

AT EVERY HEARING

OVERVIEW

Many requirements, findings, and advocacy practices apply consistently across multiple types of dependency hearings. This Quick Reference Guide consolidates what CASA needs to know and do at nearly every hearing.

This Guide should be reviewed alongside the specific hearing guide for the hearing for which you are preparing, as the hearing-specific guides focus on what is unique to that hearing; this guide covers what remains constant.

GLOSSARY OF KEY LEGAL TERMS

Aggravated Circumstances: Specific, serious circumstances (such as abandonment, torture, chronic abuse, or sexual abuse) that, if found by the court, may eliminate the requirement for DFCS to make reasonable efforts toward reunification. See the ***Non-Reunification Hearing*** guide for detail.

Concurrent Plan: A backup permanency plan pursued alongside the primary plan (usually reunification), so that if the primary plan fails, a permanent placement option has already been identified and pursued. Whenever there is a concurrent plan, DFCS must show reasonable efforts towards both plans at every hearing.

Contrary to the Welfare: A required finding whenever a child is placed outside the home, stating that remaining in the home would be contrary to the child's welfare. This finding must be made at the hearing where removal or continued out-of-home placement is first ordered, including when the court authorizes or continues a voluntary placement agreement between DFCS and the parent.

Dependency: The legal status of a child found to be abused, neglected, or without a parent, guardian, or custodian able to provide proper care. A finding of dependency is required by clear and convincing evidence before the court can order foster care placement or services.

Diligent Search: The ongoing legal obligation of DFCS to search for and identify relatives and other individuals connected to the child who may serve as placement, support, or permanency resources. The duty to search does not expire and must be filed before every review hearing.

Disposition: The court's determination of what should happen for a child following a finding of dependency, including placement, services, and case plan. Every review and permanency hearing is, in a legal sense, a dispositional hearing since the court continues to determine the child's placement, services, and progress toward permanency.

Fictive kin: A person known to the family (not related by blood, marriage, or adoption) prior to the child entering care who has a substantial, positive relationship with the child and who is willing and able to provide them a suitable home.

Material Change in Circumstances: A significant change in a parent's, child's, or family's situation since the last court order, sufficient to justify revisiting a prior finding or order.

Non-Reunification: A court finding that reunification services should no longer be provided to a parent. Non-reunification is not itself a permanency plan; the court must adopt another permanency plan (adoption, permanent guardianship, or APPLA) when non-reunification is granted. It does not mean the child has to stop visiting the parent.

Reasonable and Prudent Parent Standard (RPPS): The standard governing a caregiver's ability to make decisions that maintain a child's health and safety while encouraging normal childhood activities and experiences. See the *Trauma and Well-Being* guide for more detail.

Reasonable Efforts: The efforts DFCS is required to make, except in specific circumstances, to prevent removal of a child from home and to reunify the family or otherwise finalize a court-ordered permanency plan. The court must evaluate whether these efforts have been made at every stage of the case.

Reinstatement of Parental Rights: A legal process allowing a child whose parent's rights were terminated, and who has not been adopted, to petition for the restoration of those rights if circumstances have changed.

Stipulation: An agreement between parties to certain facts, allowing the court to proceed without requiring proof of those facts through testimony or evidence.

Substantial Progress: The standard used to evaluate whether a parent has made meaningful, measurable movement toward completing their case plan goals. DFCS must usually have made reasonable efforts before the parent can make substantial progress.



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EVIDENCE CONSIDERATIONS

Probable Cause: A reasonable basis to believe a fact is true. This is the standard used at the Preliminary Protective Hearing.

Clear and Convincing Evidence: A higher standard than preponderance, requiring that the evidence make a fact highly probable. It is closer to beyond a reasonable doubt. This is the standard used at every hearing except the Preliminary Protective Hearing.

Relevant, Reliable, and Necessary: At every hearing except adjudication and TPR, the court may consider hearsay to the extent it is relevant, reliable, and necessary when determining what is in the child's best interest. The CASA report should be admitted in all hearings in which hearsay is admissible.

THE CHILD'S RIGHT TO ATTEND COURT

A child has the right to attend their own court hearing in person or virtually. This right belongs to the child alone, and it may only be waived by the child's attorney after they have consulted with the child in an age-appropriate manner. Neither DFCS, the court, nor any other party may prevent a child from attending if the child wishes to do so. CASA should ensure every child understands this right and has the practical means to exercise it.



A CASA volunteer should ensure every child understands they have the right to attend their own court hearing in person or virtually.

TIMEFRAMES & CONTINUANCES

The longer a child remains in care, the less likely they are to exit through reunification. A CASA volunteer should make recommendations for frequent hearings above statutory minimums and take a stand on continuances. Every continuance requires the court to make a best interest finding. CASA should weigh in on whether the continuance is in the child's best interests and be prepared to explain why even when continuances seem routine, unopposed, or are requested by another party. A pattern of continuances can itself become a barrier to timely permanency and is worth addressing directly with the court if it becomes a concern. Continuances must be granted only for the amount of time necessary to resolve the issue causing the continuance.



A CASA volunteer should make recommendations for frequent hearings above statutory minimums and take a stand on continuances.

COURT FINDINGS

AT EVERY HEARING

The court must consider the following at every hearing:

- The continuing necessity for, and the safety and appropriateness of, the child's current placement (i.e., what specific safety threats prevent the child from going home today)
- Whether the placement continues to be in the child's best interest
- Whether there are reasonable alternatives to continued removal and foster care placement



Refer to each hearing-specific guide for findings unique to that hearing.

AT EVERY HEARING AT OR AFTER DISPOSITION

Once a child has been adjudicated dependent and a disposition has been entered, the court must additionally determine at each subsequent hearing:

- Whether the child continues to be dependent
 - Whether the current case plan remains appropriate and whether any changes are needed
 - The extent of compliance with the case plan by all participants, including DFCS and the parents
 - Whether DFCS has made reasonable efforts to finalize the permanency plan
 - Whether the parent has made substantial progress toward completing the case plan
 - Whether visitation is or continues to be appropriate
 - Whether progress is being made on the permanency plan
 - Whether all services ordered by the court are being provided to the child, the parents, and the placement
 - Whether, for a child age 14 or older, independent living services are being provided
- ▶ Refer to each hearing-specific guide for findings unique to that hearing.

CASA PREPARATION FOR EVERY HEARING

QUESTIONS TO CONSIDER

- What is preventing this child from being safely returned home today? Could the child be returned with protective conditions if specific safety concerns were addressed?
- Is the parent making progress on the case plan, or are there barriers outside their control that DFCS has not addressed?
- Is DFCS making the referrals and providing the services required by the court order, and are those services actually making a difference?
- Is the family time (visitation) schedule sufficient to support the permanency plan and maintain the parent-child bond?
- Is the permanency goal still realistic given the current circumstances?
- Does the child want to attend court?
- Does the caregiver know about the hearing and plan to attend?
- Is there evidence you want presented, and if so, which attorney is best positioned to present it?



PRACTICE POINTS

- Review current court orders, the case plan, and any previous reports before every hearing.
- Connect with DFCS, the child, caregivers, parents, attorneys, and providers, and proactively share recommendations before the hearing.
- Confirm the caregiver has been notified of the hearing and plans to attend.
- Submit a court report using best interest factor language to support recommendations, focusing on the findings the court will be required to make at that hearing.
- Identify any evidence you want presented and connect with the attorney whose position is most aligned.
- If proposed orders are circulated for review before or after the hearing, request to be included if you are not automatically. Reviewing proposed orders in advance allows CASA to confirm that all required findings are addressed and that the order reflects what was actually discussed and agreed upon.



Recommendations should use the language of the best interest factors to support and frame each point.

CASA REPORTS

CASA's written report is one of the most important tools for ensuring the court has the information it needs to make its required findings. Reports should generally be filed no less than 48 hours in advance of the hearing and shared with the parties, consistent with local practice and any standing orders.

A strong report typically includes recommendations on a wide variety of topics, including:

- Placement, including the child's adjustment and the placement's continued appropriateness
 - Family time, including frequency and the child's degree of participation
 - Compliance with the case plan and court orders by both DFCS and the parents, including any barriers and recommended services and parental progress and strengths
 - The permanency plan and progress toward it
 - The well-being needs of the child (physical and mental health, education, normalcy)
 - Opportunities for familial connections and cultural traditions
 - Any other matters relevant to the child's best interests
- Recommendations should use the language of the best interest factors to support and frame each point. See the ***Best Interests of the Child*** guide for the full list of factors.

For each report, the information the CASA volunteer should highlight varies according to the specific purpose of the hearing and findings the court must make. The individual hearing guides offer direction for the report to remain relevant and helpful.

A NOTE ON HEARSAY

At hearings in which strict evidentiary rules apply, such as Adjudication and Termination of Parental Rights, a written CASA report may not be admissible over objection because it may contain hearsay. The CASA volunteer should be prepared to make oral recommendations and testify even when a written report has been submitted and should not rely on the report alone to convey recommendations to the court.



CASA's written report is one of the most important tools for ensuring the court has the information it needs to make its required findings. Individual hearing guides offer direction for CASA reports to remain relevant and helpful.

AT EVERY HEARING



PRACTICE POINTS

- Sit near the attorney whose position is closest to yours so they can help facilitate any questions you want asked of a witness.
- If foster parents or caregivers are present, ensure they are acknowledged and have the opportunity to address the court.
- Make oral recommendations. Review the highlights of your report; respond to evidence presented during the hearing; advocate clearly for your position, and be prepared to change your recommendation if the evidence requires it.
- Present information accurately and without bias. Acknowledge both positive developments and areas of concerns to ensure the court receives a balanced, impartial view of the case.
- If called to testify, bring only your CASA report to the stand. Answer only the question asked, be clear and concise, and do not be afraid to say you do not know if you do not know the answer.
- Advocate for the next hearing to be scheduled in a timeframe that supports timely permanency (usually no more than 90 days). See the specific hearing guide for the recommended timeframe.

KEY PRACTICE NOTES

BE READY TO CHANGE YOUR POSITION

Strong advocacy is responsive, not rigid. If the evidence presented at a hearing changes the picture, be ready to adjust your recommendation accordingly and explain why.

FREQUENT AND TIMELY HEARINGS ARE ESSENTIAL

In order for a child to be returned home or otherwise achieve permanency within a reasonable timeframe, there must be frequent, timely, and meaningful hearings.

ENSURE A LEVEL PLAYING FIELD

DFCS's reasonable efforts and the parents' substantial progress should be evaluated against the same standard. Hold both parties to equal scrutiny.

SYSTEM DELAYS ARE NOT PARENT FAILURES

Parents often cannot take steps to complete their case plan until DFCS makes the necessary referrals. A parent should not be held responsible for delays caused by DFCS in providing services or facilitating family time. Make this distinction clearly when reporting to the court.

FAMILY TIME IS THE COURT'S RESPONSIBILITY

A plan for reunification without sufficient family time simply will not succeed. It is the court's responsibility, not DFCS's, to set a visitation schedule and ensure compliance. The parties may agree to expand family time, but reducing or suspending it requires a court order.

BE MINDFUL OF PLACEMENT MOVES

While a court cannot direct placement, it must make a finding that a placement is in the child's best interests.



CASA

Court Appointed Special Advocates
FOR CHILDREN

GEORGIA