

**Foster Parent Rights: A Review**  
**NYSCCC 26<sup>th</sup> Annual Conference**  
**Uniting Families • May 9, 2015**

**THE RIGHTS OF FOSTER PARENTS IN NEW YORK STATE**  
**By Margaret A. Burt, Esq. Copyright 9/11**

Foster parents have the right to hire an attorney and have them assist the foster parent at court in abuse and neglect, permanency and termination cases. The court is required to provide a free attorney IF the foster parent is indigent and cannot afford an attorney

Foster parents have a right to a written 10 day notice, an internal formal conference, a fair hearing and ultimately even a court proceeding to contest an agency decision to remove a child from their home regardless of how long the child has been in the home

Foster parents have a right to be formally noticed and appear and offer information at all permanency hearing regardless of how long the child has been in the home

Foster parents have right at a permanency hearing to object to court giving child to a relative on a custody petition that the relative has brought and can request that the court hold a “best interest hearing” to see if the custody to a relative would be in the child’s best interests.

Foster parents can bring on a TPR matter if the court orders the agency to do so and the agency does not do it within 90 days of being ordered to do so or if the child has been in care 19 months and the agency has not brought a petition

Foster parents who have had a child in their home for more than 12 months have a right to notice and to be heard in the dispositional aspects of TPRs, freed child reviews or any hearing that affects custody of the child

Foster parents have a preference under law to be considered first as adoptive parents for any child is in their home as a foster child and who has been in their care for over 12 months when the child is freed

Foster parents who are related to a child and have had that child in their home for over 6 months as a foster child can seek to become a subsidized guardian of the child and have a right to a fair hearing from the state if the agency denies the subsidy.

So far the courts have said that foster parents do not have rights to seek visitation or custody orders of former foster children, but foster parents have continued to challenge this.