

# Guide for Resource Family Court Participation in Pennsylvania.

## **Guide for Pennsylvania Resource Family Court Participation-Foster Parents, Kinship, Adoptive, PLC.**

Children in Pennsylvania will be better served if resource parents (foster parents and relative caregivers) attend and participate in court hearings. This booklet will help resource parents provide information about children to the court and to the local child welfare agency (Children and Youth). This booklet will also help resource parents give information in the most effective way and learn how to work with the court and Children and Youth.

Resource parents are often in the best position to give an account of the child's well being. They see the child every day and have an understanding of the child's development, needs, routines, likes, dislikes, etc. That level of knowledge cannot be achieved by courts or agencies having limited contact with the child.

### Reasons resource parents should participate

There is a new focus on getting resource parents to attend and participate in court. In the past, they rarely participated because of their own fears and beliefs, or the beliefs and misconceptions of others in the system. Resource parents often felt if they spoke in court they may be reprimanded, misunderstood, or would anger the judge and/or Children and Youth into retaliation by removing the child.

Another reason resource parents did not attend court was that sometimes there was an extended wait for the case to be called. Resource parents generally work regular business hours and have to take time off. Long court waits, delays and reschedulings discouraged participation.

However, it's important to know that resource parents have valuable information that the court and all parties should hear. Writing a letter or attending the court hearing are both good ways to get that information out. We are working with the court to ensure that resource parents are encouraged to participate.

### Notice and Right to be Heard

The Adoption and Safe Families Act (ASFA) recognizes that resource parents often have valuable information that will help the court make its decisions. Under ASFA, resource parents must be allowed to have input at periodic review and permanency hearings. With that being said Congress found that many agencies were not reliably providing this notice as required by federal law under ASFA. Therefore, Congress wanted courts to ensure that the foster parents, relative caretakers, and pre-adoptive parents actually receive notice and have the **RIGHT** to be heard. In order to insure resource family participation, congress passed a new law, Social Security Act section 438(b)(1), 475(5)(G), 42 U.S.C. §629g(b)(1), 675(5)(G). Now to be eligible

to receive a CIP grant under this section, the highest State court must have a rule that requires state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of children in foster care are notified of any proceeding regarding a child. State agencies must also ensure that foster parents of a child and any preadoptive parent or relative providing care

for the child, are provided with notice of, and have a right to be heard in, any proceeding to be held with respect to the child. Pennsylvania also passed Act 76 to reinforce the new Federal Statute giving foster parents the **RIGHT** to participate. Pennsylvania also passed house bill 1511 and the Governor signed it in to law as act 109 Of 2008. Act 109 of 2008 allows resource families to provide written documentation to be presented in court. There is a standard document developed by the Department of Public Welfare to provide written testimony. This document does not have to be used but is a good model to cover all the bullets in the statute. The document is made available for resource families at the end of this guide and may be used by any resource family or provider.

#### What if resource parents do not receive notice?

Contact the social worker (or social worker's supervisor) or ask the child's attorney when the hearing is. If you continue to not receive notices, send a request to the judge or the county attorney asking that you get notice. When you do appear in court, tell the judge you would like to receive notice of the hearings.

#### Who attends court hearings

Usually the social worker and his or her attorney, the child(ren) and attorney, the parents and their attorneys, the resource parents, and a CASA. Other relatives and service providers might also be in attendance.

#### Resource Parents Status

Parties are the official people involved in each case. Children and Youth is one party, the child is another party, and the parents are a third party. Most parties to a case are represented by a lawyer. They have access to court documents, may file motions to request court orders, and call and cross-examine witnesses. ASFA does not require juvenile courts to make resource parents parties to a case.

#### Procedures for the Courtroom

If possible (not necessary), resource parents should call the social worker or his/her supervisor to let them know they are coming. When resource parents get to court, approach the social worker and let him/her know you are present. When the case is called, stand and approach the front of the courtroom. The county attorney will introduce the resource parents to the Master/Judge. Resource parents will be told when they can speak.

## Maximizing the Opportunity in Court

You can provide information to the court either verbally or in writing. Most courts hear a large number of cases each day. As a result, judges have very little time to spend at each hearing listening to court participants and making decisions about the child and family. Resource parents must be prepared to clearly state their comments to the court, usually in less than two or three minutes. Writing down two or three main points on an index card may help remind the resource parents of the most important information to tell the judge.

If you are submitting something in writing:

Make sure that your writing is focused on the child

Find out what the court will be deciding at the hearing and only provide information that will assist the court in making those decisions.

Provide facts, not opinions.

Avoid negative comments about the birth parents and others involved in the case.

Attach supporting documents (school and doctor reports, letters sent by parents, etc.) if appropriate.

If possible, submit written document before the hearing.

Bring five additional copies with you to court (for mother, father, guardian ad litem, social worker, and the court).

## Suggested topics for the court

Resource parents are encouraged to choose three to five of the following topics. You need not cover them all.

Placement information – How long the child has been in the foster home.

Medical Information – Doctor visits or hospitalizations since the last court hearing, and the result 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 the foster parents have observed.

Dental Information – Visits to the dentist since the last court hearing, and the results of those visits.

Educational Information – The child’s grade in school and whether the child is performing at grade level. The dates of any school conferences foster parents have attended and the results of those conferences (especially if the child is in special education).

Behavioral Information – A brief description of the child’s behavior while in the resource parents’ home. Any services the child is receiving to address behavioral problems, who is providing the services, and how often the child goes for the services. A brief description of how the child expresses his feelings and needs. A brief description of the child’s eating and sleeping patterns and any problems the child has eating or sleeping.

Child’s Adjustment to Living Arrangement – A brief description of the child’s social skills and peer relationships. A brief description of how the child is interacting with other members of the resource family.

Child’s Special Interests and Activities – A brief description of any special activities the child participates in (Scouts, music lessons, religious groups) and how often the child participates

Visitation – The dates of visits between the child and her parents or other family members. A brief factual description of the child’s behavior (and, where relevant, physical appearance) before and after visits. A brief description of any arrangements for sibling visitation. The dates of contacts between the child and the child’s parents or other family members including telephone, letters, email.

Professional Contacts – Any in person and/or telephone contacts between foster parent and caseworker, GAL, and CASA.

Willingness of the Foster Parent to Adopt or Become a Legal Guardian – If services to the child’s birth parent have not been terminated, the ability of the resource parents to adopt or become a legal guardian for the child if he cannot return home.

The child’s need for any specialized services that she is not currently receiving. (For example, Independent Living Services, tutoring, mental health services, disability assessment, etc).

A photograph of the child.

### Tips for Testifying/Presenting to the Court

Resource parents should arrive 15-20 minutes before the scheduled hearing. The judge likes to start on time, so it is important to be prompt.

If resource parents don’t understand an attorney or judge’s question, do not answer the question until you understand it. Ask the judge.

Do not guess at an answer and never lie.

Be prepared to make a concise statement.

Use language you are comfortable using.

If an attorney makes an objection while you are testifying, stop talking and wait for the judge/master to tell you to continue.

Resource parents must show the judge respect and always address him or her as “Judge” or “Your Honor,” use good eye contact, and be polite and attentive. Dress professionally.

### **How a case comes to court.**

#### Investigation

When Children and Youth receives a report of suspected abuse or neglect, they conduct an investigation. If Children and Youth believes that the child needs court protection they file a petition to declare a child dependent. They can also provide voluntary services to the family and monitor the situation.

#### Shelter Care Hearing

If the child is involuntarily removed from the home, within 72 hours, the court must hold a Shelter Care hearing. The judge:

Appoints an attorney for the child.

If parents are present and it's appropriate, appoints an attorney for the parents.

Hears about the circumstances that led to the child's removal.

Decides whether the child's safety requires her to be removed from home.

Determines whether the child should be placed with Children and Youth, a relative, or some other safe place.

Because this hearing happens relatively quickly, most resource parents are not provided written notice but are provided verbal notice by the social worker.

#### Adjudication Hearing

This hearing usually happens within 10 days of the dependency petition being filed if the child is placed out of the home. At this hearing, the court:

Receives evidence and determines whether the allegations of abuse or neglect are true.

Decides whether the child is dependent based on the proven allegations.

Most resource parents will not have information that would help the court to make a determination about the allegations so would not attend. However, Pennsylvania law requires notice to be given to resource parents. Like shelter care hearings, notice is usually given verbally for adjudication hearings.

### Disposition Hearing

If the Court finds that the allegations are true and that the child is dependent, the Court then has several options based on what is in the best interests of the child.

Dismiss the case

Place the child back with the family with protective supervision with Children and Youth

Continue the child in the custody of Children and Youth for placement

Place the child with a relative or other appropriate caregiver

The court then can make orders concerning visitation, services for the child and family, and other orders the judge finds are in the best interests of the child. All parties have input into these decisions. Children and Youth submits the petition with recommendations.

Usually the disposition and the adjudication hearing are held on the same day. Because decisions made at the disposition hearing generally focus on the parents' ability to provide care for the child and services that the family will need to reunify, resource parents' input is not appropriate. However, Pennsylvania law requires notice to be given to resource parents.

### Permanency Planning Hearing

Cases must be reviewed by the court at least every six months. Sometimes cases are reviewed more frequently. The permanency plan is established and the court reviews efforts that have been made to achieve this plan. The purpose is to assess how the child is doing in foster care and the progress the parents have made towards reunification and on their plan. The intent for these hearings is that they are meaningful reviews by the court of the progress towards permanency. Resource parents are required to receive notice of this hearing and have the opportunity to provide input. Resource parents should provide input to Children and Youth and the court.

Under federal and state law, there are five permanency plans that an agency and judge can choose from for the child. Each plan requires certain efforts to be made to achieve the plan. Here are the plans:

Reunification – This plan is usually in place at the beginning of a case. The agency works with the parents to fix why the children came into care so the children can be placed back home.

Adoption – This plan is the second preferred option and can only proceed after both parents' rights are terminated. Children and Youth should not wait until an adoptive home is waiting before freeing the child for adoption. However, the court should make a full inquiry as to whether there are any adoptive resources and what the agency is doing to find one. Sometimes there is contact with the birth family after an adoption takes place. In Pennsylvania, children 14 and older have a say in whether they want to be adopted.

Permanent Legal Custodianship (PLC) or Subsidized Permanent Legal Custodianship (SPLC) – When there is someone in the child's life that wishes to care for the child, but adoption has been ruled out, PLC or SPLC may be the best plan. PLC and SPLC are intended to be permanent and self-sustaining. A significant number of parental rights are transferred to the custodian with respect to the child (protection, education, custody, decision making).

Placement with a fit and willing relative – Relatives sometimes do not want to adopt because of loyalties to the parent but are willing to be a permanent placement for the child.

Another Planned Permanent Living Arrangement (APPLA) – This plan may only be chosen if Children and Youth documents compelling reasons why none of the other plans are chosen. APPLA is meant to be planned and permanent. It should include services and supports necessary to make the placement as permanent as possible. Connections for the child should be sought through supportive adults. APPLA does not rule out a child living in foster care until adulthood, but it does require the foster parent to commit to raising the child until adulthood. It is unacceptable for the child to be placed in foster care and then moved from home to home. If the resource parents need extra supports or services to make a long-term commitment, they should notify Children and Youth.

Foster parents and relative caregivers should be participating in permanency hearings and providing input to Children and Youth and the courts.

### Termination of Parental Rights Hearing

When a child has been in the care of Children and Youth for 15 out of the last 22 months or when the parents have committed serious enough acts to waive their rights to reunification efforts or when they have abandoned their child, a termination of parental rights petition is filed. At this hearing the judge determines whether the parental rights of these parents to this child should be ended forever. Resource parents may be called to testify either for the termination or against it.

Note: There may be an occasion during the hearing when the Master/Judge may close the hearing to the public or request that the resource parents leave the courtroom. Resource parents will be able to provide input in these instances but then must leave the courtroom.

Developed in 2005 by the American Bar Association and Lancaster County Permanency Barriers Project. Updated with permission from ABA and Lancaster County Children and Youth in 2009 by Pennsylvania State Resource Family Association, to reflect new Federal Statute

Social Security Act section 438(b)(1), 475(5)(G), 42 U.S.C. §629g(b)(1), 675(5)(G) and Pennsylvania State Statute's (Act 76 of 2007) (Act 109 of 2008).

Copyright © 2008 American Bar Association

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

The American Bar Association Center on Children and the Law is a program of the Young Lawyers Division.

Nothing contained in this workbook is to be considered as the rendering of legal advice for specific cases by any of the parties mentioned in this document, and readers are responsible for obtaining such advice from their own legal counsel. This book and any forms and agreements herein are intended for informational and educational purposes only.

Research performed on Westlaw compliments of West Group.

**RESOURCE FAMILY REPORTING FORM ATTACHED BELOW**

**RESOURCE FAMILY REPORTING FORM**

County Court: \_\_\_\_\_  
Judge/Official: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Subject Child Information

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Resource/Kin Caregiver(s') Information (CONFIDENTIAL)

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

County Children and Youth Agency/Worker Information

Agency name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Primary worker's name: \_\_\_\_\_

Primary supervisor's name: \_\_\_\_\_

Provider Foster Care Agency/Worker Information, (if applicable)

Agency name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Provider worker's name: \_\_\_\_\_

Day Care/School Information

Name/location: \_\_\_\_\_

Grade/Special Education Class (if applicable): \_\_\_\_\_

Academic performance (if applicable): \_\_\_\_\_

Attendance/behavior concerns: \_\_\_\_\_

\_\_\_\_\_

### Home adjustment

Interaction with you/other adults in home: \_\_\_\_\_

\_\_\_\_\_

Interaction with other children in home: \_\_\_\_\_

\_\_\_\_\_

Respect for belongings/other's property: \_\_\_\_\_

\_\_\_\_\_

Physical and/or emotional issues: \_\_\_\_\_

\_\_\_\_\_

### Family Visits (if applicable)

Frequency/location with parents/guardians: \_\_\_\_\_

Supervised: Yes \_\_\_ No \_\_\_

Frequency/location with siblings: \_\_\_\_\_

Supervised: Yes \_\_\_ No \_\_\_

Frequency of phone contacts with parents/guardians: \_\_\_\_\_

Supervised: Yes \_\_\_ No \_\_\_

Frequency of phone contacts with siblings: \_\_\_\_\_

Supervised: Yes \_\_\_ No \_\_\_

Concerns/Issues with family interactions: \_\_\_\_\_

\_\_\_\_\_

Worker Contacts

Frequency/location with child: \_\_\_\_\_

Does worker spend time with child alone? Yes \_\_\_ No \_\_\_

Does the child seem satisfied with the level and quality of worker contact level? Yes \_\_\_  
No \_\_\_ If 'no', what improvement would child like to see? \_\_\_\_\_

\_\_\_\_\_

Frequency/location with you: \_\_\_\_\_

Does the worker spend time with you without child present? Yes \_\_\_ No \_\_\_

Are you satisfied with the level and quality of worker contact? Yes \_\_\_ No \_\_\_  
If 'no', what improvement would you like to see? \_\_\_\_\_

\_\_\_\_\_

Other Service Provider Information (if applicable)

Does the child receive other services? Yes \_\_\_ No \_\_\_

If 'yes', do these meet the needs of the child, in your opinion? Yes \_\_\_ No \_\_\_

If 'no', please explain: \_\_\_\_\_  
\_\_\_\_\_

In your opinion, are there services the child needs that the child is not receiving?  
Yes \_\_\_ No \_\_\_

If 'yes', please explain: \_\_\_\_\_  
\_\_\_\_\_

Other Concerns/Comments/Recommendations

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Please attach other sheets if more room is needed.)

Signed: \_\_\_\_\_ Date completed: \_\_\_\_\_  
Relationship to child: \_\_\_\_\_