

RELATIVES AS A PLACEMENT OPTION - For Parents Attys

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- Court must order DSS to look for and investigate relatives if child is to be or has been removed or if there is a voluntary
- Who is a relative? What if do not know who Dad is yet?
- “Relatives” is to include ALL grandparents - and “all suitable relatives” identified by either a respondent or a non respondent parent and any relative identified by a child over 5 years old who has played a “significant positive role” in the child’s life in both Art. 10 and voluntary placement cases
- DSS Must tell them 3 things - the fact that **a petition has been filed, the “opportunity” to become foster parents or to seek custody, AND that the child may be adopted by foster parents if attempts at reunification fail – give them booklet**
- Basically caseworker must explain foster care, Article 6 and Article 10 custody possibilities
- At the removal hearing on an Art. 10 or at the “L” review on a voluntary, court is to immediately inquire as to what efforts agency has made to locate grandparents and other relatives identified by either parent or child over 5 and then is to consider placing with relatives directly or to place in foster care if relatives are going to become foster parents – thereafter court must actually determine if agency has made reasonable efforts to locate relatives
- A child’s adult sibling, grandparent, aunt and uncle can seek to intervene in an Article 10 if parent consents
- Grandparents and siblings can always seek visitation rights under DRL
- The court can grant Art. 6 custody under a 1017 order to either a relative, the non-respondent parent or a “suitable person” - Art. 6 petition is needed – court holds final decision until dispo of Art. 10 or can also be done at a perm hearing
- Relatives can get a special hearing under FCA 1028-a under VERY LIMITED circumstances:
 - if child is in foster care with a non-relative and
 - the child has been in foster care for less than a year
 - and a relative within the 3rd degree wants to become a foster parent for the child
 - and it is within 6 months of having been informed of child being in care
 - and the agency will not allow the relative to become the child’s foster parent for reasons NOT having to do with a failure to qualify under the reg
 - and the relative has not refused previously to be considered as a foster parent or custodian however inability is not refusal
- then court can give such a relative a hearings and shall give “due consideration” to relative’s request to be a foster parent and if court determines that it is in child’s best interests to move to relative’s home, then court can order DSS to commence an investigation to expedite certification if the relative is qualified

AT DISPO and PERM HEARINGS:

- At the time of any dispo that includes continued placement, the court is to inquire as to what DSS has done to locate relatives and what the response has been from any relatives who were contacted regarding custody or foster parent status
- At the time of any dispo that includes continued placement, the court has the power to order DSS to place the child with a relative who wishes to become a foster parent and to order DSS to expedite the certification process or report immediately back if the relative cannot qualify

Relatives as foster parents?

- Do not forget the “6 month rule” can make it more difficult
- **Certified or Approved Emergency Relative Foster Home** - DSS may use this process with relatives and some nonrelatives
- DSS must tell court if relatives is not going to be able to qualify
- Court cannot “order” DSS to certify but can put a lot of pressure on agency to have a good reason not to certify

Parents who are not Respondents - FCA 1035 (d)

- must be served petition and summons
- court may order investigation to determine if a neglect should be filed against a non-respondent parent
- court may order DSS to investigate if non-respondent parent should have custody
- court must order DSS to locate the NRP at the beginning of the case and DSS must record the results of the search for the NRP including all info about identification and location
- has a right to appear as a interested party intervenor, to file an Art. 6, to seek a hab
- may participate in all hearings