

FOSTER PARENTING AND SB 236

To allow caregivers to offer information concerning the children in their care, the federal Adoption and Safe Families Act of 1997 (“ASFA”) grants to foster parents and any preadoptive parent or relative providing care for a child the right to receive notice of, and an opportunity to be heard in, periodic reviews and permanency hearings relating to the child. Among its provisions, SB 236 clarifies for foster parents in Georgia the rights to receive notice and be heard in cases involving the children in their care in an attempt to encourage consistency in the exercise of these rights.

Following are answers to some frequently asked questions about the provisions of SB 236 and its meaning and application for caregivers.

Who is Entitled to Notice and an Opportunity to be Heard?

Current Caregivers, including any foster parents, custodians, preadoptive parents and relatives providing care for the child. If needed, the court or any party may subpoena *former* caregivers who can offer valuable information about the child.

Custodian includes both a person and a licensed or authorized public or private agency or organization, to which legal custody of the child has been given by a court. This definition does *not* apply to a group home or other placement in which the child is placed while in DFCS custody. However, such providers can be subpoenaed by the court if needed.

Who Will Provide Notice and in What Form?

The court or DFCS must provide notice **in writing**, which should include information as to the type of hearing and the time and place of the hearing. Notice may be served in person or by mail.

Caregivers are entitled to receive notice **in advance** of each review or hearing, and specifically, at least 5 days before a permanency hearing.

What is Meant by Opportunity to Be Heard?

Depending on the type of hearing or review, the caregiver can provide information about how the child is doing in the placement, any special needs of the child, how the child copes with visits, the potential for the current home to become a permanent placement, what the caregiver is doing to support reunification and other such information.

The practice for allowing the caregiver an opportunity to be heard will vary from court to court. Some courts may prefer live testimony, some may prefer the caregiver to submit a statement in writing to the court.

To Which Hearings, Reviews or Processes Do These Rights Apply?

Juvenile court judges are encouraged to provide notice and opportunity to be heard at *any hearing or review where the case plan or permanency is an issue*, but application of these rights may differ. At minimum, SB 236 requires these rights be applied at periodic reviews held by the court or by the Citizen Review Panel; appeals from Panel reviews; hearings following revocation of the license of an agency which has permanent custody of a child, permanency hearings and motions to extend custody.

Does the Caregiver Have the Right to Receive Other Reports and Information?

SB 236 requires DFCS to provide Caregivers with those portions of the court approved case plan that involve the permanency goal and the services to be provided to the child.

Additional Information:

Your county DFCS or Case Manager should be able to answer further questions.

The Barton Child Law & Policy Clinic can be contacted at childlaw@law.emory.edu for additional information, training or copies of this FAQ sheet.