

GENERAL LEGAL ISSUES

Parties, Participants, and Relatives Requesting Notice

Parties. Parties to the dependency proceedings include the parents, the petitioner, DCF, GAL, and the child. § 39.01(51).

“Parent” is defined as “a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under § 63.062(1).” § 39.01(49).

- If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child.
- When the phrase “parent or legal custodian” is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.
- The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless: the parental status falls within the terms of § 39.503(1) or § 63.062(1); OR parental status is applied for the purposes of determining whether the child has been abandoned. § 39.01(49).

Participants. “Participant,” for purposes of shelter, dependency, or TPR proceedings, means any person who is not a party but who should receive notice of hearings involving the child.

The following are included in the definition of “participant”:

- the actual custodian of the child,
 - foster parents or the legal custodian of the child,
 - identified prospective parents,
 - any other person whose participation may be in the best interest of the child.
- See § 39.01(50).

A community-based agency under contract with DCF to provide protective services may be designated as a participant at the discretion of the court.

At the court’s discretion, participants may be heard by the court without filing a motion to intervene. § 39.01(50).

- The child has the right to be present unless the court finds that appearance is not in the best interests of the child. § 39.01(51); Rule 8.255(b).
- DCF must be represented by an attorney at every stage of these proceedings. Rule 8.255(a).

“Prospective parent” is defined as “a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.” §39.01(61).

“Legal custody” is defined as “a legal status created by court which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, nurture, guide, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.” §39.01(34).

- The court may permit a party to appear by audio or audiovisual device for good cause shown. Rule 8.330(c).
- No party may be excluded from the hearing, unless for disruptive behavior. Rule 8.330(c).
- If a parent is in a local jail, remember to order transport.
- If a parent is in prison, arrange for appearance by speaker phone, with consent of the parties. Rule 2.530(d), Rules of Judicial Administration.

Relative requesting notice. A relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with section 39.502, Florida Statutes. § 39.301(14)(b).

The department attorney must notify, orally or in writing, a relative who requested notification under section 39.301(14)(b) of the date, time, and location of the proceedings and hearings under Chapter 39. The attorney must also notify the relative of the relative's right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child, if the relative so desires. § 39.502(19).

The court has the discretion to release the department attorney from notifying the relative if the relative's involvement is determined to be impeding the dependency process or detrimental to the child's well-being. § 39.502(19).