

Section 5: Order in the Courts





The Dependency Legal System:

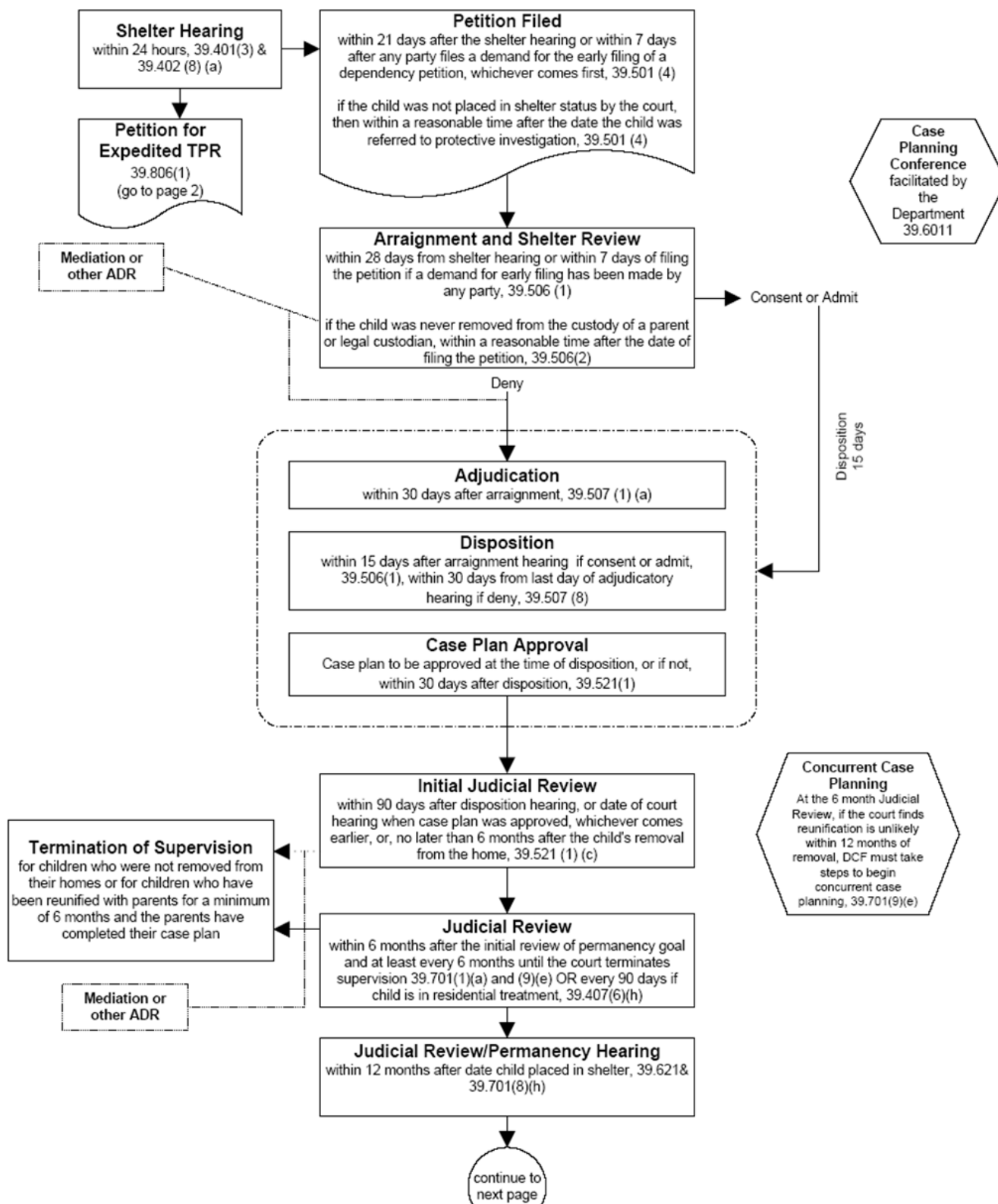
Foster Parents provide critical information to judges who make decisions about children in foster care. Foster parents can give valuable information regarding medical, dental, educational and behavioral information, child visits with the parents and/or siblings, and offer recommendations for services needed by the child. Therefore, you should make every effort to attend and participate in the child's court hearings. If you are unable to attend please feel free to provide your input to the child's case manager.

There are judicial reviews held every five to six months. These are required for all children in foster care. Their purpose is to determine how the child is doing in foster care and that efforts that are being made to ensure that child's permanency. Judicial reviews are held before a general magistrate or a citizen review panel (CRP). The CRP is comprised of 3 – 5 volunteers who assist the Juvenile Court by reviewing the child's case and providing the court with their findings and recommendations. If approved by the judge, the recommendations become court orders.

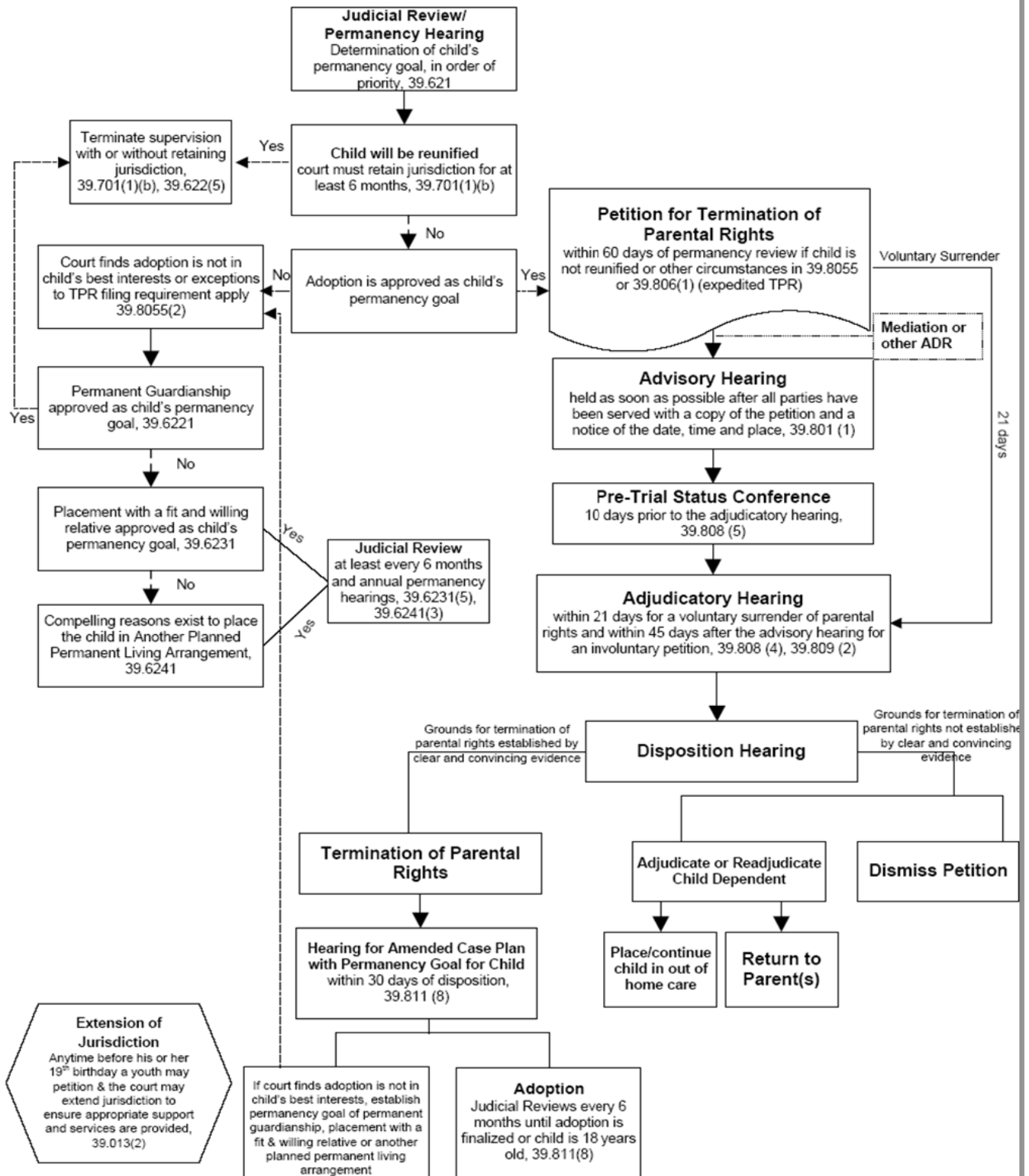
The Clerk of the Court of the 4th Judicial Circuit (located at 501 W. Adams St.) will send you a notice stating the date, time and location of the hearing. If the review is before the CRP you will also receive a letter from the staff at Foster Care Review. If you are not notified of judicial reviews, you can call your child's FSC or CLS at (904) 723-2000.

Once a child comes into care, the clock starts ticking! The case manager has ongoing deadlines that must be met to ensure the child's permanency is achieved as soon as possible. Attached is the dependency flowchart from when the child initially comes into care until permanency is achieved through reunification with his or her birth parents or adoption along with a Primer on Dependency Proceedings to assist you in better understanding the legal process.

Dependency Case Management Flowchart:



Dependency Case Management Flowchart (cont'd):





Changes in the Permanency Goals:

The following manual, Caregiver and the Courts (A Primer on Dependency Proceedings for Florida Foster Parents and Relative Caregivers), provides general information about the dependency court process. The permanency goals identified therein have been updated: In 2006, FS Ch. 39 established the following permanency goals: 1. Reunification; 2. Adoption; 3. Permanent Guardianship of a Dependent Child; 4. Placement with a fit and willing Relative; and 4. Placement in Another Planned Permanent Living Arrangement (APPLA).

As with the other four permanency goals, APPLA is planned and is intended to establish permanency for a child through a supportive relationship with a significant adult or adults that the court is satisfied will endure over time; however, it is the least preferred of the permanency goals. Compelling reasons when this placement will be pursued may include, but are not limited to:

- (1) The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability, and the child's foster parents have committed to raising him or her to the age of majority and to facilitate visitation with the disabled parent;
- (2) The case of a child for whom an Indian tribe has identified another planned permanent living arrangement for the child; or
- (3) The case of a foster child who is 16 years of age or older who chooses to remain in foster care, and the child's foster parents are willing to care for the child until the child reaches 18 years of age.



Caregivers and the Courts:

INTRODUCTION

A Primer for Florida Foster Parents and Relative Caregivers

Federal Law now gives foster parents (including pre-adoptive parents) and relatives caring for children the right to be heard in court, subject to certain restrictions. As a foster parent or relative caregiver, you are an important member of the team caring for a dependent child. You may have valuable information that would help the court make its decisions. If you want your information to have the greatest chance of being heard by the court, it is important for you to understand the legal issues judges face at different types of hearings about the child, how to assess whether certain information is appropriate for the court process, and how best to present it to the court.

This brief manual provides general information about the court process as well as, in the last section, some specific suggestions on how you can participate in the process. By providing the juvenile court with current, detailed information, you can help the court to make the best possible decisions about the child in your care.

THE COURT PROCESS

How a Case Gets to Court

The dependency process begins when someone reports suspected child abuse or neglect. The Department of Children and Families or a County Sheriff's Office under contract with the department will conduct an investigation. If the investigator believes that the child's safety requires immediate removal from the home, a petition for shelter is filed and heard by the Court within 24 hours of the child's removal. If the investigator believes that a child is in need of court protection, either with or without removal from the home, then a petition is filed to declare the child a dependent of the court. This petition is called a *Petition for Adjudication of Dependency* and alleges facts that the investigator believes are the basis of the need for protection.

Initial Hearing

Within 24 hours after a child is removed from a parent (1), the juvenile court holds an initial court hearing, called the shelter *hearing*. This hearing is the court's first chance to hear about the situation that brought the family to the attention of the Department of Children and Families (DCF). At the shelter hearing the judge decides whether the child's safety requires that she be removed from her home until legal proceedings take place on the allegations of abuse or neglect filed against the parent(s), and whether the safety of the child requires that she should stay in shelter, in the temporary custody of a relative, appropriate non-relative, or DCF.

Since the initial hearing happens very quickly after the child is removed from her home and most caregivers do not have firsthand knowledge about the events addressed by the court, you probably will not have information to submit at the initial hearing.

Adjudicatory Hearing

The child's parents have a right to a trial on the allegations of abuse or neglect charged against them. At this hearing, the court receives evidence and determines whether the allegations of abuse or neglect are true. If it decides that they are, then the court sustains or upholds the petition. To do this, the court must determine whether the alleged abuse, neglect or abandonment fits the maltreatment descriptions in Chapter 39, Florida Statutes, which authorizes the court to intervene for a child's protection.

(1) Some children live with a legal guardian. If a child is removed from a legal guardian, the court follows the same process as if the child were removed from a parent.

Most relative caregivers and foster parents will not have information on whether the child falls within one of the categories that authorize the court to take charge of the child.



Disposition Hearing

If the court declares that the child is a court dependent, the judge then decides whether the child should remain with a parent or be legally removed from the parents' care. If the child is removed from the parents, the court then considers who should care for the child. The court must consider relatives as the first placement alternative. If placement with a relative is not possible, the child is usually placed in a foster home.

In most cases, the court orders a reunification plan for the parents so that the child can return home. A reunification plan describes the responsibilities and duties of both the social services department and the parents to remedy the problems that caused the child's removal. At the disposition hearing the court can also make orders about visitation, issue restraining orders, and make any other orders the judge finds are in the best interest of the child.

The decisions that are made at the disposition hearing focus on the parents' ability to provide care for the child and on services the child and family need in order to reunify as soon as possible; input by a foster parent or relative caregiver is usually not appropriate. However, in cases where the child has been in your home for many months, you may have information about the child's needs that could assist the court.

Six-Month Review Hearing

The juvenile court must review the cases of all children placed in foster or relative care at least once every six months. At the first review hearing, information is given on the parents' progress with their reunification plan and on how the child is doing in foster care. The court may return the child to his home or may order that the child continue to live in a relative's home or a foster home.

As the child's foster parents or relative caregivers, you must be given notice of this hearing. The notice must tell you that you may attend all hearings or submit to the court, in writing, information you believe to be relevant.

Foster parents or relatives caring for a child often have valuable information about the child's physical, emotional, educational, and social development. This kind of information may help the court to understand the child's needs. If you have been supervising visits between the child and a parent, you may also have some information about the parent's progress to relay to the court at the review hearing.

Permanency Hearing

A permanency hearing must be held within 12 months of the date the child entered out-of-home care. (2) The court will decide if the child can safely be returned home or if efforts to reunify the child with his birth family should end. In some cases, the court may decide to continue trying to reunify the family. It is important to remember that terminating reunification services does not terminate parental rights. The child's parents are often able to continue visits and other involvement with the child even if the court terminates reunification services.

If the child cannot return home, another permanent plan will be selected at the permanency hearing. That plan could be adoption, long term relative placement or another planned, permanent living arrangement. The preferred choice is the most permanent home possible for the child, so the court considers first adoption. If adoption is determined by the court to not be in the child's best interest, then the following options are considered:

- Long-term custody (adult relative or other adult approved by the court)
- Long-term licensed custody
- Independent Living
- Guardianship pursuant to chapter 744

Foster parents and relative caregivers are given notice of the permanency hearing in the same way they are given notice of the review hearing.

You may have information about the child's physical, emotional, educational, and social development while in foster care that will be helpful to the court at this stage of the proceedings.

(2) A child is considered to have entered foster care on the removal date.



Post-Permanency Review Hearings

A hearing is held every six months to update the court on the child's progress and needs. This continues until either the child is adopted or until the Department's supervision over the child's long term relative placement is terminated by the court. Foster parents and relative caregivers are given notice of the hearings in the same way they are given notice of review and permanency hearings.

Once a year, the court must address whether or not the permanent plan for the child continues to be appropriate. The court can add or modify orders until the child turns 18 or until Department supervision is terminated.

Information focused on the child's physical, emotional, educational, and social progress may assist the court in deciding issues having to do with the child's placement, services to the child, and visitation.

HOW YOU CAN PARTICIPATE IN COURT HEARINGS

Federal Law

The Adoption and Safe Families Act, passed by Congress in 1997, says that foster parents, pre-adoptive parents, and any relative providing care for a child must be given notice of, and the opportunity to be heard in, any review or hearing to be held with respect to the child. It does not require that foster parents, pre-adoptive parents, or relatives providing care for a child be made *parties* to the action. This means that, although caregivers can go to court and present information, they do not have the same legal rights as DCF, the child's birth parents, or the child. Caregivers are not *required* to attend court hearings under the law.

Information the Court May Consider Helpful

The information you provide is meant to assist the court in making decisions about the child in your care. Following are some types of information that the court may find useful. You do not need to address all of these, only the ones important to the child's case. It is helpful to provide factual information, describe behavior you have observed in the child, and present information about the child's needs. In general, you should focus on giving firsthand information about the child in your care and not offer opinions about other people involved in the court process (for example, the social worker, the child's birth parents, and the attorneys involved in the case).

1. Placement Information

- The date the child came to your home and a brief description of the child's physical and emotional condition at that time.

2. Medication Information

- Doctor visits or hospitalizations since the last court hearing, and the results of those visits.
- Any medications the child is taking, and the dosages.
- Any adverse reactions the child has had to medical procedures or medications.
- A brief description of the child's physical development, and any developmental lags you have observed.

3. Dental Information

- Visits to the dentist since the last court hearing, and the results of those visits.

4. Educational Information

- The child's grade in school, and whether the child is performing at grade level.
- The dates of any school conferences you have attended, and the results of those conferences (especially if the child is in special education classes).
- Any educational testing the child has had, who administered the testing, and the results of the testing.

5. Behavioral Information

- A brief description of the child's behavior in your home.
- Any services the child is receiving to address behavioral difficulties, who is providing the services, and how often the child goes for the services.
- A brief description of how the child expresses his needs and feelings and how he calms himself.
- A brief description of the child's eating and sleeping patterns and any difficulties the child has eating or sleeping.

6. Child's Special Interests & Activities

- A brief description of any special activities the child participates in (Scouts, music lessons, church groups, etc.) and how often the child participates in them.
- A brief description of any talents, interests, hobbies, or skills you have observed in the child.

7. Visitation

- The dates of visits between the child and her parents or other family members.



- If you supervised the visits, a brief description of the behaviors of the child and the other family members present at the visits. *Carefully describe only the behavior. Do not comment on the reason for the behavior.*
 - A brief description of any arrangements for sibling visitation.
 - The dates of any telephone contacts between the child and the child's parents or other family members.
- 8. Professional Contacts**
- All in-person and telephone contacts between you and the child's FSC.
 - All in-person and telephone contacts between you and the child's attorney.
 - All in-person and telephone contacts between you and the child's Court Appointed GAL.
- 9. Recommendations**
- A brief description of any services you believe the child would benefit from, and why.

Written Reports or Court Attendance?

Remember that judges have a small amount of time to listen to the people attending the court hearing and to make decisions about the child. Some judges prefer to have information from caregivers submitted in writing to the court before the hearing. Any reports you submit will be distributed to all the other people involved in the case. Written reports should be short (a few pages) and well organized, with headings. Reports should present only facts---never opinions. If you want to submit a written report, send it to the court as soon as possible after you receive notice of the hearing. You may also want to send a copy to the child's FSC, attorney, and GAL (if the child has one).

Some judges may limit your attendance at court to answering any questions he or she has about the child. Others may allow you to make a short statement. Remember, *the court has a limited amount of time, and your comments should be short and to the point.*

Local Court Culture

The information presented here is a general overview of the dependency process and how you can participate in it. It is important to understand, however, that each judge has procedures and rules about what happens in his or her courtroom. Before submitting written material or attending court proceedings, you should check with your social worker or the child's attorney about appropriate procedures in your local juvenile court.

Foster parents and relative caregivers are important members of the team providing care for dependent children. Your goal should be to give the juvenile court current, detailed information about the child. In doing so, you can assist the court in making the best possible decisions about the child in your care.

Testifying in Court

Foster parents and relatives caring for children are sometimes called as witnesses in dependency court proceedings. If you are to be called as a witness, one of the attorneys involved in the case will generally contact you to tell you that he or she plans to ask you some questions in court. In some cases, you may receive a subpoena (a legal document the court issues telling you when and where you must come to court). In court, after taking an oath to tell the truth, a witness sits in the witness stand and answers questions from one or more attorneys about what he or she saw or (sometimes) heard.

Here are some tips for testifying in court:

- Tell the truth.
- Dress professionally (as you might for a job interview).
- Be organized and prepared.
- Be calm and sincere, especially if you are challenged or criticized.
- Be serious and polite.
- Listen carefully to each question, pause, think, and then respond directly to the question.
- Wait until the question is completed before you answer.
- When an objection is made about a question, wait to speak until the judge decides whether or not you should answer the question.
- If you do not understand a question, ask the lawyer to rephrase it.
- Answer each question completely.
- Be sure of the answer you are giving.
- Offer to explain your answer, if necessary.
- Use language you are comfortable using.
- Listen carefully when the other people in the courtroom are talking.
- Always show the highest respect for every person in the courtroom.



Caregiver Input Form

Child's Name: _____

Parent's Name: _____

Type of Placement: Foster Parent Other Licensed Care Provider Relative/Non-Relative

Caregiver's Name: _____

Caregiver's input assist the court with making decisions about what's in the child's best interest. Your perspective regarding the child's physical, emotional, educational, and social development is important. It is also important for the court to understand the type of relationship you have developed with the child and their parents to gain insight to parent progress and relationship to the child to help in deciding when it is appropriate to move forward with an in-home safety plan/reunification. This information is needed ongoing prior to each permanency staffing at the 3rd, 7th, 9th, and 11th month to assist with decision making and planning towards reunification of the child with the parent.

Please complete this form and add any additional information you would like the courts to consider regarding the child.

1. Are there any concerns for the child's physical or health that you have discussed with the child's physician? If so, did you relay this information to the parent, case manager, and the GAL? _____

2. Are there any concerns for the child's emotional stability? If so, did you relay this information to the child's therapist, parent, case manager, and the GAL? _____

3. If you have been supervising visitation between the child and parent, what information do you have regarding the interactions observed? Are there any safety concerns? _____

4. What extracurricular activities is the child participating in or any other of the child's interest that you like to share with the court? _____

Additional information: _____



Multi-Ethnic Placement Act (MEPA):

The Multi-Ethnic Placement Act (or MEPA) prohibits the delay in a child's placement on the basis of race, color or national origin. MEPA was an attempt - made by congress - to move children through the foster care system, to eliminate biases in foster care and adoptive placements and aid in the recruitment, training and utilization of foster and adoptive parents from every race, color and national origin.

The ultimate goal of MEPA is to decrease the length of time that children wait to be adopted and to ensure that children are expeditiously placed in permanent and safe homes. Consequently, the Department and FSS cannot deny any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved or delay or deny the placement of a child for adoption or into foster care, on the basis of race, color or national origin.

Confidentiality & HIPAA:

Any information relating to the child or the child abuse records is to be held confidential. Any person who willfully or knowingly makes public or discloses any information contained in the child abuse registry or the records of any child abuse case is guilty of a misdemeanor of the second degree. Therefore any information on our children that comes to your attention and knowledge as privileged and confidential will not be disclosed to anyone other than authorized persons. During your initial licensure as a foster parent and each year during your re-licensure you will be asked to review, sign and be provided a copy of the Confidentiality and HIPAA policies. We have provided a copy of the Confidentiality form in the forms section of this handbook.



Online Social Networking Policy:

The principles that were considered when examining this issue include: 1) the foster child's right to privacy, and 2) the foster child's right to live a normal life.

Use of online social networking sites to communicate with family and friends is a normal, everyday practice for most people in our modern society. Foster families and foster children are no exception. The department does not prohibit a foster family from posting images of their foster child on a social networking site, provided the child's status as a foster child is not disclosed. If a child chooses to disclose his or her foster status, such disclosure is a matter of free speech which the department has no ability, desire, or right to control.

The department strongly encourages any person posting a foster child's image to an online social networking site to use privacy settings in a manner which will protect the best interests of the child.

Direct Link to DCF Memo:

<http://www.centerforchildwelfare.org/kb/policymemos/OnlineSocialNetworkingPolicyLegalOpinion.pdf>

The Adoption and Safe Families Act (ASFA):

(Public Law 105-89) enacted in 1997

SUMMARY OF LAW:

- Emphasizes reduced time in care, safety, and consideration of the best interests of the child when deciding on permanent placement.
- Time in care: If foster care is required, length of stay in foster care should be brief. In Florida, we strive to achieve permanency within 12 months.
- Safety: Child welfare staff and foster parents must ensure the safety of children and demonstrate reasonable efforts to promote reunification if and when safety can be ensured.
- Concurrent Planning: At the same time that reasonable efforts are made to reunify children with their birth parents, efforts can also be made to identify and approve a qualified family to adopt the child. This concept is known as concurrent planning. Concurrent planning allows for the possibility of finding a foster family that could, if necessary, adopt the child should the child be unable to return home. It is ideal when a foster family can make a commitment to keep the child and adopt him/her permanently. These families provide continuity and stability for children.
- Permanent placement based on the best interest of the child: Although these laws assume that children and youth belong with their families, sometimes that is not possible. In these cases, families need help in making plans for their children and youth's long-term care.