

# **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**

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### **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, and relatives. As a relative, 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, and uncles are often willing to help and make the child feel safe and loved.

There is good news for grandparents and other relatives 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. The relative caregiver must meet certain requirements. It must also be in the best interest of the child to be placed with the relative 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 how you might be involved as a relative. 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 make their families 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 30 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 is in need of services, a protective services case may be opened. A family involved in a protective services case must work with DCFS to make a plan to keep the child safe in the home and to help strengthen the family. If a protective services case is opened, generally relatives are not notified. However, if appropriate, DCFS may engage relatives to assist with supporting the family to prevent removal.);
- left in the home and offered voluntary supportive 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?**

If the child is removed from his home, he will be placed in an “approved placement” by DCFS. An approved placement is usually a foster home. The child may be placed in a shelter or group home for a short time until a foster home is available. In order to protect the child and the foster family, DCFS cannot generally share foster 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 all of the children. DCFS will ensure the reasons for the separation of siblings are regularly studied. 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 more or less visits.

**What legal rights do I have as a relative?**

DCFS shall provide notice to certain family members when a child comes into DCFS custody. It is important to remember that relatives’ rights are tied to the parents’ legal rights to their children. 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) the child was born of a marriage; (2) the father signs an acknowledgment of paternity, or (3) by court order.

**Are relatives notified when a child is taken into custody?**

During the first 30 days that a child is in DCFS custody, DCFS shall work hard 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 foster home and the additional services and supports that are available for children in a foster 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.

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

If relatives 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. And other relatives like first cousins, nephews and nieces, great-great-great grandparents, great-great aunts and uncles, and first cousins once-removed 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, then DCFS will discuss with the relative the options of becoming a provisional foster home or temporary custody. More information on each of these options is below:

Provisional Foster Home

Relatives, age 21 to 65, may be eligible to become a provisional foster home after DCFS conducts:

- a health and safety check, including background checks; and,
- a visual inspection of the relative's home. This means a DCFS worker called a resource worker 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 if the child's safety will not be at risk. DCFS will also consider other information such as the relative's resources to help support the child.

Provisional foster homes do not receive financial assistance to help care for the child. However, the child will have medical insurance. DCFS may also be able to provide child care for young children if appropriate. Relatives may qualify for some benefits after the child is placed in your home, such as Supplemental Nutrition Assistance Program (SNAP) – formally known as food stamps. To apply for these benefits you must go to your local DHS county office.

The child is still in DCFS custody even if you become a provisional foster 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.

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

- complete FBI checks (fingerprints required);
- complete foster parent training (30 hours of training classes which usually take place over a course of between 4 to 9 weeks);
- complete CPR and First Aid training; and
- have a home study done.

For the home study mentioned above, you will fill out two surveys at different times. There will also be someone who comes to your home a few times (most likely the trainer from your foster parent classes). He or she will talk with you about your experiences growing up, how you plan to care for the child, and other related topics. This person will use information from the surveys and from talking to you to write the home study.

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

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 foster home licensing standards are still being met.

If you do not become a foster home or if the court does not grant permanent custody of the child to you within six months from the time the child was placed with you, the child will be removed from your home.

#### 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 foster 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 whether or not you qualify. In addition, if you decide to become the guard-



ian for the child at a later point, you will not be eligible for a 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 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. This is why families and children will have opportunities for personal visits, talking by phone, and participating in activities like teacher conferences and other school and community events. Usually visits are supervised by someone from DCFS and should take place in the most home-like setting possible.

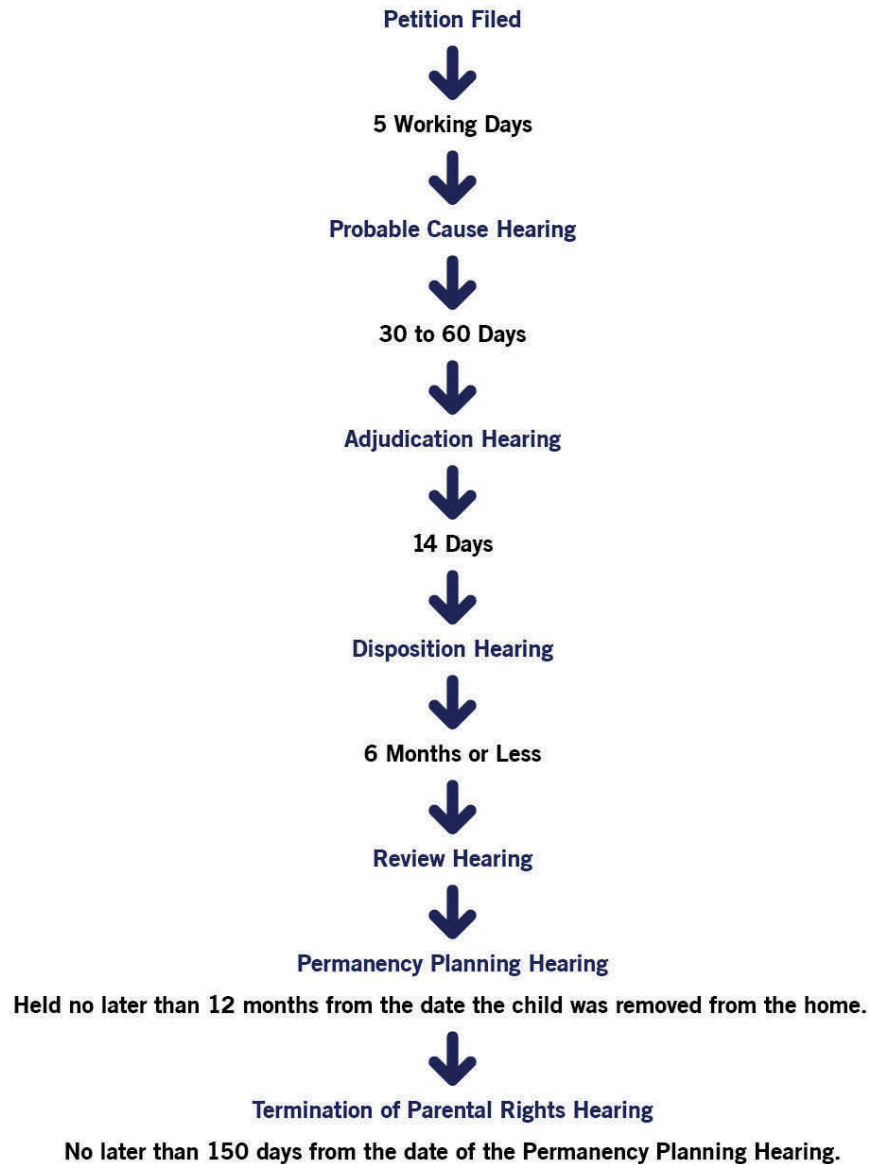
Grandparents or other relatives may be allowed to visit with the child during these visits too if it is in the best interest of the child. The more loving adults in a child's life, the better it is for the child.

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 the 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. Almost all of 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 in all of its decisions. The court sets the goal of the case which is usually to reunify the child to 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.

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



**Can I participate in court hearings?**

You must be a foster parent, pre-adoptive parent, or relative care giver to have a right to participate in court hearings. A relative care giver is a relative who has been taking care of the child. DCFS is required to provide notice to foster parents, pre-adoptive parents, and relative care givers of any court hearing with respect to a child in their care. Relative care givers have a right to be heard and the court shall allow them to be heard in any court hearing concerning a child in their care. If you are not a foster parent, pre-adoptive parent, or a relative caregiver, you must file a motion with the court to get permission to attend and be heard. Or you may contact the DCFS case-worker, the parent's attorney, or child's attorney and ask to be called as a witness.

**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 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) returning the child to his parents or guardians (or putting a short-term plan in place to return the child home), (2) terminating the parental rights so that the child can be adopted by someone else, or (3) giving guardianship or permanent custody to another adult. The hearing can be held at any time following the adjudication, but must be held within twelve months from the date the child was removed from the home.





### **How can I provide a permanent home for my relative?**

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:

#### 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. If it is in the child's best interest, visits 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). Even though the court may allow visits with siblings and relatives to take place, it is important to remember that you no longer have any legal rights if you are related to the child through the parents whose rights were terminated.

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, your health, and age.

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

### 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 has served as a foster parent (not provisional) for at least 6 consecutive months;
- 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 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 will not qualify for a subsidy and DCFS does not file an annual report with the court.

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



