

Foster Youth: New Law Promotes Your Right to Counsel

Who is this Alert for?

Read this if:

- You're age 12 or older, and
- You're in foster care or living with your family or relatives and involved in a dependency or termination case.

What is the new law?

Effective June 10, 2010, foster youth must be informed of their **right to REQUEST an attorney** in dependency and termination proceedings.

What is the “right to request an attorney?”

It means you have the right to ask that an attorney represent you in your dependency or termination proceeding. It does NOT necessarily mean that you get one for free. (See last section.). Attorneys are also called lawyers or “legal counsel.”

What's new about this law?

It's always been the case that you could ask for legal counsel if you were a foster child over age 12 involved in a dependency or termination case. The problem was that few, if any, foster youth knew that they had that right, or what it meant. The adults involved in the case rarely, if ever, explained to youth they had a right to ask for an attorney. The law didn't require them to tell you that you have the right to request counsel.

The adults involved in your case must now do the following:

- **Notify you of your right to request counsel.** If you're age 12 or older, Court

Appointed Special Advocates (CASAs), Guardians ad Litem (GALs) and Department/agency caseworkers must inform you of your legal right to request counsel.

- **Determine if you want a lawyer.** The CASAs, GALs, and Department/agency caseworkers must determine whether you do, in fact, want to be represented by a lawyer.
- **Report your decision back to the court.** CASAs, GALs and caseworkers must report to the court that they told you of your right to request counsel and whether you chose representation. The court must review these reports to ensure you were properly notified and had the opportunity to request counsel.
- **Let you know when you're entitled to petition the juvenile court for reinstatement of parental rights.** If you're eligible to petition the juvenile court to reinstate your parents' parental rights AND if your parent has contacted the Department or your CASA/GAL and is interested in reconnecting with you, then the Department caseworker and the CASA/GAL must notify you that you're eligible to petition the juvenile court for reinstatement of parental rights. The reinstatement process is the only proceeding in which you have a right to be appointed counsel.
- **Report to the court what they believe is in your best interest.** CASAs/GALs must report back to the court whether they think it's best for you to have an attorney. This way the court hears from both you and from your CASA.

Will I automatically get a free attorney?

At the time of the writing of this publication (June 2010), it really depends on whether the court handling your case has the funding for free attorneys for every youth who

requests one. If it doesn't or if the court doesn't believe you need an attorney, then you can only get free representation automatically in a reinstatement case (see directly above).

4903EN

This publication provides general information concerning your rights and responsibilities. It's not intended as a substitute for specific legal advice. This information is current as of the date of its printing, June 2010.

© 2010 Northwest Justice Project — 1-888-201-1014
(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)