

CASA Kane County

WHO ARE ALL THOSE PEOPLE IN THE COURTROOM AND WHY ARE THEY THERE?

It won't take you long to learn who is who in the courtroom, but at first it may seem confusing. The following information will help you to identify the court personnel and others who may appear in court.

Judge:

A Juvenile Court Judge is assigned by the Chief Judge of the Circuit. A Juvenile Court Judge makes decisions based on facts that are presented to him on an individual case. The State's Attorney, Guardian ad Litem, Public Defender, a private attorney, may all make recommendations to the judge. There is no jury—the judge makes the final decision regarding children's lives. Kane County has two juvenile judges. One hears delinquency cases and the other hears abuse and neglect.

Attorneys:

State's Attorney: A State's Attorney is elected in each county and is responsible for presenting the people's case in court. In Cook County and other populous counties an appointed Assistant State's Attorney represents the state in juvenile court. Any one (agency, citizen, private attorney) may prepare a petition on behalf of the state, but only the State's Attorney's office **files** the petition. Only the State's Attorney's office has the total discretion to prosecute the **original** petition.

Public Defender: The Public Defender is an attorney who may be appointed to represent parents in dependency and neglect cases, if the parents cannot afford to hire a private attorney. This appointment occurs only in those counties where the county board has authorized public defenders. Public defenders have the duty to protect the parents' rights, even though the parents are not in court. In counties in which public defenders have not been authorized, private attorneys are hired by the court to represent those requiring defense counsel. The public defender may be appointed GAL if a CASA/GAL is not available.

Conflict Attorneys: Additional attorneys contracted by the county for appointment when there is a conflict with PD.

DCFS Attorney: In some cases a DCFS attorney may appear in the juvenile court proceedings but this is not typical. A DCFS Attorney will appear if there is some conflict or contest, or in the instance of a controversial decision, where the agency feels strongly about some point in the case.

Private Attorney: Private attorneys retained by natural parents, relatives, the minor or the foster parents, by agencies both public and private, may appear in court occasionally. All attorneys present are usually given the right to cross examine, and to question witnesses

CASA/GAL Attorney: The court appoints the public defender/GAL attorney or a conflict attorney to represent the CASA/GAL. CASA Kane County may substitute a pro bono attorney for the court appointed attorney.

DCFS Caseworkers:

DCFS caseworkers and occasionally their supervisors appear to give the background of the case, to explain the service plan, to give an update of progress or lack of progress, and to give their recommendations to the court. They may request an order for a psychiatric examination for the birth parents, a clinical evaluation of the parents, a diagnostic evaluation of the child, or other tests. They are responsible for arranging for services ordered by the judge. A caseworker is expected to be prepared to answer questions about the case posed by either the attorneys or by the judge.

Private Agency Caseworkers:

Private agency caseworkers also give evidence regarding the case's progress and have the same responsibilities for the case as DCFS caseworkers. This involvement of a private agency is arranged through a contract between DCFS and the private agency called a purchase of service (POS) contract in which the private agency is responsible for the casework for a particular child. Examples of private agencies are Catholic Charities, Children's Home and Aid Society, and Lutheran Family Services.

Counselors:

Counselors, psychiatrists, and psychologists may appear occasionally to give an update of counseling progress.

Witnesses:

Police officers, physicians, school personnel, neighbors and relatives may appear in court to testify.

Court Staff:

Other people may be seen coming and going—bringing in records, information, reports, etc. They may be from various departments in the court.

Court Volunteers:

These volunteers help people sign in at front desk and advise them when their case is called

Court Personnel:

Bailiffs: Bailiffs and/or Deputy Sheriffs have responsibility for security and monitoring order in the courtrooms. The bailiffs and/or deputy sheriffs also have responsibility for escorting detained minors to and from the courtrooms.

Clerk: The Clerk of the court is responsible for keeping court records, setting cases on the calendar and sending notices. Frequently a deputy clerk is assigned.

Court Reporter: A court reporter (or stenographer) is present in court to record a verbatim report of court proceeding. After court adjourns, the court reporter is responsible for preparing a transcript. Juvenile Court records are closed to the public.

Language Interpreters: The court will make arrangements for language interpreters to be present to translate the entire hearing when one or more parents do not speak or understand English fluently.

Guardian ad Litem or Public Guardian:

The Guardian ad Litem (GAL) represents the child's best interests. In Kane County, the Court Appointed Special Advocate (CASA) serves as GAL and be represented by an attorney. If a CASA/GAL is not available, the court will appoint an attorney to serve as GAL.

According to law, a GAL must be named if:

1. No parent, guardian, custodian or relative appears at the first or any subsequent hearing; and /or
2. Petition asks for the appointment of a guardian of the person with power to consent to adoption; and/or
3. Petition resulted from a report under the Abuse and Neglect Child Reporting Act.

According to the law, the court may appoint a GAL if:

1. There is a conflict of interest between the minor and the parents or other custodians;
2. If it appears to be in the minor's best interests to do so.
3. If the child is a victim of alleged sexual abuse.

In Cook County there is a full-time staff of GALs. In less populous counties, the GAL is a private attorney assigned the case or an attorney from the Public Defender's Office.

GAL differs from the term "Guardian of the Person" who is an adult appointed by the court to retain long-term responsibilities.

Guardians: "Guardian of the Person" is an adult appointed by the court to be responsible for the child's general welfare. A guardian of the person is always named when a minor has been found dependent or neglected, when a child is not returned home and when guardianship is given to DCFS. The agency then takes the responsibility for making major decisions regarding the child's life. Responsibilities of the guardian of the person include but are not limited to:

1. Consenting to marriage;
2. Enlistment in armed services;
3. Major medical, surgical or psychiatric treatment;
4. Representing the minor in legal actions;
5. Parental visitation;
6. Consenting to adoption if guardian has that power.

Legal Custodian: A legal custodian has "physical possession" of the child and has the duties of providing shelter, food, training, discipline, education and ordinary medical care. The custodian may or may not be the minor's legal guardian.

Parents:

Father or mother of a child; includes any adoptive parent. It also includes the father whose paternity is presumed or has been established. It does not include a parent whose rights have been terminated.

Parents have the right to be notified whenever dependency/neglect charges are being brought against them. Parents or their attorneys have the right to appear in court. Parents' rights to win custody of their children are limited by the Juvenile Court Act "when the court determines it is contrary to the best interest of the child" and when the child's "welfare or safety or the protection of the public cannot be adequately safeguarded without removal". After a child is removed from the parent's home and after the loss of guardianship, the parents do maintain certain rights and responsibilities which include but are not limited to:

1. The right to reasonable visitations with the child;
2. The right to relinquish their rights so that a child may be adopted;
3. The right to determine a child's religious affiliation;
4. The responsibility for the child's financial support when the court so requires.

Parents' rights may be terminated on an involuntary basis.

Foster Parents:

Licensed foster parents have the right to be heard when the custody or status of a minor may change, although a foster parent is not necessarily a part to a neglect, abuse or dependency proceeding. The foster parent may hire an attorney to represent his/her interests.

Other Interested People:

In some cases other interested people may appear in court, i.e., grandparents, neighbors and friends, and may want to be appointed custodians. However, they are not automatically parties in the case and must petition for the right to intervene in the proceedings. They may hire an attorney who has to "demonstrate to the court that his/her client has had a substantial relationship with the child."

The Minor:

For a minor to be involved with the juvenile court, a petition must have been filed alleging that the minor fits into one of the following categories:

Abused Minor: An abused minor is **under 18 and**

1. Has had injury inflicted by other than accidental means by a parent, guardian, custodian, family member or other individual residing in the home
2. Is at substantial risk of physical injury; or
3. Has experienced excessive corporal punishment from a parent, guardian, custodian, family member or other individual residing in the home, or the parent's paramour; or
4. Has been sexually abused.

Neglected Minor: A neglected minor is **under 18 and**

1. Who is neglected as to proper or necessary support, education as required by law, or as to medical and other remedial care necessary for well-being, or who is abandoned by his/her parents, guardian or custodian; or
2. Whose environment is injurious to his/her welfare or whose behavior is injurious to his/her own welfare or that of others.

Dependent Minor: A dependent minor is **under 18 and**

1. Who is without a parent, guardian or legal custodian; or
2. Who is without proper care because of the physical or mental disability of the parent, guardian or custodian; or
3. Who is without proper medical or other remedial care or other care necessary for his/her well being through no fault, neglect or lack of concern by parents, guardian or custodian (inability by parent to provide for such); or
4. Who has a parent, guardian or legal custodian who with good cause wishes to be relieved of all parental rights and responsibilities, guardianship or custody and desires the appointment of a guardian of the person with power to consent to the adoption of the minor.

Delinquent Minor: A delinquent minor is one who before he or she is **17** commits a violation of any federal or state law or municipal law. A minor who violates a juvenile court order may also be titled a delinquent.

A minor requiring authoritative intervention (MIRA) may be a runaway, considered incorrigible, habitual truant or an addict. He/she may also be titled a status offender, in that the offense committed would not be considered an offense by an adult, and only because of his/her status as a minor. The same act committed by an adult would not be punishable.

Minor's Rights:

1. To be present during court proceedings, "except that in the court's discretion the minor may be excluded from any part of the dispositional hearing, and with consent of the parents, or guardian or counsel, from any part of an adjudicatory hearing. Parent, counsel, or guardian must be present to represent the minor's interests.
2. To be heard.
3. To present evidence.
4. To cross-examine witnesses.
5. To examine pertinent court files and records, except for social and psychiatric reports.
6. To be represented by a lawyer and to be provided one free if unable to pay; to have a Guardian ad Litem appointed under certain conditions.
7. To appeal decisions.
8. To be informed by the court of all the rights listed above.

