

# Caregivers and the Court

## A Guide for Foster and Adoptive Families



**HAWAII FOSTER PARENT ASSOCIATION**

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2nd Printing

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# INTRODUCTION

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- **An Invitation to Get Involved**

We hope this booklet gives foster and adoptive parents an understanding of the Family Court process for their foster child. Working with the court system can be scary at the beginning. This booklet will help ease your anxiety and make you a more effective advocate for your foster child. Remember, any suggestions made in this booklet are only suggestions. Each case is different and you need to do what is right for you and for your foster children. We hope that your experience with the Family Court system is a positive and supportive one.

- **Why Participate in Court?**

Foster parents have important information for the court. Your day-to-day care of the child and your regular contact with therapists, teachers, and other service providers gives you a unique perspective on the child's needs. By giving the Family Court current and detailed information about the child, you can assist the Court in making the best possible decisions about the child in your home. We strongly recommend that caregivers attend all court hearings for their foster child. It is not enough to depend on others to share the information you have about the child's progress and needs.

*Foster parents have important day-to-day information about the child that will be helpful to the court. Attending court hearings and making sure the court has this information will help the courts make decisions in the child's best interest.*

# HOW TO PARTICIPATE IN COURT HEARINGS

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## ● Federal Law

The Safe and Timely Placement of Foster Children Act of 2006 says that foster parents, pre-adoptive parents, and relative caregivers of children in foster care have a right to be heard in all court proceedings about the child in their home. All states (including Hawaii) that receive federal court improvement funding must have a rule of court mandating that foster, kinship, and pre-adoptive parents be notified of court proceedings affecting children in their care. While the law requires that caregivers receive notice of the court hearings, it does not require caregivers to actually attend the court hearing. That means you do not have to come to court if you decide not to. However, it also means that no one has the right to keep you from attending the court hearing.

## ● Attending a Court Hearing

Here are some steps that should be taken when attending a court hearing:

- Check in with the Bailiff.
- Introduce yourself to the Deputy Attorney General (DAG).
- If you would like to have your name kept confidential, tell the DAG.
- The DAG will introduce you to the court, keeping your name confidential if requested, identifying you by your role.
- Let the DAG know if you want to say something in court. (If you have concerns about the case, it is best to let everyone know about these concerns ahead of time. To have a meaningful hearing, everyone needs to be upfront about concerns and issues.)

You can submit a written report but you do not have to. A written report ensures that the information you feel is important

## HOW TO PARTICPATE IN COURT HEARINGS

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gets to the court. Remember, the report will be shared with the other parties. If you would like to submit a written report to the court, the following section gives you some important tips on writing an effective report.

*The information foster parents provide is meant to assist the court in making decisions about the child in their care. In general, caregivers should focus on giving firsthand information about the child and not offer opinions about other people involved in the court process.*

### ● Written Reports to the Court

Judges have a limited amount of time to listen to all the parties involved and to consider all the information about the child and the family. So:

- Written reports should be short and well-organized.
- Focus on presenting firsthand information about the child in your care.
- Describe behaviors you have observed in the child
- Present information about the child's needs.
- Do not offer opinions about other people involved in the court process such as the social worker, parents, or lawyers.
- Include the FC-S number, if you have it, and the child's full name on all reports.
- Usually a written report is ended with your signature and the date you signed it. If you would like to have your name kept confidential, you may sign the report as "foster mother/father for Johnny Smith".
- Type all reports using a standard font – do not use fancy fonts, script fonts, etc. Double space

your report.

- Try to send the written report to the court, social worker, and guardian *ad litem* at least two weeks before the hearing. If you do not know when the hearing is scheduled, call the social worker, guardian *ad litem*, or court officer to ask for the time and date. The date is usually set at the previous court hearing.
- Bring extra copies of the report to the court hearing in case someone needs it.

Following is a sample of topics that you might want to include in a court report. You do not need to address all topics, only ones that are important to the child's case. Include the headings in your report for easier reading. You can find sample court reports at [www.hawaiiosterparent.org](http://www.hawaiiosterparent.org).

## ● Information the Court May Consider Helpful

### 1. PLACEMENT INFORMATION

- The date the child came to your home and a brief description of the child's physical and emotional condition at that time.

### 2. MEDICAL INFORMATION

- Doctor visits, significant illness or hospitalizations since the last court hearing, and the results of those visits.
- Any medications the child is taking, and dosages.
- Any adverse reactions the child has had to medical procedures or medications.
- A brief description of the child's physical development, and any developmental lags you have observed.
- Any food and pet allergies.

## HOW TO PARTICPATE IN COURT HEARINGS

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- Unmet needs – chronic conditions requiring ongoing treatment.

### 3. DENTAL INFORMATION

- Visits to the dentist since the last court hearing, and the results of those visits.

### 4. EDUCATIONAL INFORMATION

- The child's school grades, and whether the child is performing at grade level.
- The dates of any school conferences you have attended, and the results of those conferences (especially if the child is in special education classes).
- Any educational testing the child has had, who gave the testing, and the results of the testing.

### 5. BEHAVIORAL INFORMATION

- A brief description of the child's behavior in your home.
- Description of the child's relationship with those in the home and community.
- Any services the child is receiving to address behavior problems, the person providing the services, and how often the child goes for the services.
- A brief description of how the child expresses his needs and feelings.
- A brief description of the child's eating and sleeping patterns and any problems the child has eating or sleeping.

### 6. CHILD'S SPECIAL INTERESTS AND ACTIVITIES

- A brief description of any special activities the child participates in (Scouts, music lessons, church groups, etc.) and how often the child participates in them.

## HOW TO PARTICPATE IN COURT HEARINGS

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- A brief description of any talents, interests, hobbies, or skills you have observed in the child.

### 7. VISITATIONS

- The dates of visits between the child and her parents or other family members.
- If you supervised the visits, a brief description of the behaviors of the child and the other family members present at the visits. Carefully describe only the behavior. Do not comment on the reason for the behavior.
- A brief description of any arrangements for sibling visitation.
- The dates of any telephone contacts between the child and the child's parents or other family members.

### 8. PROFESSIONAL CONTACTS

- All in-person and telephone contacts between you and the child's social worker.
- All in-person and telephone contacts between you and the child's guardian *ad litem* (GAL).
- All in-person and telephone contacts between you and the child's therapist.

### 9. RECOMMENDATIONS

- A brief description of any services you believe the child would benefit from based on your experience caring for the child, and why.

### 10. PHOTO

- A recent photograph of the child. It is usually best to have just the child, not other people, in the photograph.



# THE COURT PROCESS

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## ● How a Case Gets to Court

The Department of Human Services (DHS) investigates reports of suspected child abuse and neglect. If a report is confirmed, the Department has several options that will bring a case to court, including Voluntary Foster Custody Agreement or Dependency Process. Remember, not all cases need to be referred to the court. Here are some differences between the two options:

### 1. VOLUNTARY FOSTER CUSTODY AGREEMENT

- Used when the family agrees to the removal of the child and when the case meets other criteria.
- The social worker must complete a case plan outlining the risk factors in the home and plans for reunification.
- There will not be a TFC hearing, but a Jurisdiction Hearing will be held later.

### 2. DEPENDENCY PROCESS

- Process begins by filing a request for Temporary Foster Custody (TFC) or a petition to have the child declared a dependent of the court.
- The DAG usually helps the social worker file the request for a TFC or a petition.

If the social worker believes that the child's safety requires immediate court protection, then he or she asks the police to take the child into protective custody and files a Temporary Foster Custody petition to declare the child a dependent of the court.

In some circumstances, the social worker decides that court intervention is needed but that the child is not in immediate danger. In that case, the dependency process begins with DHS filing a foster custody or family supervision petition giving the reasons why the child needs the court's protection.

Hawaii's Child Protective Act requires the family court "to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm."



This booklet focuses on the court process. The state legislature establishes how that process works. With each session of the legislature some of those laws may be changed. These laws are found in the Child Protective Act, Chapter 587 of the Hawaii Revised Statutes. In putting together this booklet, we tried to include all recent changes in the dependency process. As further changes in the law occur, we will update and revise this booklet.

### ● **Temporary Foster Custody (TFC) Hearing**

A police officer is empowered to take a child into custody without a court order and without the consent of the child's family if he believes the child is at risk of imminent harm. Promptly after taking the child into protective custody, the police officer must place the child in the physical custody of DHS.

Shortly after a child is taken into protective custody, the Family Court holds a TFC hearing. This hearing is the court's first chance to hear about the situation that brought the family to the attention of the DHS. At the TFC hearing, the judge decides whether the child's safety requires that she be removed from her home until more court hearings take place on the allegations of abuse or neglect filed against the parent(s). In making this decision, the judge must apply the Safe Family Home Guidelines to the evidence and reports he receives about the child and family. If the judge finds that the child cannot be safely returned home, then she will order that the child stay in the temporary custody of the DHS. This hearing should be scheduled within two working days after the filing of a TFC petition, excluding Saturdays, Sundays, and holidays.



Since the TFC hearing happens very quickly after the child is removed from her home and most caregivers do not have firsthand knowledge about what happened to bring the child and family to the attention of DHS and the court, you probably will not have information to submit at the TFC hearing.

### ● **Adjudication Hearing**

Whether the dependency process begins with a TFC hearing or the filing of petition to place the child under the jurisdiction of the Family Court, the child's parents have a right to a hearing on the allegations of harm or threatened harm. At this hearing, the court receives evidence and determines whether the allegations of harm or threatened harm are true. If the court decides there is sufficient evidence supporting the allegations in the petition, then the court will enter an order and schedule a disposition hearing. If the facts do not prove harm or threatened harm, then the court will dismiss the petition and give the reasons for dismissal.

The return court date should be held within 15 days of filing of the petition or the date of the decision in the TFC Hearing. Parents can agree to a later date.

### ● **Disposition Hearing**

Hawaii Revised Statutes requires that notice of all hearings that take place after the disposition hearing are to be served on the current foster parents, who are entitled to participate in the proceedings as a party. (HRS 587§51.5)

During the Disposition hearing, the court determines initially whether the child's family home is a safe family home. The court must apply the Safe Family Home Guidelines when considering the evidence and the reports submitted to the court.

The court can determine:

- The child's family is willing and able to provide the child with a safe family home without a service plan, so the court will terminate jurisdiction (authority over the child). This means that the case is closed.
- The child's family home is a safe family home with the help of a service plan, so the court places the child and the child's family members who are parties under the supervision of the child welfare agency, returns the child to the child's parents, and enters other court orders that are in the best interest of the child. This means that the case is now in Family Supervision.
- The child's family home is not a safe family home, even with the help of a service plan, so the court places custody of the child with the child welfare agency and enters other court orders that are in the child's best interest. This means that the case is now in Foster Custody.

If the child is removed from the parents, the court will order DHS to prepare a service plan for the parents so that the child can return home. A service plan describes the responsibilities and duties of both the DHS and the parents to solve the problems that caused the child to be removed from the parent's home. The court must also decide the most appropriate placement for the child. Relatives often are the first placement alternative. If placement with a relative is not appropriate, DHS then determines where and with whom the child shall be placed.

At this time the court can also make other orders about visits, issue restraining orders, and make any other orders the judge finds are in the best interest of the child. Your information about the child can be very important at this stage.

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Many times the adjudication hearing and disposition hearing are held on the same day if the necessary information is available.



The *Safe and Timely Placement of Foster Children Act of 2006* (amending the *Adoption and Safe Families Act of 1997*) says that foster parents, pre-adoptive parents, and relative caregivers of children in foster care have a right to be heard in all court proceedings about the child in their home.

### ● Six-Month Review Hearing

The Family Court must review the cases of all children placed in foster care at least once every six months. These periodic reviews continue until the court's jurisdiction (authority) has been terminated or the court has ordered a permanent plan and has set the case for a permanent plan review hearing. At review hearings, information is given on the parents' progress with their service plan and on how the child is doing in foster care. Once again, the court is required to apply the Safe Family Home Guidelines when considering the evidence and reports.

At each review hearing, the court makes decisions and issues orders. The judge may:

- Terminate its jurisdiction;
- Return the child to her parents with family supervision by DHS;
- Continue the child in the DHS custody;
- Determine whether the parent has complied with the service plan;
- Order the service plan revised;
- If aggravated circumstances exist, set the case for a show cause hearing;
- If the child has been in foster care for 12

months, set the case for a show cause hearing;

- Enter any other orders the court decides are in the best interest of the child.

Notice of the review hearing must be delivered to the foster parents by hand or regular mail, or by fax or e-mail if receipt can be confirmed. The notice has to include the date and time of the court hearing. It has to be received no less than 48 hours before the scheduled hearing. No hearing shall be held until the current foster parents receive notice of the hearing (Hawaii Revised Statute 587.51.5). The best way to keep informed of the next date is to attend the hearing. Ask for an expedited copy of the court order that can be given to you at the end of the hearing.



Foster parents often have valuable information about the child's physical, emotional, educational, and social development. This kind of information can help the court understand the child's needs. If you have been supervising visits between the child and a parent, you may also have some information about the parent's progress to relay to the social worker, GAL and the court at the review hearing.

## ● Permanency Hearing

At the Permanency Hearing, the court will decide:

- If the child can safely be returned home;
- If efforts to reunify the child with her birth family should end;
- If DHS should continue trying to reunify the family.

DHS is required to file a motion for permanent custody when:

- The child has been in foster care for more than 12 months. A child is considered to have entered foster care (1) on the date of the jurisdiction

## THE COURT PROCESS

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hearing or (2) 60-days after the child is removed from her home, whichever is earlier.

- The family has not complied adequately with the requirements of their service plan to show they can provide a safe family home.
- The Court has decided that the reasonable efforts requirement does not apply in the case due to Aggravated Circumstances and there is clear and convincing evidence that the parents cannot provide a safe family home now or in a reasonable period of time even with the help of a service plan and that there is a permanent plan which is in the best interest of the child.

In making the permanent plan decision, the court must apply the Safe Family Home Guidelines to the information, past and present, it has heard about the family. The court must then decide if there is clear and convincing evidence that:

- The child's parents are unwilling and unable to provide the child with a safe family home, even with the help of a service plan.
- It is not reasonably foreseeable that the child's parents will become willing and able to provide the child with a safe family home, even with the help of a service plan, within a reasonable period of time that is not more than two years from the date the child was first placed in foster custody by the court.
- The permanent plan (which outlines the permanency goal for the child) is in the best interest of the child. This criterion is only considered after the court has found that the first two criteria have been established by clear and convincing evidence.
- A child, over the age of 14, supports the permanent plan.

If the evidence of each of these factors is clear and convincing, the court will terminate efforts to reunite the family and order permanent custody to the child welfare agency or to an individual. Permanent Custody terminates the parental rights of the parents over the child.

When parental rights are terminated, the judge will order a permanent plan of either:

- Adoption;
- Legal guardianship;
- Permanent custody to the child's caregiver;
- Permanent custody to DHS or some other appropriate agency.

If the court finds that clear and convincing evidence was not presented, it will order another court hearing in 6 months, revise the service plan and require DHS to submit a written report updating the court on the family's progress on the service plan. ASFA provisions require permanency hearings at 12 months and a termination petition must be filed if a child has been in foster care for 15 of the last 22 months.

## ● Adoption, Guardianship, Permanent Custody and Long-Term Foster Care

There are four different types of permanent placements for foster children: adoption, guardianship, permanent custody and long-term foster care. Adoption and guardianship hearings will be the last hearings in the child protective process, since the child will be placed in a safe and permanent home.

### **ADOPTION**

When the court decides on adoption:

- The social worker will arrange home visits, office visits and phone contacts with the adoptive fam-

## THE COURT PROCESS

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ily and the child.

- Generally, the supervision period is six months, but it will vary depending on the adoptive parents and the special needs of the child.
- To complete the adoption, the FC-S case is closed and all parties are dismissed.
- In most case, the DAG will process the adoption.

### **GUARDIANSHIP**

When the court decides on guardianship:

- Family Court closes their FC-S case.
- DHS closes their social service case.
- A social worker will no longer be assigned to the case.
- The GAL is dismissed.

Guardianship gives the foster parents similar rights and responsibilities as permanent custody, except under guardianship you do not have the support of the GAL, the child welfare social worker, and the court. It is really only appropriate in cases where such support will not be needed in the future. As the minor's legal guardian you may continue to receive DHS payments.

### **PERMANENT CUSTODY**

When the court decides on permanent custody:

- Permanent custody is revoked from the DHS.
- DHS will close their case and a social worker is no longer assigned to the case.
- Family Court does not close its FC-S case
- The child's guardian ad litem is retained or dismissed at the court's discretion.
- Yearly court hearings are held; and the permanent custodian must file an annual report and permanent plan at least two weeks in advance and must attend all hearings.

### CO-PERMANENT CUSTODY

When the court decides on co-permanent custody:

- Co-permanent custody granted to DHS and the foster parent.
- DHS does not close their case.
- A social worker continues to be assigned to the case.
- Family Court does not close its FC-S case.
- The child's guardian *ad litem* is retained.
- Yearly court hearings are held and the co-permanent custodians must attend all hearings. (DHS usually files the report and permanent plan, but the other custodian may also file.)

### LONG-TERM FOSTER CUSTODY

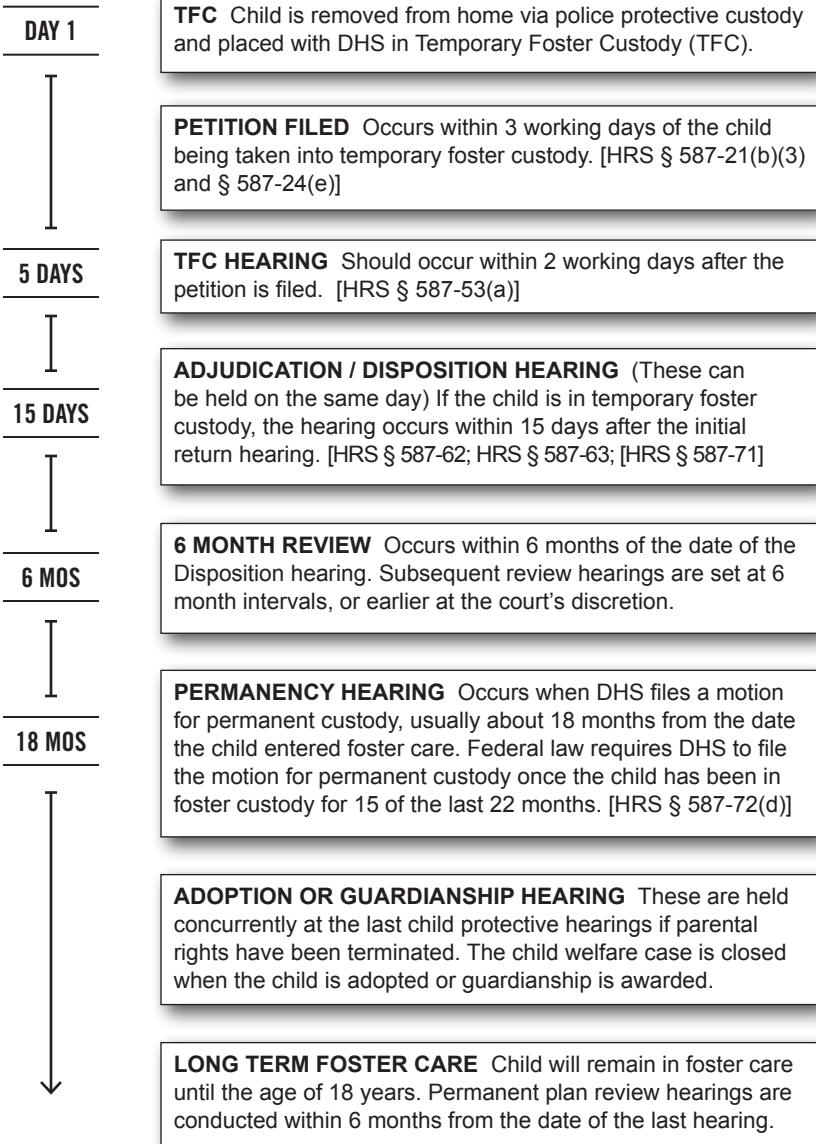
When the court decides on long-term foster custody:

- Social workers are required to submit a court report every six months to update the court on the child's progress.
- There is a permanent plan review hearing one year after the court ordered the permanent plan.
- After the first permanent plan review hearing, other review hearings are scheduled no later than each year.
- At each permanent plan review hearing, the court will review the existing permanent plan and enter any other orders the judge decides are in the best interest of the child.
- The social worker must continue to search for more permanent placement options for any child in long-term care.



# CHILD PROTECTIVE PROCEEDINGS

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Note: The child may be returned to the family at any point of the court process if the judge finds no evidence of imminent harm towards the child.

# TIPS ON ATTENDING COURT

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When you attend a court hearing, the judge may ask you a few questions or may invite you to make a short statement. Before going to court, review your records and notes so you can answer the judge's questions accurately. When you verbally answer the judge's questions or if you make a statement, report only facts not your opinions.

## DRESS/APPAREL

- Do not wear shorts, tank or sleeveless tops, or slippers. Try to avoid wearing sneakers and very casual clothing. Dress as you would for a job interview. It will tell the judge that you consider the courtroom a place where serious business is conducted and conveys your respect for the court.
- Do not wear baseball caps, hats, or sunglasses into the courtroom.
- If you have a beeper or cell phone, make sure it is turned off or turned to silent mode before entering the courtroom.
- Do not chew gum.

## DEMEANOR

- Keep in mind that before you speak one word, people in the courtroom – judge, attorneys, bailiff – will have gotten some impression about you from your appearance and behavior.
- Always rise from your seat to a standing position when the judge enters or leaves the room. Wait to be told to sit down when you enter the courtroom.
- Do not chew gum, eat or drink anything in the courtroom.
- Do not have side conversations with other people in the courtroom when the case is before the judge.
- Address the judge as “Your Honor” when speaking to him or her.

## TIPS ON ATTENDING COURT

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- If you wish to ask a question or make a statement, and you are not sure when to speak, make sure the judge and the other parties are not in the middle of speaking, stand up or raise your hand to be acknowledged, and ask. For instance, “Excuse me, Your Honor, I don’t mean to speak out of turn, but I have a question I would like to ask.”
- When you hear statements being made by other people in the courtroom that you do not agree with, do not react to the person making the statement. Do not make faces, sigh, or otherwise comment on the actions or testimony of others. Be patient until your time to speak comes. Judges do not like it when people before them argue with one another, respond personally, and speak with each other instead of speaking to the court.
- Direct all communication to the judge. It is not appropriate to speak directly to someone else in the hearing.



# CONCLUSION

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The information presented here is a general overview of the Family Court process and how you can participate in it. Understand that each judge has procedures and rules about what happens in his or her courtroom.

The most important thing to remember is that foster parents are vital members of the team providing care for a dependent child. When the best interest of the child in your care can be served in court, yours is a most important role. We encourage you to find out all you can to make sure you can properly advocate for the child's welfare.

Thanks for all you do to help Hawaii's children.



# GLOSSARY

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## ● Court Players

### **COURT OFFICER**

The Court Officer is a social worker employed by Family Court. She or he provides monitoring of the case on behalf of the Court. The Court Officer will read the case, review all the records, highlight important information, and make recommendations to the judge. (DHS Procedures Manual 1998, Part III, Section 6)

### **DEPENDENT CHILD**

A dependent child is a young person subject to the authority of the court because of child abuse or neglect.

### **DEPUTY ATTORNEY GENERAL (DAG)**

The DAG is a member of the Family Law Division of the Attorney General's office. The DAG represents the Department of Human Services, not the individual social worker or the foster parent. The DAG represents the position of the Department. (DHS Procedures Manual 1998, Part III, Section 6)

### **FOSTER PARENT(S)**

Any adult person who gives parenting care and maintenance to a foster child. (Hawaii Administrative Rules Section 17-828-2)

### **GUARDIAN AD LITEM (GAL)**

The GAL is an attorney (or a Volunteer Guardian *Ad Litem* — VGAL — a citizen volunteer who is trained by the VGAL Program or Legal Aid Society), who is appointed by the court to represent the best interest of the child. Her role is to advocate for the best interest of the child based on her own investigation of the facts and her knowledge of the child's needs. The GAL answers directly to the court. (DHS Procedures Manual, Part III, Section 6)

### **JUDGE**

The judge hearing the case decides what actions will be taken based on the evidence presented in court. The judge also issues orders and decides how soon actions must take place.

### **PARENTS' ATTORNEY**

The role of the parents' attorney is to advise the parents of their legal rights, help the parents understand their rights and duties and to present evidence and testimony for the parents. (HFPA Newsletter; June 1998)

### **PARTIES**

Parties are concerned participants identified on the Department's petition; usually the mother, legal father, adjudicated father, presumed or alleged father, and the DHS. Parties may also include grandparents or other relatives with an interest in the child or live-in boyfriend/girlfriend with access to the child. The Hawaii Legislature, in the 2006 session, amended the Hawaii Revised Statutes to clearly identify the current foster parents as parties after the adjudication hearing (HRS 587.51.5)

### **NON-PARTIES**

Non-parties are not bound by any order of the court. They are allowed to sit in on hearings at the discretion of the judge. The judge may request opinions of non-parties on the case. (DHS Procedures Manual 1998, Part III, Section 6)

### **SOCIAL WORKER**

The child's social worker is required to submit a Safe Family Home Report or a Court Report to the court two weeks before the review hearing. To prepare reports, the social worker gathers information about the parents and the child. The foster parent is often the person with the most information about the child's behavioral, medical, and education needs. The social worker usually sends notice of the review hearing date to the foster parent at the same time the court report is submitted. Because reports are sometimes late, a foster parent may not receive notice of the court hearing until just a few days before the hearing. It is suggested that foster parents work with the child's GAL as much as possible in presenting concerns to the court, in addition to submitting their own court report. (HFPA Newsletter; June 1998)

### ● Terms

#### **ADJUDICATION / DISPOSITION HEARING**

Scheduled within 15 days of the TFC Hearing, the Adjudication Hearing and Disposition Hearing can be held together. The Adjudication hearing determines whether the allegations of abuse or neglect in the petition are true. If the Department has met the burden of proof, the court then takes jurisdiction (authority) over the child. At the Disposition hearing, the court determines if the child will remain at home or in foster care. At this hearing, the court can order many other things in the best interests of the child.

#### **AGGRAVATED CIRCUMSTANCES**

Situations in which the agency may not be required to try to reunite a child with her parents. These include murder, voluntary manslaughter, or serious bodily injury of a child, termination of parental rights for the child's sibling, abandoned infants, and situations where it is reasonably foreseeable that parent will not be able to provide a safe family home.

#### **CHILD PROTECTIVE PROCEEDING**

Any action, hearing, or other civil proceeding before the court under HRS Chapter 587.

#### **COURT ORDER**

Court orders are issued at the end of each court hearing and reflect what was ordered during the hearing. A copy is provided to each attorney and to parties that are not represented by an attorney. The parties are expected to follow these orders. Any objections to the orders should be stated in court; a motion for reconsideration needs to be filed within 20 days of the filing of the court order about the issue being contested. (DHS Procedures Manual 1998, Part III, Section 6)

#### **FAMILY HOME**

The home of the child's legal custodian where there is the provision of care for the child's physical and psychological health and welfare. (Chapter 587, Section 587-2)

### **FAMILY SUPERVISION PETITION**

A petition filed when the child is able to remain in the home with services but oversight by the Court is needed to ensure compliance with services. Family Supervision does not transfer parental responsibilities from the parents to the Department. It does allow the Department to monitor the home, recommend services, and remove the child if it is later determined that remaining in the home places the child at risk of harm or threatened harm. (DHS Procedures Manual 1998, Part III, Section 6)

### **FOSTER CUSTODY PETITION**

A petition filed when a child needs to remain out of the home to ensure his safety, a Foster Custody order transfers most parental rights from the child's parents to the Department.

### **GUARDIANSHIP**

A legally established relationship between a child and adult who is appointed to protect the child's best interests and to provide for the child's welfare, education, discipline, maintenance and support. Guardianship gives guardians all the rights and responsibilities of the legal parent. Family Court closes its FC-S case. This means if the guardian wishes to terminate his role, the department needs to petition the court and open a new case with new allegations.

### **JURISDICTION**

When a court has jurisdiction over a case, it has the authority to make orders about the custody of the child, her placement and services to the family.

### **PERMANENT CUSTODY**

Parental rights are terminated and DHS closes its case. Family Court does not close its FC-S case. The child's Permanent Custodian has the rights and responsibilities of a legal parent. This custody automatically terminates when the child turns eighteen. If the placement fails and the permanent custodian wants to terminate his role, he should notify Family Court.

## **GLOSSARY**

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Family Court will order DHS back as the permanent custodian. The Department can easily request a change in a child's permanent custodian since there is already an active case.

### **PERMANENT PLAN**

A permanent plan is a specific written plan for the child. The permanent plan can be adoption, guardianship, permanent custody to the caregiver, co-permanent custody to the caregiver and DHS, or long-term foster care of the child.

### **PERMANENCY HEARING**

Permanency Hearings decides whether permanent custody of the child should be awarded to a caregiver. The judge applies a higher standard of proof at this hearing - clear and convincing evidence. If this standard is met by the child's parents, parental rights are terminated, and permanent custody is awarded to the child's caregiver(s).

### **REVIEW HEARING**

The Review Hearing assesses the progress of the family in complying with services or in achieving the goals of the service plan. These hearings are held for all cases under the court's jurisdiction and are scheduled no more than six months apart.

### **SAFE FAMILY HOME GUIDELINES**

Criteria used to determine if a family is willing and/or able to provide a safe family home. (Chapter 587, section 587-25)

### **SERVICE PLAN**

A specific written plan prepared by the child welfare agency and the child's family to address the specific needs and conditions of the family to help them provide a safe family home for their child.

### **TEMPORARY FOSTER CUSTODY (TFC) PETITION**

A petition filed when a child is at imminent risk of being harmed or threatened with harm and must be removed from the parent's

home to ensure that the child is safe. A TFC order transfers responsibility for the child from the parents to the Department temporarily while the case is being prepared for court.

### **TEMPORARY FOSTER CUSTODY (TFC) HEARING**

Scheduled within two working days of the filing of a TFC petition, the TFC Hearing determines whether the child should remain in the temporary custody of the Department or be returned to the family. The court makes this decision according to a “reasonable cause to believe” standard (a reasonable person would believe the facts presented to be true), is used to make the initial decision about whether or not a child should remain in the temporary custody of the Department or be returned to the family. If the court agrees that the Department has met their burden of proof, the court will set a Jurisdictional Hearing within 15 days. If all the parties agree to the need for court oversight and monitoring by the Department, the court can take jurisdiction at this hearing and determine the disposition of the case. The court also sets the date for the next hearing.

## ● **ACRONYMS**

CPS:	Child Protective Services	GAL:	Guardian <i>ad litem</i>
CWS:	Child Welfare Services	PC:	Permanent Custody
DHS:	Department of Human Services	TFC:	Temporary Foster Custody
FC-S:	Family Court Special Services	VGAL:	Volunteer Guardian ad litem



# SOURCES

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Federal and Hawaii state laws and rules of court that relate to foster parents' and relative caregivers' participation in Family Court Child Protective Service proceedings:

## **FEDERAL**

Adoption and Safe Families Act (ASFA): Section 675(5)(G) of title 42 of the United States Code (42 U.S.C. Section 675(5)(G) )

## **HAWAII**

- Hawaii Revised Statute Chapter 587, Child Protective Act
- State of Hawaii, Department of Human Services, Administrative Rules
- State of Hawaii, Department of Human Services, Social Services Division, Child Welfare Services Branch, Procedures Manual, Part III, 1998



# NOTES

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Some 2,400 children in Hawaii are in foster care at any given point in time. That's over two thousand children who need the support of foster families to help them through the toughest time of their lives.

The Hawaii Foster Parent Association helps foster and adoptive families provide a nurturing environment for these children. For the nearly 2,000 foster parents licensed in the State of Hawaii, HFPA provides information, training, support and advocacy.

By empowering families, by collaborating with governmental and private agencies, and by advocating for foster families and the children they support on a local and state level, HFPA has become an indispensable part of the foster care system.

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