

The foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard.

ADOPTION AND SAFE FAMILIES
ACT, 42 U.S.C. 675(5)(G)



If you are a foster parent, pre-adoptive parent, or relative caregiver for a child who is in foster care, the Adoption and Safe Families Act (ASFA) requires that you be “provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child.” This ASFA requirement means that you must be provided with timely notice of and an opportunity to be heard in review hearings and permanency hearings held with respect to the child during the time the child is in your care. However, they do not include the right to standing as a party to the case.

This brochure explains the application of these requirements in Virginia as they relate to the review of foster care cases in Juvenile and Domestic Relations District Courts (the “court”). A description of the participants in the case is included, along with what you may expect by way of notice and “a right to be heard.”



Court Improvement Program

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Supreme Court of Virginia

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ADOPTION AND
SAFE FAMILIES ACT:

Applying the

Notice and Right to Be Heard

provision in Virginia’s
Juvenile and Domestic
Relations District Courts

COURT IMPROVEMENT PROGRAM
Office of the Executive Secretary
Supreme Court of Virginia



Case Participants

Department of Social Services Attorney. (This Department may also be called **Family Services or Human Services**.) The attorney representing the local department of social services. This attorney presents information to the court about what the local department of social services believes the court should do for the child and family.

Parent’s or Guardian’s Attorney. The attorneys representing the child’s parents or guardian.

Guardian Ad Litem (GAL). The attorney appointed by the court to speak on the child’s behalf and represent the child’s best interests. The GAL is a full and active participant in the proceedings who independently investigates, assesses, and advocates for the child’s best interests. However, the court has the decision-making power.

Court-Appointed Special Advocate (CASA). A volunteer advocate for the child appointed by the court. The CASA volunteer has five major duties: (1) investigate the circumstances of the case; (2) submit to the court a written report of the investigation; (3) monitor the case to ensure compliance with court orders; (4) assist the guardian ad litem; and (5) report allegations of abuse or neglect to the local department of social services. Note that not all communities have a CASA program.

Judge. The judge of the court presiding over the case.

Family Services Specialist. The child’s Family Services Specialist with the local department of social services. The Family Services Specialist’s responsibilities include case management and service coordination.

Notice of Court Hearings

Identified below are the court proceedings of which you should receive notice. Note that the time requirements provided are general in nature.

FOSTER CARE REVIEW.

Held within 4 months of the disposition hearing at which the initial foster care plan was reviewed. The disposition hearing is to be held within 60 days of the preliminary hearing.

INITIAL PERMANENCY PLANNING.

Held within 5 months of the four month foster care review.

SECOND PERMANENCY PLANNING.

Held within 6 months of the initial permanency planning hearing, if an interim plan is approved at that time.

ANNUAL FOSTER CARE REVIEW.

Held annually for a child who remains in foster care after termination of parental rights or placement in permanent foster care.

Before a foster care review hearing or permanency planning hearing is held by the court, the local department of social services will file a petition and the child’s Foster Care Service Plan with the court. At this time, the local department of social services will also provide the court with your name and contact information. The court clerk’s office will mail you a copy of the Foster Care Service Plan and notify you of the date and time of the next court proceeding.

Virginia law also requires that you be provided with written notice of the termination of parental rights hearing. This notice should inform you that you may appear as a witness at the hearing to give testimony and otherwise participate in the proceeding.

In addition to the court proceedings referenced above, you may also receive notice of the initial foster care review hearing. This is the first time that the court will be presented with a Foster Care Service Plan for the child. The timing of the initial foster care review hearing will depend on the underlying petition that brings the child into foster care.

Right to Be Heard

The Adoption and Safe Families Act provides that foster parents, pre-adoptive parents, and relative caregivers have a “right to be heard” in foster care review hearings and permanency planning hearings. This provision is intended to provide you with an opportunity to give input about the child in your care. However, whether you are asked to speak in court may depend on the following:

- The development of case strategies and the presentation of evidence to the court by the attorneys, including the guardian ad litem. These presentations of evidence may or may not include your testimony.
- Your contact with the child’s Family Services Specialist, guardian ad litem or Court-Appointed Special Advocate, or with the parent’s or guardian’s attorney or the attorney for the local department of social services, during which you provide them with information about the child that they can communicate to the court.

If additional or clarifying information is needed by the court, beyond the evidence presented by the attorneys and guardian ad litem, some judges may ask you questions in open court.

If you have information that you want to share with the court, you should feel comfortable notifying the attorney for the local department of social services, the attorney for the parents or guardian, and/or the guardian ad litem that you would like to address the court.

Understand that if you speak in court, the attorneys, the guardian ad litem and/or the judge may ask you questions.

So that the child’s needs can be met through available services, please do not wait until a court hearing to inform the Family Services Specialist of any problems or concerns you have regarding the child.

