

GUIDANCE FOR INCORPORATING FOSTER PARENTS & OTHER CARETAKERS IN CHINS AND TPR HEARINGS

Foster parents¹ have important information about the needs of the children in their care and offer a unique perspective. The information provided at court hearings helps Judicial Officers make decisions that are in the best interest of children. Indiana law gives foster parents the right to be heard and participate in CHINS and TPR hearings even if they are not a party and have not intervened in the case.

Create a Welcoming Courtroom Environment

- Explain the purpose of the hearing.
- If this is the first hearing at which a foster parent is present, clarify everyone's role and responsibilities.
- If permitted, confirm whether DCS has provided the foster parent with a copy of the court report. If the court makes the decision not to provide a copy of the report, consider explaining the reason on the record.
- If not previously filed, ask the foster parent or DCS attorney whether the foster parent prepared a written report for the hearing².
- If the foster parent is not present, question the DCS attorney about whether DCS provided the foster parent with notice of the hearing.

Engage Foster Parents During the Hearing

- Allow the foster parent the opportunity to participate in the hearing in accordance with the relevant statutory provision(s).
- Inquire whether the child or foster parent has any unmet needs.
- Provide the opportunity for the foster parent to ask questions.

Facilitate Understanding of Decisions and Next Steps

- Summarize court findings and their meaning on the record.
- Explain the reasoning behind key decisions, including changes to the permanency plan, child's placement, parenting time schedule, and services.
- If the case is continued, document good cause both on the record and in the written order.
- Provide the next court date, time, and location on the record and in the written order.
- When appropriate, encourage communication and collaboration between foster parents and parents.

¹ For the purposes of this document, "foster parent" includes licensed foster parents and other caretakers such as relatives and other individuals who have a significant or caretaking role to the child.

² Ensure all parties have received a copy of the foster parent's written report and have an opportunity to respond. Once a foster parent court report arrives in your queue, order the clerk to serve it upon all parties. DCS has a copy of a reporting form for foster parents https://www.in.gov/dcs/files/Indiana_Relative_Kinship_Foster_Placement_Reporting_Form.pdf

NOTICE & OPPORTUNITY TO BE HEARD

Notice of time, place and purpose to foster parent

Court **shall** provide a foster parent with an opportunity to be heard and allow them to make recommendations.

- Detention Hearing (I.C. 31-34-5-1)
- Initial Hearing (I.C. 31-34-10-2)
- Factfinding Hearing [does not specify they can give recommendations] (I.C. 31-34-11-1)
- Dispositional Hearing (I.C. 31-34-19-1.3)
- Modification Hearing (I.C. 31-34-23-3, I.C. 31-34-23-4)

Review & Permanency Hearing (I.C. 31-34-21-4)

- Notice, opportunity to be heard, and make recommendations.
- Permits a written statement; if properly served can be made a part of the record.
- Right to present oral testimony and cross-examine witnesses.

Termination of Parental Rights (I.C. 31-35-2-6.5)

- Notice, opportunity to be heard, and make recommendations.
- Permits a written statement; if properly served can be made a part of the record.
- Foster parent is not a party as a result of notice and opportunity to be heard.

DCS COURT REPORTS

Dispositional Hearing (I.C. 31-34-19-2(c)(4))

Foster parent shall be given a fair opportunity to controvert any part of the report admitted into evidence.

Review or Permanency Hearing (I.C. 31-34-22-1(b))

If the child is placed in foster care, DCS shall consult with the foster parent about the child's progress and shall include information gathered in the report.

Copies of DCS Reports (I.C. 31-34-22-2)

Review of the dispositional decree including periodic review or permanency hearing reports.

- The report shall be made available to the foster parent at least 48 hours before the hearing
- Court may determine on the record that the report should not be made available if it contains information that should not be released. Alternatively, a factual summary may be provided.

CHANGE OF PLACEMENT

(I.C. 31-34-23-6) If DCS requests change of placement of a child who has been in the same out-of-home placement for at least 1 year:

- The foster parent may indicate in writing that they do not intend to contest and waive the right to request a hearing.
- Notice of the motion is required to be provided.
- A written objection must be filed within 10 days of service of the notice.
- If a child's foster parent objects a hearing must be held.

INTERVENTION

(I.C. 31-32-2.5-1) An individual who provides care and supervision of a child as a foster parent or long term foster parent⁵ may intervene as a party during any stage of a CHINS or TPR proceeding if a petition to intervene is filed and specific findings are made.

Findings for intervention (I.C. 31-32-2.5-3):

- A court shall grant a petition to intervene if the court determines intervention by the petitioner is in the best interests of the child.
- A court shall grant a petition to intervene in a CHINS proceeding if the court determines that: (1) the petitioner has provided care and supervision for the child for at least 12 months following initial removal, regardless of whether the months are consecutive; (2) a TPR petition has been filed; or (3) the child has been removed from the home for at least 12 months and the petitioner has filed a petition for adoption or guardianship of the child.
- A court shall grant a petition to intervene in a TPR proceeding concerning a child for whom the petitioner is providing care and supervision.

Hearing (I.C. 31-32-2.5-2)

- Generally, a court may grant or deny a petition to intervene with or without a hearing.
- A hearing is required if:

CHINS: the petitioner is a long-term foster parent and a TPR petition has been filed; the petitioner has filed a petition to adopt; or the court ordered permanency plan is no longer reunification.

TPR: the petitioner is a long-term foster parent.

³ Indiana's delinquency code has similar procedures regarding notice, opportunity to be heard, and reports.

⁴ If a party requests a separation of witnesses pursuant to Ind. Evidence Rule 615, consider allowing the foster parent to testify first so they can stay in the courtroom for the remainder of the hearing.

⁵ A long-term foster parent is defined as a foster parent who has provided care and supervision for a child for at least the 12 most recent months, for at least 15 of the most recent 22 months, or if the child is less than 12 months of age, for at least 6 months.