

A CAREGIVER'S GUIDE TO DEPENDENCY COURT

Cases involving the immediate danger of abuse, neglect, or abandonment of a child are handled in dependency court. As a foster care, relative, non-relative, or preadoptive caregiver, you are important in the court process because your knowledge assists the judges in making informed decisions about the safety and well-being of children. This guide informs you of your rights, describes each dependency court hearing, provides helpful tips, and gives information about the court process for older youth who may be in your care.

YOUR RIGHTS

Caregivers have rights in dependency court as mandated by state and federal laws, and court rules. You have a right to:

- Participate in Court Proceedings. Section 39.01(50), Florida Statutes (2009) defines “participant” to include foster parents or the legal custodian of the child, identified prospective parents, actual custodians of the child, and any other person whose participation may be in the best interest of the child.
- Be Notified of Court Hearings. §39.502(17), Florida Statutes (2009) requires that the legal custodians, foster and preadoptive parents, and all other participants are to be given reasonable notice of all hearings and proceedings. §39.502(17) further requires that all foster or preadoptive parents must be provided at least 72 hours notice, verbally or in writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court.
- Address the Court. The Adoption and Safe Families Act of 1997 states caregivers have a right to address the court. §39.701(7)(a)(6) and §39.701(7)(d), Florida Statutes (2009) state caregivers may (1) speak to the guardian ad litem or Department of Children and Family Services (DCF) attorney and address the court and ask that they present the caregivers’ concerns before a judge; (2) submit a written statement to the court; or (3) in lieu of any written statement provided to the court, address the court with any information relevant to the child’s best interest.

HOW A CASE GETS TO COURT

The dependency court process begins with a report to the child abuse hotline alleging child abuse, neglect, or abandonment. As a result of the report, a child protective investigator or county sheriff visits the child's home to determine whether or not the child's living environment is unsafe. If the living environment is considered unsafe, and the child is in need of court protection, the child may be removed from the home or a petition filed for dependency or shelter without prior removal. If a child is removed, a shelter petition must be filed immediately thereafter.

THE COURT ROOM

There may be numerous people in the dependency court room. It is the judge's responsibility to listen to all parties and make informed and unbiased decisions based on the information presented in court. The following people are typically present:

- Child Protective Investigator (CPI): The person responsible for investigating the abuse report.
- Attorney for the State: An attorney representing the State of Florida, by and through the Department of Children and Families (DCF), to ensure the health and safety of children and the integrity of families.
- Case Manager: The person who coordinates services for the family and prepares most reports for the court.
- Guardian ad Litem (GAL): An attorney or case coordinator who represents the best interest of the child and works independently of the courts and the DCF.
- Parent's Attorney: The attorney who represents the views and interest of the parents.
- Parents
- Caregivers
- Child(ren)

SHELTER HEARING

The shelter hearing is held before or within 24 hours after removal of a child from the home. At the shelter hearing, the court will hear testimony about the alleged child abuse, neglect, and/or abandonment. During the hearing, the judge determines whether probable cause exists to place or keep a child in shelter status pending further investigation of the case. Visitation and other concerns are also addressed during this hearing.

ARRAIGNMENT HEARING

The arraignment hearing occurs within 28 days of the shelter hearing. During the hearing, the parents or legal custodians enter a plea of "admit," "consent," or "deny" in response to the dependency petition. If the parents/legal custodians deny the allegations in the dependency petition, the judge will set an adjudicatory hearing within 30 days of the arraignment hearing. However, if the parents/legal custodian admit or consent to the allegations in the petition, the judge will set a disposition hearing within 15 days of the arraignment hearing unless a continuance is necessary. Rule 8.225(c)(1) requires that all parties and participants whose identity and address are known, including the child's foster parents and relative caregivers, must be notified of the arraignment hearing.

ADJUDICATORY HEARING (TRIAL)

If the parents or legal custodians deny any of the allegations in the petition, an adjudicatory hearing occurs within 30 days of the arraignment hearing. During this hearing, the judge listens to the facts of the case and determines if the child is dependent (found to be abused, abandoned, or neglected, or at imminent risk of abuse, abandonment, or neglect). Adjudicatory hearings are conducted without a jury and a "preponderance of evidence" (it is more likely than not that the allegations in the petition are true) is required to establish dependency. If the court determines that the child is dependent, then the case is scheduled for a disposition hearing.

DISPOSITION HEARING

The disposition hearing should occur within 15 days of the arraignment hearing or within 30 days of the adjudicatory hearing. During this hearing, the judge makes decisions regarding the most appropriate placement for the child, and determines the necessary protections and services.

CASE PLAN APPROVAL

During the disposition hearing or within 30 days of the disposition hearing a judge will review the case plan and may accept it or suggest changes. A case plan contains specific goals and steps the parents or legal custodians need to accomplish to address the behavior that created the risk for the child. In addition, the case plan lists the services to be provided to the child, foster parents, and legal custodians.

JUDICIAL REVIEWS

The first judicial review occurs within 90 days of the disposition hearing or the date of the case plan approval, whichever comes first, but no later than six months from the date of removal. Additional reviews occur every six months and within 90 days after the child's 17th birthday. During judicial review hearings, the court receives updates on the parents/legal custodians' case plan progress. Under §39.701(5), Florida Statutes (2009), the following people, among others, are required to be noticed of judicial review hearings: the foster parent or legal custodian in whose home the child resides, any preadoptive parent, the attorney for the child, and the child (13 years of age or older).

PERMANENCY HEARING

A permanency hearing must be held no later than 12 months after the date the child was removed from the home or no later than 30 days after a court determines that reasonable efforts to return a child are not required, whichever occurs first. At the permanency hearing, the court considers the permanency options of reunification, adoption, permanent guardianship, permanent placement with a fit and willing relative, and placement in another planned permanent living arrangement.

TERMINATION OF PARENTAL RIGHTS

Termination of Parental Rights (TPR) begins with a TPR petition. This petition alleges that the child's parents have met at least one ground for TPR. (See §39.806, Florida Statutes, (2009) for a detailed explanation of TPR grounds.) A TPR adjudicatory hearing will be held within 21 days of the court receiving the TPR petition if the parents voluntarily surrender parental rights. If the child's parents deny the charges in the TPR petition, a TPR adjudicatory hearing must be held within 45 days following advisory, unless all necessary parties agree to a different date.

DEPENDENCY COURT ACRONYMS

- **CBC:** Community-Based Care
- **CLS:** Children's Legal Services
- **CMS:** Children's Medical Services
- **DCF:** Department of Children and Families
- **DJJ:** Department of Juvenile Justice
- **DOR:** Department of Revenue
- **GAL:** Guardian ad Litem
- **JR:** Judicial Review
- **JRSSR:** Judicial Review Social Study Report
- **TPR:** Termination of Parental Rights
- **ICPC:** Interstate Compact on the Placement of Children
- **PDS:** Predisposition Study

THINGS TO CONSIDER IF CARING FOR OLDER CHILDREN

Independent Living Transition Services. Youth who have reached age 13 and are in foster care are eligible for independent living services. The goals of these services include ensuring that older foster children obtain life skills and education, and assisting them to make the transition to self-sufficiency as adults. The caregivers, case manager, and the youth should develop a written plan that includes specific goals and age appropriate activities for the youth. §409.1451(3)(a)(3), Florida Statutes (2009).

Non Age Disability. The court can remove the disability of non-age to ensure that a youth in foster care can: 1) secure financial services, such as a checking or savings account, (must be 16 years old), §743.044, Florida Statutes (2009); 2) execute a lease for residential property (must be 17 years old), §743.045, Florida Statutes (2009); and 3) secure utility services at a residential property (must be 17 years old), §743.046, Florida Statutes (2009).

Judicial Review. In addition to the regular schedule for judicial reviews, Florida Statutes require the court to hold a judicial review hearing within 90 days after a child's 17th birthday. Foster parents, legal custodians, guardians ad litem, and the child have the opportunity to address the court, particularly with information related to independent living transition services. The department must submit a judicial review social study report including "aging out" information, and an updated case plan that includes specific information related to independent living services that have been provided.

Extended Jurisdiction. A youth may petition the court at any time before the youth's 19th birthday to extend court jurisdiction for up to one year following the youth's 18th birthday. If a petition for special immigrant juvenile status has been filed, the court may retain jurisdiction over the case solely for the purpose of continued consideration of the petition by federal authorities but may not retain jurisdiction of the case after the immigrant child's 22nd birthday. §39.013(2), Florida Statutes (2009). Young adult should contact their attorney, guardian ad litem, or local dependency court for more information.

DEPENDENCY COURT FLOW CHART

For a copy of the flow chart contact the Office of Court Improvement at
(850) 414-1507.

DEPENDENCY COURT FLOW CHART

(continued)

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HELPFUL TIPS

- Arrive early at the courthouse; parking can be limited.
- Be on time for all court proceedings.
- There may be numerous people in the dependency courtroom, which can be overwhelming. The judge will call cases in an orderly fashion. Be patient.
- Court proceedings can happen very fast and can be hard to follow. Ask someone if something happens that you do not understand.
- The judge may hold more than one hearing on the same day for a single case—such as the adjudicatory and disposition hearings.
- If you are given a notice to attend a subsequent hearing, remember the date, time, and place, and keep the notice in an easily accessible place.
- The case managers can recommend numerous resources to assist you and the children in your care.
- Contact the case manager or a court representative if you do not receive notices to attend hearings or receive copies of pertinent court documents such as the case plan or judicial review social study report.

INFORMATION THE COURT MAY CONSIDER HELPFUL

Caregivers often have valuable information for the court. The information you provide is meant to assist the court in making decisions about the child in your care. You may have information about the child's physical, emotional, educational, and social development that could assist the court in deciding issues regarding the child's placement, services to the child, and visitation. You may also have information about the child's strengths, hobbies, interests, and activities that the court would find helpful. If you have been supervising visits between the child and a parent, you may have information about the parent's progress to relay to the court as well.

NOTES

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Upon request by a person with a disability, this document will be made available in an alternate format.