



Relative and Kin Rights

Disclaimer: This is not a comprehensive list of all rights and responsibilities that you may have and is intended to help you think of questions you might want to ask and to help you advocate for yourself in various circumstances. If you have questions about your rights or your specific case, we encourage you to contact a qualified attorney with experience representing parents, guardians, and custodians in child protection matters.

Who is a “Participant”?

- Grandparents the child lived with at any point within two years before petition was filed
- Relatives or other persons providing care for the child and other relatives who request notice
- Current foster parents, persons proposed as permanent foster care parents, and persons proposed as pre-adoptive parents
- Any other person the court considers important to resolving the matter in the best interest of the child

Participant Rights

- Any foster parent, pre-adoptive parent, relative providing care for the child, or relative the agency recommends TOC/TPLPC of the child shall have a right to be heard in any hearing regarding the child and receive notices of hearings.
- A foster parent, pre-adoptive parent, or relative providing care for the child are not required to be made a party to the matter.
- Any other relative may request, and must be granted, an opportunity to be heard and receive notices of hearings.
- Legal representation (at their own expense).

Who is a “Party”?

Generally, relatives are not Parties to the case unless:

- They intervene or are joined as a party
- Grandparents the child lived with at any point within two years before petition was filed, have a right to participate as a Party;
- The court has deemed them “important to a resolution that is in the best interests of the child”;
- In permanency/TPR proceedings, when relative is recommended as a permanent custodian of the child; or
- In permanency/TPR proceedings, if the relative is entitled to notice of adoption

proceedings involving the child.

- For an Indian child, the child’s Indian custodian or child’s Indian tribe are parties

The court has discretion to grant others Party status (i.e. intervention motion or petition for TOC/TPLPC) – a TOC/TPLPC petition filed by another party or motion for adopt placement gives the proposed custodian party status for the limited purpose of the petition/motion

Party Rights

More rights than Participants which include:

- Notice/attend hearings, fully participate in legal proceedings, participate in settlement negotiations, and appeal court decisions
- Legal representation (at their own expense) unless the relative was the legal guardian/custodian of the child prior to the filing of a petition/removal of the child (then at county expense)

All Relatives May Engage in the Care and Planning for the Child (unless prohibited due to safety reasons or determination of the Court) Including:

- Case planning/identify strengths and needs of the child and parents
- Ask to be considered as a placement option without delay
- Seek foster care licensing for placement/appeal foster care licensing denial
- Be support person to child, parent, and other caregivers
- Visit child/supervise visits with parents
- Provide respite care/have vacation visits
- Provide transportation
- Identifying other relatives as potential placement
- Maintain child’s activities and contact with friends and relatives, including supervision at activities

- Participate in family/permanency team if the child is in a qualified residential treatment program

Agency Responsibilities

The agency must use due diligence (take reasonable steps) to provide oral or written notice to relatives until the court decides the agency made reasonable efforts to conduct a relative search. The agency must document how and when notice was given in the case record. Notices must inform relatives:

- Either before removing the child, within 30 days of removal, or every time the child is moved, of the need for a foster home for the child, the option to become a placement resource for the child, in what order/the priority people are considered for placement, and the possibility there is a need for a permanent placement – relatives must respond within 30 days of receiving a permanency notice;
- Of the relative's responsibility to keep the agency and court informed of the relative's current address to receive notice if permanent placement is sought for the child and to receive notice of the permanency progress review hearings. Relative who fails to provide a current address to the agency and court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearings, until the relative provides a current address to the agency and court;
- That relatives who initially decide not to be a potential permanent placement resource or participate in planning for the child shall not have such decision be relied on as the sole reason to not be considered in the future or ruled out by the court;
- That the relative may participate in the care and planning for the child, including that the opportunity may be lost by failing to respond to notices;
- Of the family foster care licensing and adoption home study requirements, including how to complete an application and request a variance from licensing standards that do not present a safety or health risk to the child in the home, and

supports, including financial, that are available for relatives and children who reside in a family foster home;

- Of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right to be heard by the court;
- That regardless of the relative's response to the notice sent under this subdivision, the agency is required to establish permanency for a child, including planning for alternative permanency options if the agency's reunification efforts fail or are not required; and
- That by responding to the notice, relatives may receive information about participating in a child's family and permanency team if the child is placed in a qualified residential treatment program

The agency does not have to send notice to a relative who becomes known to the agency after an adoption placement agreement has been fully executed. However, if the relative wants to be considered for adoptive placement of the child after the parent's rights are terminated, the agency must inform the relative of the relative's ability to file a motion for adoptive placement –

- If a relative has a valid adoption home study (not the same as a background study), they should file as soon as termination has occurred but no later than 30 days after notice of a fully executed adoption placement agreement (if the relative is entitled to notice).

All relatives, regardless of status, have a right to not be discriminated against based on disability, age, race, sex, religion, ethnic origin, economic status, or sexual orientation.



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