



1 case may aid the court in determining the best interests of the child and “the views of such  
2 persons who have experienced day-to-day contact with the child deserve consideration.” (*In re*  
3 *B.G.*, *supra*, 11 Cal.3d. at p. 693.) The court also observed that “[t]he simple fact that a person  
4 cares enough to seek and undertake to participate goes far to suggest that the court would profit  
5 by hearing his views as to the child's best interests . . . .” (*Id.* at p. 692, fn. 18.)

6 No professional in the system who has responsibility for informing the court about the  
7 well-being, needs, and bests interests of the child spends as much time with the child as the  
8 caregiver. The child’s attorney may only see the child for a few minutes once every six months  
9 or so. Some children’s attorneys, despite rules of court to the contrary<sup>2</sup>, never see the child.  
10 Others may send an investigator or social worker to see the child instead of personally meeting  
11 with the child. The child welfare worker may see the child only once a month. A CASA may  
12 see the child from two to four times a month but for only a few hours at a time. A foster family  
13 agency social worker may see the child as often as once a week but often the time spent  
14 interacting with the child is short. In contrast, the child’s caregiver spends significant periods of  
15 time caring for and interacting with the child on a daily basis. If the child is an infant or toddler,  
16 the caregiver may actually be spending all day, every day, with the child.

17 Consequently, the caregiver will ordinarily have more knowledge than any other person  
18 in the system about the child’s physical and emotional needs, whether that child has any special  
19 needs that must be met in order to maintain the child’s physical and/or emotional health, and the  
20 child’s personality and characteristics may that affect how that child’s needs can or should be  
21 met. Direct information from a person who actually knows the child in question can be  
22 invaluable to the juvenile court when deciding what is in the child’s best interests in any given  
23 juvenile court proceeding. (See, *Christina K. v. Superior Court* (1986) 184 Cal.App.3d 1463,  
24 1469 [the foster parent “ ‘probably knows more about the children than anybody else at this stage  
25 of the game.’ The court should have had the benefit of her knowledge.”]; *In re Patricia L.*  
26 (1992) 9 Cal.App.4th 61, 67 [“Because a court can only benefit from having all relevant

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28 <sup>2</sup> Rule 5.550(d)(4): “Attorneys or their agents are expected to meet regularly with clients, including clients who are children, regardless of the age of the child or the child’s ability to communicate verbally. ... The attorney for the child must have sufficient contact with the child to establish and maintain an adequate attorney-client relationship.”

1 information, a court should liberally grant de facto parent status."].)

2 **II.**  
3 **FOSTER PARENTS AND RELATIVE CAREGIVERS ARE GENERALLY ENTITLED**  
4 **TO STANDING AS DE FACTO PARENTS, ABSENT UNUSUAL CIRCUMSTANCES.**

5 Foster parents and relative caregivers are generally entitled to standing as *de facto* parents  
6 if they request such standing and it is generally considered error for the court to refuse to grant  
7 standing to foster parents or relative caregivers, absent unusual circumstances. (*In re Ashley P.*  
8 (1998) 62 Cal.App.4th 23 [error to deny de facto parent status to grandmother who had cared for  
9 children for two years and had close psychological bond with them]; *In re Vincent C.* (1997) 53  
10 Cal.App.4th 1347, 1358 [error to refuse de facto status to grandmother who cared for children for  
11 three years]; *Christina K. v. Superior Court, supra*, 184 Cal.App.3d 1463, 1467 [error to deny  
12 standing to foster parent: “juvenile courts are to give serious consideration to any foster parents’  
13 request for standing. And if a foster parent is a de facto parent, *In re B.G.* holds the foster parents  
14 have a right to standing.”]; *Katzoff v. Superior Court* (1976) 54 Cal.App.3d 1079, 1084 [“if the  
15 participation of the foster parents ... would have provided the court with the relevant information  
16 as to [the minor’s] best interests, the court should have permitted their participation and  
17 considered the evidence presented.”]

18 In *In re Ashley P., supra*, 62 Cal.App.4th 23, the court of appeal listed several factors the  
19 juvenile court should consider in deciding whether to grant de facto parent status. These factors  
20 include whether the child is psychologically bonded to the adult; whether the adult assumed the  
21 role of a parent on a day-to-day basis for a substantial period of time; whether the adult has  
22 unique information about the child; whether the adult has regularly attended the juvenile court  
23 hearings; and whether a future proceeding might permanently foreclose any future contact of that  
24 adult with the child. (*Id.* at p. 27; accord, *In re Vincent C., supra*, 53 Cal.App.4th 1347, 1358; *In*  
25 *re Patricia L, supra*, 9 Cal.App.4th at pp. 66-67.) Where the factors favoring de facto parent  
26 status are present, the “juvenile court should not deny a request for de facto status based upon  
27 some vague concern that such participation will lengthen the hearings or somehow interfere with  
28 the goal of providing the child with a stable and loving home.” (*In re Vincent C., supra*, 52  
Cal.App.,4th at p. 1358.)

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2 Rule 5.534(e) provides that “upon a sufficient showing, the court may recognize the  
3 child’s present or previous custodians as de facto parents . . .” This rule recognizes the case law  
4 holding that a person seeking de facto parent status does not have to be the current caretaker of  
5 the child. Previous caretakers may be granted standing if they meet the criteria for de facto  
6 parent status.

7 **III.**  
8 **THERE IS NO “MINIMUM” AMOUNT OF TIME REQUIRED FOR A CARETAKER**  
9 **TO BE GRANTED STANDING AS A DE FACTO PARENT.**

10 Although the definition of de facto parent recognizes that the child must have lived with  
11 the caretaker for some “significant” period of time, there is no requirement that it be more than six  
12 months or some other arbitrary number. The number of years or months a child has spent living  
13 with the caretaker is not determinative. “Time, in and of itself, does not determine whether foster  
14 parents are de facto parents. It is the information and interest they have to contribute to the  
15 proceedings which allows them standing.” (*Christina K. v. Superior Court, supra*, 184  
16 Cal.App.4th at p. 1468.)

17 In *Christina K.*, the juvenile court denied de facto status to the foster parent who sought  
18 to participate as a party in the six-month review hearing. (*Id.* at p. 1465.) The court rejected the  
19 agency’s argument that a person seeking de facto parent status must have been the child’s  
20 caretaker for a “substantial” period of time and its argument that that time must be “well in  
21 excess of six months.” (*Id.* at p. 1465, 1468.) “The juvenile court must determine if the foster  
22 parents have cared for the minor on a day-to-day basis. Time is not the criterion for determining  
23 whether a foster parent is a de facto parent. The court should also consider the unique vantage  
24 point of the foster parents vis-a-vis the information they are able to provide to the court.” (*Id.* at  
25 p. 1469.) Because one of the children had been in the foster parent’s care almost since birth,  
26 both children had been placed with her since before the disposition hearing, and she was the  
27 person who knew more about those children than anyone else, the court of appeal found that the  
28 juvenile court erred in denying her request for de facto parent status.

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**IV.  
DE FACTO PARENT STATUS MAY BE GRANTED AT DISPOSITION OR AT ANY  
TIME THEREAFTER.**

Agencies in some jurisdictions have been known to oppose de facto parent status on the ground that granting de facto parent status is not appropriate until after a decision has been made to terminate parental rights. However, rule 5.534(e) of the Rules of Court provides that upon a sufficient showing that the person requesting de facto status meets the criteria for de facto parent status, the court may “grant standing to participate in disposition hearings and any hearing thereafter at which the status of a dependent child is at issue.”

In *In re Giovanni F.* (2010) 184 Cal.App.4th 594, the court of appeal affirmed an order granting de facto parent status to a grandmother at the disposition hearing. (*Id.* at p. 597.) The grandmother had cared for the child on a part-time basis before the dependency proceedings were instituted and the child was placed with her shortly after detention. The court held that the grandmother qualified as a de facto parent because she had tried to protect the child from the parent’s domestic violence; assumed responsibility for his day-to-day care when his parents could not care for him; the child responded positively to her care; she had personal knowledge of how the domestic violence affected the child; she attended every juvenile court hearing; and future proceedings could foreclose any contact between the grandmother and the child. (*Id.* at p. 602.)

While reunification is the goal before services are terminated, granting de facto parent status to participate in disposition and review hearings is not inconsistent with achieving that goal. “The law mandates reunification occurs only after ‘the trial court first determines that parental custody would [not] be harmful to the child ....’ (*Katzoff v. Superior Court, supra*, 54 Cal.App.3d 1079, 1083.) Foster parents, because of their caretaking role, are usually the ones best equipped to aid the court in this determination. Rather than defeating legislative intent, foster parents' participation in the proceeding can in fact effectuate it. [fn. omitted.]” (*Christina K. v. Superior Court, supra*, 184 Cal.App.3d at p. 1469.) Thus, it is appropriate at the disposition hearing or any time thereafter for the juvenile court to grant de facto parent status to a caretaker

1 or previous caretaker who meets the qualifications for a de facto parent.

2 **CONCLUSION**

3 "Because a court can only benefit from having all relevant information, a court should  
4 liberally grant de facto parent status." (*In re Patricia L., supra*, 9 Cal.App.4th at p. 67.) For this  
5 reason and the other reasons set forth above, this court should grant this request for de facto  
6 parent status.

7 Dated: Respectfully submitted,

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