



Learning About Out-of-Home Placement Services

Darren's Mom's Voice

My son was 2 1/2 years old when he went into foster care; he was 4 1/2 when he came back home. I had been struggling with drug and alcohol abuse and had been asked twice before to place him in foster care so that I could get treatment, but I had said no. Finally, I decided to go into a 2-week detox program and arranged with the agency worker to place Darren in foster care. I was to enter the program on Monday. At the request of the agency worker, I brought Darren to the agency on Friday so that he could meet the foster mother before going to stay with her on Monday. They took him upstairs to meet the foster mother, but I was not allowed to go with him. I went out to buy cigarettes while he was upstairs. When I came back a few minutes later, they had taken Darren away and said that they would see me in court on Monday.

I was so angry that I wanted to fight. It was hard to get past the anger. At first I didn't want to see Darren because I was so angry. But I got over that. My lawyer told me that in court I should ask for what I really wanted. So I asked for frequent visits with Darren, and I asked to get copies of every paper and report that related to him. I also said that I wanted them to ask me before cutting his hair. I knew that I was still Darren's mother, and I wanted some control over what happened to him. While Darren was in care, I had two relapses, but I made the decision to get him back. It was my decision. I could have just given up and told them to keep him. But I never did. I knew it would work out.

(Darren's Mom's Voice continues in Section 7, page 64.)

What is “foster care” or “out-of-home placement”?

Foster care is 24-hour care provided by the child welfare system for children who need to move out of their own homes temporarily. If your child moves into foster care, she may live in one or more different types of placements, such as the following:

- kinship care (placement with relatives)
- an emergency shelter
- a foster family home
- a therapeutic foster home
- a group home
- a residential treatment center, or
- an independent living arrangement for older youth.

(See the section *Terms You Might Want to Know* for definitions of these placement types.)

Many places use the term “foster care” when referring to any out-of-home placement. In this *Guide*, when we use the term “foster care,” we mean the type of out-of-home placements listed above.

Why would my child be placed in foster care?

Here are several possible reasons:

- *If the court determines that your child was abused or neglected in your home* by a parent or caregiver, it may transfer custody to the child welfare agency so that your child can live somewhere else (as discussed in Section 2). Generally, placement in foster care is temporary and intended to give you time to make the changes necessary for your child to live safely in your own home.
- In some states, *you might decide to place your child in foster care through a short-term, voluntary agreement* with the child welfare agency. You might do this for a specific reason, for example, if you entered inpatient hospital care for a short period and had no one who could care for your child during that time.
- *If your child has a very serious emotional disturbance or a disability, you might turn to the child welfare system* to provide and fund the services your child needs. This happens sometimes when parents have exhausted all possible community-based services that they can afford, and they cannot find or pay for intensive treatment services for their child. (See Section 6 for more information about this reason for a child’s placement in foster care.) Several states have found ways to help children get intensive treatment services without involving the child welfare agency.

- *If you or someone else thinks that your child's behavior is beyond your control, the court can be petitioned to order services for your child and family.* Examples of out-of-control behavior include running away, refusing to go to school, and serious substance abuse problems. Some states allow placement in foster care for these reasons. The terms that are used to describe children and youth who fall into this category are different in different states. Examples of such terms are Children in Need of Services (CHINS) or Children in Need of Assistance (CINA).

Practical Tips for Families

- ✓ If you have a voluntary agreement with the child welfare agency, be sure to get the agreement in writing. It should clearly explain your parental rights.
- ✓ If English is not your first language, you can ask to have the agreement in your own language. If this is not possible, you can ask for an interpreter to be present.
- ✓ It might help to have a lawyer review the voluntary agreement that you sign.

What do the terms **safety, permanency, and well-being** mean in the child welfare system?

It is important to know that federal and state laws set three main goals for children who are in the child welfare system.

- safety
- permanency
- well-being

Agency workers and courts are guided by these three goals when they make decisions related to your child's future.

What does **"safety"** mean for me and my child?

"Safety" means that your child must be protected from abuse and neglect. (See Section 2 for a full explanation of what "abuse" and "neglect" mean). Ensuring your child's safety will be the most important goal.

Federal law requires child welfare agencies and courts to think about child safety when they make decisions about where your child will live (for example, in your home or with a relative). They also think about your child's safety when they decide what services to provide for your family.

Safety is an issue even when a child lives in a foster or adoptive home. Federal law requires the child welfare agency to do a criminal background check on anyone who applies to be a foster or adoptive parent. Most state laws also require this type of check. In addition, child welfare agencies do an intensive study of everyone who applies to become a foster or adoptive family.

What does “permanency” mean for me and my child?

“Permanency” means that your child will have a stable, permanent home. It also means that it is very important to continue family relationships and connections with your child while he is living in a placement outside of your home.

To achieve “permanency,” the child welfare system wants to return your child home as soon as it is safe to do so. Nearly 7 out of every 10 children in foster care return to their own families or to the homes of relatives.

If, after a certain amount of time in foster care, the child welfare agency and court believe that your child will not be able to live safely in your home, the child welfare agency must look for another home where your child can live permanently. A relative or another person who knows your child well could be appointed by the court to be your child’s legal guardian. Your child might be adopted by the guardian or another family. Many foster parents adopt the children who live with them when the children are not able to return to their own families. (See more about possible placements after foster care in Section 7.)

What does “well-being” mean for me and my child?

Your child’s needs must be taken care of while in foster care. This includes physical health, mental health, and developmental and educational needs. In addition, you should receive services that help you provide for your child’s needs and safety.

■ The Placement Experience

How is it decided where my child will be placed?

Either the child welfare agency or the court will determine where your child will be placed when she moves into foster care. Federal child welfare law requires the court or child welfare agency to *find out first if your child can live safely with a relative*. You can suggest a relative or close friend who might be able to care for your child. Placement with a relative is often called *kinship care*.

If placement with a relative is not possible, your child will likely go to a family foster home or a temporary children's shelter. In some places, the first placement for a child may be a short-term group residence. In other places, children go directly to the foster family who will care for them until they can return home. Agencies usually try to place children as close to their own homes and communities as possible.

If your child has very intensive treatment needs, a family foster home or a kinship home might not be able to care for him. If this is the case, your child could be placed immediately in a place where his needs will be met. This could be a therapeutic foster home, a residential treatment center, or some type of medical placement.

Will all of my children be placed together?

If more than one of your children is being placed in foster care, the agency should place them together. Sometimes this is not possible for a variety of reasons. For example, there might not be a foster home large enough to care for all of your children. Or one of your children might need to be placed separately where she can get special treatment.

Practical Tips for Families

- ✓ If you have relatives or very close friends who can provide a safe home for your child, be sure to tell the agency worker about them as early as possible.
- ✓ Even if your relatives live out of state, it is still possible for them to be considered.
- ✓ If you believe it is important for your children to be placed together, explain why and ask the agency worker to try to make this happen.

Who are the people who will take care of my child?

- They might be a *relative (kinship care) or a close friend*. This can happen if you have suggested it, and the relative and the agency and/or court agree that it is a good plan and a safe placement for your child.
- They might be a *foster family* that you may not know. All foster parents must meet certain standards set by the state to help ensure that children will be safe and cared for. Most foster parents have been trained to understand the special needs of children who live away from their families.
- They might be *staff who work in a group or residential setting*. Group care facilities must be licensed, and staff must meet standards set by the state.

What information do I need to give to the child welfare agency about my child?

You know your child better than anyone else. When your child is being placed in foster care, it is very helpful for you to share important information about her with the child welfare agency and the people who will care for her. It is important to provide information about the following:

- your child's daily routine and special needs (e.g., what food your child likes/dislikes)
- school placement and progress
- your child and family's medical history
- special care your child has received or needs
- upcoming medical appointments
- names of health care providers your child uses
- allergies your child has
- medications your child is taking
- special treatment for developmental or behavior problems
- information about your child's close friends
- names of family members and close friends who can help
- anything else that will help meet your child's needs and make the adjustment to a new home easier

When your child returns home, all original documents that you shared with the child welfare agency should be returned to you.

Why does the agency need to have this information?

It will help your child receive the right services. It will also ensure your child does not receive treatment services that she has already had. Your child's temporary caregivers may be taking your child to a new doctor. They may not know much about her medical history. The doctor needs this information to properly care for your child. Without the information, a doctor could give her a medication that she is allergic to, or she might be given shots that she has already had.

Practical Tips for Families

- ✓ When your child moves into an out-of-home placement, be sure that she takes some things from home to help her feel more comfortable in the new placement, for example, some very special toys, pictures, or other items she treasures.
- ✓ For many children it is important to keep ties with friends and neighbors. You might want to ask the agency worker to try to place your child near his neighborhood.
- ✓ Let the agency worker know what works to help calm and reassure your child, especially during this difficult time.
- ✓ Make sure to give as much information about your child as possible to ensure that her needs will be met.

Will I need to sign forms?

Yes. When your child comes into foster care, you will need to sign at least two kinds of forms:

Release of Information Form—This release allows people who will be working with and caring for your child to see her records (for example, medical, mental health, dental records). In some states, different agencies that provide services to a child or family are not allowed to talk with each other about a child unless they have the parent's permission. If you don't give your permission, the agency might have to get a court order.

Consent Forms—It is important to sign consent forms for special treatments or evaluations that your child might need.

Parents who voluntarily place their children will need to develop and sign voluntary placement agreements. (See Section 6 for more information about this.)

Practical Tips for Families

- ✓ If you have questions about any of the consent forms, ask your lawyer to explain them to you. If you do not have a lawyer, your agency worker can answer questions about the forms. It is important for you to understand the purpose of each form and how it will be used before you sign it.
- ✓ You can have someone present with you when you sign the release and consent forms to help you understand what you are signing.
- ✓ If English is not your first language, you can ask for the forms to be written in your own language or ask for an interpreter to be present.

Will I be able to visit my child in foster care?

Yes. Unless the court orders you not to visit, the child welfare agency is responsible for developing a plan with you that allows you and your child to visit regularly. This plan will be part of your service plan (see Section 3). The *visitation plan* is intended to help you stay in touch with your child and to help your child return home to a safe environment as soon as possible.

Each family's plan for visiting will be different. Your plan will be based on your and your child's needs and desires. It will also consider the needs and desires of the foster family or the staff in a group facility where your child might be placed. Most likely the agency worker's schedule and resources will be considered. If your child is placed in a group home or residential treatment center, you will be encouraged to visit there. This will help you learn about the program.

Your children have a right to have regular visits with each other if they live in different foster care placements.

Some families have "supervised visitation." This means that a person from the agency will stay with you while you visit your child. This is done with some children to be sure that they are safe at all times. Other families visit together without "supervision."

Where can I visit with my child?

Where you and your child visit depends in part on where she lives. Visits can happen in a number of different places. This could be your home, the foster home, the agency, a visitation center, a treatment center, a public location, a recreation center, etc. Deciding where you will visit with your child is part of the planning process.

Practical Tips for Families

- ✓ Work closely with the agency worker to develop a visiting plan that will work for you and your family. If your children have been placed in different homes, make sure that the plan also tells how they will be able to visit with each other.
- ✓ Visit as regularly as you can. This will be very important to your child.
- ✓ Following the visitation plan lets the agency know that your children can depend on you.
- ✓ Ask your agency worker what you are supposed to do and whom you call if you can't make a scheduled visit.
- ✓ If you need help in paying for transportation to the visits, talk with your agency worker about how to get tickets, tokens, or money to pay for travel expenses.
- ✓ Try to form a connection and relationship with the foster family or the staff where your child lives.
- ✓ Some families have said that it is helpful to meet the foster family on neutral ground rather than going to their home, especially at first while you are getting to know each other.
- ✓ It might feel strange to be “visiting” with your own child. You might want to talk with someone who can help you cope with these feelings.
- ✓ When you visit and talk with your child, try to understand how difficult it is for him to have more than one caregiver right now. He might think that he has to choose between you and his foster parent. Let him know that he doesn't.

■ The Court Experience

When children and families become involved with the child welfare system, they usually become involved with the court system also. Certain legal decisions about children must be made in a court. These decisions are binding. Courts generally believe that families can correct or improve the situations that brought them to the attention of the court.

What hearings will be held *after* my child is placed in foster care?

Section 2 (Child Protective Services) describes the initial hearing (sometimes called an “emergency removal hearing”—see p. 22) that you participated in before, or immediately after, your child was placed in foster care. If your child has remained in foster care after this first hearing, you will be involved in a number of additional hearings that are described below.

There are five main types of hearings. These hearings are held in the civil court that handles family matters, usually a juvenile court or a family court. They are not held in criminal court.² Each has a different purpose and is held at different times. Your state might use different names than the ones listed below to describe these hearings. Your state also might schedule hearings sooner than federal laws require. The five hearings are as follows:

- adjudicatory hearing
- dispositional hearing
- review hearing
- permanency hearing
- termination hearing

Practical Tips for Families

- ✓ Talk with your agency worker or your lawyer about the names used in your state, the timeframes, and the purpose of all five hearings.
- ✓ Make sure you are clear about which hearing is taking place.
- ✓ You should be notified about when the hearing takes place. Check with your lawyer or agency worker to find out which hearing is taking place and when.

What is the purpose of an “adjudicatory hearing,” and when is it held?

If child abuse or neglect accusations were made against you, it is at the *adjudicatory hearing* that the court (usually a judge) will decide whether there is enough evidence to support the charges. The court also will determine if abuse or neglect (as defined in your state’s law) occurred. This hearing has different names in different states. Sometimes it is called a “trial,” a “jurisdictional hearing,” or a “fact-finding” hearing. Remember there might be *separate* criminal proceedings regarding the abuse of your child.

It is recommended that the adjudicatory hearing occur no later than 60 days from the time that a child is removed from home, but this is not mandated by federal law. States may have this hearing sooner or later than 60 days.

Sometimes both the adjudicatory and the dispositional hearing (see below) occur at the same time. If the judge determines at the adjudicatory hearing that your child has been abused or neglected, a decision about where your child would be placed could be made at the same hearing.

² If your child was abused, and the abuse was so severe that the person accused of committing the abuse is charged with a crime, a hearing on the criminal charge would be heard in criminal court. That proceeding is completely separate from the five hearings described here.

What is the purpose of a “dispositional hearing,” and when is it held?

At the *dispositional hearing*, the court makes a decision (called a “disposition”) about who will have custody and control of your child. A decision is also made about where your child will live. The court might decide that your child can return home, be placed with a relative, or remain in foster care for the time being.

In addition to deciding where your child will live, the judge also decides whether the child welfare agency must make “reasonable efforts” to help you get your child back home. Federal law requires all states to make “reasonable efforts” to provide services to prevent children from being removed from their homes. States also are required to make reasonable efforts to help children safely return home.

However, there are some circumstances (called “aggravated circumstances” in federal law) when the court can decide that the agency does *not* have to make reasonable efforts to help parents get their children back (see Section 4, page 36 for more information).

Federal law does not say *when* the dispositional hearing must occur. Individual state laws set this timeframe. Some guidelines recommend that it be held no more than 30 days after the adjudicatory hearing.

What is the purpose of a “review hearing,” and when is it held?

Review hearings provide the opportunity for you to discuss how you and your child are doing while she is in foster care.

All states must set up a system that ensures review hearings will be held at least once every 6 months. (Some states have them more frequently.) This review hearing helps you and the agency to determine the following:

- if your child is safe and well in her present placement
- whether your child needs to continue in placement
- if you and the agency are doing what the service plan says each of you will do
- what kind of progress is being made
- whether the service plan should be changed.

The review hearing may be conducted in a court or by a separate administrative panel. The administrative panel will be made up of people who are involved with you and your child. At least one member of the panel must *not* be directly responsible for the services you and your child receive. Many states have foster care review boards made up of citizens in the community. These boards review the progress of all children in custody, and their families, on a regular basis.

What is the purpose of a “permanency hearing,” and when is it held?

The *permanency hearing* is very important. It is *not* just another review hearing. It is intended to truly decide where your child’s *permanent* home will be. It also sets a date for achieving this permanent home. The permanency hearing is held at the latest within 12 to 14 months after your child leaves your home. If your child remains in foster care longer than 12 months, a permanency hearing must be held at least every 12 months thereafter.

If the court decides at the dispositional hearing (mentioned above) that “reasonable efforts” should **not** be made to help your child return home, the permanency hearing must occur within 30 days of that decision. The first 12-month time frame would not apply.

Practical Tip for Families

- ✓ Because of the importance of the permanency hearing, be sure that you know the exact date that it will be held.

What is the purpose of a “termination hearing,” and when is it held?

The purpose of the *termination hearing* is to decide whether all of a parent’s rights should end, for example the rights to make decisions about a child, the rights to visit, and more. If a parent’s rights are terminated, the child can be placed in another permanent home, usually through adoption.

Federal law says that a termination hearing may be held after a child has been in foster care for 15 of the most recent 22 months. In some states there are a number of reasons why a termination hearing may be held sooner than this:

- Some states give families less time.
- A parent has abandoned a child.
- A family, who is offered services, does not make efforts to improve the situation that brought the child into care.

The timing for termination hearings is a little difficult to understand. The 15 months do not have to be consecutive. Even if a child is at home for a while and returns to foster care, the time at home is counted as part of the 22-month period.

Practical Tip for Families

- ✓ Ask for the **exact** date when your child will be in foster care for 15 of the most recent 22 months. This is when the agency can begin the process to terminate your parental rights. Mark this date on a calendar because it’s very important.

Why would the court hold a hearing to terminate parental rights (TPR)?

In certain situations, such as those listed below, federal law requires that the child welfare agency begin proceedings to terminate parental rights. (Note: there are exceptions to this requirement; see next question and answer.)

- a child has been in foster care for 15 of the most recent 22 months
- a court has determined that a child is an abandoned infant
- a court has determined that a parent has murdered, seriously injured, or attempted to murder another one of his/her children.

State and federal laws have been developed based on the belief that children need a safe, stable, and permanent home to grow up in. These laws expect parents to provide this for their children. The laws set time limits so that if parents cannot provide a permanent home within those limits, their children will still have the opportunity for a safe and stable home in another family.

Under what conditions would the agency decide NOT to try to terminate parental rights?

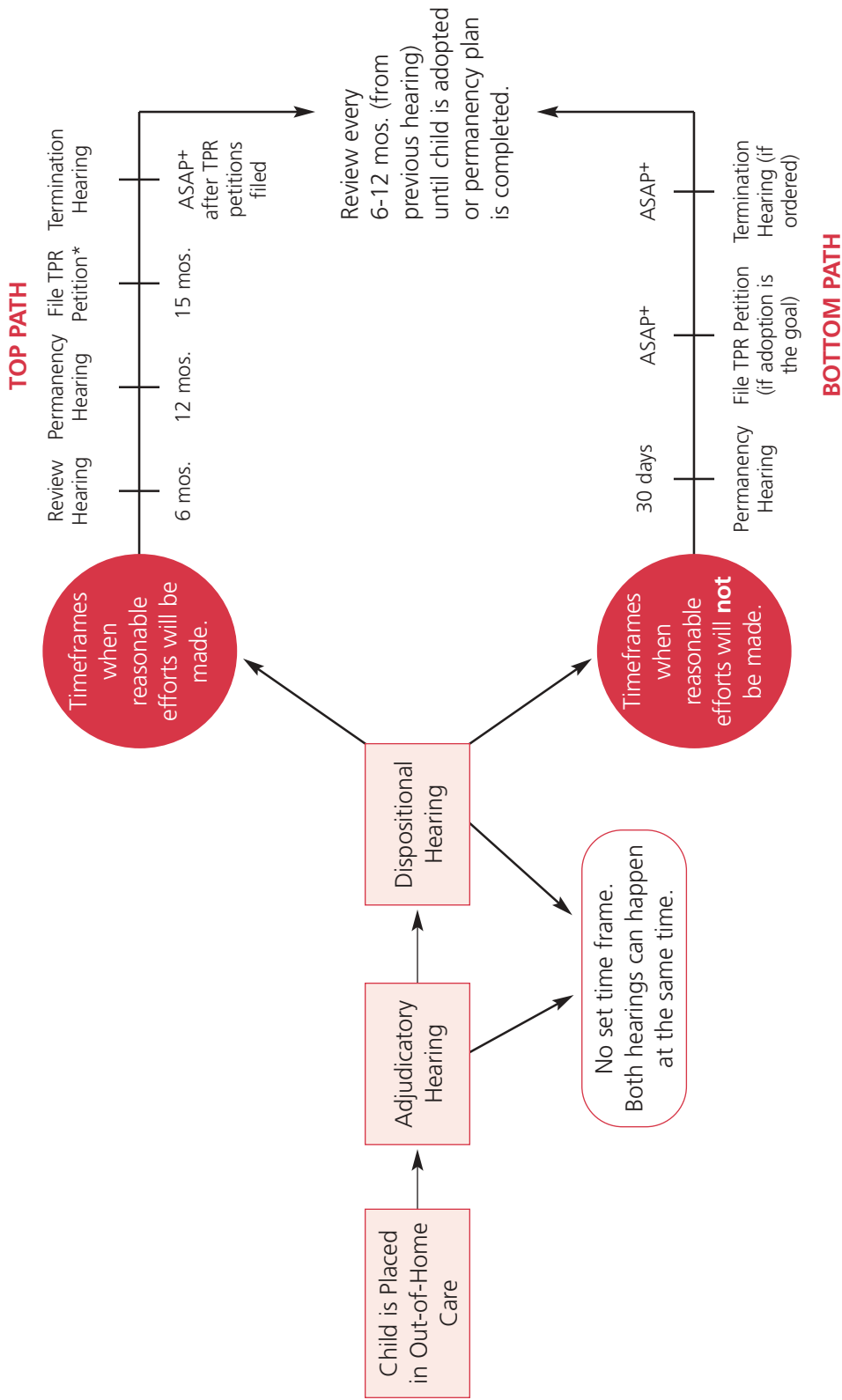
It is *very important* to note that state child welfare agencies have the option *not* to pursue termination of parental rights under the following three conditions:

- a child is being cared for by a relative (and the state has decided this is an acceptable plan for the child)
- there is a compelling reason why terminating parental rights would not be in the best interest of the child (for example, when a parent is making progress and it is likely that the child can return home soon, even though she already has been in care 15 of the most recent 22 months)
- the state has not provided the child and family with the services needed to help the child to return home safely

Is there a chart that shows when all these hearings take place?

Yes. See the diagram on the next page. The Adoption and Safe Families Act sets the timeframes for the hearings. This diagram was adapted from a 1998 publication of the American Bar Association. The *top path* in the diagram shows the timeframes used when the court has determined that reasonable efforts will be made to help a child return home. The *bottom path* in the diagram shows the timeframes used when the court does *not* require reasonable efforts to help the child return home. (See Section 4, page 36 for more information about “reasonable efforts.”)

Schedule for the Five Hearings



*Fifteen months is the point that child welfare agencies file for termination of parental rights (TPR), but there are reasons why an agency might NOT file for TPR. (See question and answer on p. 51.)

+ ASAP = As soon as possible

Practical Tips for Families

- ✓ Be sure to let the agency worker and your lawyer know about the progress you are making in the services you are receiving. For example, if you receive mental health or substance abuse treatment, how are you doing?
- ✓ Sometimes there are waiting lists for services that you may need (for example mental health services, public housing, substance abuse treatment). Some states and communities have agreements that allow families whose children are in foster care to move up on these waiting lists. Ask if you can be moved up on the waiting list(s).
- ✓ If you have not received the services listed in your service plan, let the agency, your lawyer, and the court know this. This will make a difference as to whether the agency pursues termination of your parental rights.
- ✓ If you have problems and need mental health or substance abuse treatment, the decision to participate in treatment is yours alone. But be aware that if you don't get treatment, it will probably affect whether your child can return home.
- ✓ No one can force you to take your child back home. You have to want to do it, make the decision yourself, and do what is necessary to get your child back. But you have to make this decision quickly because new laws give you a limited amount of time to show that you are ready for your child to return home.
- ✓ Form a support system around yourself to help you get through the tough times. Take care of yourself so you can be there for your children.

Who participates in all of these hearings?

As a parent, you have the right and the responsibility to participate. Foster parents, pre-adoptive parents, or relatives caring for your child are also notified about the permanency hearing and the 6-month review hearings.

Will I be able to have my say in these hearings? Can I present my side?

Yes. As a parent you have the right to present your side of the story in ALL hearings related to your child.

What do I do if I can't come to a hearing?

You should make every effort to come to the hearings at the time that they are scheduled. However, if you are unable to make it, ask your lawyer to request that the hearing be held when you are able to attend. If you do not have a lawyer, talk with your agency worker about this.

Will I be able to have a lawyer? Do I have to pay for a lawyer?

You are allowed to have a lawyer to represent you. It is important for you to have a lawyer from the beginning. Some state laws give you the right to a lawyer and will appoint one if you cannot afford a lawyer on your own. Some states do *not* give you the right to a lawyer in child welfare related matters. Federal law does *not* address this.

This means that in some states you might have to find and pay for a lawyer on your own. If you are not able to pay for a lawyer, check with your court, the local bar association, or legal aid to find out whether *your* state gives you the right to a lawyer. The local bar association should also have a list of lawyers that accept payment based on a sliding scale.

Practical Tips for Families

- ✓ Look for a lawyer who specializes in child welfare issues or dependency hearings. For example, ask how many times they have represented a family involved in the child welfare system.
- ✓ Talk with your lawyer before and during all hearings to let her know what you want to be said in the hearing. If you want to speak yourself, be sure that your lawyer knows this and arranges for you to have your say.

What is my lawyer's job?

Your lawyer should do the following:

- meet with you before every hearing and represent your interests in court
- gather information that supports your position
- help you understand your rights
- let you know about each hearing
- tell you what to expect at each one
- explain child welfare laws that apply to you and your family

Your lawyer's primary concern is *your* rights and interests and keeping your family together. Your lawyer is *not* the one who advocates for the best interests of your child.

Who advocates for the best interests of my child?

Someone will be appointed to represent your child's best interests. This could be any or all of the following:

- a guardian ad litem (GAL),
- a separate lawyer for your child, or
- in some states a court appointed special advocate (CASA).

What is a guardian ad litem?

Federal law requires states that receive federal funds for preventing child abuse and neglect to provide your child with a guardian ad litem (GAL). This is usually, but not always, a lawyer. Sometimes a trained volunteer acts as a GAL. The GAL will be a different lawyer from yours. The GAL's job is to meet with your child and to tell the court what he believes is best for your child. The GAL may ask you questions about your child and about yourself.

Will my child have a separate lawyer in addition to the guardian ad litem?

Not usually. But it is possible that your child might have her own lawyer. Sometimes when a child disagrees with what the GAL believes to be in the child's best interests, a lawyer will be appointed to represent the child's wishes. This would more likely happen with older children.

What are court-appointed special advocates? How will they relate to me and to my child?

Some states and communities have Court Appointed Special Advocate (CASA) programs. CASA programs use trained community volunteers to speak up in court for what they believe to be the best interest of children who have been abused or neglected. If your community has this program, the judge may appoint a CASA to work with your child. The CASA usually is not a lawyer. The CASA is a trained volunteer who will meet with you and your child, as well as others involved with your family. Like the guardian ad litem, the CASA is charged with telling the judge what he/she believes is in the best interests of your child.

Can I give information to or ask questions of the judge?

Yes. If you have a lawyer, you and your lawyer should discuss what you want to say at each hearing and whether you want to speak for yourself or have your lawyer represent your point of view. You cannot speak directly to the judge or send the judge written information (for example, a letter) outside of the court hearing unless other parties to the hearing (for example, the agency worker, the GAL, and others) are present.

If you do not have a lawyer or if the lawyer advises you not to speak up in the courtroom, you can still do so. It is important to try to present your side clearly and in a calm manner.

