

**THIRTY-FIRST ANNUAL INDIANA FOSTER CARE AND
ADOPTION ASSOCIATION TRAINING CONFERENCE...
BECAUSE IT'S WORTH IT!!**

November 13, 2003

“Foster Parents’ Rights in the Courtroom”

1:00 p.m. – 1:30 p.m.

Presented by:

Derelle Watson-Duvall

Attorney at Law

Children’s Law Center of Indiana

5172 E. 65th Street

Indianapolis, IN 46220

Phone: (317) 558-2870, ext. 50

Fax: (317) 558-2945

E-mail: info@clcind.org

Copyright 2003 CLCI

All Rights Reserved

Foster/ Prospective Adoptive Parents' Courtroom Rights:

1. Notice of Periodic Case Review Hearing and Permanency Hearing

I.C. 31-34-21-4 (b)

2. Right to be heard including:

a. Right to submit written statement

b. Right to present oral testimony

c. Right to cross-examine (I.C. 31-34-21-4 (c))

3. Right to petition to intervene.

(I.C. 31-34-21-4.5)

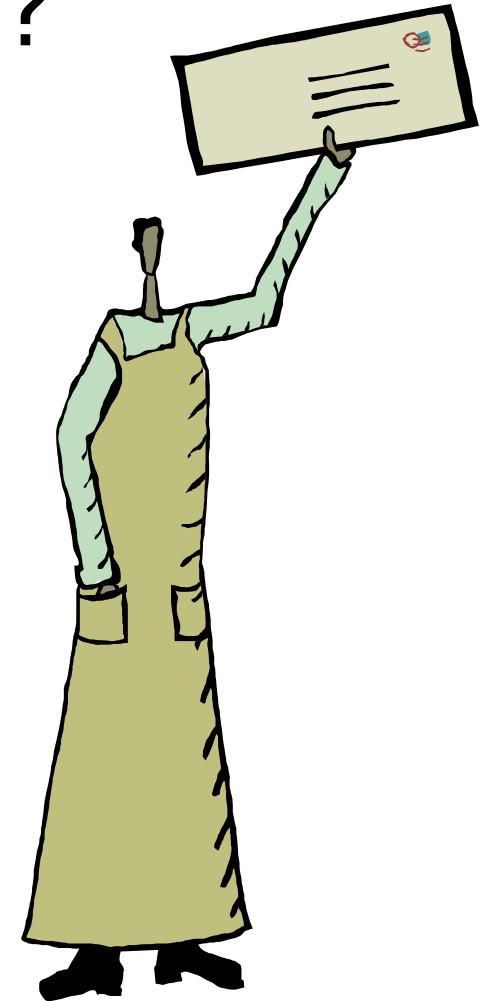
4. Notice of hearings on termination of the parent-child relationship

(I.C. 31-35-2-6.5 (c)(d)(e))

a. If adoption petition has been filed and court has determined that all required consents have been executed or court has determined that consent from parent, guardian or custodian is not required or termination petition has been filed, prospective adoptive parent has right to be heard, make recommendations, and submit written statement served on all parties.

How will foster parent receive notice of hearings?

Foster parents are entitled to receive legal notice of periodic case review hearings, permanency hearings, and termination of the parent-child relationship hearings. The legal notice shall be given 10 days before the hearing. It may be given by certified mail or by personal delivery of the notice. The notice may also be left at the foster parents' house with a follow up notice sent by regular mail. Service may also be made by mailing a notice to the foster parents' attorney.



Juvenile Court Hearings—Where do Foster Parents Fit In?

1. Detention Hearing
2. Initial Hearing
3. Fact-Finding Hearing
4. Dispositional Hearing
5. *Periodic Case Review Hearing **
6. *Permanency Hearing **
7. *Hearings and motions on Petition for Termination of the Parent-Child Relationship **

What Does the Court Determine at the Periodic Case Review Hearing?

1. Does child's case plan, services and placement meet child's special needs and best interests?
2. Has O.F.C. made reasonable efforts to provide services?
3. A projected date for child's reunification, adoptive placement, emancipation, or appointment of legal guardian

(I.C. 31-34-21-5)

Other Considerations for Court at Periodic Case Review Hearing

1. Services to Child and Parent and Outcome
2. Parent's Improvement
3. Parental Visitation
4. Child's Recovery from Injuries
5. Need for Additional Services
6. Child's Rehabilitation
7. Should Permanency Plan be Prepared?

Court's Considerations for Permanency Hearing I.C. 31-34-21-7

1. Should dispositional decree be modified?
2. Should court's jurisdiction continue?
(Rebuttable presumption that jurisdiction should last for only 12 months from removal)
3. What are recommendations of parents, prospective adoptive parents, O.F.C., significant caretakers, foster parents and CASA/GAL?
4. What should permanency plan be for child?
5. Has O.F.C. used procedural safeguards to protect parents' rights?

What is a Permanency Plan?

I.C. 31-34-21-7.5

1. Must be intended permanent arrangement for a child that is most appropriate and consistent with child's best interests
2. Options are:
 - a. Return home or placement with noncustodial parent
 - b. Initiation of T.P.R. proceedings
 - c. Adoptive placement
 - d. Placement with responsible relative who is willing to be permanent custodian
 - e. Appointment of legal guardian
 - f. Placement in another planned, permanent living arrangement

Court's Considerations for Termination of Parent-Child Relationship

I.C. 31-35-2-4 (a)

1. Child has been adjudicated CHINS.
2. Child has been removed six months under dispositional decree *or* 15 out of last 22 months *or* court has determined reasonable efforts not needed.
3. There is a reasonable probability that conditions that resulted in removal or reasons for placement outside home will not be remedied *or* there is a reasonable probability that continuation of the parent-child relationship poses a threat to child's will-being.
4. Termination is in child's best interests.
5. There is a satisfactory plan for care and treatment of child.

Court's Considerations on Foster Parent Intervention

I.C. 31-34-21-4.5

1. Foster parent, long term foster parent, or former foster parent can petition.
2. Foster parent for whom child abuse/neglect has been substantiated or who has been convicted of felony cannot petition to intervene.
3. Granting or denying petition to intervene is within court's discretion.
4. Petition may be granted if court determines that it is in child's best interests.
5. If petition is granted, foster parent has party status.

Written Statement Should Be:

1. Typed double spaced
2. Brief (1-3 pages)
3. A summarization of your log, not your entire log
4. Relate to the issues before the court, depending on the type of hearing
5. Contain facts and observations
6. Not be overly emotional nor blame others



Purpose of Cross-Examination

1. To explain testimony which was unclear or incomplete
2. To show witness is inaccurate or a poor observer
3. To show that witness has made contradictory statements in the past
4. To show witness is not truthful (Be *very* careful about using cross-examination for this purpose.)
5. Attorney will be the most effective cross-examiner

Oral Testimony Should:

1. Be brief and not overly emotional
2. Highlight the most important points
3. Contain one and two sentence factual statements
4. Not be a narrative statement or story
5. Address the child's and parents' current situation
6. Not re-hash the past

