

§4005-D. Access to and participating in proceedings

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Foster parent" means a person whose home is licensed by the department as a family foster home as defined in section 8101, subsection 3 and with whom a child lives pursuant to a court order or agreement of the department. [PL 2007, c. 255, §2 (AMD).]

B. "Grandparent," in addition to the meaning set forth in section 4002, subsection 5-C, includes a parent of a child's parent whose parental rights have been terminated, but only until the child is placed for adoption. [PL 2017, c. 411, §8 (AMD).]

C. "Interested person" means a person the court has determined as having a substantial relationship with a child or a substantial interest in the child's well-being, based on the type, strength and duration of the relationship or interest. A person may request interested person status in a child protection proceeding either orally or in writing. [PL 2001, c. 696, §16 (NEW).]

D. "Intervenor" means a person who is granted intervenor status in a child protective proceeding pursuant to the Maine Rules of Civil Procedure, Rule 24, as long as intervention is consistent with section 4003. [PL 2001, c. 696, §16 (NEW).]

E. "Participant" means a person who is designated as an interested person under paragraph C and who demonstrates to the court that designation as a participant is in the best interests of the child and consistent with section 4003. A person may request participant status in a child protection proceeding either orally or in writing. [PL 2001, c. 696, §16 (NEW).]

[PL 2017, c. 411, §8 (AMD).]

2. Interested persons. Upon request, the court shall designate a foster parent, grandparent, preadoptive parent or a relative of a child as an interested person unless the court finds good cause not to do so. The court may also grant interested person status to other individuals who have a significant relationship to the child, including, but not limited to, teachers, coaches, counselors or a person who has provided or is providing care for the child.

[PL 2017, c. 411, §9 (AMD).]

3. Access to proceedings. An interested person, participant or intervenor may attend and observe all court proceedings under this chapter unless the court finds good cause to exclude the person. The opportunity to attend court proceedings does not include the right to be heard or the right to present or cross-examine witnesses, present evidence or have access to pleadings or records.

[PL 2001, c. 696, §16 (NEW).]

3-A. Maine Commission on Public Defense Services; access to proceedings. The executive director of the Maine Commission on Public Defense Services established by Title 5, section 12004-G, subsection 25-A, or the executive director's designee, is authorized to attend and observe all court proceedings under this chapter for any purpose related to assigning, evaluating or supervising counsel, unless the court makes written findings that specific factors unique to the particular proceeding make it inappropriate for the executive director or the executive director's designee to attend all or a part of the proceeding. If the court denies the executive director or the executive director's designee access to the proceeding as provided in this subsection, the court shall order that a copy of a recording of the proceeding or of a transcript of the proceeding be provided to the executive director of the commission at no charge. The court may not grant the commission, the executive director or the executive director's designee intervenor status or the right to be heard solely on the basis of attendance by the executive director or the executive director's designee at a court proceeding under the authority granted in this subsection.

[PL 2023, c. 638, §24 (NEW).]

4. Right to be heard. A participant or an intervenor has the right to be heard in any court proceeding under this chapter. The right to be heard does not include the right to present or cross-examine witnesses, present evidence or have access to pleadings or records.
[PL 2001, c. 696, §16 (NEW).]

5. Intervention. An intervenor may participate in any court proceeding under this chapter as a party as provided by the court when granting intervenor status under Maine Rules of Civil Procedure, Rule 24. An intervenor has the rights of a party as ordered by the court in granting intervenor status, including the right to present or cross-examine witnesses, present evidence and have access to pleadings and records.
[PL 2001, c. 696, §16 (NEW).]

6. Foster parents, preadoptive parents and relatives providing care. The foster parent of a child, if any, and any preadoptive parent or relative providing care for the child must be provided notice of and the right to be heard in any proceeding to be held with respect to the child. The right to be heard includes the right to testify but does not include the right to present other witnesses or evidence, to attend any other portion of the proceeding or to have access to pleadings or records. This subsection may not be construed to require that any foster parent, preadoptive parent or relative providing care for the child be made a party to the proceeding solely on the basis of the notice and right to be heard.

The foster parent of a child, if any, and any preadoptive parent or relative providing care for the child may attend a proceeding in its entirety under this subsection unless specifically excluded by decision of the presiding judge.
[PL 2007, c. 255, §3 (AMD).]

7. Confidentiality and disclosure limitations. Interested persons, participants and intervenors are subject to the confidentiality and disclosure limitations of section 4008.
[PL 2001, c. 696, §16 (NEW).]

SECTION HISTORY

PL 2001, c. 696, §16 (NEW). PL 2007, c. 255, §§2, 3 (AMD). PL 2017, c. 411, §§8, 9 (AMD). PL 2023, c. 638, §24 (AMD).

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