they are worried.



XVII. Any questions?

Note: Remind the group that you will not be answering questions about individual circumstances at this time, but offer to clarify any part of the documents, the process, or the benefits.

Note: Decide whether to leave an email in the last slide in case anyone has any additional questions

Annex II: Script for Individual Appointments

With thanks to New Haven Legal Assistance for their preparation of this script, which has been adapted to fit the revised model.

Script for Attorneys

Standby Guardian and POA Forms

Note: If working with a translator, always pause for the translator to translate.

Introduction

- My name is _____ and I am a volunteer attorney/attorney representative.
- I am pleased to meet you (and your family).
- This is _____ a volunteer translator. *[Allow translator to introduce him/herself.]*
- How are you?
- We will be discussing a number of complicated legal topics and we hope that you will ask questions whenever you have them.
- Some of the documents that you may sign require me to confirm that you have identification.
- Did you bring your identification with you?
- May I please see it?
- *[If the client has forgotten his/her ID, ask if it would be possible for him/her to return home, get the ID and bring it back to the clinic before proceeding. Otherwise, the notary or attorney cannot acknowledge the client's signature as a commissioner of the superior court for the Power of Attorney forms.]*

Confidentiality and Waiver

- Everything that we discuss is confidential.
- You may share what we've talked about with others if you wish, but I will not share anything that you tell me.
- As I mentioned earlier, I am a volunteer attorney.
- For this clinic, you are a client of _____ and my client for the time that we are together.
- In other words, this is a limited representation, just for today, and neither _____ nor I will be representing you after today.
- _____ has prepared this waiver for you to sign.
- It acknowledges that you understand the limited nature of our representation. *[It has been translated into Spanish.]*
- Please read the waiver and then sign the waiver.
- This is the only document that you will not take home today. It will be kept by _____.
- If you have questions after this meeting, please call _____.

Introduction to Forms

- You will keep all the forms that we work through today. Again, the only form we keep is the waiver form that you just signed.
- We have two separate legal forms today.
- One is for your children.
- One is for your property and finances.
- It would be helpful for us to know a little more about your family.
- How many children do you have?
- Please spell their names for me and tell me their birth dates.
- For those who are minors, were they born in the United States?

Designation of Standby Guardian Form

Introduction

- [If applicable] Thank you for bringing your proposed standby guardian with you to this session. This is important because it allows them to also understand the responsibility they are undertaking and to discuss the childcare plan with you.
- This form names someone to act in your place and to take care of your minor children in case you are detained or deported or you die.
- The person that you name will have this power for one year only.
- At the end of one year, the guardian will have to go to the probate court to get permission to be a “temporary guardian,” which will last for more time.
- The person you name will stand in your place as your child’s parent during that one-year period.
- It is important for you to tell the person that you choose that they will have the same responsibilities as you would to provide financially for your child.
- _____ has prepared a summary of the document [in English and Spanish].
- Please read this summary and let me know if you have any questions.
- If you would like to move forward with naming a standby guardian, let’s complete the form together.
- [If two adults present]: are you both the legal parents of the child(ren)? Do you both consent to the same person as guardian? *[If so, then proceed with the dual parent forms]*.
- [If only one parent is present]: is there another parent involved?
 - *[If yes]*: In order to fill out the forms, you will need the consent and signature of the second parent. If you were to be detained or deported, your children would remain with their other legal parent. In the event that both parents are unable to care for the children, then this document will identify the person that will take care of your children. We can fill out the forms today, but you will need to take the packet to be signed by the second parent in front of two witnesses.
 - *[If parent A does not want children to go to other legal parent B in the event that parent A is subject to a triggering event]* If you would like your children to go to a different person than their other parent if you are detained, deported, or die, the other parent must consent to the designation. We will mark this unique circumstance on the forms under the “other” section. We will fill out these forms as much as we can, but then you will need to take the forms to be filled out with the other parent. *[Then proceed to dual parent forms.]*

- o *[If no]*: does the other parent have any legal right to the child(ren)? For example, have his/her rights been legally terminated by a court? If the other parent is deceased or his/her rights have been legally terminated, you will need proof. If the other parent still has rights but you are unable to contact him/her, it is still helpful to fill out the form, as it will at least show a court your wishes. *[Then proceed with the single parent forms]*.
 - *[If parent is no longer living, has been deported, or is no longer part of the child's life]* We can provide a short summary of the unique circumstances in your case so that a court can have all the information necessary to make their determination.

Appointment Form

- Before you sign, let's review the form together.
- *[Show translation]*
- In the first section, you will put your name and the city you where you live as well as the guardian's name and the city s/he lives.
- Next, you will list your children's names and birthdates.
- Here, it lists the bad events that must happen for the guardianship to take effect.
- First bad event: You are detained or deported by any state or federal law enforcement authorities.
- Second bad event: You die.
- Third bad event: You are medically incapacitated (either mentally or physically).
- Fourth bad event: Here, there is space to add another event if you choose to. For example, you may add if you are out of the country and not able to return. These are purely optional and you need not add anything else if you would prefer not to.
- *[If dual parent form]* Now we will do the same designation for the second parent. Remember, in the event that only one parent is detained or deported, the children will go to their other legal parent. This standby guardian designation will only go into effect if both parents are unable to care for the child(ren).
 - o If the other parent is there, both parents sign and the attorney and translator are the witnesses.
- *[If single parent form]* This form includes a space for us to describe unique circumstances (parent is no longer living, parent is deported, or parent is not part of child's life). Without appropriate documentation, this may not be binding, but it will ensure that a court can take into consideration the specific facts of your family situation. We will fill out this form's addendum to explain the specifics of your situation.
 - o Parent signs and the attorney and translator are witnesses.
- Remember, if you are taking the forms home to sign, you will need two witnesses. The witnesses cannot be anyone else who is already signing the form (i.e. the other parent, the standby guardian, etc.).
- It is recommended that you identify someone with legal status to serve as your standby guardian. The forms also provide a place for us to identify back-up standby guardians in the event that your first standby guardian is unable to take care of the children.
- You can also identify people that you authorize to pick your kids up from school in the event that you are detained/deported.
- There is also a place for the guardian to sign saying that s/he consents to being a guardian. The guardian does not need to sign the form unless and until s/he needs the form to be effective. So unless both you and the other parent are detained or deported, the guardian does not need to sign.

Confirmation Form

- This form will be signed by the guardian when it goes into effect.
- This means that neither parent is here to act for your children.
- It is not signed now.
- It says that the designation of a standby guardian is in effect because a bad event has occurred (for example, both parents are detained or deported).
- The guardian will need to sign under penalty of false statement and will need two witnesses who are at least eighteen years old.

Power of Attorney Form

Introduction

- The next form is called a power of attorney form (or POA).
- The standby guardian form lets someone step into your shoes to care for your children in the event you are detained or deported.
- The POA form empowers someone to step into your shoes to handle your property in the event you are detained or deported.
- The person you name must be someone you trust.
- You are called the "principal."
- The person you name to manage your property is called the "agent."

The Form [Provide Translation]

- Insert your name, the city where you live and the name of the person who you choose to act as agent and the city where the agent lives.
- The agent will have powers for the following matters: real property, personal property, stocks and bonds, commodities and options, banks and other financial institutions, operation of a business, insurance and annuities, estates and trusts, claims and litigation, personal and family maintenance, governmental or military benefits, retirement plans, and taxes.
 - Are there any of these powers that you are not comfortable with?
 - [If so] We can strike this power out and then it will not apply in your situation.
- These "standard" powers are included in the law itself.
- We have added two extra powers to the form.
- The first is the right to receive from an employer any wages owed to you. So if you are still waiting for a paycheck or tips from an employer, your agent will be able to collect those for you.
- The second relates to your "digital property." This will allow your agent to have access to your passwords so that they can access your online banking, social media, electronic health records, and other electronic matters.
- If you agree to these two terms, then you will initial beside each on the form to confirm.
- If the agent is not your spouse or child, there is limit on the agent's authority. He or she is not allowed to benefit himself or herself through the use of your property.
- You can name a back-up or successor agent.
- If your agent is unable or unwilling do the job, the backup will step into the agent's shoes.
- Again, you must choose someone you trust very much.

- In both cases, you should choose someone who is documented if possible.
- The next section explains when the form is effective and when it can be terminated. The form will only be active and your agent will only have power if one of three bad events happen.
- One: You are missing.
- Two: You are detained.
- Three: You are incarcerated.
- Four: You are outside the United States and unable to return.
- This is why we call the form a “springing” power of attorney. It only “springs to life” if one of these bad events happens.
- You may terminate these powers at any time by revoking the POA – even if you are abroad.
- The POA will also be revoked if you die.
- We are providing you with a revocation form in case you need to use it in the future. You should not sign it now.
- Please read the form before you tell us that you are ready to sign.

Signing the Form [If notary or commissioner of the court is available to complete form that day]

- XX and XX will be witnesses.
- We also have a notary here.
 - [Or]I will sign as a commissioner of the superior court, which is similar to having the form notarized.
 - Both of us must watch you sign.
 - [Or] We are not able to provide notary services today. You can get these forms notarized at a public notary. The cost will be a max of \$5.

“Important Information for My Agent” Form

- This form does not need to be signed.
- This has helpful information for your agent, which tells your agent what s/he should and should not do.

Certification

- The next form is called the certification.
- This is only filled out if you are detained, deported, or incarcerated.
- The agent will complete it if asked (by a bank or someone else)—not you.
- The agent may be asked by a bank to fill it out.
- In this case the agent will fill out the form and sign it and give it to the bank.
- Some banks have their own certification forms. This is fine. The bank’s form may look different.
- This form does not need to be filled out unless you are detained, incarcerated, or deported, *and* an institution asks for a certification from the agent.
- The agent will need two witnesses who are at least eighteen years old and, if possible, a notary or attorney to sign.

Revocation Forms:

- If you change your mind at any time about these designations, you can fill out the revocation forms included in the packet.
- To revoke the Standby Guardianship, you will need to sign the form. You should keep a copy of the revocation form with your files. You should also provide copies of the Standby Guardianship Designation Revocation to your child's school and primary healthcare provider.
- To revoke the Power of Attorney, you will need to sign the form. You should keep a copy of the revocation form with your files. You can also provide copies to your banks/financial institutions as a precaution.
- Once you sign, the designations will no longer be in effect should you be detained or deported.
- If you would like to appoint a new Standby Guardian and/or Power of Attorney, you will complete the same process that we are doing today.

Review Know Your Rights Information:

- There are also a lot of resources in the Family Preparedness Plan packet, including information about your rights should you be approached or detained by ICE and other legal resources.
- Do you have any questions?

[If applicable] Legal Screener

- Would you be interested in being screened for a few legal issues? *[If yes, then proceed to legal screener below.]*

Closing

- The originals of these documents are for you to keep.
- We will not keep any copies, so please keep them in a safe place.
- The only form that we are keeping is the waiver that you signed at the beginning of our meeting.
- If you have questions after tonight, please call _____.
- Do you have any questions?
- Thank you for coming. We wish you and your family all the best.

Annex III: Waiver/Limited Scope Representation Example

LIMITED LEGAL ASSISTANCE AGREEMENT

I, _____, understand and agree that
_____ is giving me legal advice only and has not agreed to represent
me. I understand that I am representing myself in my legal matter and any legal proceedings.

Signature

Date

Name (Print)

Advocate

Annex IV: Limited Legal Screener

MLP Initial Screen

Blue italics: English, Black Plain Text: Spanish

[Remember to speak slowly and pause every couple of sentences for translation]

I have a few things I want to mention first before we talk more about any legal issues you might have. Is that okay with you?

Hay algunas cosas que quiero mencionar primero antes de que hablemos sobre cualquier cuestión legal que usted tenga.

First, we are law students, not lawyers. Because we are not lawyers, we cannot give you legal advice. But we work with lawyers, and today we can help you figure out if a lawyer might be able to help you.

Primero le quiero explicar que no somos abogados sino solo somos estudiantes de derecho. Por eso no le podemos ofrecer ayuda legal. Pero sí trabajamos con abogados y hoy le vamos a ayudar a ver si un abogado le puede ayudar.

Second, I want to let you know that anything you choose to discuss with us is confidential and will not affect your access to medical care or your immigration status. Our only purpose is to help you, so please feel free to tell me whatever you think might be relevant. At the end of our meeting, I will discuss what you have shared with my director and team to determine what the best next steps will be.

Segundo, le quiero explicar que cualquier cosa que usted decida a compartir con nosotros hoy es estrictamente confidencial y no va a afectar su acceso a atención médica ni su estatus de inmigración. Nuestro único objetivo es ayudarlo. Entonces le pedimos que usted por favor nos diga todo lo que usted piensa puede ser relevante. Al fin de esta consulta, voy a discutir con mi director(a) y con mi equipo lo que usted compartió para determinar los próximos pasos.

Finally, before we start, I want to let you know how important it is for us to get some specific details about your situation. Because we are working with a translator, we would appreciate it if you would speak slowly and only say a couple of sentences at a time. If you share a lot of information at one time, we may miss something important that could allow us to help you. It may feel hard not to be able to tell your story all at once, but we will make sure to take all the time that we need in order to hear what you have to say.

Finalmente, antes de que comencemos, quiero que sepas que tan importante es que consigamos detalles específicos sobre su situación. Porque estamos tomando notas sería más fácil si usted hablaría un poquito despacito y si usted solo diría un par de frases a la vez para que no perdamos información importante que nos permite a ayudarle. Vamos a tomar todo el tiempo que necesitemos para escuchar lo que usted desea decirnos.

Does that sound good?

¿Le parece bien?

Before we get started, do you currently have a lawyer, or have you spoken with a lawyer about any issues in the past?

Una cosa más antes de comenzar: ¿tiene usted un abogado o ha hablado con un abogado sobre algún problema o cuestión en el pasado?

I'm going to ask you some questions to identify any potential legal needs you might have.

Le voy a hacer algunas preguntas para identificar cualquier tipo de asistencia legal que usted necesita.

1. *Do you have any problems with your employer?*
¿Tiene usted algún problema con su empleador?

If yes:

- *Are you being paid when you should be? Are you being paid the right amount?*
¿Le están pagando cuando lo deben? ¿Le están pagando el saldo correcto?

2. *Do you have any problems with your landlord?*
¿Ha tenido algún problema con su dueño?

If yes:

- *Have you had your electricity or gas turned off or received a notice for shut-off?*
¿Fue apagado su electricidad o su gas o recibió usted un aviso que se le van a apagar?
- *Has your landlord evicted you or threatened to evict you from your home?*
¿Le desalojó su dueño o le amenazó de desalojarle de su casa?

3. *Would you like to speak to a lawyer about any immigration issues?*
¿Quisiera hablar con un abogado sobre algún problema relacionado con inmigración?

If yes:

- *When was the last time you entered the United States?*
¿Cuándo fue la última vez que usted entró en los Estados Unidos?
- *How did you enter? Did you enter with any papers? E.g., tourist visa, other travel document, waived through at the border.*
¿Cómo entró? ¿Entró con papeles? Como. una visa turística, otro documento de viaje, le dejaron pasar por la frontera
- *How many times have you crossed the border without inspection?*
¿Cuántas veces has cruzado la frontera sin inspección?
- *Have you or someone you know ever been detained for immigration-related purposes?*
¿Usted o alguien que usted conoce jamás ha sido detenido por razones relacionadas con inmigración?
- *Have you or a relative ever been asked to appear in immigration court?*
¿Usted o un pariente jamás fueron pedidos a aparecer en corte de inmigración?
- *Have you received any letters from the government about immigration in the past year?*
¿Ha recibido alguna carta del gobierno sobre inmigración en el año pasado?
- *ASYLUM: Are you afraid to return to your home country?*
¿Teme regresar a su país natal o su país de origen?
 - *If so, why?*
 - *What do you think would happen if you returned?*
 - *Is there any reason you or your family members would be more likely to suffer harm than other people in your country?*
 - *Before you came to the U.S., were you, your family, or members of a group of people like you targeted by people or gangs trying to hurt or scare you?*
- *U-VISA: Have you, your spouse or child ever been the victim of any crime in the U.S.?*
 - *Did the police become involved?*
 - *Explain what happened.*
- *T-VISA: Did anyone recruit you in your home country to work in the U.S.?*
 - *Have you ever felt forced to work or tricked into working in the U.S.?*
 - *Were you required to work without pay (or less pay than allowed)?*
- *VAWA: Have you ever been threatened, insulted, controlled or otherwise emotionally abused by a spouse, parent or child?*
 - *Inside the U.S., has anyone in your family ever hit, pushed, choked, or otherwise physically harmed you or your children?*
 - *Is that person a U.S. citizen?*

- *SIJS: Are you under 21 years old?*
 - *If yes, were you raised by both parents?*
 - *If not, where were they?*

4. *Is there anything else you'd like to discuss with me?*

¿Hay algo más que usted quisiera discutir conmigo?

Thank you very much for your time. I am going to stay with you for a couple of minutes while _____ leaves the conversation to discuss what you told us with our director and team members. They will let us know what the next steps will be. Is this okay with you?

Muchas gracias por su tiempo. Voy a quedarme con usted por algunos minutos mientras _____ sale para discutir con la directora y los miembros de nuestro equipo sobre lo que usted nos dijo. Ellos nos van a avisar lo que son los próximos pasos. ¿Le parece bien?

[Tell about other appointments if instructed by director]. Thank you very much, hope you have a nice rest of your day.

Muchísimas gracias, espero que tenga un buen día.