

How does the juvenile court decide if I am a de facto parent?

Only the juvenile court can decide if you are a de facto parent. The judge will apply case law and rule 5.502(10). He or she will consider the care you gave the child and how long you did it. Also, the judge will decide if you can help the court understand what is best for the child—the child’s best interests. If you have harmed the child or put the child at risk, the judge will likely decide that you are not a de facto parent.

If the judge decides you are not a de facto parent, you may still tell the judge what you feel or know about the child by filing JV-290, the *Caregiver Information Form*, or, if you are not the current caregiver, by sending a letter to the court.

De Facto Parent Pamphlet

You have been taking care of a child who has been declared a dependent of the juvenile court. You want to be more involved in the child’s court case and are considering becoming a de facto parent.

This pamphlet describes:

- What your rights are if the juvenile court decides you are a de facto parent
- What is a de facto parent
- How to apply to the juvenile court to see if you are a de facto parent and
- How the juvenile court decides if you are a de facto parent.

If you want additional information or have specific questions, you may want to consult with an attorney. Call your local Bar Association to ask for a referral.

What are my rights as a de facto parent?

You have the following rights if a juvenile court judge finds that you are a de facto parent:

- To be present at dependency proceedings (Note: as a caregiver you can go to all dependency review and permanency hearings even if you are not a de facto parent.)
- To be represented by a lawyer, if you hire one. (In some cases the court may appoint a lawyer at no cost to you if the judge thinks it is necessary.)

- To present evidence and cross-examine witnesses and
- To participate as a party in the disposition hearing and any hearing after that.

You can learn more about these rights by reading rule 5.534(e) of the California Rules of Court (available on the California Courts Web site: www.courtinfo.ca.gov).

Remember: A de facto parent is not the same as a parent.

You do not have the right to:

- Reunification services
- Attorney fees (But in some cases the judge may give you an attorney, and the court will pay the fees.)
- Rehearing (You cannot ask for another hearing if you don't agree with the judge's decision, but you may have a right to an appeal.)

What is a “de facto parent”?

You may be a de facto parent if:

- The child is a dependent of the juvenile court.
- You are or have been taking care of the child every day.
- You have been acting as the child's parent.
- You are meeting (or have met) the child's needs for food, shelter, and clothing. You have also met the child's needs for care and affection.

No law says exactly what a “de facto parent” needs to be. Judges make this decision based on other court cases and on rule 5.502(10) of the California Rules of Court. You can read the rule on the California Courts Web site: www.courtinfo.ca.gov.

How do I apply for de facto parent status?

To apply, fill out the following forms: JV-295 and JV-296.

Form JV-295 asks for your name, address, and phone number. On the form, you tell the judge that you or someone else wants to be the child's de facto parent. If you are asking for someone else, you need to write that person's information on the form. Then you sign and date the form. If you have an attorney, he or she will sign the form too.

On form JV-296, you say why you think the judge should decide that you or the other person named on JV-295 are a de facto parent. List important things you did for the child and how often you did them. This is so the judge has all the information he or she needs to make a decision. Give information like:

- How long you have cared for the child
- What you do with the child
- What you do for the child
- How much you care for the child
- What you know about the child's special needs, desires, hopes
- How you can meet the child's needs.

You can also attach letters from others who know you and the child. For example: teachers, therapists, pediatricians, spiritual advisors, etc.