

Youth Attendance at Court Hearings

By *Andrea Kouury*



Historically, youth have not been invited or encouraged to attend their court hearings. However, the trend is changing. In November 2006 the Child and Family Services Improvement Act was passed by Congress. Judges are required in permanency hearings to consult in an age appropriate manner with children about their permanency or transition plans. This Act signals an increase in importance placed on a youth's voice.

Benefits of Youth Involvement in their Court Hearings

Attending court benefits both youth and the court. Youth develop a sense of control over the process when they actively participate. They also have the opportunity to understand the process by seeing the court proceeding firsthand. The court learns more about the children than simply what is presented in reports.

1. Sense of control

When a youth is removed from his home, he generally has little control over when or why that occurs, where he goes, and what happens to his parents. Important things in his life are taken away, including his ability to make decisions. He generally is placed in a new home, goes to a new school, has to develop new friends, and has new parents and new siblings.

All of these events are beyond his control. He is told there will be a court hearing at which a judge, whom he may never meet, will decide if he will return home. Sometimes a child advocate identifies his needs and conveys his best interests to the court. If he is not in court, he may simply be told the outcome and either remain in his foster home or go home. If the goal of the child welfare system is to do what is in the best interests of the child, the child should have input. When a youth has adequate representation, she is informed of the process and her role. When a youth attends a court hearing, she senses the judge who is deciding her best interests has listened to her. Regardless of the outcome, youth have reported that simply be-

ing heard by the decision maker empowers them and gives them a sense of control over what is happening to them. They feel they have a part to play and can influence the outcome.

2. Understanding the process

In an ideal situation, the youth has good representation, the social worker regularly communicates with the youth, the birth parents are honest with the youth about the situation, and the foster parents (referred to as "resource caregivers" in Hawai'i) are present in court and openly discuss the case with the youth. However, a youth may not fully understand what is happening without seeing it firsthand. The youth is told that critical decisions are made by a judge in court. Yet, in most instances the youth is not involved in that component of the case.

When a youth attends court, he can ask his advocate questions about what is happening. He hears what the social worker says about his home, school, visitation with parents, etc. He hears what his parent(s) say about their progress. When the judge makes a ruling and discusses why she orders something, the youth hears it and can ask questions.

3. Information for the court

Many questions that the court will have about the case may be addressed by the child welfare agency's and child advocate's reports, the parent(s), resource caregivers and other service providers. However, if the youth is present and the court has a question about how often he has seen his mother or how he is doing in school, the youth can provide the answer.

The youth makes the case more real and vivid for the judge. For example, the court may be deciding whether it is time to change the permanency plan to adoption because the parents haven't complied with the agency's family service plan. If the youth

is in court, the court doesn't have to rely on the reports to see how long the child has been in care. The court can see that the child is getting older and needs permanency in her life. Indeed, the youth may say this directly to the judge. Even if the youth is not verbal, the court can observe how the youth appears and interacts with others.

If the youth is very young and cannot speak to the judge, being present in court will bring the case to life and help show the case is about a human being with wants, needs, desires, and hopes that should be considered. When youth attend the hearing, the court is less likely to focus primarily on the parents' circumstances. When only the parents attend court, the focus is on what they have and or have not accomplished. When the youth is present, there is equal attention on the youth and what the youth needs.

Role of the Resource Caregiver

The child's primary caregiver, often the resource caregiver, plays a critical role in ensuring the child has a meaningful court experience. The resource caregiver must support the child's involvement in preparation for the court hearing, during the court hearing, and debriefing with the youth after the court hearing. The Court should presume that the youth will attend the court hearing unless he chooses not to or there is a compelling reason to limit his participation. The Court ultimately decides whether it is in the child's best interest to attend the hearing. The foster parent should have a voice in this decision and should discuss the following with the GAL and the social worker at least two weeks before the court hearing:

1. Any scheduling conflicts the youth has with the hearing, e.g. school, therapy, recreational activities.
2. Whether the youth expressed interested in attending the court hearing.
3. Whether transportation will be an issue.
4. Whether the youth has had any problems seeing parents or anyone else who may attend the court hearing.
5. Any thoughts on how the youth may react to discussions about the case.
6. Thoughts on how the youth may respond to participating in the hearing.
7. Whether any accommodations need to be made for the youth to participate.

Once it has been decided that the youth will attend the court hearing, the resource caregiver should help

the GAL and social worker prepare the youth. The resource caregiver should let the GAL know if the youth has questions about what will occur, who will attend, or what to expect.

The resource caregiver should contact the school to let them know the youth will be absent, why, and get any homework that the youth can do while waiting for the hearing. If the youth is going to miss activities, the resource caregiver should try to reschedule them. If the youth wants to speak at the hearing or write a letter to the judge, the resource caregiver should work with the youth and GAL on what to say and how to say it. The resource caregiver should also help the social worker arrange for transportation or personally transport the youth.

During the hearing, the resource caregiver should ask the youth whether she wants the resource caregiver present. At the hearing, the resource caregiver should:

1. Support the youth.
2. Comfort the youth if she gets upset.
3. Help the youth understand what is going on.
4. Encourage the youth to ask the GAL questions.

The courtroom can be a scary place and the foster parent is one of the only familiar faces for the youth. The resource caregiver can help the youth have a meaningful experience in the hearing by simply being present and supporting the youth.

Following the hearing, the resource caregiver should talk to the youth about what happened. If the youth has any questions, the resource caregiver should encourage the youth to call the GAL or social worker. If the youth does not want to talk about the hearing, the resource caregiver should not push the issue.

Child welfare cases are about taking care of youth and doing what is best for them. Youth need and deserve to be a part of that process. A critical component of that process is court hearings. The more guidance foster parents have on incorporating youth into their child welfare proceedings, the more likely the youth will have the opportunity to participate.

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