

# THE GUARDIAN

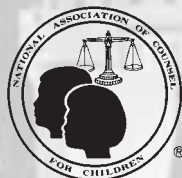
NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN



VOLUME 24 / NUMBER 3 / SUMMER 2002

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NACC DENVER COLORADO / WEBSITE: [www.NACCchildlaw.org](http://www.NACCchildlaw.org)

NACC 25th National Children's Law Conference  
*25 Years of Child Advocacy*  
Sheraton World Resort – Orlando, Florida  
September 26 – 29, 2002

# NACC

National Association of  
Counsel for Children



## MISSION

To achieve the well-being of children by promoting multidisciplinary excellence in children's law, establishing the legal interests of children and enhancing children's legal remedies

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Editor: Marvin Ventrell  
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Subscription Price:  
*The Guardian* is sent to all members of the National Association of Counsel for Children. Membership in the organization is \$75 annually. To join, send application on page 16 to National Association of Counsel for Children.

**THE GUARDIAN**  
NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN

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National Association of Counsel for Children

# 25th National Children's Law Conference

Sep 26 – Sep 29, 2002 · Sheraton World Resort · Orlando, FL



## 25 YEARS OF CHILD ADVOCACY

### CONFERENCE SPONSORS

#### CO-SPONSORS

- American Academy of Adoption Attorneys
- American Humane Association
- Barry University School of Law
- Walt Disney World Resort and Epcot Center
- Florida Association of Women Lawyers
- Judicial Council of California Center for Families, Children, and the Courts
- Lawyers for Children America
- National Council of Juvenile and Family Court Judges
- University of Oklahoma — Section of General and Emergency Pediatrics and EMS-C

#### COOPERATING ORGANIZATIONS

- American Academy of Pediatrics
- American Bar Association Center on Children and the Law
- American Bar Association Section of Litigation, Children's Law Committee
- American Bar Association Steering Committee on the Unmet Legal Needs of Children
- American Bar Association Young Lawyers Division, Children and the Law Committee
- American Professional Society on the Abuse of Children
- Child Welfare League of America
- Central Florida Paralegal Association
- First Star
- Juvenile Law Center
- National Call to Action
- National Court Appointed Special Advocate Association
- Orange County Bar Association Legal Aid Society
- Public Interest Law Section, Florida Bar
- University of Miami School of Law, Children and Youth Law Clinic

### THE CONFERENCE

25 Years of Child Advocacy is the 25th National Children's Law Conference of the NACC. The conference is designed for professionals from the fields of law, medicine, social work, and education. The program focus is the practice of children's law through interdisciplinary training and education.

The conference is comprised of General Sessions and Workshops. Workshops are organized along four tracks: 1 – Abuse & Neglect; 2 – Juvenile Justice; 3 – Custody & Visitation; and 4 – Policy Advocacy. You are free to sign up for and attend sessions in different tracks. The multidisciplinary nature of the conference includes attorney, judicial, law enforcement, social work, physician, and mental health training. NACC conferences are rated highly by participants for content, administration, networking opportunity, and enjoyment. The conference is the product of 24 years of experience in the field of children's law.

### CONTINUING EDUCATION CREDITS

The following jurisdictions have pre-approved the conference for the following continuing education credits:

	CA	FL	CO
CLE:	18.5	25	27
CLE Ethics Available:	1.5	2	1.8

Uniform Certificates of Attendance will be provided to allow for credit in other states and disciplines. NACC conferences are typically approved by the continuing education agencies in most jurisdictions and disciplines.

### ORLANDO

[www.orlandoinfo.com](http://www.orlandoinfo.com)

This year the NACC conference comes to Orlando, Florida, home of Disney World, Epcot Center, SeaWorld, Universal Orlando and much more. Kennedy Space Center and the beaches are only about an hour away. Orlando is an ideal conference and vacation spot, so bring friends and family, come early and stay late. For more information, visit the web site above or contact the Orlando/Orange County Convention and Visitors Bureau at 407-363-5872, 8723 International Drive, Suite 101, Orlando, FL 32819. E-mail questions to: [info@orlandocvb.com](mailto:info@orlandocvb.com).

### ACCOMMODATIONS

**Sheraton World Resort**  
[www.sheratonworld.com](http://www.sheratonworld.com)



The conference will take place at the Sheraton World Resort, a 28-acre hotel complex that offers the perfect vacation and business mix. On-site activity includes 3 pools, miniature golf, playground, and fitness center. On-site dining includes everything from gourmet meals to deli takeout. The Sheraton is five minutes from Walt Disney World and Universal Orlando Theme Park and across the street from SeaWorld. World-class shopping, nightlife and attractions are close by on International Drive. The Sheraton is only ten miles from Orlando



# The Conference

25 YEARS OF CHILD ADVOCACY

© DISNEY

International Airport. A special conference room rate of \$115 single or double is available for NACC conference attendees. A room block has been reserved for the NACC from September 25 through 29, 2002. The hotel will honor the reduced room rate three days before and three days after the block, if rooms are available. We anticipate the room block will sell out early, so please send in your conference registration and then make your hotel reservations right away. Hotel reservations must be made by August 25, 2002, although there is a possibility the room block will have sold out by then as well. To make your hotel reservations, contact Sheraton World Resort at 1-800-327-0363 and identify yourself with the National Association of Counsel for Children, or NACC. You may contact the hotel directly at 407-352-1100, 10100 International Drive, Orlando, FL.

## DISCOUNTED TRAVEL

Special discounted travel for conference attendees is available through United Airlines (meeting code 551BW) and Delta Airlines (meeting code 188810A). Both are offering discounted fares to all conference attendees for travel between September 23 and October 2, 2002. Tickets purchased MORE than 60 days in advance will receive a 10% discount, and a 5% discount for LESS than 60 days. For reservations or more information, call John Coxhead with TravelCorp at 1-800-222-9229 and refer to the NACC conference. You can also contact the airlines directly: United at 1-800-521-4041; and Delta at 1-800-241-6760.

## EXHIBITS

Exhibit space will be provided to sponsors, vendors, children's law programs, and NACC affiliates. Space is limited and will be sold on a first-come, first-served basis. Please contact the NACC office for details and reservation of space.

## AN EVENING AT EPCOT CENTER

Sponsored by Walt Disney World. NACC conference registrants will receive complimentary transportation and admission to Epcot Center, including a private viewing area for IllumiNations, the nightly fireworks presentation, and dessert. Epcot is dedicated to the ageless delight of discovery. An exciting and fun place for the whole family, filled with high-tech playthings and countless delights from around the world. Please sign up on the registration form. Family and guests of conference attendees are welcome.

## CONFERENCE LUNCH BANQUET

The NACC has arranged a special conference luncheon banquet for all conference attendees on Saturday, September 28. There is no additional charge for registered conference attendees, but you must check the banquet box on the registration form. The 2002 Outstanding Legal Advocacy, Student Essay, and Outstanding Affiliate awards will be presented and the banquet will conclude with guest speaker Shane Salter. Limited space is available for guests of conference attendees at \$40 per person. Please complete the Conference Banquet section of the registration form.

## LUNCHEONS

The following luncheons are scheduled:

### LUNCHEON I

#### FRIDAY, SEPTEMBER 27

A luncheon featuring child advocacy table discussions. Various children's topics will be assigned for table discussion facilitated by members of the NACC National Board of Directors. This is an excellent opportunity to network. The cost of this luncheon is \$30 per person in addition to the registration fee, and space is limited. Please sign up on the registration form.

### LUNCHEON II

#### SUNDAY, SEPTEMBER 29

International Treaties Affecting Children in U.S. Courts, a presentation by Henry Plum, JD and Lisa Kurbiel, JD (invited). The cost of this luncheon is \$30 per person in addition to the registration fee, and space is limited. Please sign up on the registration form.

## NEW MEMBER ORIENTATION

A special new member/first time attendee orientation is scheduled for Friday, September 27 at 8:00am. Continental breakfast will be available. Newcomers and interested veterans are invited to come and learn more about the NACC.

## DISABILITIES

Please advise the NACC of any meeting access accommodations you may require. If you will need accommodations, please contact the NACC as soon as possible.

## REGISTRATION

NACC members receive a registration discount of over 25%. Space at the conference is limited, so please register early.

### CANCELLATION POLICY

Cancellations postmarked on or before August 26 will receive a refund, minus a \$50 processing fee. Cancellations postmarked after August 26 will not receive a refund.

### REGISTRATION

Early Registration (postmarked by August 26)	Regular Registration (postmarked after August 26)
---	--

NACC Member: \$275	NACC Member: \$299
Non-Member: \$370	Non-Member: \$399

Non-member registration includes a one-year membership in the NACC. All participants will receive the 2002 NACC Children's Law Manual.

You may register by mail, fax, phone, or online at [www.NACCchildlaw.org](http://www.NACCchildlaw.org). The NACC accepts checks, purchase orders, and credit cards (Visa or MasterCard). Payment or Purchase Order must accompany registration. Purchase Orders must be paid within 30 days.





# The Program

25 YEARS OF CHILD ADVOCACY

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## THURSDAY

26 September 2002

2:00 – 5:00PM

### Conference Registration and Exhibits

5:00 – 6:00PM

### Cocktail and Hors d'oeuvre Reception

6:00 – 6:15PM

### Welcome

Marvin Ventrell,  
NACC Executive Director

Henry Plum, NACC 2002  
Conference Committee Chair

Katherine Holliday,  
NACC Board President

6:15 – 6:30PM

### Opening Remarks

Justice Barbara J. Pariente,  
Florida Supreme Court

6:15 – 6:30PM

### Keynote Presentation

*25 Years of Legal Advocacy  
or Children*



BARBARA  
BENNETT  
WOODHOUSE, JD

Professor Woodhouse is the David H. Levin Chair in Family Law and Director of the Center on Children and the Law at the University of Florida School of Law. She is a graduate of Columbia University School of Law and clerked for U.S. Supreme Court Justice Sandra Day O'Connor. She served on the faculty of the University of Pennsylvania School of Law from 1988-2001. She is one of the country's premier scholars on children's rights and the relationship between children, families and the state.

7:30PM

### Dinner on Your Own

## FRIDAY

27 September 2002

7:30AM

### Conference Registration Open

7:30AM

### Hospitality / Networking Lounge Opens

8:00 – 9:00AM

### New Member / First Time Attendee Orientation / Continental Breakfast

Facilitators:  
David Katner, NACC Board of Directors  
Marvin Ventrell, NACC Director

8:30 – 9:00AM

### Continental Breakfast

9:00 – 10:00AM

### General Session I

*The Status and Future of Child  
Protection in the 21st Century:  
Responding to Child Maltreatment*



RICHARD D.  
KRUGMAN, MD

Richard Krugman is a pediatrician, Professor of Pediatrics, and Dean of the University of Colorado School of Medicine. He is a graduate of Princeton University and New York University School of Medicine. Dr. Krugman served as Director of the Kempe Children's Center from 1981 to 1992 and is the recipient of the C. Henry Kempe Memorial Award for Contributions to the Field of Child Abuse.

10:00 – 10:30AM

### Coffee Break

10:30AM – 12:00NOON

### General Session II

*The Law of Gay & Lesbian Parentage:  
Families-in-Fact*

Judith Sperling-Newton, JD &  
Barbara Bennett Woodhouse, JD

12:00 – 1:30PM

### Luncheon I

*Networking/Table Topics  
Discussion Luncheon*

Facilitators: NACC Board of Directors

SEPARATE REGISTRATION AND FEE REQUIRED

or LUNCH ON YOUR OWN

1:30 – 3:00PM

### Concurrent Session A

#### TRACK 1 ABUSE & NEGLECT

*Preparing Social Workers to Testify*  
James Marsh, JD

#### TRACK 2 JUVENILE JUSTICE

*Juveniles Transferred to Criminal Court:  
Comments and Results from  
25 Years of Research*  
Charles Frazier, Ph.D.,  
Lonn Lanza-Kaduce, Ph.D./JD,  
Jodi Lane, Ph.D., &  
Donna Bishop, Ph.D.

#### TRACK 3 CUSTODY, VISITATION AND ADOPTION

*Representing Children in Child Custody  
Cases: The ABA Child Custody Project*  
Linda Rio, JD  
Moderator: Katherine Holliday, JD

#### TRACK 4 POLICY ADVOCACY

*Creating and Managing a Statewide  
System of Representation for Children:  
The Florida and Arkansas Experience*  
Gerard F. Glynn, JD &  
Connie Hickman Tanner, JD

3:00 – 3:30PM

### Catered Break

3:30 – 5:00PM

### Concurrent Session B

#### TRACK 1 ABUSE AND NEGLECT

*Appellate and Writ Practice  
in Juvenile Law*  
Donna Wickham Furth, JD &  
Janet G. Sherwood, JD

#### TRACK 2 JUVENILE JUSTICE

*Identifying and Meeting the  
Educational Needs of Children  
in the Juvenile Justice System*  
Mark Soler, JD & Marc Schindler, JD

#### TRACK 3 CUSTODY, VISITATION AND ADOPTION

*Interstate Child Custody Practice:  
The New UCCJEA*  
Patricia M. Hoff, JD

#### TRACK 4 POLICY ADVOCACY

*Therapeutic Jurisprudence and  
the Role of Juvenile Drug Courts*  
Hon. Jose Rodriguez

5:00 – 5:45PM

### Federal Policy Update

Miriam Rollin, JD  
NACC Policy Representative



# The Program

25 YEARS OF CHILD ADVOCACY

## SATURDAY

28 September 2002

8:00AM

**Hospitality / Networking Lounge Open**

8:30 – 9:00AM

**Continental Breakfast**

9:00 – 11:00AM

**Concurrent Session C**

**TRACKS 1 & 2 ABUSE AND NEGLECT / JUVENILE JUSTICE**

*The Dependency/Delinquency Crossover: Protocols for Movement Within the Systems*  
Hon. Michael Nash

SPONSORED BY NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

**TRACK 3 CUSTODY, VISITATION AND ADOPTION**

*Strategies in Providing Legal Protection for Children Living in Families-in-Fact*  
Judith Sperling-Newton, JD

SPONSORED BY AMERICAN ACADEMY OF ADOPTION ATTORNEYS

**TRACK 4 – POLICY ADVOCACY**

*Developing Sound Policy for Children of Incarcerated Parents*  
Arlene Lee, JD

11:00 – 11:30AM

**Exhibitors / Coffee Break**

11:30AM – 1:30PM

**Conference Banquet**

INCLUDED IN REGISTRATION FEE – PLEASE INDICATE ATTENDANCE ON REGISTRATION FORM.

**Presentation of NACC 2002 Outstanding Legal Advocacy Award and Law Student Essay Award**



GUEST SPEAKER:  
**SHANE SALTER**

### *A Time to Renew Advocacy*

Shane Salter is the Chief of Staff to the Deputy Mayor of Washington, DC and serves on the NACC Board of Directors. He was previously the Director of Foundation Giving at the Freddie Mac Foundation. He is a former foster child and the story of his journey through the

system is both harrowing and inspirational. On the occasion of the NACC 25th Anniversary, he will deliver a timely message of renewing and recommitting our advocacy efforts.

1:30 – 3:00PM

**Concurrent Session D**

**TRACK 1 ABUSE AND NEGLECT**

*Representing Infants and Toddlers in Dependency Cases*  
Candice Maze, JD

**TRACK 2 JUVENILE JUSTICE**

*Juvenile Justice System Reform: Detention and Transfer*  
Marc Schindler, JD & Hon. Frank Orlando

**TRACK 3 CUSTODY, VISITATION AND ADOPTION**

*The Effect of Domestic Violence on Children*  
Billie Lee Dunford-Jackson, JD

**TRACK 4 POLICY ADVOCACY**

*Does Foster Care Litigation Improve Outcomes for Children*  
Diane Garrity, JD & Deborah Hartz, MSW

3:00 – 3:30PM

**Catered Break**

3:30 – 5:00PM

**Concurrent Session E**

**TRACK 1 ABUSE AND NEGLECT**

*Using Motions Practice to Protect Your Client*  
Shari Shink, JD

**TRACK 2 JUVENILE JUSTICE**

*Restorative Justice: Balancing the Interests of Victim and Offender*  
Hon. Frank Orlando

**TRACK 3 CUSTODY, VISITATION AND ADOPTION**

*The Link Between Animal Abuse and Domestic Violence*  
Carol Harper

SPONSORED BY AMERICAN HUMANE ASSOCIATION

**TRACK 4 POLICY ADVOCACY**

*The ASFA State Child and Family Service Reviews: What We Know So Far*  
Angela Adams, JD & Connie Hickman Tanner, JD

5:30 – 10:00PM

**An Evening at Epcot Center, compliments of Disney World.**

NACC CONFERENCE REGISTRANTS RECEIVE COMPLIMENTARY TRANSPORTATION AND ADMISSION TO EPCOT CENTER. PLEASE SEE THE "EVENING AT EPCOT" DESCRIPTION IN THE FRONT OF THE BROCHURE AND SIGN UP ON THE REGISTRATION FORM.

## SUNDAY

29 September 2002

8:00AM

**Hospitality Lounge Opens**

8:00 – 8:30AM

**Continental Breakfast**

8:30 – 10:00AM

**Concurrent Session F**

**TRACK 1 ABUSE AND NEGLECT**

*Meeting the Educational Needs of Children in Care: Overview of the Law, Identifying the Goals, and Defining the Roles*  
Kathleen McNaught, JD

**TRACK 2 JUVENILE JUSTICE**

*The Re-entry of Delinquent Youth Into Home and Community: The President's OJJDP Initiative*

**TRACK 3 CUSTODY, VISITATION AND ADOPTION**

*Collaborative Law / Collaborative Divorce: Creating Better, Less Adversarial Systems for Divorce and Custody*  
Katherine Holliday, JD & Philip "Jay" McCarthy, JD

**TRACK 4 POLICY ADVOCACY**

*Following the Money: Federal Funding Streams and Their Impact on Permanency for Children*  
Miriam Rollin, JD

10:00 – 10:30AM

**Coffee Break**

10:30 – 12:00AM

**Concurrent Session G**

**TRACK 1 ABUSE AND NEGLECT**

*Mental Health Commitment of Dependent Children: Due Process Rights*  
Bernard Perlmutter, JD

**TRACK 2 JUVENILE JUSTICE**

*The Juvenile Sex Offender: Distinguishing Experimental from Chronic Behavior*  
Tom Leversee, LCSW

**TRACK 3 CUSTODY, VISITATION AND ADOPTION**

*Beyond Guidelines: Establishing Standards and Principles in Child Custody Evaluations*  
H. D. Kirkpatrick, Ph.D.

**TRACK 4\* ETHICS**

*Ethical Dilemmas in Juvenile Court*  
Ann M. Haralambie, JD, Helen Stein, JD & Candice Maze, JD

SPONSORED BY LAWYERS FOR CHILDREN AMERICA

\*Approved for ethics credit.



# The Registration

25 YEARS OF CHILD ADVOCACY

12:00NOON – 1:30PM

## Luncheon II

*International Treaties Affecting Children in U.S. Courts*

Henry Plum, JD & Lisa Kurbiel, JD

SEPARATE REGISTRATION AND FEE REQUIRED

or **LUNCH ON YOUR OWN**

1:30 – 3:00PM

## General Session III

*Challenging Controversial Defenses in Abusive Head Trauma Cases*

Betty Spivak, MD  
Moderator: John Stuemky, MD

SPONSORED BY UNIVERSITY OF OKLAHOMA  
CENTER ON CHILD ABUSE AND NEGLECT

3:00 – 3:30PM

## Catered Break

3:30 – 5:00PM

## Closing Session

*1977 – 2002: The Evolution of the Practice of Law for Children – A Glance Backward and a Look Ahead by Founders of the Profession*

Donald Bross, Ph.D./JD  
NACC Founder

Howard Davidson, JD  
Director, ABA Center on Children and the Law

Donald Duquette, JD  
Founder and Director, University of Michigan Child Advocacy Law Clinic

Moderator: Marvin Ventrell, JD  
NACC Executive Director

The NACC 25th Anniversary conference closes with a look at our progress and future as children's law professionals by pioneers of our profession. The session will be followed by the distribution of continuing education certificates, announcement of the NACC 2003 conference, and attendee prizes including an all expense paid scholarship to the 2003 national conference.

5:00PM

## Adjourn

5:10 – 6:00PM

## Florida Affiliate of the NACC Organizational Meeting

ALL CONFERENCE ATTENDEES  
ARE WELCOME

Facilitator: Gerard Glynn, JD

### The NACC 25th National Children's Law Conference

NAME (MR / MS) \_\_\_\_\_    MAILING CODE (See mailing label for code)

COMPANY / FIRM / AGENCY \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY / STATE / ZIP \_\_\_\_\_

TELEPHONE / FAX / E-MAIL \_\_\_\_\_

DEGREE / OCCUPATION \_\_\_\_\_

ETHNICITY (OPTIONAL) / BAR MEMBER NUMBER/STATE \_\_\_\_\_

**Registration includes tuition, manual, reception, breaks, and banquet (and a 1 year NACC membership for non-member registrants)**

Conference Registration Thursday, September 26 — Sunday, September 29 2002			
Early Registration		Regular Registration	
(postmarked by 8-26-02)		(postmarked after 8-26-02)	
<input type="checkbox"/> NACC MEMBER	\$ 275	<input type="checkbox"/> NACC MEMBER	\$ 299
<input type="checkbox"/> NON-MEMBER	\$ 370	<input type="checkbox"/> NON-MEMBER	\$ 399

Registration Fee Enclosed \$ \_\_\_\_\_

**Luncheon 1: Table Discussions**  
Fri, Sep 27 \_\_\_\_ reservation(s) @ \$30 per person \$ \_\_\_\_\_

**Luncheon 2: International Treaties Affecting Children in U.S. Courts**  
Sun, Sep 29 \_\_\_\_ reservation(s) @ \$30 per person \$ \_\_\_\_\_

**Conference Lunch Banquet / Sat, Sep 28**

Yes, I will attend (included in registration fee) \$ **0.00**

I will bring \_\_\_\_ guest(s) @ \$40 per person \$ \_\_\_\_\_

**Disney's Evening at Epcot Center / Sat, Sep 28**

Yes, I will attend (included in registration fee) \$ **0.00**

I will bring \_\_\_\_ guest(s) \$ **0.00**

**Total amount enclosed or charged** \$ \_\_\_\_\_

I CANNOT ATTEND BUT WISH TO JOIN THE NACC. ENCLOSED IS \$75.

Please charge my  VISA  MASTERCARD \_\_\_\_\_  
CARD # \_\_\_\_\_

NAME AS SHOWN ON CARD \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

**Please indicate your choice for Sessions A–G by checking the track of your choice**

SESSION A	SESSION B	SESSION C	SESSION D	SESSION E	SESSION F	SESSION G
<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 1 & 2	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 1
<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 2
<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 4	<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 3	<input type="checkbox"/> Track 3
<input type="checkbox"/> Track 4	<input type="checkbox"/> Track 4		<input type="checkbox"/> Track 4	<input type="checkbox"/> Track 4	<input type="checkbox"/> Track 4	<input type="checkbox"/> Track 4

Space at this conference is limited. Registrations will be filled based on date applications are received. If you will require handicap access to facilities or special assistance at the program, please contact the NACC as soon as possible.



## Cases

### SEX ABUSE STATUTE OF LIMITATIONS

*Minnesota Supreme Court Holds That A "Reasonable Child" Is Incapable Of Knowing That He Or She Has Been Sexually Abused. Therefore, Absent Some Other Disability That Serves To Toll The Statute Of Limitations, A Child Has Six Years After Reaching The Age Of Majority To File A Tort Claim In A Sex Abuse Case. DMS v. Barber, 645 N.W. 2d 383 (2002).*

In 1992, 13-year-old D.M.S. was placed in the home of Kennedy Barber, a foster parent supervised by the Professional Association of Treatment Homes (PATH). Approximately five months later, on February 22, 1993, D.M.S. was removed from the Barber home after D.M.S. informed a county social worker that he felt uncomfortable there, that Barber was sleeping with boys in his bedroom, and that Barber had asked D.M.S. if he would sleep with Barber.

D.M.S. did not commence an action against PATH until June 8, 1999, approximately nine months after his 19th birthday and more than six years after the sex abuse was alleged to have occurred. D.M.S. claimed that PATH negligently hired, supervised, and retained Barber as a foster parent and that PATH was liable for Barber's abuse under the doctrine of respondeat superior. The trial court granted PATH's motion for summary judgment on the grounds that the statute of limitations had run on both claims. D.M.S. appealed and the Minnesota Court of Appeals affirmed. The Minnesota Supreme Court reversed and remanded the case.

Under Minnesota law, personal injury actions grounded on negligence must be commenced within the six-year period of limitation. When the negligent act occurs during a plaintiff's infancy, the plaintiff is allowed to commence the action either within one year of reaching the age of

majority or within the six-year period of limitation, whichever is later. Since D.M.S. was older than 19 and the alleged negligent act occurred more than six years before he filed his claim, he could not file under the traditional rule.

The Minnesota Supreme Court found, however, that because of the unique nature of personal injuries caused by sexual abuse, the legislature had enacted a delayed discovery statute. Under this rule, the period of limitation for an action against a person who negligently permits sexual abuse to occur, like the period of limitation for negligence actions in general, is six years. Significantly, the delayed discovery statute also provides that the six-year period of limitation does not begin to run until the plaintiff knows or has reason to know that his or her injury was caused by sexual abuse.

The Court had previously interpreted this language to mean that "as a matter of law one is 'injured' if one is sexually abused." The Court went on to write that the critical factual question posed by the delayed discovery statute is "the time at which the complainant knew or should have known that he/she was sexually abused." In order to decide whether the six-year period of limitation expired before D.M.S. commenced his action against PATH on June 8, 1999, the Court needed to determine the time at which a reasonable person standing in D.M.S.'s shoes would have known he was sexually abused.

The Court held that as a matter of law, a reasonable person does not know he was sexually abused until he reaches the age of majority. Therefore, D.M.S. has six years from the age of majority to initiate his action.

This case illustrates creative legal thinking to solve a practical problem facing children who are abused in foster care:

the difficulty of litigating claims against the very system charged with the legal and physical custody of the plaintiff. Some jurisdictions require the guardian *ad litem* to investigate tort claims. Courts have also appointed separate counsel for children who have allegedly been abused by foster parents or case workers. The problem with each of these scenarios is that children are legally incompetent to bring a lawsuit on their own behalf. Parents may be unwilling or unavailable to litigate an action on behalf of their child, not to mention the conflict of interest or the fact that the parent may have also abused the child. The Minnesota Supreme Court's solution is, ultimately, less than ideal. After what sometimes may be a decade or more, judges and juries will be left evaluating evidence based largely on credibility of events which occurred in the distant past. The claim, however, will be preserved allowing the foster child to bring a lawsuit as an adult fully competent to direct the litigation.

#### Thanks to James R. Marsh, Esq. for identifying and drafting this case.

This summary is from the August 2002 edition of *The Adoption and Child Welfare Law Reporter*. The Reporter is a monthly examination of state and federal case law, policy, and legislation concerning adoption, child welfare, paternity, grandparent and third party visitation and agency liability. For more information on the Reporter, visit [www.e-Lawpublishing.com](http://www.e-Lawpublishing.com).

### APPEALS

*California Court of Appeals Considers Post Trial Circumstances And Reverses Termination of Parental Rights Where The Children's Adoptability Was Called Into Question During The Appeal Process. In re Jayson T., 97 Cal. App. 4th 75, 2002 Cal. App. LEXIS 3286 (2002).*

Jayson, Joseph and their sister came to the attention of the Department of Human



Services (DHS) when their mother, Melissa, threw a knife at her sister, threatened her sister with a barbecue fork and held a knife to Joseph's neck. The children were removed and placed in foster care. Melissa, who suffers from bipolar disorder, was offered reunification services. She was not successful and DHS moved to terminate her parental rights. During the termination trial the children were living in a pre-adoptive home and appeared to be adjusting successfully. Based on this information the trial court made a finding that the children were adoptable. Without the adoptability finding the petition to terminate parental rights would not have been sustained.

Melissa appealed the trial court's decision terminating her parental rights arguing that she was not given enough time to comply with the reunification services in light of her mental illness and that the statute does not take into consideration the possibility of "last minute" reform by the mentally ill.

Before Melissa's appeal had been heard, the prospective adoptive family began to have doubts about keeping the children, stating that Jayson and Joseph may be harmful to the family's natural children. Based on this new information the minor's appellate counsel (GAL) argued that the children's adoptability may be seriously questioned. A few weeks later, but still before oral arguments had been heard, the prospective adoptive family returned the children to DHS. There was evidence that Jayson suffered from reactive attachment disorder. Additionally, DHS considered the children to be a sibling group requiring that they be adopted together, making the children difficult to place for adoption.

The Court of Appeals determined that it had two models from which to choose in reaching its decision. First, it could use the traditional model of appellate procedure and determine whether the trial court committed prejudicial error by erroneously finding that the children were adoptable. The Court of Appeals considered the finding of adoptability relatively easy for DHS to establish. Although the standard that must be met is clear and convincing evidence, the statute only requires a finding that it is likely the child will be adopted. Therefore in this case, with the facts known during the termination trial, it was likely that the children would be

adopted. There was an adoptive family, with whom the children were successfully living, apparently willing to adopt. Under this model the Court of Appeals could not find error at the trial court level.

The second approach is to consider post-trial evidence and the best interests of children, and the importance that the finding of adoptability be accurate. The Court chose to make its determination based on the second model.

The Court chose the second model because the California State Legislature recently authorized GALs to monitor children's placements and bring any problems to the attention of the court. The Court of Appeals found that the legislature intended to require trial court GALs and appellate court GALs to bring problems in a child's placement to the court's attention so that the Court of Appeals could act on such problems.

Further, the Court of Appeals chose the second model because it is child-centered rather than parent-centered. The purpose of terminating a parent's rights to a child is to make life better for the child, not to punish the parents.

The Court of Appeals recognized that in choosing the second child-centered model, it was deviating from traditional appellate structure. However, it determined that the most important aspect of cases involving children is the protection and welfare of the child. The Court of Appeals reversed the trial court's judgment terminating the parental rights and remanded the case for an "updated review hearing".

**Thanks to the NACC Affiliate, The Northern California Association of Counsel for Children, for identifying this case.**

## FOSTER CARE REFORM

*Superior Court For The State Of Washington Finds That The Department Of Social And Health Services And The Secretary Of The Department Violated The Constitutional Rights Of Foster Children In Their Care.* Jessica Braam, et al. v. State of Washington, Case Number 98-2-01570-1. Decided May 31, 2002.

This class action was originally brought by thirteen current and former foster children (plaintiffs) who were or had been

in the custody of the Department of Social and Health Services (DSHS). The claims were brought under the Due Process Clause of the Fourteenth Amendment, the Adoption Assistance and Child Welfare Act and state statutes and regulations. The plaintiffs were seeking damages for injuries caused by the DSHS practice of moving them from foster home to foster home without notice or an opportunity to be heard.

After a seven-week jury trial, the jury returned a verdict for the plaintiffs. The jury determined that DSHS had violated the constitutional rights of the plaintiffs and that the violation was a proximate cause of harm to the plaintiff class in one or more ways claimed by the plaintiffs.

In its order the court found substantial evidence to support findings that the plaintiffs are being harmed by current practices of DSHS and therefore issued an injunction to remedy the constitutional violations found by the jury.

The court determined that there are five areas of practice by DSHS that must be addressed in order to remedy the violations: 1. Children are being harmed by being subjected to multiple placements; 2. Foster parents are inadequately trained to care for foster children; 3. Children are denied mental health care; 4. Children are placed in unsafe placements; and 5. Children are separated from their siblings.

To remedy the wrongs the court issued a detailed seven part order mandating specific action by DSHS including: increasing the number of foster homes; notifying the child's attorney prior to any new placement; providing transportation for the foster child to their original school in any case where they are moved to a placement that is outside their school's jurisdiction; providing foster parent training and support; making substantial efforts to increase kinship foster care; providing an initial physical and mental health screening for every foster child within 30 days of the child's entry into the foster care system; maintaining a strong presumption in favor of maintaining relationships among siblings.

Additionally, DSHS was ordered to develop and maintain a central record of every allegation that a foster child has been molested, assaulted or sexually assaulted in a foster home. The central record shall

also include every time a foster child is placed in a foster home that is not in compliance with the court's order.

DSHS was also ordered to make quarterly reports to the court regarding compliance with the order. DSHS shall address every aspect of the injunction in their reports. Plaintiff's counsel will continue to represent the plaintiffs and will monitor compliance. DSHS shall provide plaintiff's counsel with reasonable access to all necessary information.

Finally, the court retained jurisdiction over the case and over enforcement of the injunction until the court is satisfied that DSHS is in compliance and that there is no reasonable possibility of a recurrence of the unconstitutional conditions that the court identifies. A review hearing is set for January 2003.

## STEPARENT STANDING

*A Stepparent Does Not Have A Fundamental Liberty Interest In The Care And Custody Of A Stepchild.* People Ex Rel. E.S., 2002 WL 926737 (Colo. App. 2002).

E.S., age 6, was removed from home after a jury in the District Court of Adams County found her to be dependent or neglected by her mother and stepfather. On appeal, the stepfather argued the district court abused its discretion in refusing to allow him to participate as a party to the trial, in violation of his constitutional right and the Children's Code. The mother contended that the court violated her due process rights in refusing to allow her expert witness to interview the child. She also claimed the evidence did not support the jury verdict that the child was dependent or neglected. The Colorado Court of Appeal affirmed the judgment.

S.S.K. (mother) and D.K. (stepfather) had been married for two weeks when E.S. and the stepfather – a truck driver – went on a twenty-six-day road trip. Upon her return home, E.S. complained of recurrent spanking, increasingly severe, delivered with a belt or a cutting board. She also had a fading bruise on her upper thigh. The Department of Human Services (DHS) removed the child from

home and filed a dependency and neglect petition with the district court.

Initially, the mother and stepfather were named as the respondents. However, upon locating E.S.' natural father, DHS amended the petition to name the father as a respondent and the stepfather as a special respondent. The magistrate granted DHS' request and refused to reinstate the stepfather as a respondent. The stepfather was then not allowed to present his own evidence or to cross-examine the witnesses. He argues that as a stepparent, he as a fundamental liberty interest in the care, custody, and management of the child. He claims that his constitutional due process rights were violated when he was denied an opportunity to defend himself against the petition.

The court found no constitutional violation. Only natural or adoptive parent have a fundamental liberty interest in the raising of a child. The court declined to extend this interest to the stepfather unless he could show that he stood "*in loco parentis*" to the child. His affiliation with E.S. arose from his marriage, which occurred six weeks prior to the child's removal from home. Under the circumstances, the court found a limited, if any, protected interest in the relationship.

The court further rejected the stepfather's claim that the Colorado Children's Code mandated his participation as a party in the proceedings. The Code grants discretion to the city or county attorney to name any stepparent as a respondent "if that is in the best interest of the child." The allegations of physical abuse by the stepfather formed the basis of the petition and were fully litigated by the mother. In addition, as a special respondent, he had an opportunity to protest protective orders or treatment plan provisions that directly affected him.

The mother claimed she was denied a meaningful opportunity to be heard when the court refused to allow her expert witness to interview E.S. to determine the veracity of the statements. The GAL and the child therapist were opposed to another traumatic interview. Several experts had already talked with E.S. about the abuse. All the interviews were either

videotaped, reordered, or transcribed and were provided to the mother's expert for review. The experts testified and were available for cross-examination. The mother's expert was entitled to present his opinion at trial. The court found that it was unlikely that another interview would result in new information and the mother could develop her case through cross-examination. Therefore, she was not denied due process when the judge refused to have E.S. go through another consultation.

Finally, the mother contended that the evidence provided did not support a dependency or neglect jury verdict. She asserted her child's bruise was minimal, and that she fell out of a bunk. The court found no error in the jury's findings. It is the jury's province alone to determine the credibility of the witnesses, the weight of the evidence, and the inferences to be drawn from it. The mother had allowed her six-year-old child to take a twenty-six-day trip with a man she barely knew and she knew about the spankings before, during, and after the trip but did nothing to remedy the abuse. It was up to the jury to determine if the corporal punishment was reasonable.

## POST-ADOPTION GRANDPARENT VISITATION

*Supreme Court Of Alabama Holds That Troxel Grandparent Visitation Analysis Does Not Apply To Post-Adoption Grandparent Visitation Claims Where The Child Was Adopted Within The Family.* In re J.S. and E.S. v. D.W. and J.W., 2002 Ala. LEXIS 42 (2002).

A baby was placed for adoption with relatives, J.S. and E. S. (S). The child's mother had previously been adopted by her own grandparents, D.W. and J.C.W. (W) who were as a result, the child's pre-adoption legal grandparents. After the child's birth, W wished to have visitation with the baby and petitioned the court under Alabama's non-parent visitation law.

In a case of first impression, the court began by analyzing the Troxel case. In Troxel, the United States Supreme Court struck down Washington State's non-parent visitation statute. The plaintiffs in Troxel were the paternal grandparents

of two illegitimate children. After the death of their son the paternal grandparents petitioned for visitation with the children. The trial court granted their request. The mother appealed and the Court of Appeals dismissed the grandparents claim for lack of standing. The Washington State Supreme Court held that the visitation statute was unconstitutional for two reasons. First, the statute did not require the moving party to show that the child would be at risk if the visitation was not granted and second, the statute was too broad in allowing "any person" to seek visitation. The U.S. Supreme Court affirmed the Washington State Supreme Court.

In this case, the Supreme Court of Alabama determined that because the dispute between S and W concerned the rights of adopting parents in the context of interfamily adoptions only, Troxel did not apply. Additionally, the court chose to discuss only whether the state legislature had the power to affect the rights of adoptive parents.

The court first considered the general rule that adoption creates a parent child relationship between the adoptive parent and the child including the parent's right to custody. Then the court chose to look beyond the general rule and considered the legislative intent in creating the grandparent visitation statute. The court determined that because the grandparent visitation statute clearly intended to give the trial court the power to grant visitation rights to the natural grandparents of the adoptee when the adoptee is adopted by family members, and because the legislature enacted the grandparent visitation statute after they created the general rule, the legislature intended for the grandparent visitation statute to grant visitation rights to the natural grandparents of an adoptee when the adoptee is adopted by a family member. The judgment of the Court of Appeals was reversed and the case remanded.

**Thanks to NACC member Laoise King, Denver Human Services Assistant City Attorney, for identifying this case.**

**NOTE:** The Arkansas Supreme Court recently found its grandparent visitation statute unconstitutional as applied where Troxel requirements were not satisfied. Linder v. Linder, 72 S.W. 3rd 841, 2002 Ark. LEXIS 239 (2002).

## INEFFECTIVE ASSISTANCE OF COUNSEL

*Supreme Court Of Indiana Holds That Counsel's Failure To Object To State's Motion Which Was Granted In Error Constitutes Ineffective Assistance Of Counsel. S.T. v. State*, 764 N.E. 2nd 632, 2002 Ind. LEXIS 223 (2002).

In the early afternoon two police officers encountered two young men, one of whom was carrying a beer and both of whom had the odor of alcohol on their breath. One of the young men admitted that he was only seventeen years old, so the officers arrested him for illegal consumption of alcohol. During a search incident to the arrest a handgun was discovered. The young man, who had initially been cooperative, fought with the officers and ran from the scene. The police were not able to apprehend him.

At the police station the officers looked at photographs, but were unable to identify the young man. A few days later S.T.'s name was brought to the attention of the officers, one of whom immediately recognized S.T.'s photograph as the young man who fled from them. The other officer stated that he was pretty sure S.T. was the young man. Subsequently sixteen-year-old S.T. was arrested and charged with committing a delinquent act.

At the trial court, S.T. sought to call three witnesses in his defense. The State objected to two of the witnesses on the grounds that S.T. had failed to submit his witness list ten days before trial, as required by a local trial rule. S.T.'s counsel

failed to object to the State's motion and it was granted. S.T. was tried and adjudicated as a delinquent. He appealed to the Court of Appeals who affirmed the trial court's judgment. S.T. then appealed to the Indiana Supreme Court.

S.T. makes three claims of ineffective assistance of counsel. The court combines two of the claims involving defense counsel's failure to object to the State's motion to exclude S.T.'s defense witnesses and the court addressed the two claims together. The court did not address the S.T.'s third claim.

In order to sustain a claim of ineffective assistance of counsel a defendant must show first, that counsel's performance was deficient and second, that the poor performance harmed the defense. To show harm to the defense, the defendant must show that there is a reasonable probability that, but for trial counsel's deficiencies, the result of the proceeding would have been in the defendant's favor.

The local rule used by the State to exclude S.T.'s witnesses states that each party shall provide the court and opposing counsel with a list of witnesses ten days before the commencement of the trial. The court noted that there is no question that trial courts have the discretion to exclude witnesses when counsel does not provide a timely witness list. However such discretion is limited to cases where counsel withholds a witness list in bad faith. Additionally, the court noted that procedural rules are important in maintaining structure in the judicial system, but must be examined closely when it appears that invoking them would defeat justice.

The Court held that the trial court ruling in favor of the State's motion to exclude the witnesses was in error and a timely objection by the defense counsel would have been granted. Therefore, defense counsel's conduct was deficient and the deficiency harmed S.T. The court reversed the judgment of the trial court and remanded the case.

### GUARDIAN CASES — NOTICE TO READERS

Decisions reported in *The Guardian* may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice.

Cases reported in *The Guardian* are identified by NACC staff and our members. We encourage all readers to submit cases.

If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.



## *Federal Policy Update* by Miriam A. Rollin, JD

### **FY 2003 BUDGET/ APPROPRIATIONS**

In March, the House passed their version of the Budget, and the Senate Budget Committee approved their version of the Budget. However, there has been – and will be – no final FY2003 House/Senate Conference budget. Nevertheless, the FY2003 appropriations process is moving forward. The Senate Appropriations Committee, in July, approved an FY2003 appropriations bill for Labor/Health and Human Services/Education, and an FY2003 appropriations bill for Commerce/Justice/State; these bills are expected to go to the full Senate for a vote sometime after Labor Day.

The FY03 Labor/HHS/Education bill provides about the same as current (FY02) funding levels for several programs, including the Title XX Social Services Block Grant, Child Abuse Prevention and Treatment Act state grants

and discretionary grants, Community-based Resource Centers, Abandoned Infants Assistance, Child Welfare Services, Adoption Opportunities, Adoption Incentives, Adoption Awareness and the Child Care and Development Block Grant discretionary fund. As the President proposed, the Senate Committee increased funding for the Promoting Safe and Stable Families program (to \$505 million), and provided the first funding for the education/training voucher program for youth aging out of foster care (\$60 million).

The FY03 Commerce/Justice/State appropriations bill also continued most of the Juvenile Justice and Delinquency Prevention programs at current (FY02) levels, including the Juvenile Accountability Block Grant, the Title V Local Delinquency Prevention grants program, and the JJDP state formula grant program.

The House Appropriations Committee is expected to mark-up their Labor/HHS/ Education and Commerce/Justice/State bills in early September, utilizing the House-passed budget numbers as the guidelines for their appropriations bills.

### **SOCIAL SERVICES BLOCK GRANT RESTORATION**

There has been no action, yet, on H.R. 1470 or S. 501, the bills to restore funding that has been cut (in recent years) from the Social Services Block Grant. (SSBG is the largest federal funding source for child welfare services in the states.) However, there are three other possible avenues for action:

- I. as part of the CARE Act (S. 1924, the Senate bi-partisan – Lieberman/Santorum – faith-based-initiative bill, endorsed by the White House, which was reported out of the Senate

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Finance Committee as a substitute for H.R. 7 in mid-July), and/or

2. as part of Senate welfare reform (TANF) reauthorization legislation (H.R. 4737, which was also reported out of the Senate Finance Committee in July); the House had adopted their welfare/child care bill, H.R. 4737, back in mid-May (NOTE: the welfare/child care bills do not include SSBG restoration, yet; however, there could be a Senate floor amendment in the fall to add SSBG funding), and/or
3. as part of Senate-passed prescription drug legislation (S. 812).

Both the CARE Act and welfare reform bills are expected to go to the Senate floor sometime after Labor Day.

## WELFARE REFORM REAUTHORIZATION AND KINSHIP CARE

As mentioned above, the House has adopted their welfare/child care reauthorization bill, H.R. 4737. The Senate Finance Committee has taken action on TANF reauthorization, and Senate floor action is expected in the fall. Another child abuse and neglect-related issue in welfare reform is kinship care. About 420,000 children who are raised by relatives receive TANF support from child-only grants, and another 80,000 children receive support because the relatives who care for them are on TANF. Those relatives who receive child-only grants are not subject to time limits and work requirements, but those relatives who are on TANF themselves are currently subject to time limits and work requirements. It is critical that these relatives be able to care for these children. Congress must ensure that these children are not returned to dangerous settings or placed in expensive foster care because their relative caregivers – many of whom are grandparents and are unable to work – have lost their TANF support due to time-limits or work requirements. The House bills have not addressed this problem, but a Senate floor amendment could.

On a separate note, both the House-passed and Senate Finance Committee-approved welfare reform bills include provisions extending the authority of the Department of Health and Human

Services to approve child welfare demonstration projects from FY2002 to FY2007, and prohibiting HHS from imposing any limit on the number of child welfare waivers or demonstration projects granted to a single state. (The House-passed bill also includes a few other provisions for expanded child welfare waiver/demonstration authority.)

## VOLUNTEER AND PROVIDER SCREENING LEGISLATION

S. 1868, to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities, was reported out of the Senate Judiciary Committee in late May. The bill is now awaiting action on the Senate floor.

## PRESIDENTIAL INITIATIVE TO PROMOTE ADOPTION

On July 23, President Bush announced an initiative to increase public awareness and encourage Americans to consider adoption of children in foster care.

- President Bush announced a new public service advertising campaign, featuring First Lady Laura Bush and actor Bruce Willis, to encourage Americans to adopt children in foster care. The President also tapped Bruce Willis to serve as a national spokesperson for children in foster care.
- The President also announced the creation of the first federal and only national website that focuses on waiting children – [www.AdoptUSKids.org](http://www.AdoptUSKids.org) – that will reduce the geographic barriers and waiting time needed to connect children from across the country with adoptive families. In its first year, it will feature pictures and profiles of over 6,500 children from 46 states who are available for adoption, as well as a database of approved adoptive families.

## MISCELLANEOUS BILLS ON WHICH NO FURTHER ACTION HAS OCCURRED

- H.R. 3839, the “Keeping Children and Families Safe Act of 2002” (reauthorizing

the Child Abuse Prevention and Treatment Act for FY 2003-2007), which passed the House in April (the bill keeps the structure and almost all of the provisions of current law, with some new provisions and a little additional funding authorized, as well). There is no Senate bill or timeline, yet.

- H.R. 1900 (Juvenile Justice and Delinquency Prevention Act reauthorization) and H.R. 863 (Juvenile Accountability Block Grant authorization), which passed the House last year. There has been no Senate mark-up or floor action, and none is scheduled (although this legislation may move forward as part of another bill – the DOJ authorization bill, H.R. 2215, which is now in the midst of House/Senate Conference).
- A bill to promote partnerships between child welfare agencies and drug and alcohol abuse prevention and treatment agencies (S. 484, Senators Snowe and Rockefeller; also, H.R. 1909).
- Legislation to strengthen the child welfare workforce (H.R. 1371, Rep. Stark);
- Legislation to provide equitable access to foster care and adoption services for Indian children in tribal areas (H.R. 2335; S. 550) – although, NOTE: the Senate Finance Committee-approved welfare reform bill (H.R. 4737) includes, in Section 602, provisions for the authority of Indian tribes to receive federal foster care and adoption assistance funds.
- The Indian Child Welfare Act amendments bill (H.R. 2644, H.R. 4733).
- Bills to amend the Immigration and Nationality Act re: temporary protected status for certain unaccompanied alien children (H.R. 720, H.R. 1904, S. 121).
- Younger Americans Act (H.R. 17, S. 1005).

**Don't Forget:** You can access all bills (including the text of legislation and public laws), committee reports, and budget/appropriations funding charts via the Internet at [thomas.loc.gov](http://thomas.loc.gov).

\* **Miriam Rollin is the NACC Policy Representative in Washington D.C.**



## Children's Law News

### CONFERENCES & TRAINING

**September 26–29, 2002**

**NACC 25th National Children's Law Conference, 25 Years of Child Advocacy, Sheraton World Resort, Orlando, FL.** NACC members receive a 25% registration discount. See page 1 of this issue. Brochures have been mailed. For more information, contact the NACC at 1-888-828-NACC or visit our website at [www.NACCchildlaw.org](http://www.NACCchildlaw.org).

### PUBLICATIONS

**NEW** by NACC Board Member Robert Fellmeth – *Child Rights and Remedies: How the U.S. Legal System Affects Children*, Clarity Press, Inc. 2002. The book is currently in printing and will be available shortly through Clarity and Amazon.com. For more information contact Clarity at 1-800-729-6423, or contact the NACC to receive a flyer describing the publication.

*Litigants Without Lawyers: Courts and Lawyers Meeting the Challenges of Self-Representation*, by ABA Coalition for Justice. \$5, ABA Publications, 1-800-285-2221, [abasvctr@abanet.org](mailto:abasvctr@abanet.org).

Casey Family Programs Education Issue Brief, *Improving Special Education for Children with Disabilities in Foster Care*, by van Wingerden, Emerson, and Ichikawa. Call Casey Family Programs at 206-282-7300.

National Conference of State Legislators, *Independent Living for Foster Youth*, by Christine Eilertson. \$20. Email to [books@ncsl.org](mailto:books@ncsl.org) or call Rita Morris at 303-830-2054.

*Improving Educational Outcomes for Youth in Foster Care: Perspectives from Judges and Program Specialists*, NCJFCJ Technical Assistance Bulletin. Call 775-327-5300 or go to [www.pppncjfcj.org](http://www.pppncjfcj.org).

*The Shaken Baby Syndrome, A Multi-disciplinary Approach*, by Lazoritz, MD and Palusci, MD. Haworth Press \$54.95. Call 1-800-HAWORTH.

*World Perspectives on Child Abuse, The Fifth International Resource Book*, Bross, Miyoshi, Miyoshi, and Krugman. ISPCAN / Kempe, 303-864-5251.

*Gathering Facts About Child Sexual Abuse: A Resource Guide for the Media*, produced by Stop It Now!. 413-268-3096. Available online at [www.stopitnow.org/resourceguide](http://www.stopitnow.org/resourceguide).

**NEW** Legal Representation of Children: Recommendations and Standards of Practice for the Legal Representation of Children in Abuse and Neglect Cases by the NACC.

This document provides comprehensive guidance to children's attorneys including descriptions of the attorney's role and duties. The NACC encourages jurisdictions and courts to use this publication to create guidelines that will improve the quality of legal representation in your jurisdiction. To obtain a copy, contact the NACC. The two documents contained in this publication are also available online at: [www.naccchildlaw.org/training/standards.html](http://www.naccchildlaw.org/training/standards.html).

*Moving from Sympathy to Empathy, the 2001 Edition of the NACC Children's Law Manual Series*. The manual is 435 pages and includes 30 articles covering a wide range of children's legal issues including Attachment, Bonding and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court by Arredondo and Edwards; ASFA's Compelling Reasons Requirement by Cecilia Fiermonte; NACC Recommendations for Representation of Children in Abuse and Neglect Cases; Powerhouse: Empowering Young Adults as They Transition from Foster Care by

O'Dell, Alba, Lehman, Mayer, and Hein; Helping Separating and Divorcing Parents Remain Child Focused by Eugene White; and The Status of Sibling Rights: A View into the New Millennium by William Patton. Copies may be ordered from the NACC by calling toll free 1-888-828-NACC or using the Publications Order Form on the back cover of this issue.

The Children's Legal Rights Journal Is Published In Association With The NACC And Available To NACC Members At A Discount.



*Children's Legal Rights Journal (CLRJ)* is a quarterly professional practice journal for child welfare, juvenile justice, and family law professionals. Now in its 20th year, CLRJ is published by William S. Hein & Co., Inc., under the editorial direction of the ABA Center on Children and the Law, the CIVITAS Child Law Center at Loyola University of Chicago School of Law and now, the National Association of Counsel for Children. CLRJ is indexed in the *Current Law Index* and *Index to Legal Periodicals* and runs approximately 60 pages per issue. The annual subscription rate is \$67 but is available to NACC members at a 30% discount (\$47 annually). To subscribe, contact Hein toll free at 800-828-7571, ISSN 0278-7210 or contact the NACC for more information.

*NACC's Better Public Policy for Children, Youth and Families – An Advocacy Guide*, by NACC Policy Representative Miriam Rollin. A comprehensive guide to policy advocacy for children and families. Available on line at [www.NACCchildlaw.org/policy/policy\\_guide.html](http://www.NACCchildlaw.org/policy/policy_guide.html), or call the NACC at 1-888-828-NACC.

### NEWS

**NACC Adopts Resolution in Support of UN Convention on the Rights of the**

**Child.** On April 26, 2002, the NACC Board of Directors adopted the following resolution: "It is resolved by the NACC Board of Directors that the NACC supports the ratification of the United Nations Convention on the Rights of the Child. These provisions are fundamentally important to the children of the United States and the world and thus, the NACC fully endorses ratification of the convention." The Resolution also includes citation to the specific Convention provisions which the NACC finds most relevant to the legal protection of children. The full text of the Resolution is available online at [www.naccchildlaw.org/policy/policy\\_papers.html](http://www.naccchildlaw.org/policy/policy_papers.html). Although the U.S. has signed the Convention, it has not ratified it. The NACC encourages its members to support ratification as a means to enhance the welfare of children in the U.S. and around the world. To learn more about the convention and the ratification process, go to [www.unicef.org/crc/introduction.htm](http://www.unicef.org/crc/introduction.htm).

**Join the NACC Children's Law Listserv Information Exchange.** All NACC members are encouraged to become part of the NACC Listserv which provides a question, answer and discussion format for a variety of children's law issues. It is an excellent way to improve your advocacy skills and share your expertise with your NACC colleagues. To join, simply send an e-mail to [advocate@NACCchildlaw.org](mailto:advocate@NACCchildlaw.org) and say "Please add me to the NACC Listserv."

**New NACC Staff Attorney.** The NACC is pleased to welcome **Colene Flynn Robinson, Esq.** as the new NACC Staff Attorney. Colene will serve as Director of the NACC Child Advocacy Resource Center and focus on various NACC programs including amicus curiae, youth empowerment, and training. Colene is a 1997 cum laude graduate of Loyola University Chicago School of Law where she was a Civitas Childlaw Scholar. From 1998–2002 she served as a Law Guardian representing children in delinquency and dependency proceedings at the Legal Aid Society, Juvenile Rights Division in New York City.

**NACC Website.** Visit the NACC's new and improved website at

[www.NACCchildlaw.org](http://www.NACCchildlaw.org). The new site is comprised of four sections: About the NACC; Technical Assistance and Training; Children and the Law; and Policy Advocacy. The site includes members-only sections that allow you special access to resources including the online membership directory. Passwords are mailed to all NACC members.

**The NACC National Child Advocacy Resource Center is available for member use.** The Resource Center provides referrals, resource information, and consultation. NACC members may access the resource center online at [www.NACCchildlaw.org](http://www.NACCchildlaw.org), toll-free 1-888-828-NACC, fax 303-864-5351, and e-mail [advocate@NACCchildlaw.org](mailto:advocate@NACCchildlaw.org).

**NACC Members Get Members Program.** Earn "NACC Bucks" by nominating your colleagues for membership. Participate in the NACC "Members Get Members" program and earn valuable NACC Bucks redeemable on your NACC member dues, publications, and conferences. For every prospect who becomes an NACC member, you will receive 20 NACC Bucks. Save 100 NACC Bucks and receive a complimentary registration to the NACC Annual National Children's Law Conference (a \$300 value). Complete and return the form on page 14 of this issue and start earning now.

## AMICUS CURIAE ACTIVITY

**Sharon S. v. Superior Court**, Supreme Court of California No. S102671. NACC joined the National Center for Youth Law, Youth Law Center, Legal Services for Children, Child Advocacy Program University of California at Berkeley, and Northern California Association of Counsel for Children in support of the authority of California courts to adjudicate second-parent adoption cases on their merits on a case-by case basis using the same standards as are applicable to other independent adoptions. Thanks to co-amici, especially Martha Mathews, for drafting the brief. Briefs are filed and the case is pending.

To request NACC amicus participation, contact the NACC or go to [www.NACCchildlaw.org/training/amicus.html](http://www.NACCchildlaw.org/training/amicus.html).

**Parties interested in NACC Amicus Curiae participation in a case should contact the NACC Executive Director.**

## JOBS

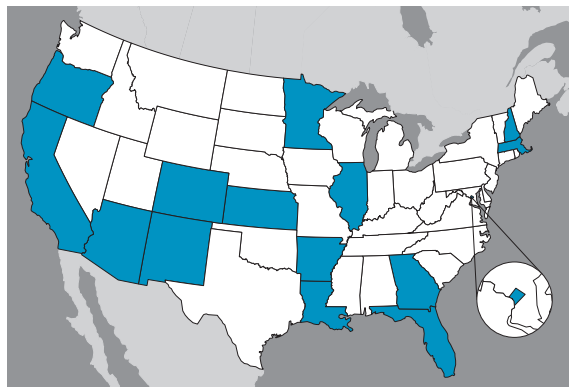
**Barry University Dwayne O. Andreas School Of Law** invites applications for a visiting clinical faculty position. The position is for the Families and Children's Clinic and needs to be filled as soon as possible to help develop the Florida Children First project. The faculty member will teach and supervise students who will participate in statewide class action and impact litigation as well as legislative advocacy. Barry University is committed to diversity among its faculty and student body. Contact Professor Toyna Young, Chair, Faculty Recruitment Committee, Barry University of Orlando School of Law, 6441 East Colonial Drive, Orlando, FL 32807-3673.

**Chief Operating Officer, FamiliesFirst, Inc.** California private non-profit dedicated to improving the lives of children through treatment facilities. 750 employees / \$50 million annual budget. Headquartered in Davis, CA with 10 regional offices. For more information contact Morris & Berger, Consultants in Executive Search, 626-795-0522, [www.morrisberger.com](http://www.morrisberger.com).

**Zubrow Fellowship in Children's Law.** Juvenile Law Center continues the Sol and Helen Zubrow Fellowship, open to new law school graduates and lawyers completing their judicial clerkships. Fellows will work at the Juvenile Law Center in Philadelphia for up to two years. Applications for the first year must be received by October 1, 2002. Contact the JLC at 215-625-0551 or [www.jlc.org](http://www.jlc.org).

**Visit the NACC Child Law and Advocacy National Job Website.** You can access the information online at [www.NACCchildlaw.org/childrenlaw/jobs.html](http://www.NACCchildlaw.org/childrenlaw/jobs.html). If you wish to post a job on the website, follow the online directions or call the NACC at 1-888-828-NACC.

**Please Send (mail/email/fax) Children's Law and Advocacy Job Openings to the NACC.**



## Affiliate News

NACC affiliates help fulfill the mission of the national association while providing members the opportunity to be more directly and effectively involved on the local level. If you are interested in participating in NACC activities on the local level, or simply want contact with other child advocates, please contact the organization in your area. If there is no affiliate in your area and you would be interested in forming one, please let us know. The formation of an NACC affiliate is simple, and we can provide you with an affiliate development packet to get you started. Affiliate development materials are available on our website at [www.naccchildlaw.org/about/affiliates.html](http://www.naccchildlaw.org/about/affiliates.html).

### ARIZONA

Arizona Association of Counsel for Children (AACC)\*  
 Ann M. Haralambie, President  
 3499 N. Campbell, #901  
 Tucson, AZ 85719  
 Phone: 602-327-6287 FAX: 520-325-1374  
 E-mail: [acacnacc@aol.com](mailto:acacnacc@aol.com)  
 Website: [members.aol.com/naccaz](http://members.aol.com/naccaz)

### ARKANSAS

Arkansas Association of Counsel for Children (AACC)\*  
 Janet Bledsoe, President  
 121 N. 7th St.  
 Rogers, AR 72756-3742  
 Phone: 501-631-7136

### CALIFORNIA

Northern California Association of Counsel for Children (NCACC)\*

Recipient of the NACC Outstanding Affiliate Award (2001)  
 Christopher Wu, President  
 AOC / Center for Children, Families and the Courts  
 455 Golden Gate Avenue  
 San Francisco, CA 94102  
 Phone: 415-865-7721 Fax: 415-865-7217  
 Email: [Christopher.Wu@jud.ca.gov](mailto:Christopher.Wu@jud.ca.gov)

Los Angeles Affiliate of the National Association of Counsel for Children (LANACC)\*  
 Recipient of the NACC Outstanding Affiliate Award (2001)  
 Tamatha Schreinert, President  
 201 Centre Plaza Drive, Suite 8  
 Monterey Park, CA 91754  
 Phone: 323-980-8753 FAX: 323-980-8708  
 Email: [schreinertt@dclsinc.org](mailto:schreinertt@dclsinc.org)

### Congratulations to the following newly elected LANACC Officers:

Tamatha Schreinert, President  
 Larry Fluharty, Vice President  
 Leslie Heimov, Vice President  
 Ken Sherman, Treasurer  
 Anne Fragasso, Secretary

LANACC was recently recognized by California Department of Social Services, Foster Care Ombudsman for its work developing materials on foster youth rights including a bill of rights for foster children.

### COLORADO

Colorado Association of Counsel for Children (CACC)\*  
 John Ciccolella, President  
 405 South Cascade Avenue, Suite 205  
 Colorado Springs, CO 80903

## NACC – Members Get Members Program!

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**Mail to:** NACC Membership, 1825 Marion Street, Suite 340, Denver, CO 80218



Phone: 719-636-1561 FAX: 719-444-0155  
 Email: John@coloradofamilylaw.net

**FLORIDA**

Florida Association of Counsel for Children (FACC)\*\*\*  
 Gerard F. Glynn  
 Barry University School of Law  
 6441 East Colonial Drive  
 Orlando, FL 32807  
 Phone: 407-275-4451 FAX: 407-275-0701  
 Email: gglynn@mail.barry.edu

A Florida affiliate is forming and an organizational meeting is set for 5:00 p.m. Sunday September 29, 2002 at the Sheraton World resort in Orlando following the NACC national conference.

**GEORGIA**

Georgia Association of Counsel for Children (GACC)\*\*\*  
 Dee Simms  
 Office of the Child Advocate  
 3330 Northside Drive, Suite 100  
 Macon, GA 31210  
 Phone: 478-757-2670 FAX: 478-757-2666  
 Email: dsimms@gachildadvocate.org

A Georgia affiliate is forming. Please contact Dee Simms for more information.

**ILLINOIS**

Illinois Association of Counsel for Children (IACC)\*  
 INACTIVE  
 Contact the NACC for Information

**KANSAS**

Kansas Association of Counsel for Children (KACC)\*\*\*  
 Larry R. Rute  
 Associates in Dispute Resolution, LLC  
 712 South Kansas Avenue, Suite 400  
 Topeka, KA 66603  
 Phone: 785-232-5348 FAX: 785-233-5932  
 Email: lruteadr@aol.com

An organizational meeting will be held September 13, 2002, at 12:00 noon at the Holiday Inn Holidome in Salina during the Kansas Legal Services GAL training.

**LOUISIANA**

NACC Student Chapter of Tulane Law School\*\*\*\*  
 David Katner; Faculty Advisor  
 Tulane Law School  
 7031 Freret Street  
 New Orleans, LA 70118  
 Phone: 504-865-5153 FAX: 504-862-8753  
 E-mail: Dkatner@clinic.law.tulane.edu

**MASSACHUSETTS**

Central & Western Massachusetts Association of Counsel for Children (CWMACC)\*  
 Larri Tonelli Parker  
 490 Shrewsbury St, Suite C  
 Worcester, MA 01604  
 Phone: 508-795-0200 FAX: 508-791-0325  
 E-mail: lamparker@aol.com

**MINNESOTA**

Minnesota Association of Counsel for Children\*

Gail Chang Bohr, President  
 Children's Law Center of Minnesota  
 1463 Minnehaha Avenue West  
 St. Paul, MN 55104  
 Phone: 612-644-4438

**NEW HAMPSHIRE**

New Hampshire Chapter of the National Association of Counsel for Children (NHNACC)\*  
 Mary Ann Callanan, President  
 1361 Elm Street  
 Manchester, NH 03101  
 Phone: 603-622-2224 FAX: 603-623-2471

**NEW MEXICO**

New Mexico Association of Counsel for Children (NMACC)\*  
 Nancy Colella, President  
 1717 Louisiana, Suite 216  
 Albuquerque, NM 87110  
 Phone: 505-232-9332 FAX: 505-232-9490

**OREGON**

Illinois Association of Counsel for Children (IACC)\*  
 INACTIVE  
 Contact the NACC for Information

**WASHINGTON, DC**

Washington DC Metro Chapter of NACC\*  
 Anne E. Schneiders, President  
 2828 Wisconsin Avenue NW, #314  
 Washington, DC 20007  
 Phone: 202-363-7916 FAX: 202-244-7693  
 Email: aeschild@aol.com

\* Officially Chartered NACC Affiliate      \*\* Petition for Charter Pending      \*\*\* Affiliate Forming      \*\*\*\* Student Chapter  
 NACC Affiliates are encouraged to send announcements and news of their activities and meetings to *The Guardian*.  
 Deadlines for submission are February 1, May 1, August 1, and November 1.

**NACC – Referral Network**

The NACC office receives many requests for legal services. Because the NACC does not provide direct legal services, we need to refer these people to counsel. Please fill out the following form and return it to the NACC so that we can include you in our referral network. Non-attorneys are also asked to participate.

**AREAS OF PRACTICE:**

- abuse, neglect, dependency
- delinquency, status offenses
- custody, visitation
- child support
- adoption
- Other:
- guardianship, conservatorship
- civil litigation
- mental health
- health care
- jurisdiction

I will consider *pro bono* referrals.

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## Other Publications:

<input type="checkbox"/> The Child's Attorney, by Haralambie Pub. ABA (1993)	\$39	\$49
<input type="checkbox"/> Children's Legal Rights Journal	\$47	\$67

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