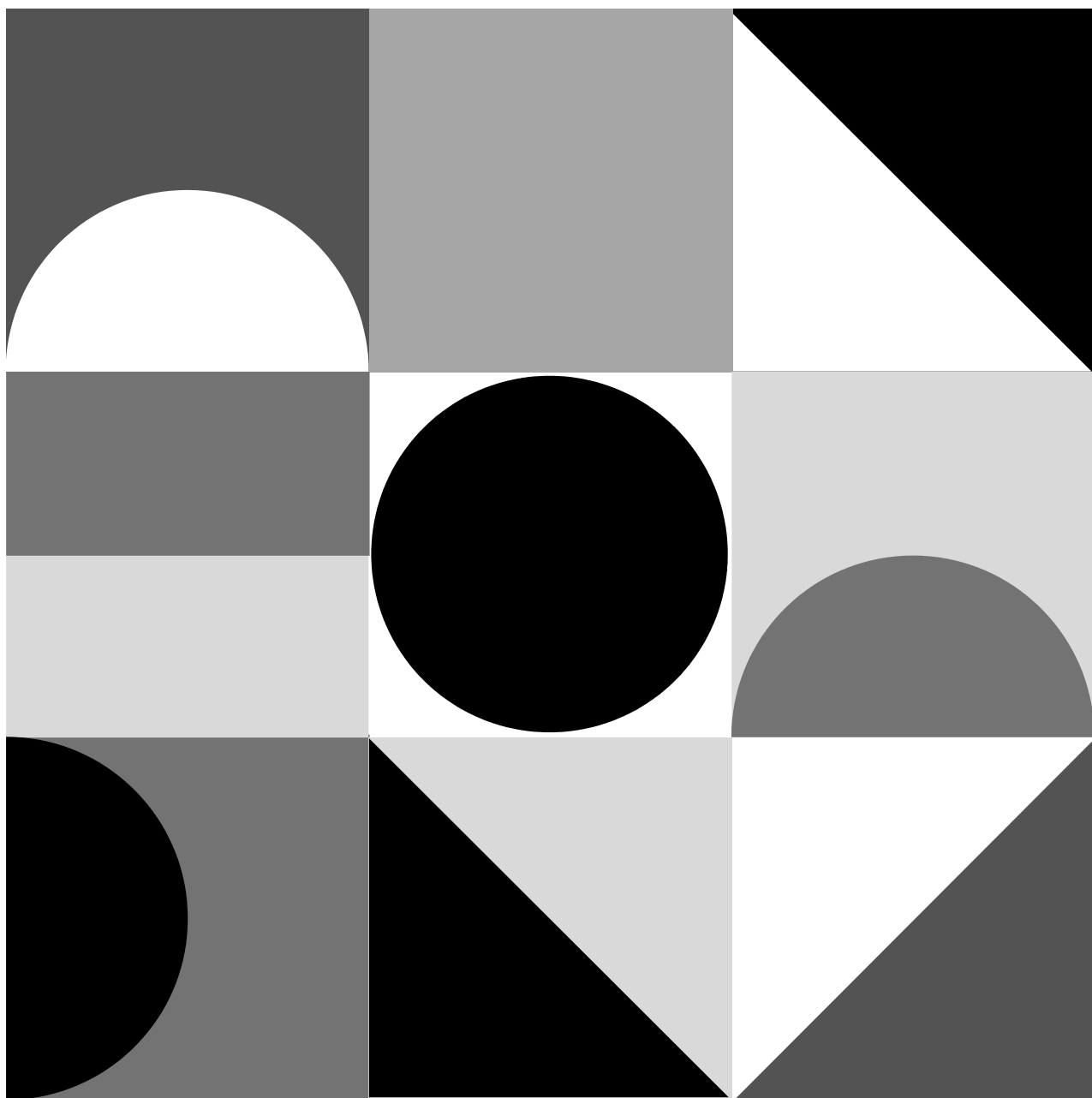


# Court Process & Legal Rights Guide For Foster Caregivers



## What is the purpose of this guide?



This guide is to be used to learn more about Child in Need of Care (“CINC”) cases. It is for foster parents, relatives, fictive kin (individuals connected to a child or family through bonds of affection, concern, obligation, and/or responsibility), and pre-adoptive parents with whom a child is living on a provisional (i.e., short-term) basis while a CINC case is being resolved. In this guide, foster parents, relatives, fictive kin, and pre-adoptive parents are referred to as “foster caregivers.” The purpose of this guide is to familiarize you, as foster caregivers, with the court process and your legal rights in CINC court hearings. It is not intended to provide legal advice or take the place of legal representation. Please note that the plural form of “parent” is used throughout the guide for simplicity, even though at times, only one parent has been identified in a case.

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## How are DCFS and the court involved in CINC cases?



### **Department of Children and Family Services (“DCFS”):**

DCFS is the State agency responsible for receiving and investigating reports of child abuse and neglect; securing services and supports to protect children and prevent them from being removed from their home; initiating court proceedings to remove children from their home if necessary to keep them safe; providing foster care when the court finds it is necessary to protect a child; and, providing services and supports to the family so that the child can return home or, if necessary, placing the child in another safe and permanent home.

### **Custody of the Child:**

When someone contacts DCFS to report abuse or neglect of a child, an investigation to determine the report’s validity begins, along with an assessment of family functioning, safety, and risk. If it is determined that the child cannot remain safely in his/her home, the court will decide whether the child will be placed in the provisional custody of a suitable relative or individual/fictive kin or the State through DCFS. If the court places the child in the custody of DCFS, DCFS will choose a suitable relative or individual/fictive kin, a certified foster parent, or a suitable licensed facility to care for the child until the case is resolved or dismissed by the court or law. Per DCFS Policy 6-305, DCFS partners with parents to identify and locate relatives within 10 days, and no later than 30 days, from the child’s entry into foster care and on an on-going basis as other relatives are identified.

### **Court Hearings:**

For a child to remain in DCFS custody (i.e., foster care), court hearings must be held and a judge must determine if the child is a “Child in Need of Care.” These grounds can be found in Louisiana Children’s Code Articles 603 and 606 but generally involve abuse or neglect. In such cases, DCFS and courts have the responsibility of assisting parents in addressing the safety issues that led to the removal of the child and reunifying the child with his/her parents or finding another permanent and safe home for the child if reunification is not possible. To ensure due process for parents and children, the law mandates the types of court hearings that must be held, their purposes, who can attend, and timeframes.

### **Judges:**

CINC cases are not heard before a jury but only before a judge. Information about the family is presented to the judge at the CINC hearings. Judges make the final decision as to whether a child will be removed from their parents’ custody or returned once they have been removed. If a child is removed from their parents’ custody, judges decide who to grant custody of the child to (i.e., DCFS, suitable relative or individual, etc.) and for how long. Judges are required to make very difficult decisions that can have a huge impact on the lives of children and families in these cases.

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## What is my role as a foster caregiver in the CINC court process?



### **Share Valuable Information:**

As foster caregivers, you play a critical role in the life of the child in your care. Because of your day-to-day care of the child, you have valuable information that can help those involved in the child's case make crucial decisions regarding the child's well-being. Thus, one of your roles in the court process includes providing current and accurate oral and/or written information about the child so that judges can make informed decisions in the best interest of the child.

### **Attend Court Hearings:**

You are encouraged to attend court hearings regarding the child in your care, although your attendance is not generally a requirement. Not only should you be given the opportunity to provide information about the child to the court, but your attendance will keep you updated on developments in the child's case and give you the opportunity to meet and communicate with those involved in the case (i.e., the child's attorney, parents and relatives of the child, DCFS, the CASA volunteer, etc.). Court hearings may offer opportunities to solve scheduling conflicts, such as visitation and appointments, and challenges the child may be facing. Early and ongoing communication, respect, and support between foster caregivers, the court, the parents, and DCFS are important for the child's well-being and getting him/her the supports and services needed as soon as possible. Such communication, respect, and support are also critical for the Quality Parenting Initiative ("QPI") to be successful. (More information about QPI is below.). As the foster caregiver, you can also provide assistance and support to the child if they attend the hearing. Some hearings may include difficult information for the child to hear or long wait times. Your presence at the hearing may provide needed support for the child during and after the hearing.

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## What are my rights as a foster caregiver in the CINC court process?



### **Right to Notice of CINC Hearings:**

As a foster caregiver, you have a legal right to receive "notice" from DCFS of any CINC court hearing involving a child in your care. The law requires that "notice" be given to you by DCFS and that it includes the date, time, and location of the upcoming hearing and your right to attend and be heard at the hearing. If the hearing will be held online (i.e., via Zoom), DCFS should provide the login information to you before the hearing. Per DCFS Policy 6-835, you should receive a "Notice Letter" from a DCFS case worker either in person or by email or mail before each hearing as follows: (1) at least 24 hours before the Continued Custody Hearing; (2) at least 10 days before the Answer and Adjudication Hearings; and (3) at least 20 days before the Disposition, Case Review, and Permanency Hearings. If you have not heard from DCFS within these time frames, it is recommended that you reach out to your case worker as a friendly reminder that you have not yet received "notice" and would like information on the date and time of the next hearing.

### **Right to Attend and Be Heard at CINC Hearings:**

As a foster caregiver, you have a legal right to attend and be heard at all CINC court hearings involving a child in your care. This means you should be able to at least sit in on part, if not all, of the hearing and speak about how the child is doing. While it is usually recommended that you attend all hearings regarding a child in your care, in most cases, it is your decision whether or not to attend. However, if a legal party to the child's case wants you to attend the hearing, they have a right to serve you with a subpoena. A subpoena is a legal order compelling your attendance. If you are served with a subpoena, you must attend the hearing as directed.

For laws and rules governing this, please refer to: Louisiana Children's Code Article 623 and the Safe and Timely Interstate Placement of Foster Children Act of 2006 and Adoption and Safe Families Act of 1997 (42 U.S.C. § 675(5)(G) and 45 C.F.R. § 1356.21(o)).

## What rights do I not have in the CINC court process?



### **Not a Legal Party to CINC Proceedings:**

As a foster caregiver, you are not a legal party to the CINC proceedings; therefore, you cannot call or examine witnesses, present evidence, or object to testimony or evidence. However, a foster caregiver may “intervene” in limited instances per applicable law.

### **No Right to Attend the Entire Hearing:**

As a foster caregiver, you are not a legal party to the CINC proceedings; therefore, while you have a right to attend the hearing and be heard, you may be asked by the judge to remain outside of the courtroom at the start of the hearing or leave during part of the hearing or leave the hearing after you speak. Only judges can decide whether the foster caregiver will remain in the hearing the entire time or not.

### **Not Entitled to an Attorney:**

As a foster caregiver, you are not entitled to have a lawyer represent you in the CINC proceedings. Only the child and their parents are entitled to an attorney in CINC proceedings. However, a foster caregiver may obtain their own attorney for the purpose of personal legal counsel and/or to intervene per applicable law.

### **No *Ex Parte* Communications:**

All information you wish to share with the court must be shared with all parties in the child’s case. You cannot send the judge a letter, make a phone call, or attempt to visit the judge outside of the presence of other legal parties in the child’s case. This is called *ex parte* communication. It is prohibited for ethical and legal reasons and applies to both lawyers and the court.

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## What should I do when I arrive at court?



### **Tell Someone You are There:**

Once you arrive at the court, let the court staff at the entrance know that you are a foster caregiver and the name of the child whose hearing you are attending. You may be asked to wait in the courtroom until the judge comes in, or you may have to wait in the seating area outside the courtroom until the case is called. You are encouraged to find the DCFS case worker, attorneys, and/or court staff involved in the case to let them know that you are there to attend the hearing and whether you would like to speak at the hearing.

### **Attending the Hearing Online:**

Sometimes CINC court hearings are held online (i.e., due to bad weather, COVID-19, etc.). If the hearing will be conducted online (i.e., via Zoom), then a DCFS case worker should provide the login information to you before the hearing. If you have not received the login information before the hearing, contact your DCFS case worker to request it.

### **Speaking at the Hearing:**

If you let DCFS staff, court staff, and/or an attorney know you are there and your wish to speak or not, they should let the judge know you are present and whether you would like to speak. By law, the judge should ask if you have anything to share about the care and treatment of the child in your care. However, if the hearing is coming to a close and you have not been asked to speak, most judges will respond to a foster caregiver who raises his/her hand and respectfully asks to address the court.

### **Sitting in the Hearing:**

Because foster caregivers are not legal parties to the CINC proceedings, the judge can prohibit you from attending the entire hearing. As a foster caregiver, you may not be invited to sit in the hearing initially, or you may be asked to leave the hearing at some point. Courts sometimes hold conferences before the hearing that do not include everyone involved in the case. In these instances, it is important for you to know that decisions may be made that you do not

hear because you are not a legal party to the case, such as a decision to return a child to the parents or place the child with a relative.

**Before and After the Hearing:**

On the court premises, before or after the hearing, there may be an opportunity for wholesome and productive interaction and communication between the child, the parents, DCFS, the attorneys, and/or others involved in the case.

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## What information should I share with the court about the child in my care?



**Care and Treatment of the Child:**

As foster caregivers, the court is required to solicit information from you about the “care and treatment of the child.” The purpose is to provide valuable, current, and relevant information about the child that helps the court make informed decisions regarding the child’s best interest. For example, you may want to provide information about: (1) how the child is doing in your home; (2) medical, mental health, or developmental progress or challenges, (3) childcare or educational successes or challenges; and/or (4) supports and/or services that are needed for the child and you to properly care for the child. Stick with the facts, your observations, and firsthand information. You may also want to discuss things that are important to the child, such as his/her culture or customs, interests, hobbies, or talents. Additionally, you might want to raise challenges that the child is facing due to, for example, the separation from family, a new school, religious practices that are different, etc.

**In Court:**

If you are sharing information about the child in court, know that some judges may limit your participation to answering questions they have about the child. Whether you completed the form or not, you may want to bring a copy of it to reference the questions when you speak. The court has a limited amount of time, so your comments should be short and to the point.

**In the Foster Caregiver Progress Form:**

The Foster Caregiver Progress Form is meant to give you the opportunity to provide valuable, current, and relevant information regarding the “care and treatment of the child” to the court (the judge), DCFS, parents, attorneys, and CASA (if appointed) whether you attend the hearing or not. Blank copies of the form will be provided to you by a DCFS case worker and are also available on the DCFS website (<http://www.dcf.la.gov/relatives> and <http://www.dcf.louisiana.gov/page/foster-parenting>). A separate form should be completed for each child. You are encouraged, but not required, to complete the form. If you choose to use the form, it should be typed or neatly printed. The DCFS case worker will ask you for the completed form at home visits before the next hearing, or you can send it directly to the DCFS case worker via email. You can also submit the form online at <http://www.dcf.la.gov/relatives> and <http://www.dcf.louisiana.gov/page/foster-parenting>. The DCFS case worker will provide the submitted form to the court, parents, attorneys, and CASA (if appointed).

**Share with DCFS:**

It is helpful if you keep your DCFS case worker informed of needed services and supports on an ongoing basis.

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## What are some tips on attending and speaking or testifying in court?



### Tips on Attending Court:

Always show respect and courtesy for everyone in the courtroom. Arrive at least 30 minutes before the scheduled court time. Be prepared to wait. Courts are busy, and hearings do not always start on time, but your information is valuable. Before you enter the courtroom, turn off your cellphone. You may want to ask the DCFS case worker about courthouse specific rules such as no cell phones, backpacks, or baseball caps, etc. Dress professionally (as you would for a job interview). Always stand when the judge enters the room.

### Tips on Speaking/Testifying as a Witness in Court:

Come organized and prepared. You may want to bring a copy of the Foster Caregiver Progress Form to reference when you speak. Tell the truth. Speak from firsthand knowledge and loudly and clearly. Testimony must be spoken so it can be recorded in the court record, so do not nod or shake your head when answering a question.

Understand that if you present written or oral information to the court, the judge and parties to the case have a legal right to ask you follow-up questions and/or call you as a witness. However, even if you do not speak at court or submit the form, the parties in the case always have a legal right to call you as a witness for any hearing. If you are called to testify as a witness, you will be under oath to tell the truth, required to answer specific questions, and subject to cross-examination (i.e., questioning) by the attorneys and/or judge in the case. Be serious, calm, polite, and sincere, even if challenged or criticized. Wait until a question is completed before you begin your answer. Listen carefully to the question and make your answer directly responsive to it. If you do not understand a question, ask the judge and/or attorney for clarification. If you do not know the answer to a question or cannot remember something, just say so. Do not guess at an answer.

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## What happens if I do not attend a CINC court hearing?



If you do not attend a hearing, it may still be important or required for the child to attend. DCFS must report to the court whether notice was given or, if not, what diligent efforts were made to locate and notify you of the hearing and your right to be heard. However, the court may permit the hearing to be held in your absence. If you do not attend a hearing, you may want to ask for information about the hearing from your DCFS case worker.

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## Who else participates in CINC court hearings?



CINC court hearings are not open to the public. They involve “legal parties,” who are the parents, children, and the State. They also involve DCFS case workers and CASAs. In addition to you, the following individuals may attend a CINC court hearing:

### Children:

If the child is 12 years of age or older, they must be present at the hearing unless their presence is waived by the court upon motion (request) of the child’s attorney. If the child is below 12 years of age, they have to be present at the hearing if the child’s attorney or judge requests that they attend. In most cases, it is recommended that the child attend hearings involving their case. Sometimes special arrangements might need to be made for the child based on the circumstances of the child and/or the case (i.e., interpretation, translation, and/or language assistance services and/or accommodations for disabilities or, if the hearing may expose them to adverse experiences, use of video testimony or special entrances and exits or limiting the child’s presence at the hearing, etc.). If so, it would be helpful for you to make these suggestions to the DCFS case worker prior to the hearing.

**Parents:**

All legal and biological parents of the child should be present at all CINC hearings involving their child. However, in some instances, parents may not be present for various reasons.

**Children's Attorney:**

An attorney is appointed by the court for each child involved in a CINC case, and in general they are to represent the expressed wishes of the child. This means the child's attorney advocates for what the child wants rather than what others may regard as the child's best interest. Usually, one attorney will represent all siblings involved in the same case. Different attorneys may be appointed when the children have conflicting interests that are unresolvable. These attorneys advise children of their legal rights, represent children at hearings, and help children present evidence and testimony to the court. Although many children's attorneys contact the foster caregiver to introduce themselves and/or ask questions about the child, they do not have a legal obligation to contact the foster caregiver. However, the child's attorney does have a legal obligation to contact the child. For this reason, the child's attorney may have to contact the foster caregiver to make those arrangements. For laws and rules governing children's attorneys, please refer to: Rules of the Supreme Court of Louisiana, Rule XXXIII, Special Rules for Child Abuse and Neglect Cases, and Louisiana Children's Code Article 607.

**Parent's Attorney:**

A separate attorney or curator (an attorney appointed by the court if the parent is an absentee and cannot be located) should be present at all CINC hearings to protect the interests of the parent even if the parent is not present, unless the parent waives the right or the parent is unidentified. These attorneys advocate for parents with courts and parties and advise parents of their legal rights. For laws and rules governing parent attorneys, please refer to: Louisiana Children's Code Article 608.

**Judge:**

A judge presides over the CINC case to make rulings and issue orders and judgments based on the law and evidence presented to the court.

**DCFS Case Worker:**

At least one DCFS case worker will be present at each hearing. Their role is to provide testimony to the court about the investigation and assessment of safety, permanency, and well-being of the child and family.

**Attorney for the State:**

The Assistant District Attorney (ADA) and Bureau of General Counsel (Attorney for DCFS) represent the State and DCFS in CINC cases. They are responsible for filing all legal documents in the case on behalf of the State.

**Court Appointed Special Advocate ("CASA"):**

The court may appoint a CASA for the child. CASAs are trained volunteers who: (1) provide independent, factual information to the court regarding the child and case; (2) advocate on behalf of the child as to what they perceive to be in the best interest of the child; and (3) monitor the CINC proceedings and advise and assist the court in its determination of the best interest of the child. If appointed, the CASA volunteer will meet with the child at least monthly. CASA volunteers routinely file written reports and recommendations with the judge and may be called as witnesses in hearings. Ordinarily, the same CASA volunteer remains with the child until the case is closed by the court. They are immensely helpful avenues of support and communication for the child and foster caregiver. For laws governing CASA, please refer to: Louisiana Children's Code Articles 424-426.

**Relatives and Other Individuals:**

The law allows persons to Petition the court for custody of a child and/or to intervene in the CINC proceeding, but only in certain situations and only at specific times. In such cases, the judge may allow those persons to attend the hearing. For governing laws, please refer to: Louisiana Children's Code Articles 622, 627, 631, 681, 683, and 707.

**Court Staff:**

Authorized officers of the court as designated by the judge may be present at the hearing.



**Bailiff:**

The bailiff is a uniformed Deputy with security or other court staff who assist the judge in administering the court proceedings. The bailiff is a good point of contact and may be able to relay questions and important information regarding emergencies or situations that occur as hearings are being conducted.

**Witnesses:**

Individuals who have been called as witnesses may be present at the hearing. Some witnesses may include mental health professionals, medical providers, first responders, school personnel, etc. However, the judge may order that they only remain in the courtroom when they are called to testify.

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## What are the different CINC court hearings and when do they happen?

**Before the First Hearing:**

When someone contacts DCFS to report abuse or neglect of a child, a screening and investigation process is initiated and DCFS assesses for risk and safety. DCFS can request an Instanter Order of Removal from the court ordering that the child be removed from his/her home until a Continued Custody Hearing is held and placed in the provisional (i.e., short-term) custody of a suitable relative or suitable individual capable of protecting the child or DCFS (i.e., foster care). If DCFS is granted custody of the child, DCFS will place the child in the care of a relative, fictive kin, certified foster parent, or suitable licensed facility.

**Continued Custody Hearing:**

If a child is removed from their parents' custody by a judge, a Continued Custody Hearing must be held within 3 days of the child's removal. (A continuance of up to an additional 3 days may be allowed by the court if it is in the best interest of the child and good cause is shown by the person requesting it.). At this hearing, the court will determine whether the child should be returned home or that there are reasonable grounds to believe that the child is a "child in need of care" and that the child's continued provisional custody with a suitable relative, suitable individual, or DCFS is necessary to safeguard and protect the child. The court may also address other matters at this hearing, such as visitation, services and supports needed, the child's education, the care and well-being of the child, etc.

**Petition and Answer Hearing:**

To protect the parents' due process rights and right to the care and custody of their child, for a child to remain in an out-of-home placement, the court must "adjudicate" the "child in need of care." This process starts with the State of Louisiana timely filing a Petition with the court setting out the grounds for claiming the "child is in need of care." The Petition must be filed within 30 days of the Continued Custody Hearing. If it is not, the child must be returned home. An Answer Hearing must be held before the Adjudication Hearing but no later than 15 days after the Petition is filed. The purpose of the Answer Hearing is to give each parent the opportunity to "answer" the Petition. The child may object to the parents' "answer." If the parents admit to the allegations of the Petition but do not agree that the child is in need of care or deny the allegations of the Petition, the court will schedule an Adjudication Hearing. The parents may also stipulate that the "child is in need of care," with or without admitting the allegations of the Petition. If the requirements for a stipulation or admission have been met and the court adjudicates the "child in need of care" at the Answer Hearing, the court will not schedule or hold an Adjudication Hearing. The court can hold a Disposition Hearing that day or schedule the Disposition Hearing for another date.

**Adjudication Hearing:**

The Adjudication Hearing must take place within 45 days of the filing of the Petition. (A continuance of up to an additional 5 days may be allowed by the court in extraordinary circumstances.). The purpose of the Adjudication Hearing is for the court to make a legal determination as to whether or not the allegations of abuse and/or neglect in the Petition have been proven. The State has the burden of proving that the "child is in need of care" by a preponderance of the evidence. This hearing is held more like a trial, and the State, child, and parents can present evidence and call and cross-examine witnesses. If the judge finds that the State has not met its burden, the judge will order that the case be dismissed (and the child would likely return home). If the judge finds that the State has met its



burden, the judge will order that the child be adjudicated as a “child in need of care.” Such an adjudication of the child by the judge is required for the court to continue to have jurisdiction over the CINC case. If the adjudication does not timely occur, the child may be returned home. As explained above, the parents may stipulate or admit to the allegations of the Petition; the court would have to find the other requirements are met to adjudicate the “child in need of care” after stipulations or admissions.

### **Disposition Hearing:**

The Disposition Hearing must take place within 30 days of the issuance of the Adjudication Order. (A continuance may be allowed by the court if good cause is shown by the person requesting it.). Sometimes the court will decide to hold this hearing on the same day as the Adjudication Hearing, which means foster caregivers may not receive notice of the hearing. The purpose of the Disposition Hearing is for the court to make its post-Adjudication ruling regarding the child’s disposition (i.e., custody to a parent, custody to a relative or other suitable person, guardianship to a nonparent, custody to DCFS, etc.). The court is required to make certain findings related to the dispositional alternative ordered. (For example, the judge may transfer custody of the child from DCFS to a relative, and such a decision can only be subsequently changed by the judge). If required, the court will also address the case plan, including whether it addresses the safety issues, meets the child’s needs, etc. The court may also make other orders at this hearing that are in the child’s best interest, help move the case forward, etc.

### **Case Review Hearing(s):**

If the child was removed from their parents’ custody before the Disposition Hearing, the initial Case Review Hearing must take place 3 months after the Disposition Hearing. If the child was removed at the Disposition Hearing, the initial Case Review Hearing must take place within 6 months after the Disposition Hearing. Case Review Hearings must be held every 6 months thereafter until the child is permanently placed or the court so orders. The purpose of Case Review Hearings is for the court to review the: (1) continuing necessity for and appropriateness of the child’s placement; (2) progress toward mitigating causes necessitating placement in foster care; (3) safety of the child; (4) extent of case plan compliance by parents and DCFS; and (5) likely date by which the child may achieve permanency. It should be noted that judges have the authority to make custody decisions regarding the child at any of the hearings. For example, at a Case Review Hearing or another hearing, the judge may order that the custody of the child be transferred from DCFS to a relative.

### **Permanency Hearing(s):**

If the child was removed from their parents before the Disposition Hearing, the initial Permanency Hearing must take place within 9 months after the Disposition Hearing. If the child was removed at the Disposition Hearing, the initial Permanency Hearing must take place within 12 months after the Disposition Hearing. This hearing must continue to be held at least once every 12 months until the child is permanently placed (or earlier if the court requests or a legal party so requests and there is good cause). The Permanency Hearing, however, must be held within 30 days of a determination by a judge that reunification of the child with his/her parents is not required. The purpose of the Permanency Hearing is for the judge to determine the child’s permanent plan (given that foster care is meant to be temporary), which is to be stable and lasting and occur as soon as possible. If it is safe for the child to return home, the court should order that the permanent plan be reunification or a concurrent plan including reunification or, perhaps, that custody be granted to one or both parents. Alternatively, if reunification is not possible, the court may approve a permanent plan of adoption, guardianship, custody with a suitable relative or individual, or an alternative permanent living arrangement (APLA) if the youth is 16 or 17 years old. The court should enter orders necessary for the timely achievement of the child’s permanent plan at this hearing.

### **Surrender and/or Termination of Parental Rights Answer and Hearing:**

In most cases, the goal of foster care is to reunify the child with his/her parents. However, in some cases, this is not possible. Sometimes the State decides to ask a court to terminate the parents’ rights to the child (which require that grounds for such a termination are proven by the State as provided in Louisiana Children’s Code Article 1015). On the other hand, sometimes the State decides not to ask a court to terminate parents’ rights to the child. The parents can also surrender their rights to the child. While a petition to seek the termination of the parents’ rights to the child can be filed at any time, DCFS must file the petition if the child has been in DCFS custody for 17 of the last 22 months, unless DCFS has documented in the case plan a compelling reason why filing is not in the best interest of the child. If the court determines that adoption is the most appropriate plan for the child, the foster caregiver can also file a petition to terminate parents’ rights if DCFS has not filed it and the child has been in DCFS custody under the foster caregivers’ care for 17 of the last 22 months (Louisiana Children’s Code Article 1004). Once a Petition to Terminate Parental

Rights is filed, an Answer Hearing must follow within 15 days, and the Termination of Parental Rights Hearing must be held within 60 days of the Answer Hearing. (A continuance may be allowed by the court if good cause is shown by the person requesting it.).

### **Adoption:**

A child can only be adopted from foster care if their biological and/or legal parents' rights have been terminated or surrendered. Once a child is adopted, they are considered the child of the parents who adopt them. See Title XII of the Louisiana Children's Code for more information on the adoption process and hearings.

### **Laws Governing CINC Hearings:**

Louisiana Children's Code Articles 601-799, 1001-1040, 1101-1161, and 1167-1270. Please note that there is a lot more information about CINC hearings in the *Louisiana Child in Need of Care Benchbook for Juvenile Judges*. This resource may be found at: <https://pelicancenter.org/benchbook.html> and [https://www.lasc.org/Children\\_Families?p=CIP](https://www.lasc.org/Children_Families?p=CIP).

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## **What else should I know that is critical in the CINC process?**



### **Case Plan:**

Within 45 days of a child entering foster care, DCFS will develop a case plan with the family detailing the efforts that must be taken to achieve a permanent placement for the child. DCFS proposes the case plan, but the judge reviews the plan and either approves or disapproves it (in whole or part). The parties have a right to file a response to the case plan. The case plan should identify the safety and risk issues and conditions for return of the child to his/her parents, including the measures designed to enhance the parents' protective capacities to manage the identified threats of danger. The case plan addresses the child's placement which should be in the least restrictive, most family-like setting available in close proximity to the parents' home, consistent with the best interest and special needs of the child; if it is a substantial distance from the parents, the case plan should explain the reasons why it is in best interest of the child. The case plan should also identify any needs of the child and the services to be provided to meet those needs. In addition, the case plan should set forth the terms and conditions of visitation/family time with parents and siblings as well as other relatives or individuals/fictive kin in the best interest of the child. The case plan should identify the case plan goal (i.e., reunification or a concurrent goal of reunification and adoption) and provide clear direction for the family, DCFS, and the foster caregiver as they work together to achieve that goal. The case plan is updated every 6 months and may be revised if the court so orders.

### **Youth Transition Plan (YTP):**

If the child is age 14 years or older, the case plan should include a thorough and individualized plan to provide for the child's safe and successful transition from foster care to independent living. DCFS, the child, the CASA volunteer, the foster caregiver(s), and any person or agency assuming custody, care, or responsibility for the child as an adult should actively collaborate to develop the YTP. The YTP should address the child's health, ongoing education, permanent connections, living arrangements, independent living skills, and employment. The plan should identify the programs and services necessary to achieve the YTP. The YTP must be updated every 6 months and must be approved by the judge. All children 14 years of age and older are referred to independent living skills classes, and the foster caregiver will be part of teaching the youth to learn about things like laundry, cooking, budgeting, etc.

### **Family Team Meetings ("FTMs"):**

FTMs are facilitated by DCFS and are important because FTMs are where the case plan is developed with the family. It is also where parents and children and other stakeholders and supports give valuable input on the case plan, including the services and assistance to be provided or needed. FTMs should include all parents, the child, foster caregivers, CASA, and attorneys for the children and attorneys for the parents. Parents and children are encouraged to invite other support persons to participate in FTMs. FTMs are held every 6 months. Foster caregivers can provide helpful information at FTMs and should attend if available.

**Quality Parenting Initiative (“QPI”):**

QPI is an approach to strengthening foster care, including kinship care, by refocusing on quality parenting for all children in the child welfare system. When parents cannot care for their children, as foster caregivers you provide the loving, committed, and skilled care that the child needs, working effectively with DCFS, the child’s parents and/or other supports, and others involved in the child’s case to achieve the best possible permanency option for that child. Both the foster caregiver’s parenting skills and DCFS’s policies and practices should be based on child development research, information, and tools that help meet the child’s needs. It is critical for foster caregivers, DCFS, and the child’s parents and other supports to work as a team to support the child. As a foster caregiver, you should receive the support and training needed to work with the child in your care and his/her family and supports and know what is expected as well as what to expect. For more information, please refer to: <http://www.dcfslouisiana.gov/page/471>.

**Care Setting Preservation:**

DCFS is responsible for making reasonable efforts to stabilize a care setting for every child in foster care, including ensuring that they have the most appropriate caregiver capable of providing daily care and long-term permanency. As foster caregivers, you are providing the “care setting” for the child in your care. It is important to reach out to your DCFS case worker when there are concerns regarding the child’s behavior and/or placement with you. The DCFS case worker will then request a preservation staffing meeting to make every reasonable effort to provide support and/or arrange services to preserve the care setting with you. If after receiving supports and services, you feel the child cannot remain in your home, DCFS requests a 14-day notice, or longer if possible, to transition the child to another care setting.

**Transition Planning in Care Settings:**

Removal of any child from his/her family can be very traumatic for a child despite the reason for the removal. It may also be traumatic for a child to be moved from one caregiver setting to another while in foster care, even when the change is made in the best interests of the child and/or to achieve a permanent placement for the child. Therefore, it is critical to the well-being of the child, especially children under the age of 6, regardless of the reason for a transition from one caregiver setting to another, for DCFS to collaboratively strategize with all the caregivers involved to reduce the trauma experienced by the child. DCFS often utilizes a transition plan to minimize the trauma experienced by a child during a transition from one home to another.

Prior to any move of a child under the age of 6, the case and the transition plan will be reviewed and approved by a DCFS Supervisor. If the child has been in the current placement for 3 months or more, or if the proposed move would be the third move or more for the child regardless of the time spent in any previous placement, there will also be a formal meeting to allow for input from the child’s team (current caregiver, prospective caregiver, the child’s attorney, CASA volunteer, any treatment provider involved with the child, etc.) and the DCFS Supervisor, Manager, and Regional Program Specialist. The transition plan will consider the child’s best interest, and to the extent feasible, multiple, extended visits, such as overnight visits as well as other contacts such as SKYPE, FaceTime, etc., to ensure the most positive experience possible for the child. These activities should occur both prior to the move and after the move to allow the child to have a safe separation from previous caregivers and attachment to the new caregivers.