

A RELATIVE'S GUIDE TO THE ARKANSAS CHILD WELFARE SYSTEM



**A GUIDE ABOUT THE ROLE OF DCFS AND THE COURTS, THE
IMPORTANCE OF FAMILY, AND YOUR ROLE AS A RELATIVE**

R. August 2023

Authored by:

Administrative Office of the Courts, Juvenile Division
Arkansas Advocates for Children and Families
Arkansas Voices for the Children Left Behind
DHS Division of Children and Family Services



Table of Contents:

| | |
|--|----|
| Introduction..... | 5 |
| Which state agencies are involved? | 5 |
| How does a case begin? | 5 |
| Will the child be removed from the home during the investigation?..... | 6 |
| What happens to the child if the possible child abuse or neglect is found to be true? | 6 |
| Where is the child placed if removed from the home?..... | 6 |
| Are siblings placed together? | 7 |
| What legal rights do I have as a relative? | 7 |
| Are relatives notified when a child is taken into custody? | 7 |
| How can I care for the child while he or she is in DCFS' custody? | 8 |
| What is DCFS' role while the child is in their custody? | 11 |
| How can I visit my relative in foster care? | 11 |
| When is the court involved? | 12 |
| Can I participate in court hearings? | 12 |
| Court Hearings:..... | 14 |
| How can I provide a permanent home for my relative or fictive kin? | 15 |

Introduction

When a family member becomes involved in the Arkansas child welfare system, it can be a scary and confusing time for the child, the parents, relatives and fictive kin. As a relative or fictive kin, you can play an important role in helping a child.

Children who are removed from their parents or guardian do better when placed with family members or people they know. Grandparents, aunts, uncles, teachers, church members, neighbors, and others having a significant bond with the child are often willing to help and make the child feel safe and loved.

There is good news for grandparents, relatives and other fictive kin who want to be the foster parents, adopt, or become the guardian of their own family's child. By law, the Division of Children and Family Services (DCFS) at the Arkansas Department of Human Services (DHS) prefers adult relative caregivers over nonrelated caregivers. DCFS also prefers caregivers who already have a significant bond with the child to those who are not familiar with the child. Caregivers must meet certain requirements. It must also be in the best interest of the child to be placed with the caregiver.

This booklet will help explain what happens when the child comes into the custody of DCFS. It also talks about the role of the court, the importance of relatives and fictive kin, and how you might remain involved in the child's life as a relative or fictive kin while the child is in DCFS custody. Some information described below may not always happen one after the other. Often, many of these steps happen at the same time.

Which state agencies are involved?

The state agency in charge of protecting children is DCFS. Their task, along with the Juvenile Division of the Circuit Court (Court) and sometimes the Arkansas State Police Crimes Against Children Division (CACD) is to help children stay safe and help their families grow stronger with needed services.

How does a case begin?

A report of possible child abuse or neglect must first be called into the Child Abuse Hotline (1.800.482.5964). If there is enough information to suspect abuse or neglect, the hotline staff will "accept" the report. This means that a staff member of DCFS or CACD must investigate the report. If severe neglect or abuse is suspected, CACD will begin an investigation within 24 hours after the call. In less severe cases, DCFS must begin an investigation within 72 hours. All investigations should be completed within 45 days.

Will the child be removed from the home during the investigation?

If, at any time DCFS feels the child is not safe in his or her home, DCFS may take the child into their custody. If the child will be removed from his or her home for over 72 hours, DCFS must also file a petition with the court.

What happens to the child if the possible child abuse or neglect is found to be true?

After the investigation is over and DCFS or CACD decides the child abuse or neglect is true, the child could be:

- removed from the home and placed in foster care (if this has not already been done);
- left in the home with a protective services case (If DCFS decides that the child is safe in the home, but the family needs services, a protective services case may be opened. A family involved in a protective services case must work with DCFS to keep the child safe in the home and to help strengthen the family. If a protective services case is opened, generally relatives and fictive kin are not notified. However, if appropriate, DCFS may engage relatives and fictive kin to assist with supporting the family to prevent removal.);
- left in the home and offered voluntary services to the child and the family. These services are called “supportive services”;
- or left in the home with no case opened nor services put in place.



Where is the child placed if removed from the home?

Children who are removed from their home are placed in “approved placements” by DCFS. An approved placement is a resource home (i.e., foster home) that meets certain standards. DCFS will seek relatives and fictive kin and assess those options immediately upon removal of the child and prior to seeking a non-familiar resource home placement. If no relative or fictive kin placement options are available the day of removal, the child may be placed in a resource home, shelter or group home (all known as resource homes) until an appropriate relative or fictive kin home becomes available. DCFS will continue to seek out and assess relatives and

fictive kin throughout the time a child remains in DCFS custody. In order to protect the child and the foster family, DCFS cannot generally share resource home addresses or contact information with family members. Sometimes children who have serious behavior or mental health issues will be placed in a residential facility to better meet their needs.

Are siblings placed together?

DCFS shall attempt to place siblings together. Siblings may be placed apart if it is not in their best interest or if DCFS decides that placing the siblings together would not be healthy for the children. DCFS will ensure the reasons for the separation of siblings are regularly reviewed. A plan to reunite the siblings will also be made, if appropriate. Until siblings are placed together, DCFS shall arrange visits at least every two weeks, unless the court orders a different schedule.

What legal rights do I have as a relative?

DCFS shall provide notice to certain family members and when a child comes into DCFS custody. This becomes an issue when a father has not established paternity to the child. Paternity is the legal acknowledgment of the parental relationship between a man and his child. A parent who has not established legal rights to his or her child is called a putative parent. If you are a relative on the father's side, and the father's legal rights have not been established, then there are several ways to establish them: (1) child was born of a marriage; (2) father signs an acknowledgment of paternity, (3) father is listed on the birth certificate, or (4) by court order.

Are relatives notified when a child is taken into custody?

Immediately when a child enters DCFS custody, DCFS works to identify and provide notice to all grandparents, aunts and uncles, and siblings over 21 who are related to the child by blood, adoption, or marriage.

DCFS will also provide notice to any other adult relatives suggested by the parents of the child. DCFS may also notify "fictive kin." Fictive kin are persons who know the child well and have a positive role in the child's life. Fictive kin are not related by blood, adoption, or marriage.

The DCFS worker will provide notice through a letter that explains:

- the child has been or is being removed from the parent;
- the relative or fictive kin may be able to participate in the care of, placement with, and visitation with the child;
- the requirements to become a provisional resource home and the

additional services and supports that are available for children in a resource home; and

- other options available including adoption, guardianship, and custody and subsidies and services, if available.

If you receive such a notice, you must respond to it as quickly as possible. The notice also provides the contact information of the child's DCFS worker. You can call the worker to learn more about how you can help the child. These notices will not be sent to any adult relative or fictive kin who has a pending charge or past conviction or plea of guilty for family or domestic violence or a true finding of child maltreatment in the Child Maltreatment Central Registry.

If you do not receive a notice letter from DCFS, but find out the child is in care through another way, then call the DHS office of the county the child was living in when he or she was removed. You will need to provide identification and explain how you are related to the child. The child's worker will run background checks to confirm the relationship. They will also ask the child if it is okay for you to be involved if the child is old enough to ask.

Even though you may receive notice that a child is in DCFS' custody, because of the confidential nature of cases, relatives may not receive information about the case unless the court approves it or DCFS believes you are able to support the family in some way and need specific information to provide this support.

How can I care for the child while he or she is in DCFS' custody?

If relatives or fictive kin are found either through the notification process described above or through another way, they may be able to care for the child or at least stay involved in the child's life. Relatives who should receive notice letters (i.e., grandparents, aunts, uncles, siblings over 21) can do this. Other relatives and fictive kin like first cousins, nephews and nieces, great grandparents, great aunts and uncles, first cousins once-removed, neighbors, church members, coaches, teachers, and parents of friends may also be able to stay involved with the child.

If it is in the best interest of the child to live with the relative or fictive kin, then DCFS will discuss with the relative or fictive kin the options of becoming a provisional resource home or temporary custody. More information on each of these options is below:

Provisional Resource Home

Relatives and fictive kin may be eligible to become a provisional resource home after DCFS conducts:

- a health and safety check, including background checks; and,
- a visual inspection of the relative or fictive kin's home. This means a DCFS worker called a resource worker who will come to your home to make sure it is a safe place for the child and that it meets certain rules called licensing standards.



Certain housing licensing standards may be waived for relatives and fictive kin if the child's safety will not be at risk. DCFS will also consider other information such as the resources available to help support the child.

Provisional resource homes receive a board payment for each child to help care for the child which ranges from \$451-\$550 based on the age of the child. The child will also have medical insurance. DCFS may also provide child care for young children if appropriate. Relatives and fictive kin may qualify for some benefits after the child is placed, such as Supplemental Nutrition Assistance Program (SNAP) – formally known as food stamps. To apply for benefits, go to your local DHS county office.

The child is still in DCFS custody even if you become a provisional resource home. You must follow court orders and the child's DCFS worker will come to visit the child at least once a week during the first month and at least once a month after that. He or she will make sure the child is doing well, attending school and doctor appointments, and has needed services. If the court thinks it is ok, the child will also visit his or her parents, which is called family time.

During your time as a provisional resource home, you must work toward becoming an approved resource home within six months. You will have to:

- complete FBI checks (fingerprints required);

- complete resource parent training (a quick online course + 12 hours of training classes which usually take place over a course of between 2 to 4 weeks);
- complete CPR and First Aid training; and
- have a home study done.

For the home study mentioned above, there will someone who comes to your home a few times. He or she will talk with you about your experiences growing up, how you plan to care for the child, and other topics. This person will use information from talking to you to write the home study.

If you do not complete all of these steps within six months, by law your board payments will stop until you meet all requirements. The child may also be removed from your home unless the judge awards custody to you.

As soon as your home is approved as a resource home, you will be entitled to all services and supports available to every child in foster care, and your monthly board payments and Medicaid coverage for each child will continue.

The child's DCFS worker will continue to visit your home at least once a month. He or she will check in with the child and make sure everyone is doing well and following court orders. Your resource worker will also visit your home at least four times a year to make sure all resource home licensing standards are still being met.

Temporary Custody

You may request that the judge award temporary custody of the child to you. Even if you receive temporary custody, the court and DCFS will still be involved in the decisions related to the child's case. DCFS will most likely try to reunite the child with his or her parents.

If temporary custody is granted, you will not get a monthly board payment for the child. You also will not be eligible to later become a provisional resource home for the child. However, you may qualify for other benefits such as Supplemental Nutrition Assistance Program (SNAP) – formerly known as food stamps. You must apply through your local DHS county office to learn if you qualify. In addition, if you decide to become the guardian for the child at a later point, you will not be eligible for guardianship subsidy payment.

If later it is decided that it is not possible to return the child to his or her parents, the court may decide to award permanent custody to you. Permanent custody must be in the best interest of the child and you must be willing to accept permanent custody. If you take permanent custody, the child's case will be closed. You will not receive any support from DCFS.



What is DCFS' role while the child is in their custody?

If it is decided by the court that the child is dependent/neglected and that the child must remain in foster care, DCFS must look at what is best for the child. DCFS will work with the family to develop a case plan. A case plan is a written document that is given to the court. It says what steps are needed to reunite the child with his or her parents or guardians, including what the parents or guardians must do. All parents, including putative fathers, should be listed. The case plan describes the services needed and says who is responsible for providing the services. Services may include things like counseling and early intervention services. The type of services depends on the needs of the child and the family. The case plan should also say how often and under what conditions the parent will visit the child. The case plan will also have a backup plan in case the child cannot be reunited with their family. This backup planning is called concurrent planning.

Throughout the case, DCFS will look at whether the family is improving and what additional services may need to be provided. In fact, the court must certify that DCFS made specific efforts (called reasonable efforts) to reunite the child with his or her parents or guardians. DCFS will also continue to check on the child wherever he or she is to make sure the child is doing well, attending school and doctor appointments, and has needed services.

How can I visit my relative in foster care?

Visits, also referred to as family time, between the child and his or her parents are almost always a part of the case plan. Children who keep good family ties while in foster care do better. Families and children will have opportunities for in-person family time, talking by phone or FaceTime, and participating in activities like teacher conferences and other school and community events. Family time sessions are sometimes supervised by someone from DCFS. Family time should take place in the most home-like setting possible.

Grandparents or other relatives may be allowed to have family time with the child during these visits too if it is in the best interest of the child. The more loving adults in a child's life, the better it is for the child.

If there is a concern about contact between certain relatives and the child, then DCFS or another party to the case (e.g., the child or parent's attorney) can ask the court to order no contact with those relatives. This must be for a specific reason related to abuse or neglect of the child.

The Court Process:

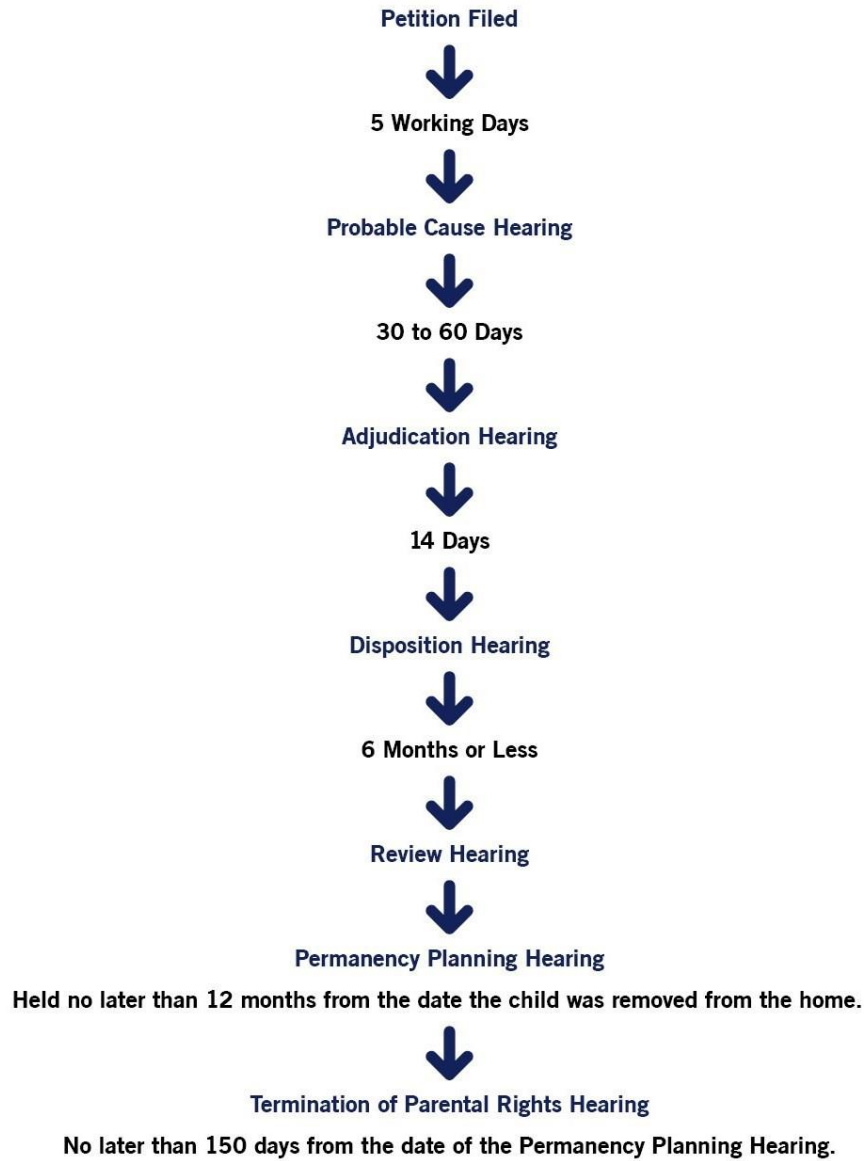
When is the court involved?

The court becomes involved in these cases when someone files a petition with the court. Most the dependency/neglect cases that come to the court begin because DCFS removed a child from his or her home. The court is responsible for deciding what is in the child's best interest while making decisions. The court sets the goal of the case which is usually to reunify the child with the parent or custodian from whom they were removed. The court monitors whether the parents and DCFS are following the case plan and the court orders and must determine a final permanency placement for the child within a year from when the child was first removed.

Can I participate in court hearings?

You must be a resource parent, pre-adoptive parent, or relative or fictive kin caregiver to have a right to participate in court hearings. A relative or fictive kin caregiver is a relative or fictive kin who has been taking care of the child. DCFS is required to provide notice to resource parents, pre-adoptive parents, and relative or fictive kin care givers of any court hearing with respect to a child in their care. Relative and fictive kin resource parents have a right to be heard. The court shall allow these resource parents to be heard in any court hearing concerning a child in their care, but they must be called as a witness to do so. If you are not a resource parent, pre-adoptive parent, or a relative or fictive kin caregiver but have a connection to the family involved in the dependency-neglect proceeding, you may attend court hearings unless the court decides it is not in the child's best interest or it is otherwise within the authority of the court to exclude you from the hearing. Even if you are not yet a placement for the child, you may also contact the DCFS caseworker, the parent's attorney, or child's attorney and ask to be called as a witness.

This chart shows the types of hearings and the time frames for when those hearings must be held:



Court Hearings:

Dependency Petition Filed with the Court: DCFS can take the child into protective custody (this means the child will be removed from his or her home) for up to 72 hours without court approval. If the child is to be removed from the home longer than 72 hours, DCFS must file a petition for emergency custody with the court. The petition is a piece of paper that says DCFS believes that the child's health or safety is in danger if the child is returned home and asks that DCFS continue to have custody of the child. If the court allows DCFS to continue to have custody, the court will issue an emergency order, a piece of paper which approves DCFS' request to continue custody.

Probable Cause Hearing: A probable cause hearing must be held within 5 working days of issuing the emergency order. The court will decide if the child should be returned home, stay in the temporary custody of DCFS, or live with someone else until the adjudication hearing. The court has the authority to place children with relatives or fictive kin at this hearing, if the court is given evidence and it is in the child's best interest.

Adjudication Hearing: Within 30 to 60 days of the probable cause hearing, an adjudication hearing will be held to decide if the child is dependent/neglected (this means abused or neglected). If it is determined that the child is not dependent/neglected, the child will be returned home, and there will no longer be a court case or involvement with DCFS.

Disposition Hearing: If it is determined that the child is dependent/neglected, the judge will hold a disposition hearing to decide if it is better for the child to stay in the custody of DCFS, be placed in someone else's custody, or be returned to their parent or guardian. This hearing usually takes place immediately after the adjudication hearing, but if not, it must take place within 14 days.

Review Hearings: The court will continue to hold review hearings (at least every 6 months, but usually more often) throughout the case to make sure that everyone is following the court orders and DCFS case plans, to see how the child is doing, to find out what progress the family is making to improve the child's home situation, whether the right kind of services are being provided for the family and the child, and if the child can be returned home. These hearings will continue to be held until the child has a permanent home.

Permanency Planning Hearing: The court must decide on a plan for permanent placement for the child. These options include in the order of

preference: (1) placing custody of the child with a fit parent; (2) returning the child to the guardian or custodian from whom the child was initially removed; (3) authorizing a plan to place custody of the child with a parent, guardian, or custodian if certain conditions are met; (4) authorizing a plan to obtain guardianship or adoption with a fit and willing relative; (5) terminating the parental rights so that the child can be adopted by someone else. The permanency planning hearing can be held at any time following the adjudication but must be held within 12 months from the date the child was removed from the home.



How can I provide a permanent home for my relative or fictive kin?

Every child needs a permanent home. If the child cannot be returned home to his or her parents, then there are several ways you may be able to provide a permanent home for your relative or fictive kin:

Adoption

If the court determines it is in the child's best interest and the child cannot be returned home, the court will look to see if the child can be adopted. A hearing called termination of parental rights (TPR) must be held. TPR means the parents or guardians are no longer legally responsible or attached to the child. If TPR happens, the child will be free for adoption including adoption by a relative or fictive kin. If it is in the child's best interest, family time with siblings and with relatives may take place after TPR. Unless the court allows it, the child cannot continue to visit the parent whose rights have been terminated (TPR).

Relatives have preference for adoption after TPR occurs and DCFS should evaluate all relatives prior to seeking a non-relative adoptive placement for a child.

To become an adoptive parent, DCFS must conduct a home study (if one has not already been done) to make sure your home meets certain requirements. Certain housing requirements may be waived if they do not

risk the safety or well-being of the child. DCFS will also consider other information such as your resources to support the child and your health.

An adoption subsidy payment from DCFS to help defray some of the costs for caring for the child may also be available for a child who is Caucasian and over the age of 9, African-American and age 2 or older; member of a sibling group.

Guardianship

If the court grants legal guardianship, this is a legal, permanent connection for the child, though not as permanent as adoption, but no further court hearings are required. A guardianship subsidy from DCFS to help defray some of the costs for caring for the child may be available if:

- the relative or fictive kin has served as a resource parent (not provisional) for at least 6 consecutive months (though this may be waived in some situations);
- being returned home to the person from whom he or she was removed or adoption is not an appropriate permanency option and guardianship is in the child's best interest; and
- the child has a strong attachment to the prospective relative or fictive kin guardian(s) and the guardian(s) has a strong commitment to caring permanently for the child.

For a legal guardianship, DCFS will conduct an annual review of the family's and child's circumstances and an annual report to the court must be filed.

Permanent Custody

If the court grants permanent custody, no further services or periodic reviews are required. The case will be closed and the family will not receive support from DCFS. This is different from legal guardianship, because the relative or fictive kin will not qualify for a subsidy and DCFS does not file an annual report with the court.

What if I need help figuring this out?

With so much going on so quickly, it's hard to know what should be happening and when. When you have questions, you can ask your resource worker or your child's assigned case worker to help you. You can also find information in the PUB-30: **Resource Parent Handbook**. You will be given a copy of the PUB-30 during resource training but your resource worker can give you another copy of the PUB-30 if you ask for one.

You can also contact the Kinship Connect Program Manager at 501-396-6233.



Thank you for making a difference in a child's life!