

## Preparing to Go to Court

*Court.* It's a word that, for many foster parents, conjures up feelings of fear, nervousness, and the unsettling butterflies of the unknown. What will the attorneys, judges, and social workers—people who may seem far removed from the realities of your everyday life—decide about the child you care for every day? The court system speaks a different language and makes crucial decisions about the lives of the children in your care. While you do not need to dive deep into all the legalese, it may help to know the basics, as well as what you can do to get yourself and the older child or teen in your care ready for court.

### What drives decisions made in child welfare?

Agencies focus on safety and permanency when making child welfare decisions. Permanency means a forever family. It means the child has a safe and stable home and a life-long relationship with a caregiver.

Permanency may mean returning home, guardianship, adoption, or a planned living arrangement with a relative or non-relative. Returning home is always the preferred choice. If that cannot happen, the hope is that one of the other arrangements will allow the child to have permanent legal family and lifelong support.

This emphasis may sometimes be at odds with your concerns as a foster parent. You may wonder about the quality of parenting happening in the birth home. It may help to think of the child in the context of having a birth family and a supporting family, with permanence as the ultimate goal.



### Why go to court?

- *Your Input is Valuable.* The decisions the court makes about children's lives are only as good as the information provided, so your observations are important. As a foster parent, you have impressions that come from

direct, day-to-day involvement with the child as well as school personnel, medical professionals, therapists, or birth parents. For more on recording your notes, see our tip sheet on [The Importance of Documentation](#).

We recommend talking to the social worker and the Guardian ad Litem (GAL) before a hearing to share the information that you've gathered since the last hearing. This could be done in an email that includes the worker, GAL, and supervisor.

- *To Play a Role.* Foster parents have not always had a clear role in legal proceedings about the

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children in their homes, but that is changing. More and more statutes not only require the court to notify foster parents of relevant hearings but also give those parents the right to provide input at the proceedings. For example, if a child has been in the foster home for at least six months, and a change of placement is proposed, the foster parents have the right to contest the change. The foster parents must be notified of the change and have a time frame during which they can object.

- *To Gather Information.* Whether or not the social worker suggests you should go to court, if you have the opportunity, we hope that you do so. You will gain valuable information at court that you would otherwise only learn secondhand later, or not at all.

### **A family affair**

The legal terms used in child welfare are intentionally different from those used in criminal court. Even though a child's caregivers are ultimately legally accountable, the child welfare system in Wisconsin focuses on the needs and safety of the child. Legal terms used in the criminal system are given family-friendly alternatives; “disposition” instead of “sentencing,” and “fact-finding” rather than “trial.” It may be helpful for you to think and talk about the court process as a way to help children and families heal, rather than to assign punishment.

Some participants view the legal process as adversarial, as having winners and losers. As protectors of children, we want to keep the best interests of the child in mind and, in most cases, that means improving a child's life in the context of his or her birth family. No one wants to have a child or family feel like they have “lost” during the court process. A trauma-informed approach will view the family as a whole, rather than the child in a

vacuum. So, when we work to respect, dignify, and support the child *and* birth family throughout the legal process, the child will benefit.

### **The practical pieces**

Here are some practical tips for preparing for going to court:

- Keep your explanations positive and developmentally appropriate when discussing court with the child in your care. For teens, explain the roles of the various people attending the hearing.
- If the child or youth will be attending the hearing, take them on a tour of the courthouse and courtroom ahead of time if possible. If you cannot take a tour in person, you might look at pictures in books or online.
- Guardians ad Litem or other attorneys involved in the hearing may want to speak with the child before the hearing. Do your best to ensure the child is available to engage in those conversations.
- If you're unable to be present for the hearing, you may be able to participate by other means. (*See section titled “Participating in Court” later in this tip sheet.*)
- Prepare for pre-hearing interactions that may occur while you're waiting for the hearing to begin. For example, you may have a conversation or meeting with the child's birth family. Your social worker can help you stay informed about any recent developments in the case.
- Bring an item for the child or teen to occupy their time during what is sometimes a long wait for the hearing.
- Dress – wear casual but slightly more formal clothing; the same for the child or youth participating in the hearing.
- Arrive well ahead of the hearing time, to allow for parking, getting through security (if your

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courthouse has it), and finding your courtroom.

- While arriving on time is important, understand that there could be long delays before your hearing.
- Be aware of how difficult this time may be for the older child or teen who attends court. He or she may feel confused about who to talk to or sit with. You might find it helpful to talk about these options ahead of time with the child or youth.
- Child welfare proceedings are confidential. Please know that the courtroom will be secured at the start of the hearing. Each court jurisdiction has its own culture, and protocol will probably vary from district to district and even between judges' courtrooms. Your social worker may have some additional information or tips about what you might expect at the hearing.
- Courtroom etiquette calls for addressing the judge as "Your Honor." Children and youth may not be familiar with this courtesy, so you may wish to make a point of discussing this with them before the hearing.
- Be mindful that emotions can run high. You might prepare by thinking of what may cause an emotional reaction for you or the child, as well as techniques to help you remain calm.
- The birth family may have strong feelings about the decisions that will be made in this hearing. It may help to try to see the



situation from their point of view and to remind yourself that you are all interested in the best outcome for the child.

- Remember that, pre- or post-court, the child may act out, withdraw, or exhibit other signs that they are processing the monumental decisions that are happening. Be supportive of the child in your care, and do your best to help them regulate their emotions.

### What happens at hearings

It may help you, as well as the child in your care, to understand the purpose of the hearing you will be attending. Your social worker, the Guardian ad Litem, or experienced foster parents might be able to help answer your questions or address any concerns you may be feeling. Courtroom protocols differ depending on the type of hearing, so you may wish to learn more about each type so that you can best prepare for whatever will be expected of you or the child. For more information, see the

[Wisconsin Foster Family](#)

[Handbook](#) for an excellent explanation of the child welfare process.

Typical hearings in the child welfare system might include temporary physical custody, change of placement, plea hearing, and termination of parental rights. See Chapter 48 (children's code) in the [Wisconsin Statutes](#) for more details on what happens in child welfare

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hearings. For information on youth justice, visit Chapter 938 in the same handbook.

**Participating in court**

There are various ways to provide your input to the court. These might include testifying, participating by phone, or writing a letter.

*Provide testimony.* As a foster parent, you may be called upon to testify. Alternatively, the judge may simply ask you questions as you sit in the courtroom.

The information you may be asked to present:

- Your credentials and experience as a foster parent
- Your observations of the child during placement
- Your interactions and shared parenting with the birth parents
- The role you have played as a foster parent, and any supportive activities you have engaged in, such as therapy, involvement with the child’s education, medical services, etc.

A few things to keep in mind if you are asked to testify:

- Check with your social worker before court. Any written notes or documents you bring could be copied by the attorneys and kept for the record.
- While testifying, do your best to answer as directly and succinctly as you can.

- Focus on the facts. For example, avoid saying "he always cried after visits because he hated going." Instead, you might say, after a visit on a particular date, "his appetite was different and he wet the bed that night."

*Participate by phone.* This is generally not recommended, and is more typically used for the birth parents or another “party to the action.” Nevertheless, in many hearings, you have a right to participate, so if you simply cannot be present in person, ask your social

worker about how to request to appear by phone. Be sure to make your request well before the court date.

*Write a letter.* Whether you appear in person or not, a written letter to the court will ensure that your observations and impressions

are heard by all involved in the court process. Mail the letter to the court well before the proceeding; copies will be made available to all parties. As with testimony, do your best to present your information factually without including opinion or assumption.

**Sometimes the wheels of justice turn slowly.** At many points in the process, there may be a continuance (postponement) of a legal action. Some reasons may be:

- The court may need participants to gather more information, such as what can be learned from a parental capacity assessment or an



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alcohol and drug evaluation.

- The attorneys involved may have scheduling conflicts, or new attorneys may have been assigned to take over cases, causing delays.
- The system may have a bottleneck that prevents your case from being heard until months beyond when statutes indicate it should be heard.

Whatever the reason, you will surely need patience with what can become a long, drawn-out process. Here are a few final tips for what to do while you wait:

- To a child, a few weeks can seem like years. Use developmentally appropriate ways to communicate where you're at on the legal timeline. For example, "The judge is giving your parents some extra time to make things safe for you at home."
- It may be tempting to avoid talking about the court process with the child during in-between periods. However, emotions surrounding court may be just under the surface for the child. Keep the lines of communication open, get answers to the child's questions, and assist the child in regulating emotions.
- Move your child's healing journey forward. Talk to your social worker about how best to take advantage of the additional time, whether it's scheduling visits with brothers or sisters, adding in an extracurricular activity, or squeezing in additional therapy.

While the court process may at times seem intimidating and endless, have confidence in the legal journey that you, the child, and the child's family are traveling. Preparing for court will help both you and the child in your home adjust, and remember, eventually there *will* be a resolution!



## Resources

### Tip Sheet

- [The Importance of Documentation](#)

### From our [Library](#)

- *Just for Now: Kids and the People of the Court*, by Kimberly Norris
- *What's Happening in Court?*, by Judicial Council of California
- Legal Resource Manual for Foster Parents, 4-module curriculum by Regina Deihl, J.D.
- *Objection Your Honor*, by multiple authors

### Other Resources

- [Advice for Foster Parents Going to Court](#)
- [Advocating for the Best Interest of the Foster Child: A Guide for Foster Parents](#)
- [Foster Parents and the Courts](#)
- [Wisconsin Foster Family Handbook](#)
- [Wisconsin Statutes](#)



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