

YOUTH PARTICIPATION IN COURT PROTOCOL

What You Need to Know

Implementation

Basic Information about the Protocol

- The protocol was developed by members of the Children in Court Improvement Committee (CICIC), including representatives from the Public Defender's Office of Law Guardian, Advocates for Children of New Jersey, Department of Children and Families, Division of Child Protection and Permanency, Legal Services of New Jersey and the Judiciary.
- It was endorsed by the Conference of Family Presiding Judges and approved by Judge Grant for implementation.
- It was designed to maximize the successful implementation of N.J.S.A. 30:4C-61.2 and 45 CFR 1355.20 which mandate youth attendance and participation at permanency hearings.

Highlights of the Protocol

- ✓ Youth will attend permanency hearings.
- ✓ Office of Law Guardian will notice the youth of the upcoming court hearing
- ✓ DCPP and Law Guardian will work to prepare the youth for the court experience as well as be responsible for de-briefing the youth following his or her appearance.
- ✓ DCPP will initially be responsible for transportation and will collaborate with other stakeholders to ensure that any youth who wishes to attend court can do so.
- ✓ Any objections must be raised five days prior to the permanency hearing.

The law says youth have a right to have their voice heard!

● Federal ●

Child and Family Services Improvement Act of 2006, P.L.109-288, (See 42 U.S.C.675 (5)(C)
Fostering Connections to Success & Increasing Adoptions Act, 2008, Public Law 111-351

● New Jersey ●

N.J.S.A. 30:4C-61.2 (b) (2)

~child is entitled to written notice of the date, time and place of the permanency hearing at least 15 days in advance, and child is entitled to attend the hearing and to submit written information to the court.

N.J.S.A. 3B:12A-5 (b)(8)

~in a KLG petition, requires that the petition for KLG include the child's wishes if appropriate.

N.J.S.A. 3B:12A-6(a)(7)

~also in making a determination about whether to appoint a caregiver as the kinship legal guardian, the court shall consider the wishes of the child if the child is 12 years of age or older, unless unique circumstances exist that make the child's age irrelevant.

Rule 5:12-4(b)

~Court may order that a child not be present at a hearing/trial if doing so is in their best interest unless their testimony is necessary for the determination of same. Testimony may be taken privately, in chambers or under such protective orders as the court may provide.

N.J.S.A. 9:3-49

~children, age 10 or over, are required to appear at the final adoption hearing, unless waived by the court for good cause shown, "and the child's wishes concerning the adoption shall be solicited by the court and given consideration if the child is of sufficient capacity to form an intelligent preference regarding the adoption."

N.J.S.A. 9:2-4 (c)

~In making an award of custody, one of the factors for the court to consider is "the preference of the child when of sufficient age and capacity to reason so as to form an intelligent choice;..."

Rule 5:8-6

~allows court to interview the child, in a contested custody matter, in order to assist the court in making a custody determination. Lays out instructions for conducting interviews.

● Additional Resources ●

http://www.americanbar.org/groups/child_law/what_we_do/projects/empowerment/youthincourt.html

Implementation

Data Collection

- ✓ Use the updated permanency hearing order to indicate whether a youth appeared and if they participated.
- ✓ Use Courtsmart to indicate who appeared and participated.
- "Appeared" = Appearance entered on the record
- "Participated" = Youth testified (sworn or not sworn)

Surveys

- ✓ Each youth will complete a survey before and after their permanency hearing with assistance from either their Law Guardian or DCPD caseworker. The surveys should be completed at the courthouse so that they can be collected by court staff.
 - Youth should arrive a few minutes early, if possible to have time to complete the survey with assistance.
 - Youth should be debriefed immediately following their hearing.
- ✓ Stakeholders will be asked to complete a survey for each permanency hearing in which a youth appears.
 - These surveys will require that there is a short break between the hearing of cases so that the surveys can be completed.
- ✓ In the instance when a youth does not appear, the Law Guardian will complete a short survey.
- ✓ Stakeholders will also complete online surveys via a link once a month

Logistical Considerations

The expectation is that every youth attend their permanency hearing.

Transportation

- Youth are not to be denied an appearance in court due to transportation issues.
- DCPD is the primary stakeholder responsible for transportation.
- Collaboration is necessary.

Impact on Court Scheduling

- Protocol requirements and youth's school schedule need to be considered when scheduling permanency hearings which might last longer.
- Allow time before and after hearings so that surveys can be completed. All youth should be debriefed!

Preparation and Debriefing of Youth

- Stakeholders need to collaborate to ensure that youth are properly prepared for the court experience as well as debriefed following the hearing.
- Debriefing might occur at the courthouse immediately following the hearing or perhaps during transportation.

Waiting Areas

- Consider where it might be appropriate to have youth waiting and create a child friendly waiting area.
- Develop contingency plans which consider youth's best interest.

Noticing

- Law Guardian must notice youth in person and provide proof of service.

Objections

- Objection must be made 5 days before scheduled permanency hearing.
- Judge will consider objection and make a determination.

***Please complete paper surveys in the courtroom and put in the Survey Box.
All surveys completed in court should be mailed to the AOC on a weekly basis.***

Preliminary Data

Collected over six months in three pilot counties

590 Stakeholders reported....

- 69% reported that youth had a better understanding of their case plan after attending court
- 55% reported youth in court affecting the court calendar
- 66% of stakeholders believe there is a benefit to youth appearing in court
- 38% reported a benefit for parents

240 permanency hearings held

135 youth attended their permanency hearings

590 post hearing stakeholder surveys

135 Youth Said...

- 97% were glad they attended court
- 99% would return for another hearing
- 89% thought the judge understood what they were trying to say