

Frequently Asked Questions about Court Process for Foster Parents and Relative Caregivers

This document is intended to answer questions that courts have received regarding access to hearings in Dependency, Neglect and Abuse cases and Termination of Parental Rights cases. It includes information on accessing in-person and remote hearings and rights related to these hearings.

Q. What is a dependency, neglect and abuse case?

A. A dependency, neglect and abuse (DNA) case is the initial case where there is an allegation of DNA against the parent/custodian. At the adjudication, the court determines whether the allegations in the petition are true and whether there was dependency/neglect or abuse. If the court makes a finding of dependency/neglect or abuse, then the court proceeds to the disposition hearing, in which the court determines what placement and plan is in the child's best interest. Federal and state law require that the initial goal is returning the child to the home of removal and that the Cabinet for Health and Family Services (the Cabinet) Department for Community Services (DCBS) – Kentucky's child welfare agency – make reasonable efforts to achieve that goal. DNA cases involve several legally required hearings and can last years, depending on the situation. See [KRS Chapter 620](#) for statutes related to DNA cases.

Q. What is a termination of parental rights (TPR) case?

A. If the court makes a finding of neglect or abuse, or if there are other extreme circumstances, the Cabinet might seek to terminate the parent's rights. If granted, TPR severs all legal rights that the parent and other blood relatives have related to the child. In some cases, the parent will voluntarily terminate parental rights through agreement. In other cases, the parent may object to termination or cannot agree to TPR due to lack of mental capacity or because they cannot be located. If no agreement is possible, the Cabinet must seek an involuntary termination of parental rights. This distinction is important because foster parents have the option of becoming a party in an involuntary termination of parental rights. A TPR hearing is very serious and often requires pre-hearing conferences in order to address issues related to service, evidence, and scheduling. See [KRS Chapter 625](#) for statutes related to TPR cases.

Q. What role does the guardian ad litem serve?

A. The guardian ad litem (GAL) represents the child(ren). The GAL does not represent, nor is the GAL under any legal duty to the custodian, caregiver, Cabinet, or the state. The GAL's legal duties might prevent assisting anyone other than the GAL's client. The GAL is bound to argue in favor of what the GAL sees is the child's best interest. It is important to make yourself available to the GAL, but the GAL will not always agree with you and is not required to further your goals. You can share information with the GAL. However, the GAL will often not be able to provide information to you due to the GAL's ethical obligations related to client loyalty and confidentiality.

Q. I am a foster parent, pre-adoptive parent, or relative caregiver; do I have the right to an attorney?

A. If you are claiming to be a de facto custodian, then you are entitled to an attorney if the judge determines you are an indigent person (one who cannot afford an attorney without sacrificing basic needs). See [KRS 620.100](#). A de facto custodian means:

“[...]a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services.”

Q. I am a foster parent, pre-adoptive parent, or relative caregiver; how do I get access to DNA/TPR court dates related to a child in my care?

A. The Supreme Court of Kentucky’s Family Court Rules of Procedure and Practice (Family Court Rules) grant you the right to receive notice, to appear, and to be heard in DNA or TPR proceedings related to the child in your care. Notice includes the date, time, and location of the proceeding. The right to appear means that you can attend the hearing. The right to be heard means that you can communicate with the court through writing or by speaking at the proceeding.

See the [Family Court Rules of Procedure and Practice, Supreme Court Order 2020-01, FCRPP 16\(2\)](#).

Q. What do I do if I am not receiving notice of a DNA/TPR proceeding?

A. There are several actions you can take. The first step is to contact your case worker and verify that they are giving your contact information to the court and clerk. You will not receive notice if your information is missing or inaccurate. You can also contact the Circuit Clerk’s office to be sure they have your contact information. If your information is correct, but you are still not receiving notice, try to contact the guardian ad litem and ask them to inform the judge. If none of these methods work, write a letter to the judge’s office informing the judge of the oversight. You can find contact information for judges and clerks using the following link: <https://kcoj.kycourts.net/ContactList/Search>.

Q. What do I do if I am not being allowed to appear at a DNA/TPR proceeding that is held in respect to the child in my care?

A. Pursuant to [KRS 620.360](#), you have the right to attend. Make sure that your case worker knows that you plan to attend. They can speak to the county attorney who can alert the judge that you plan to attend. Also notify the guardian ad litem. Finally, make sure that the clerk knows that you plan to attend, especially if it is a remote hearing. The clerk will be able to send you relevant login information.

Q. What do I do if I am not being allowed to be heard at a DNA/TPR proceeding that is held in respect to the child in my care?

A Pursuant to [KRS 620.360](#), you have the right to be heard “either verbally or in writing.” If you wish to be heard in writing, draft a letter and send it to the Circuit Clerk’s office. Include any information that you wish the judge to know. If you wish to be heard verbally, make sure that your case worker and the child’s guardian ad litem know so they can inform the county attorney. During the pandemic restrictions, a letter is the best way to ensure that you are heard.

Q. I am a foster parent, and the court is holding an involuntary termination of parental rights, how do I become a party?

A. Pursuant to [KRS 620.360](#), a foster parent has the right to intervene (become a party) in an involuntary termination of parental rights case related to a child in the foster parent's care. The petitioner (almost always the Cabinet) must send the foster parent a courtesy copy of the petition for TPR. This provides notice so that you can decide whether to intervene. If you wish to intervene, contact your case worker. You may intervene anonymously.

Frequently Asked Questions Related to Accessing Remote Hearings

Q. What is a "remote hearing?"

A. To reduce the risk of spreading COVID-19, the Supreme Court of Kentucky has recommended that most cases involving temporary removal be held remotely through phones or video conferencing. Each judge is using different ways to hold these hearings, but a majority are using phone hearings, Skype, or Zoom.

Q. How does a "phone hearing" work?

A. The court will give each party a scheduled time for the hearing. The notice will include a phone number to call to join the hearing at the scheduled time. The judge will give each party a turn to speak and ask questions. It is very important that everyone waits for their turn to speak so that the judge has an opportunity to hear you.

Q. How does a Skype or Zoom hearing work?

A. Like phone hearings, Skype and Zoom allow multiple people to talk. However, Skype and Zoom can include video. These programs also allow limited viewing and sharing of evidence such as video recordings and pictures. Both of these options require internet access through a network provider (cell phone data), wireless internet (Wi-Fi), or wired network. Skype and Zoom are both free to access. They are available in cellphone app stores and online at the websites listed at the end of this document.

Q. What should I do if I am scheduled for a phone hearing, but my phone service is not working?

A. If your phone or other device has the ability to log into Wi-Fi, then there are several free apps that will allow you to make and receive calls as long as you are on a Wi-Fi network. These apps are listed at the end of this document.

Q. What if I do not have internet access or Wi-Fi at my home?

A. Several companies and agencies are offering free or reduced internet service and/or Wi-Fi access through businesses or free hotspots. Wi-Fi signals from places like restaurants and libraries often reach into nearby areas, like parking lots. Keep in mind, you must keep a safe distance from others when online in public, and you must follow any active court orders that require that you keep a certain distance from a location or another person.

Q. What should I do if I am scheduled for a remote hearing but cannot use any of the options you mentioned above to join the hearing by phone, tablet, or computer?

A. Inform the court, in writing, that you cannot do a remote hearing. Include your name and the case number from the document you received from the court. The case number is typically in the upper-right corner of court forms. Deliver the letter to the Circuit Clerk's office in the county of the hearing. Each courthouse has a local method for accepting court papers.

Q. I am scheduled for a phone hearing, how to I show the judge a picture of an injury, text/video of a threat, or some other evidence necessary for my case?

A. A phone hearing may not be appropriate for your case. Please use the method above to notify the judge, in writing, that you need to show evidence. In the letter, tell the judge whether you have the ability to do a video conference if needed. Otherwise, an in-person hearing may be necessary.

Q. What if I need an interpreter for the hearing?

A. Please tell the Circuit Clerk's office that you need an interpreter and tell them which language is needed.

Apps for Remote Hearings

SKYPE <https://www.skype.com/en/>

Skype is free to use if you are making or receiving calls. To join a hearing through Skype, click the link provided by the court. It will prompt you to install the app and allow you to join the hearing.

Zoom <https://www.zoom.us>

You do not need a Zoom account to join a meeting. You can simply click the link provided by the court and you will be prompted to either download the app or join through the browser. If you are given a meeting ID number instead of a link, then you can join the Zoom hearing by entering the meeting ID number at:

<https://zoom.us/join>

Google Voice <https://voice.google.com>

Google Voice is a virtual phone app that will allow you to call into phone hearings over the internet instead of using calling minutes.