

# Foster Parents in Juvenile Court

## A Court Reference Guide for Tennessee Foster Parents

*Foster parents bring a crucial perspective to the court's understanding of the child's best interest.*

### THE LAW

#### **Foster Parents Rights** (TCA § 37-2-415)

- (1) Treated with dignity, respect, trust and consideration.
- (2) Provided with clear explanation and understanding of roles.
- (7) Provided timely, adequate financial reimbursement.
- (8) Provided a clear written explanation of child's placement plan.
- (11) Informed of scheduled meetings and staffings.
- (12) Informed of court's decisions.
- (17) Informed of all court hearings in a complete manner.
- (19) Provided training for obtaining support and information for understanding rights and responsibilities.

#### **Notice of Review or Hearing** (TCA § 37-2-416)

- (a) DCS shall notify foster parents...providing care for the child in state custody with notice of any review or hearing to be held with respect to the child. The foster parents...shall be provided with notice of the right to be heard in any review or hearing to be held with respect to the child. This shall not be construed to require that if the foster parent has served as the physical placement for the child for a period of fewer than 9 continuous months, they be made a party to such review or hearing solely on the basis of such notice and right to be heard.
- (b) Any foster parent who has served as the physical placement for the child for a period of 9+ continuous months shall be permitted to appear for the sole purpose of presenting evidence with regard to the best interests of the child.
- (c) The court shall determine whether DCS has complied with this section.

### IMPORTANT ROLES:

**Guardian ad Litem (GAL):** A lawyer appointed by the court to advocate for the best interests of a child and to ensure that the child's concerns and preferences are effectively advocated. The GAL does not work for the court or the family. The GAL represents the child's best interests & preferences. *Tenn. Sup. Ct. Rule 40.*

**Foster Care/Social Services Family Service Workers (FSW):** DCS staff that manage cases of children in foster care and work to reunify children with their family or relatives. If that is unsuccessful, then they pursue termination of parental rights and adopted for the child.  
*DCS Job Title Overview*

### HEARING TYPES

#### **Ratification Hearing**

**What:** A hearing in which the components of the permanency plan are reviewed, examined for appropriateness, and approved by the court. The court will review the following items:

- ✓ Problems to be resolved;
- ✓ Changes in parental behavior to be achieved;
- ✓ Services provided to help achieve the changes;
- ✓ Special needs of the child & services to address those needs;
- ✓ Terms and conditions of visitation; and
- ✓ Deadlines and respective responsibilities of each party in providing services and achieving plan goals.

#### **When:**

- ✓ Initial permanency plan.
- ✓ Every subsequent change/revision to the plan thereafter.

#### **Periodic Progress Reviews or Foster Care Review Board (FCRB)**

Periodic progress reviews can occur in court or in a meeting of volunteers appointed by the court.

**What:** A hearing or meeting in which the child's safety and well-being are assessed and the progress of the parties is reviewed to keep the case moving to permanency. The court or board will assess and review:

- ✓ Progress toward permanency and re-examination of permanency goal if needed;
- ✓ Safety of the child in placement;
- ✓ The child's well-being addressed adequately through education and health;
- ✓ Visitation; and
- ✓ The obligations and performance of the parties in meeting those obligations (parents and DCS).

#### **When:**

- ✓ Ninety days after custody; every six months thereafter.

#### **Permanency Hearings**

**What:** The focus of the permanency hearing is to decide upon the final permanency outcome for the child. In determining the outcome, the court must consider:

- ✓ Whether DCS has helped the family comply with the permanency plan;
- ✓ Whether the parent(s) is compliant with the permanency plan;
- ✓ Whether the plan is in the child's best interests and the child's views on the plan, if age appropriate;
- ✓ Timelines for achieving plan goals and barriers to be addressed; and
- ✓ For youth age 17, testimony from DCS on Independent Living plan.

#### **When:**

- ✓ Permanency Hearings are required to occur on an annual basis according to federal and state law, or within 30 days of a ruling that reasonable efforts to reunify are not required.

#### **Termination of Parental Rights (TPR) Hearings**

**What:** The focus of the TPR is to determine if grounds for termination exist and if it is in the best interest of the child to terminate parental rights. Foster parents may be called as witnesses during TPR hearings, especially if they have shared parenting or are willing to adopt.

**When:** These hearings occur only when necessary.

## **Important Terms**

Dependent and Neglected (D&N) - a child:

- (A) Who is without a parent, guardian or legal custodian;
- (B) Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child;
- (C) Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school;
- (D) Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child;
- (E) Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law;
- (F) Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of such child or others;
- (G) Who is suffering from abuse or neglect;
- (and others (H) - (J)). *TCA § 37-1-102 (13).*

Permanency Planning - The process that guides the efforts to ensure that all children in custody attain a permanent living situation as quickly as possible. *DCS Administrative Policies and Procedures: 16.31*

### **Questions the Court Might Ask:**

- ✓ How long have you known the child? Did you have a relationship with this child before you became the child's foster parent?
- ✓ Do you have any special training or experience related to caring for children?
- ✓ What was the physical and emotional condition of this child when he or she first came into your home?
- ✓ What changes have you noticed in the child's behavior, emotions, and physical condition since being in your home?
- ✓ Describe the child's typical day.
- ✓ Describe your relationship with the child's birth parents.
- ✓ Have you observed the child interacting with his or her parents? Can you describe the interaction?
- ✓ Describe the nature of the child's contact with the birth parents; i.e.: dates, length of visits, phone calls, gifts, etc.
- ✓ How does the child react and/or behave before and after contact with his or her birth parents?
- ✓ How is the child doing in school (academically, socially, behaviorally)?
- ✓ How is the child's health? When was the last time the child went to the doctor and dentist? Are all referable conditions being addressed as far as you are aware?

## **Tips for Participating in Court or FCRB**

- ✓ Try to stay informed about court dates and times. Speak up and ask for information if you do not feel you are getting what you need. Reach out to GAL\*, FSW\*, or CASA (\*See side 1: Important Roles).
- ✓ Ask the GAL or FSW involved with the case to explain the purpose of each hearing to you and to help you understand your role.
- ✓ Always arrive at least 15-30 minutes early for court hearings to allow time to get through security and find the correct courtroom.
- ✓ Check with the FSW and/or GAL about bringing the child or children whose hearing you are attending. Make sure you have child care arranged for other children in your care.
- ✓ Dress professionally.
- ✓ Bring records with you. This can include notes you have made about the child's progress while in your care, a log of doctor's appointments, school records, and notes related to visits with the birth family.
- ✓ Keep in mind that any written materials you bring may be requested and copied by attorneys or court staff for the official record.
- ✓ When you speak, speak slowly and clearly, using plain language. Refer to the judge as "Your Honor".
- ✓ Be as clear and complete as possible when responding to questions and offering information about the child so that the judge will have information upon which to make a decision.
- ✓ Avoid appearing to be hostile to or against the birth family. The court often listens best to foster parents who have truly attempted to work with birth families and who are not focused on a personal objective.
- ✓ When you are asked to give sworn testimony (i.e. under oath) make sure you understand what this means.
- ✓ If your religious beliefs prevent you from taking an oath, inform the lawyers and social worker ahead of time so that an alternate pledge can be arranged.
- ✓ Talk to other foster parents about their experiences in court.
- ✓ Relax: remember, you are an important part of the team!

\* *Questions and Tips adapted from New York State Citizens' Coalition for Children, 2006 (<http://nysccc.org/>) and Fostering Perspectives, from The Jordan Institute for Families: <https://fosteringperspectives.org/fpv13n2/court.html>*