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The Law and Practice of Youth Participation in Dependency Cases

AMANDA GEORGE DONNELLY, JD
NACC Staff Attorney / Policy & Special Projects

Historically, active youth input and participation in dependency cases has been rare. Many, if not most youth who are the subjects of abuse, neglect, and dependency cases, do not have an opportunity for meaningful contact and communication with the court or their counsel. Even more rarely do youth have the opportunity to attend and participate in court hearings. This trend is beginning to change as courts and policymakers see the wisdom of youth participation.

The decisions made in court profoundly influence the lives of the children involved. As child welfare professionals, we have a duty to build court systems that produce the best possible outcomes for children. While well intentioned, efforts by child advocates to protect and care for children have frequently ignored what children can bring to the decision-making process. When youth are involved in their cases, we gain the valuable information and insight they have about their own lives. In addition, youth involvement provides an enor- mous benefit to children through the process of self-empowerment and establishment of some autonomy.

For this reason, the NACC began its Youth Empowerment Initiative in 2005. The program promotes youth participation not only in their individual cases but also in the policy making process. The NACC involves youth as participants and trainers in our programs, and youth sit on NACC decision-making bodies.

A number of national policy groups have begun promoting youth participation, and several progressive court systems are making efforts to involve youth more fully, including youth attendance at hearings. In late 2006 the federal government enacted Child and Family Services Improvement Act of 2006, Public Law 109-288 Section 10 (3), requiring dependency courts to consult with children regarding permanency plans. In order to receive federal funding under Title IV-E, states are required to present a plan that conforms to the new provisions. Some states are also adopting this requirement directly in their state codes.

The following is an overview of the developing law and practice of youth participation in dependency cases designed to assist attorneys and courts in developing youth participation practices.

Federal Guidance

Nationwide courts are recognizing the importance of involving youth in the court proceedings impacting their lives. A key component of the Pew Commission seminal report, Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care, called for systemic reform to enable parents and children to participate in the court process in a meaningful way. The Pew Recommendations are reflected in recent amendments to the Social Security Act found in the Child and Family Services Improvement Act of 2006.

The Child and Family Services Improvement Act of 2006 directs the court to conduct age-appropriate consultation with the child during permanency hearings as follows:

…safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child. (P.L. 109-288, §10(3)).

The statute does not further define the terms ‘consults’ or ‘age-appropriate manner,’ and it is left up to states to decide how to best satisfy the criteria. The federal government has provided the following guidance:

Any action that permits the court to obtain the views of the child in the context of the permanency hearing could meet the requirement. Section 475 (5)(C)(i) of the Social Security Act tasks the State with applying procedural safeguards to ensure that the consultation occurs. However, the statute does not prescribe a particular manner in which the consultation with the child must be achieved which provides the State with some discretion in determining how it will comply with the requirement.

We do not interpret the term ‘consult’ to require a court representative to pose a literal question to a child or require the physical presence of the child at a permanency hearing. However, the child’s views on the child’s permanency or transition plan must be obtained by the court for consideration during the hearing. For example, a report to the court in preparation for a permanency hearing that clearly identifies the child’s views regarding the proposed permanency or transition plan for the child could meet the requirement. Also, an attorney, caseworker, or guardian ad litem who verbally reports the child’s views to the court could also meet the requirement. Information that is provided to the court regarding the child’s best interests alone is not sufficient to meet this requirement. Ultimately, if the court is not satisfied that it has obtained the views of the child through these or any other mechanism, it could request that the child be in the courtroom, or make other arrangements to obtain the child’s views on his/her permanency or transition plan.

1 The author thanks the NACC Staff, NACC Board Member Leslie Starr Heimov, JD / CWLS – Executive Director of the Children’s Law Center of LA, and Andrea Khoury, JD, of the ABA Center on Children and the Law for their previous work on this topic.

While the government has stated that it does not interpret the term ‘consult’ to require the child’s physical presence at permanency hearing, courts are directed to obtain the child’s views. The NACC believes that this is an opportune time for advocates to take steps to promote change in their own jurisdictions to not only engage court-involved youth in case planning and permanency proceeding, but to promote and support youth attendance and participation in court hearings.

National Guidelines
Several national practice standards encourage youth participation in the decision-making process and attendance at court hearings. These standards emphasize the child’s right to meaningful participation in case planning and the importance of children physically attending court hearings. Similarly, the Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham calls on attorneys to encourage and facilitate youth attending dependency proceedings.

Most recently, in August 2007, the ABA passed a series of resolutions, introduced by the ABA Commission on Youth at Risk, supporting efforts to create and sustain services for youth in foster care. The resolutions included a recommendation to: “Provide all youth with the ability and right to attend and fully participate in all hearings related to their cases.”

Role of the Court
Courts are directed to make a knowing effort to find out the child’s views in permanency hearings. This requires age appropriate consultation with a child by the court or the child’s legal representative.

Courts are encouraged to adopt a culture of including children in proceedings and fostering an environment conducive to youth participation. It is necessary for courts to undertake training and preparation to be equipped to accommodate children and youth in the courtroom. Children need to feel comfortable in the courthouse and the courtroom.

Several jurisdictions have made efforts to create more youth-friendly court environments. The Edmund D. Edelman Children’s Court in Monterey Park, California, for example, features courtrooms designed to be more accessible to children. The court house has space to accommodate family visits, and provides activities to help occupy children awaiting court appearance.

Role of the Advocate
The extent of a child’s participation in his or her case planning obviously depends on the age and developmental capacity of the child involved. Nevertheless, good attorney client relationships foster good outcomes in dependency court proceedings regardless of the child’s age.

Child advocates should be familiar with youth interview techniques and children’s communication skills. Children’s court attorneys should make every effort to meet with or see their clients prior to every court hearing. They have a responsibility to ensure that the youth they represent understand the court process, and to consult with youth about permanency options. Efforts should be made to engage youth in the decision-making process including facilitating youth participation in court proceedings. Children’s attorneys can also help foster systemic change by promoting and supporting youth involvement in the proceeding.

Age Appropriate Consultation
Providing youth with a meaningful voice requires education and training of judges, court personnel, attorneys, and the children involved. To adequately respond to the needs of children involved in dependency court proceedings all parties must be prepared to fully engage children in case planning and court proceedings.

In order for youth to have meaningful participation in Permanency Planning, they must understand the process and the possible outcomes. The following Practice Tips for Engaging Youth in Permanency Planning provide a road map for advocates:

- Ask youth to identify the important people in their lives.
- Find out whom the youth was close to in the past.
- Facilitate communication between the youth and adults who might become permanent connections for the youth.
- Teach the interpersonal relationship skills required to develop and maintain a support system.
- Empower young people to find their own permanent connections.
- Understand that youth may change their minds about returning home or adoption.
- Ask youth how they feel about having a family or support rather than asking about being adopted.
- Reassure youth that they will have choices in the process and that they will not have to proceed any further or faster than what they are willing to do.
- Provide youth with opportunities to develop relationships with mentors, either through formal mentoring programs or informal interactions.
- Encourage the youth’s involvement in positive community activities.
- Provide opportunities for the youth to remain connected and/or become connected with his home community, tribe, and cultural group.
- Teach youth the skills needed to appropriately deal with their biological family.
- Make sure that youth understand all of their permanency options.
- Make sure that youth are actively involved in planning for their futures.
- Do not let your youth leave foster care without having a positive, caring adult of their choice in their lives!

3 NACC Recommendations for Representation of Children in Abuse and Neglect Cases Section III A, 6; American Bar Association Standards of Practice for Lawyers Who Represent Children, Standards D-5; and the National Council for Juvenile and Family Court Judges, Resource Guidelines Improving Court Practice in Child Abuse and Neglect Cases each acknowledge the importance of including children in court proceedings.


Youth Connection undertook a survey of young children should be consulted youth interviewed expressed that even youth also emphasized the importance youth responses indicated the impor-

The California Permanency for Youth Project, in collaboration with California Youth Connection undertook a survey of current and former foster youth to gain insight into their perspectives on permanency. When asked “How to Empower Foster Youth to Achieve Permanency” youth responses indicated the importance of talking to youth early on about different permanency options. Foster youth also emphasized the importance of asking youth what they want and listening to youth’s needs. Several of the youth interviewed expressed that even young children should be consulted about their wishes:

One thing that is widely overlooked is the voice and the feelings of the child. I really believe that the child has an opinion from a very early age. I think children know what’s right and what feels good and what feels bad and if they’re happy or not happy. I think that’s often overlooked. I see that as very sad.

The age should not matter. Once they are old enough, five, six, seven and able to communicate and comprehend, we should talk to them about what they want — you should be able to get what you want. Everyone should go to their court hearings and one of the questions that should be on the eman-

The youth's routine and schedule

The youth's wishes

The youth workers falls through the cracks. Papers don't even get seen.7 Foster care systems and the courts should work to develop systems that incorporate basic principles designed to develop healthy youth. These youth development principles include such things as providing youth with safe and supportive environments, fostering relationships between youth and caring adults who can mentor and guide them, and supporting development of youth’s knowledge and skills in a variety of ways, including study, tutoring, sports, the arts, vocational education and service learning.8 Another key principle of youth development should be youth case empowerment: involving youth in every aspect of their cases from start to finish including hearing attendance. Youth court involvement and empowerment, as part of overall youth development, helps create an organizational atmosphere in which young people are respected and empowered, as well as served. Adopting the principles of youth development to engage court-involved youth in their permanency planning creates a promising framework for making youth participation in the court process a meaningful life experience.

The Community Network for Youth Development Framework for Practice provides factors to take into consideration to help engage youth in court proceedings:

• Safety – so young people feel physically and emotionally secure.

• Supportive Relationships – so young people can experience guidance, emotional and practical support and adults and peers knowing who they are and what’s important to them.

• Meaningful Youth Involvement – so that young people can be involved in meaningful roles with responsibility, have input into decision making, have opportunities for leadership and feel a sense of belonging.

The following practical considerations, outlined in Seen and Heard, provide a checklist of factors to consider when deciding whether a young person should attend a court hearing:

• The youth’s wishes

• The child’s age and developmental level

• The youth’s routine and schedule

• Logistics: how long will the hearing last and how will the child be transported

• What type of hearing is scheduled

7 Youth Perspectives on Permanency, Reina M. Sanchez, California Youth Connection, California Permanency for Youth Project (2004). Available at: http://www.cpyp.org/Files/YouthPerspectives.pdf.


9 Community Network for Youth Development (www.cnyd.org).


children over a certain age are notified of court proceedings. For example, New Mexico permits children over the age of 14 to attend court proceedings and prohibits courts from excluding these children unless the judge makes a determination that it is in the best interest of the child. In Michigan youth over the age of 11 must be notified of hearings, and Virginia requires notice and the opportunity to participate in foster care review hearings to children over the age of 12.  

Minnesota is one of a few states to provide children a statutory right to participate in all proceedings.  

Similarly, in California foster youth rights include the rights to attend proceedings and to speak to the judge; to be involved in the development of the case plan for permanent placement; and if the youth is over the age of 12 they have the right to be told of changes to the case plan. The California legislation establishing foster youth rights was accompanied by legislation prohibiting schools from penalizing foster youth for school absences due to court related activity. 

Judicial Guidance
The New York City Family Court Administrative Judge issued an administrative policy directing all judicial officers to expand efforts to include children over age 9 in court proceedings and directing courts to ensure that children attend at least one proceeding every 12 months. Judicial officers were also advised to conduct hearings in a timely fashion to avoid making children unnecessarily wait in the courthouse.

It is imperative that policies intended to facilitate youth participation in permanency planning and court proceedings take into account the practical implications of court attendance on a youth’s day-to-day life.

Conclusion
Court-involved youth face numerous challenges ranging from educational outcomes to physical and mental health, employment experiences, and social stability. It is important to acknowledge the impact court involvement has on youths’ lives and the significance of providing youth the opportunity to participate in this decision-making process.

A recent study in Pima County, Arizona found promising court practices, including youth participation in court proceedings, can help keep foster children enrolled in school and receiving the supports and services they need. These results indicate that youth involvement can improve outcomes. The NACC encourages advocates to promote youth involvement in the court process and to undertake efforts to provide the children and youth they represent meaningful opportunities to participate in permanency planning, decision making and court proceedings.

For assistance please contact the NACC at 1-888-828-NACC or advocate@naccchildlaw.org

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12 See, Seen and Heard: Involving Children in Dependency Court, Andrea Khoury, JD, ABA Child Law and Practice, Vol. 25(10), Dec. 2006, citing state legislation in Kansas, Minnesota, New Mexico, Florida, Virginia, California, and Michigan.

13 M.S.A. § 260C.163.


15 Judge Joseph M. Lauria, Memorandum to All Judges, JHOs, Referees, Regarding Court Appearance of Subject Children, February 25, 2004.

16 Court-based Education Efforts for Children in Foster Care: The Experience of the Pima County Juvenile Court (Arizona), by Kim Taitano, NCJFCJ & Casey Family Programs (2007). Available at: http://www.ncjfcj.org/content/blogcategory/280/535/.

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Resources

Youth Involvement in the Court Process

Seen and Heard: Involving Children in Dependency Court, Andrea Khoury, JD, ABA Child Law and Practice, Vol. 25(10), Dec. 2006.

Enhancing Youth Participation in Court Proceedings, Miriam Krinsky and Jennifer Rodriguez (Appendix A, The Role of the Courts in Child Welfare; Appendix B, Policy Recommendations to Facilitate Foster Youth Participation in Court Hearings; Appendix C, Tips for Preparing Foster Youth to Participate in Court).

Youth Perspectives on Permanency, Reina M. Sanchez, California Youth Connection, California Permanency for Youth Project (2004).


Court-Specific Resources

Judge Joseph M. Lauria, Memorandum to All Judges, JHOs, Referees, Regarding Court Appearance of Subject Children, New York February 25, 2004.

Chief Justice Mary Mullarkey, Memorandum to all District Court Judges, Compliance with Social Security Act, Colorado July 10, 2007.

Court-based Education Efforts for Children in Foster Care: The Experience of the Pima County Juvenile Court (Arizona), by Kim Taitano, NCJFCJ & Casey Family Programs (2007).

Interviewing Children

Cases

**Dependency / Conflict Of Interest**


On June 23, 2006 police responded to a report of child abuse at a Los Angeles hotel. When police arrived they found 3-year-old, Zamer G., suffering from a broken leg after falling in the bathtub. Zamer later told social workers that his stepfather, Nah. [sic], had hit him, causing him to fall. The Los Angeles County Department of Children and Family Services (DCFS) detained Zamer and his four siblings (Joshua, age 7; Justin, age 4, Naes. [sic], age 1; and Nay. [sic], age 4 months), and on June 28, 2006 filed a dependency petition regarding all five children. At the detention hearing, the court appointed Children's Law Center of Los Angeles (CLC) to represent the siblings. CLC is divided into 3 separate units in order to provide legal representation to multiple clients in the same proceeding who may have conflicting interests. In this case, the court appointed an attorney from CLC Unit 1 to represent four of the five siblings, and an attorney from CLC Unit 2 to represent Zamer.

During the investigation, Joshua and Justin revealed that Nah. had struck them, in addition to Zamer. DCFS filed an amended petition, alleging physical abuse of all three children. The petition contained no allegations regarding Naes. or Nay. At a contested hearing on November 1, 2007, the juvenile court found that representation of the four siblings (Joshua, Justin, Naes. and Nay.) by CLC Unit 1 created a structural conflict, and disqualified CLC Unit 1 as counsel. The court also disqualified CLC Unit 2 without explanation. CLC appealed.

Under California law, children have a right to appointed counsel in dependency proceedings. The relevant statute states that “counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interest’s conflict with the child’s interests.” The California Supreme Court has construed this provision to refer to an actual, not a potential, conflict of interest. *In re Céline R.*, 31 Cal. 4th 45 (2003). California incorporated the decision into statute, which allows a single attorney to represent a group of siblings, provided that the attorney continuously “evaluates the interests of each sibling to assess whether there is an actual conflict of interest.” If the court determines an actual conflict exists, the attorney is prohibited from representing some or all of the siblings.

The California Court of Appeal noted that determining whether an actual conflict exists is difficult in dependency cases. In particular, the Court held, “the paramount duty of counsel for minors is not zealously to advocate the client's objectives, but to advocate for what the lawyer believes to be in the client's best interests, even when the lawyer and the client disagree.” The Court noted that other jurisdictions have found that despite conflicting views among children, no conflict exists where their “best interests” do not conflict. The attorney must make a “reasonable, independent determination of the minors' best interest, notwithstanding the minors’ preferences.” Therefore, the Court concluded that:

> a conflict becomes ‘actual’ when an attorney’s duties of loyalty, confidentiality, and zealous advocacy require the attorney to take or to refrain from taking some action to serve the ‘best interests’ of one minor client, but the attorney is unable to do so without violating a duty owed by the attorney to another client, or when the attorney is unable independently to evaluate the best interest of each minor client because of the minors’ conflicting interests.

In this case, the Court of Appeal held that the juvenile court did not abuse its discretion in removing CLC Unit 1. The juvenile court found a conflict between the two sibling groups (Joshua/Justin and Naes./Nay.) represented by CLC Unit 1. Joshua and Justin had provided statements to DCFS regarding physical abuse inflicted by Nah., the presumed father of Naes./Nay. In order to advocate in favor of reunification for Naes. and Nay., the attorney would have to question the accuracy of the statements made by Joshua and Justin. In addition, the Court of Appeal held that it was reasonable to find that the attorney “could not professionally and independently evaluate each child’s best interests when faced with this dilemma, thus transforming the potential conflict into an actual conflict.” The Court concluded that substantial evidence supported the finding that CLC Unit 1 had an actual conflict and upheld the disqualification order as to Unit 1.

In an unpublished portion of the opinion, the Court of Appeal held that the juvenile court abused its discretion in disqualifying CLC Unit 2. The Court held although Zamer (who was represented by CLC Unit 2) had an actual conflict with Naes./Nay. (represented by Unit 1), it was an error to treat CLC Units 1 and 2 as a single law firm for conflict purposes. The record contained no evidence of a breach of CLC's ethical screens. The Court reversed the order disqualifying CLC Unit 2.

Note: In a related case, *In re Marc A.*, et al., the NACC and NCACC filed an amicus brief arguing against parts of the Court’s opinion in Zamer G. Amici argued that a child has a statutory and due process right to competent representation in dependency proceedings, including the right to representation by an attorney who represents the child's position. In particular, California statute does not authorize...
After determining that Wilson's claim was not procedurally barred, the Georgia Supreme Court turned to the question of whether the habeas court erred in ruling that Wilson's sentence constituted cruel and unusual punishment. Under the Eighth Amendment a sentence is cruel and unusual “if it is grossly out of proportion to the severity of the crime.” Coker v. Georgia, 433 U.S. 584 (1977). In addition, cruel and unusual punishment “is not a static concept, but instead changes in recognition of the ‘evolving standards of decency that mark the progress of a maturing society.’” Penry v. Lynaugh, 492 U.S. 302 (1989). The Court noted that legislation is often the best evidence of “society’s evolving standard of decency and of how contemporary society views a particular punishment.”

Citing Justice Kennedy's concurrence in Harmelin v. Michigan, 501 U.S. 957 (1991) and the U.S. Supreme Court’s decision in Ewing v. California, 538 U.S. 11 (2003), the Georgia Supreme Court held that in deciding whether a sentence is “grossly disproportionate,” a court compares the seriousness of the offense with the severity of the penalty. Based on this analysis, the court can determine whether “a threshold inference of gross disproportionality is raised.” The threshold requirement is satisfied if it is shown that the punishment does not advance a valid penological goal. After the initial finding of disproportionality, the court must then decide whether the conclusion is supported by a review of the sentences imposed for other crimes within the state and for the same crime in other jurisdictions.

In this case, the Court found Wilson's sentence did not further a valid penological goal, and therefore, the threshold showing of gross disproportionality was met. The Court noted that in past decisions, it relied on legislative acts as evidence of changing views on appropriate punishment. Similarly, the Court found that the statutory amendments here “reflect a decision by the people of this State that the severe felony punishment and sex offender registration imposed on Wilson make no measurable contribution to acceptable goals of punishment.” The Court also pointed out that while reducing the punishment for sexual acts like Wilson's, the Georgia statutory amendments actually increased the sentence for adults who engage in child molestation. It concluded, “Wilson's crime does not rise to the level of culpability of adults who prey on children and that, for the law to punish Wilson as it would an adult, with the extraordinarily harsh punishment of ten years in prison... appears to be grossly disproportionate to his crime.”

In the second part of its analysis, the Court compared Wilson's sentence with other sentences, in Georgia and other states. The Court noted that under Georgia law defendants convicted of crimes such as voluntary and involuntary manslaughter, aggravated assault, battery, certain child abuse crimes, and rape receive prison sentences between 1 and 10 years. In addition, in most other states, conduct such as Wilson's is either not punished or classified as a misdemeanor. The Court found that this further supported the initial finding of gross disproportionality between Wilson's crime and his sentence.

In sum, the Court found that Wilson's sentence constituted cruel and unusual punishment under the Georgia and United States Constitutions. The Court noted that in so holding, it was not applying the statutory amendments retroactively. Instead, the statutory changes were simply a factor considered in evaluating the constitutionality of Wilson's punishment.

Dependency / Termination of Parental Rights


The Idaho Supreme Court held that in a termination hearing, the presumption that termination of parental rights is in the child's best interest violates due process. Instead, the State must prove its allegations by clear and convincing evidence.

The child in this case was born in April, 2003. At that time, Mother maintained that her roommate, John Doe, was not the baby's father. Mother also admitted using methamphetamines and marijuana. Two weeks after the birth, tests showed marijuana and methamphetamine in the baby's system, and Child Protective Services (CPS) placed the child in foster care. During the next several months, mother attempted to stop using drugs, and she married John Doe. The couple attempted to regain
custody of the child with John Doe as the putative father.

Mother's attempts to remain drug free failed, and in January 2004, she ended her marriage and relinquished her rights to the child. John Doe's paternity was confirmed the following month, a case plan was established, and Doe began working to gain custody of the child. However, in September a termination hearing was held. The lower court held that under Idaho law, a rebuttable presumption exists that “termination of the parent-child relationship is in a child's best interest where the child has been in the Department's custody and placed out of the home for more than fifteen of the past twenty-two months.” The court thus found that the child was abused and neglected and terminated Doe's parental rights. Doe then appealed.

The Idaho Supreme Court found that in terminating Doe's parental rights, the trial court applied an incorrect legal standard. The Court first noted that generally it will decline to review issues on appeal that were not initially raised by the parties. However, in certain cases, fundamental error “so profoundly distorts the trial that it produces manifest injustice and deprives the accused of his constitutional right to due process.” In these cases, review may be granted. Here, the Court held that use of an incorrect legal standard impacted Doe's fundamental right to parent his child, thus violating his Fourteenth Amendment right to due process.

The Court clarified that the Idaho statute does not create a presumption that termination of parental rights is in the child’s best interest in cases where the child has been in state custody and placed out of the home for 15 of 22 months. Rather, the statute creates only a presumption that the Department shall file a petition for termination in such cases, not that termination is necessarily in the child's best interest.

The Court went on to note that beginning with a presumption that termination was in the child's best interest was contrary to the U.S. Supreme Court's holding in Santosky v. Kramer, 455 U.S. 745 (1982). Santosky held that “before a State may sever completely and irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by clear and convincing evidence.” In this case, the lower court did not require the Department to prove its case by clear and convincing evidence, but instead shifted the burden to Doe. Doe was required to rebut the presumption that termination was in the child's best interest and demonstrate that the Department had not made reasonable efforts toward reunification. The Idaho Supreme Court found that this violated Doe's due process rights. Lastly, the Court noted that the lower court’s faulty interpretation of the Idaho statute was contrary to the state's “longstanding presumption that a natural parent should have custody of his children.” In this case, the court began with the opposite presumption - that termination was in the child's best interest.

The Court therefore vacated the termination order and remanded the case for proceedings applying the correct legal standard.

**Dependency / GAL Testimony**

Wyoming Supreme Court Finds No Per Se Error In Allowing Attorney To Testify In Termination Of Parental Rights Action When He Acted As GAL To The Children In Previous Neglect Actions. In the Interest of L.L., A.L., M.L., and N.C., 159 P.3d 499 (Wyo. 2007).

The issue before the Wyoming Supreme Court was whether the district court erred when it permitted a guardian ad litem from previous cases involving Mother and her children to testify at Mother's termination of parental rights hearing.

Between 2001 and 2005, in three separate adjudications, the court found Mother had neglected her children. In these three adjudications, Mr. Frentheway had acted as the GAL for the children involved. In the instant case, DCF filed a petition for the termination of Mother's parental rights to her four children. Mr. Frentheway was not appointed as GAL for the children. At the termination hearing, Mr. Frentheway testified for DCF about his previous involvement with Mother and the children. Mother objected to the testimony. The district court terminated Mother's parental rights, and Mother appealed.

Mother argued that Mr. Frentheway should not have testified because he was either acting as the GAL in this case, or he was a de facto GAL because of his role in previous proceedings. The Court rejected this argument, and held that because the district court did not appoint Mr. Frentheway as GAL in this proceeding, his role was as a witness, not as an advocate.

The Court reasoned that because Mr. Frentheway was only a witness, he had no responsibility to the court other than to testify truthfully. He did not take on the role of a GAL and thus was not required to investigate the best interest of the children, present an opinion regarding custody, or examine witnesses. Additionally, the Court held that there was no conflict with the rules of professional responsibility concerning the testimony of a GAL because Mr. Frentheway was not both testifying and acting as an advocate for the children. In short, the Court concluded that there was no per se error in allowing Mr. Frentheway to testify in the termination proceeding simply because he had acted as GAL to the children in previous neglect cases. Mother then argued that the district court erroneously allowed Mr. Frentheway to testify regarding inadmissible opinion evidence. In particular, Mr. Frentheway testified that continued visitation with Mother constituted “abuse” for the children. Mother alleged that Mr. Frentheway's use of the term “abuse” was an expert opinion on a legal matter.

The Court also rejected this argument, noting that although “abuse” is a legal term defined in the Wyoming statute, it also has a “non-technical, colloquial meaning.” The Court concluded that Mr. Frentheway did not use the word “abuse” as defined under the Wyoming statute, but “merely intended to convey his opinion that the intermittent nature of the visits with Mother was causing problems for the children in adjusting to their lives when Mother was not around.” Lay witnesses may give opinion evidence regarding matters that are rationally based on their perceptions and helpful to the trier of fact. Therefore, the Court held there was no error in allowing Mr. Frentheway to provide these opinions as a lay witness.

Mother also argued that Mr. Frentheway should have been prohibited from testifying because of the “Single Matter Doctrine.” Without citing legal authority, Mother argued that “courts have interpreted the so-called ‘single
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The National Institute for Trial Advocacy
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NACC MEMBERS RECEIVE A 20% REGISTRATION DISCOUNT.
ular, he claimed that the trial court violated his right to counsel.

The Ohio Supreme Court began its analysis by providing some historical background of the juvenile court system. The idea that the Due Process Clause of the Fourteenth Amendment applies to juvenile proceedings was fully established in In re Gault, 387 U.S. 1 (1967). The Gault court also established that a juvenile must be informed of certain rights, including the right to an attorney, the right to written notice of the charges, and the right to confront and cross-examine witnesses. Because a juvenile’s right to counsel is based on due process (rather than the Sixth Amendment), it is flexible. Therefore, “a court’s task is to ascertain what process is due in a given case, while being true to the core concept of due process in a juvenile case— to ensure orderliness and fairness.”

Ohio law provides that every child, “is entitled to representation by legal counsel at all stages of the proceedings” and that “counsel must be provided for a child not represented by the child’s parent, guardian, or custodian.” C.S. claimed that these statutory provisions violate his right to counsel in that they implicitly allow for a child’s parent to substitute for an attorney in juvenile court proceedings.

While the Court agreed that parents cannot represent their children in delinquency matters, it disagreed that this was the statute’s intended meaning. The Court found that the statute allows a juvenile to waive his rights, including the right to counsel, if the juvenile is advised by a parent. However, “if the juvenile is not counseled by his parent, guardian, or custodian and has not consulted with an attorney, he may not waive his right to counsel.” In addition, a judge must appoint counsel for a juvenile if a conflict exists between the juvenile and his parent.

The Court next considered what constitutes a valid waiver. The Court held that a valid waiver must be found to be voluntary and knowing, and it adopted a totality-of-the-circumstances analysis. Therefore, a variety of factors including the age, intelligence, and education of the juvenile, the juvenile’s background and experience generally, and the complexity of the proceedings must be considered. The Court also noted that, “a key factor in the totality of the circumstances is the degree to which the juvenile’s parent is capable and willing to assist the juvenile in the waiver analysis.” The Court further noted that after advising the juvenile of his rights, the judge must “be satisfied that the admission is voluntarily made with the understanding of the nature of the allegations and the consequences of the admission, and that by entering the admission, the juvenile is waiving the rights to confront witnesses and challenge evidence, to remain silent, and to introduce his own evidence.” For a valid waiver, the juvenile court must show substantial compliance with these requirements. The Court held that for purposes of juvenile delinquency proceedings, “substantial compliance means that in the totality of the circumstances, the juvenile subjectively understood the implications of his plea.”

In this case, the Court found that the record was unclear as to the knowingness of the waiver and the intelligent relinquishment of rights. In particular, the Court noted that at the time C.S. waived his rights, (1) there were indications that additional charges would be forthcoming; (2) C.S. was focused on being committed to Department of Youth Corrections so that he could be close to his brother who was currently in custody; and (3) despite his mother’s presence, C.S. received no meaningful advice regarding his decision to waive counsel.

The Court thus vacated the Court of Appeals judgment and remanded the case to the juvenile court.

The NACC joined Children’s Law Center, Inc., the ACLU, the Children’s Defense Fund, and others as amici curiae in this case arguing that waiver of counsel by children should be permitted only upon strict compliance with constitutional safeguards that ensure that waiver is knowing, intelligent and voluntary in accordance with due process.

Other Legal News

ABA Formal Opinion 07-447

In August, 2007, the American Bar Association (ABA) concluded that collaborative law practice is consistent with the Model Rules of Professional Conduct. The ABA determined that lawyers must advise clients of the benefits and risks of participating in a collaborative process, and may represent clients in the collaborative process only after clients give their informed consent. The rules of professional conduct still apply to lawyers who engage in collaborative law practice.

There are several models of collaborative practice. However, “all of them share the same core elements that are set out in a contract between the clients and their lawyers (often called a “four-way” agreement).” In that agreement all parties, “commit to negotiating a mutually acceptable settlement without court intervention, to engaging in open communication and information sharing, and to creating shared solutions that meet the needs of both clients.” The four-way agreement also requires that if the process fails, the lawyers will withdraw from representing their respective clients.

The ABA concluded that collaborative law practice includes the ethical duties of competence, diligence, and communication, and that collaborative law process is an acceptable limited scope representation under Model Rule 1.2. Model Rule 1.2 contains the dual requirements for permissible limited scope representation. First, the limitation must be reasonable under the circumstances. The ABA referred to Comment 6 of Rule 1.2 and determined that collaborative law practice could be reasonable under circumstances where the client has limited objectives for representation or if specific means of representation are excluded from the terms agreed to by the parties. Second, a lawyer must obtain informed consent from his or her client for a permissible limited scope representation. The ABA held that lawyers must explain to clients the material risks of the collaborative process and any reasonably available alternatives. Informed consent also requires lawyers to explain the rules and contractual terms that govern the collaborative process and ensure that clients understand that lawyers must withdraw from the matter if a settlement is not reached during the collaborative process.

The ABA also addressed the collaborative law process’s contractual obligation to withdraw. Under Rule L7(a)(2), this obligation creates a responsibility to a third party on the part of the collaborative lawyer. The ABA held that this responsibility to a third party does not create a non-waivable conflict of interest.
under Rule 1.7(a)(2). A non-waivable conflict of interest arises when there is a significant risk that the lawyer's responsibility to a third party will materially limit the lawyer's representation of the client. The collaborative lawyer's agreement to withdraw does not present a significant risk of materially limiting the lawyer's representation of the client because the collaborative process is a limited scope representation. A lawyer's agreement to withdraw is consistent with the client's limited goals for the representation, and the client still has alternatives such as pursuit of litigation.

Kenny A. Workload Study.

You may recall the Kenny A. case, filed in 2002. The plaintiffs in Kenny A. alleged violations of foster children's rights, including a claim that the state had failed to provide adequate and meaningful legal representation for abused and neglected children in juvenile court proceedings. In 2005, the federal court issued a summary judgment order holding that children have a constitutional right to effective counsel in dependency cases. In addition, the court found that children's lawyers were "overwhelmed" by their caseloads and "cannot provide effective representation to their client children." Kenny A. v. Perdue et. al, 356 F.Supp.2d 1353 (N.D. Ga. 2005).

Following the order, the parties entered into a consent decree. One portion of the consent decree required "a comprehensive review of the workloads of Fulton County Child Advocate Attorneys." The study's purpose was to make recommendations regarding the standards to be used in measuring the workloads of children's attorneys. The full study, released in June 2007, along with other related materials, is available online at: http://www.abanet.org/child/rcjijonline.html.

Bd. of Educ. of the City Sch. Dist. of the City of NY v. Tom F.

On October 10, 2007, the United States Supreme Court affirmed a ruling requiring New York City schools to reimburse an affluent businessman for private schooling for his son, who requires special education.

Lower courts found in favor of the father, holding that the New York City school district must pay for students with learning disabilities to attend private schools, even when the parents have not first tried the public school system. According to the lower court, tuition reimbursement is available in these situations under the Individuals With Disabilities Education Act (IDEA). Under the IDEA, every student is entitled to a "free appropriate public education." Schools are required to fund private placements if their own curriculum is not adequate. Before the U.S. Supreme Court, the city argued that if the school district has an available, suitable, special education program, parents must enroll their children in the public school program prior to enrolling in a private school and seeking reimbursement.

With Justice Kennedy absent from the decision, the remaining Court split 4-4 on the case, allowing the lower court ruling to stand. As a result, the decision is not binding precedent for U.S. School Districts.

Amicus Curiae Update

In re Marc. A, et al., California Court of Appeal, First District.

The NACC joined with the Northern California Association of Counsel for Children (NCACC) in filing an amicus curiae brief urging the court to conclude that children are entitled to the same competent and zealous representation as adult clients. In addition, children have statutory, as well as due process, rights to competent representation in dependency proceedings, which includes the right to an attorney to represent the child's position.

This case involves four children, Marc, Lucas, Frank, and Erica. The two older siblings, Marc and Lucas (both 17 years old and not living at home at the time) reported to CPS that their mother had subjected them and their siblings to excessive physical discipline. As a result, Frank and Erica (ages 14 and 10 at the time) were removed from their mother's home and placed in the county shelter. At the detention hearing, the juvenile court appointed one attorney to represent all four children. Initially, and throughout the proceedings, Frank and Erica denied suffering any abuse and expressed a desire to return home to their mother. Erica requested new counsel due to her concern regarding one lawyer representing all four siblings. The attorney denied any actual conflict, and the court denied Erica's request. The department recommended that all four children be declared dependents of the court and remain removed from the home. At the dispositional hearing, the children's attorney informed the court that Erica and Frank had consistently wanted to return home. However, she submitted a report and recommendation to the contrary. The court adopted the findings and orders proposed in the dispositional report, and ordered that the children remain placed outside the home.

Under California statute section 317, the appointed attorney is expected to serve as both the child's lawyer, charged with representing the child's legal interest, and the child's guardian ad litem. Under section 317, a child's attorney should represent the child's best interest by ensuring the court understands the child's position, providing the court with all evidence relevant to the child's interest, and advocating for an outcome that protects the child's rights. In contrast, when counsel refrains from advocating (or advocates against) the child's position, based on counsel's own conclusion that such a position is not in the child's best interests, this violates counsel's ethical and statutory duty to zealously advocate for the client.

Thank you to attorney Jan Sherwood for drafting and filing the amicus brief.
In this second edition of The Child Welfare Law Specialist, we are pleased to present the new NACC Certification “State Status Chart” which can be found on the NACC Certification Webpage: www.naccchildlaw.org/training/certification.html.

The following is an explanation of the information available on the State Status Chart.

Projected Open Date — The projected open date is the target date for opening a state to NACC Certification. “Open” means that the state has accredited the NACC as a certifying body or the NACC has otherwise taken all steps required to be authorized to offer certification in the state. Additionally, “open” means the NACC is accepting applications in that state.

The NACC is currently open in four states: California, Michigan, New Mexico and Tennessee. For these four states, the date shown on the State Status Chart is the year NACC opened in that state. For the states that are not yet open, the projected open date is shown in calendar quarters — beginning in the fourth quarter of 2007 (2007 Q 4) and ending in the fourth quarter of 2009 (2009 Q 4).

NACC Certification staff will focus on a state in the calendar quarter immediately preceding the projected open date in that state. For example, if a state shows a target date of 2008 Q 2, the staff will focus its efforts on this state in the first quarter of 2008. The NACC plans to bring certification to all 50 states and Washington D.C. by December 2009. The projected open dates are subject to revision based on interest and progress.

Advisory Board — An Advisory Board is a group of individuals representing geographic diversity within a state, and includes leaders from the key areas of child welfare law: child’s attorneys, respondent parent counsel, agency attorneys, and members of the judiciary. Additionally, an Advisory Board should include a Court Improvement Project coordinator, a member of the state bar association child law section, a representative from the Administrative Office of the Court, as well as other “key players” in the field of child welfare law. The purpose of the Advisory Board is to provide the NACC with state-specific customs and practice, and to act as ambassadors for Child Welfare Law Certification with other members of the child welfare law community.

- Status — This column provides information regarding the status of each state’s advisory board.
  - “Formed” indicates that the members of that state’s advisory board have been invited and
have agreed to participate on the board.

- “In Progress” indicates that the NACC has identified some key players and has begun discussions with potential members of the board.

- “Not Yet Formed” indicates that no substantial steps have been taken to form the advisory board, and the NACC is accepting nominations for members of the state’s advisory board.

**Link** – If the Advisory Board has been formed in a state, this link will take you to the list of Advisory Board members for that state.

If the Advisory Board is in progress or has not yet been formed in your state, this link will take you to an Advisory Board Nomination Form. Please complete this form if you would like to nominate an individual for your state’s Advisory Board.

Additionally, please feel free to look at the formed Advisory Boards to get a better understanding of the type of individuals likely to sit on the states’ advisory boards.

| Number of NACC Members — This column represents the current approximate number of NACC members in each state. |
| Number of CWLS — This column represents the number of Certified Child Welfare Law Specialists in each state. |
| Link to CWLS list — This link will take you to the current list of Certified Child Welfare Law Specialists in that state. |

In addition, the State Status Chart will provide online access to the following general NACC Certification documents:

**Program Summary / Request Application** — This link will take you to the Child Welfare Law Attorney Specialty Certification Program Summary. The program summary provides general information regarding the Certification program.

The last page of the program summary is the “Getting Started” page. If the NACC is open in your state and you would like to receive an application for certification, complete the “Getting Started” page and return it via fax or mail.

**NACC Standards** — This link will take you to the NACC Standards for Child Welfare Law Attorney Specialty Certification. The NACC Standards are approved by the American Bar Association and are essentially the rules that govern the NACC Certification process.

Some states require more stringent standards to certify attorneys in that state. For example, in California, the applicant must complete 45 Continuing Legal Education credits, whereas the NACC standards require 36 hours.

**Sample Application** — This link will take you to a sample NACC Certification Application. This sample application is not intended for submission; however it is a useful resource for potential applicants to better understand the application process.

*The State Status Chart will be updated quarterly. All information is subject to change.*

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**Save the Date**

**NACC 31st Annual National Juvenile and Family Law Conference**

**Hyatt Regency Savannah on the Historic Riverfront**

**Savannah, Georgia • August 3-6, 2008**

**For Conference Information:**
www.NACCchildlaw.org
advocate@NACCchildlaw.org

**For Savannah Information:**
www.savannahvisit.com
www.savannah.hyatt.com

**Call for Abstracts**
Deadline: February 1, 2008

**1.888.828.NACC**

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**NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN**
Congress is working hard to move forward a number of large bills that could have a significant impact on children around the country, including court-affected children. These bills include FY08 appropriations bills (see below), the House-passed and Senate-passed Head Start Reauthorization bills (see below), the House-passed and Senate-passed bills to reauthorize the State Children’s Health Insurance Program (SCHIP, see below), and the House and Senate draft bills to reauthorize the No Child Left Behind elementary and secondary education law.

Federal Budget/ Appropriations for FY 2008

On February 5, 2007, President Bush submitted his proposed FY 2008 Budget to Congress. It included another proposal for a “state option” block grant for foster care that would result in a foster care funding cap for states (similar to prior years’ budget proposals). The budget included stagnant or slightly declining funding for most programs relevant to court-involved children and families, except for a deep cut in the Social Services Block Grant (cutting $500 million, to take the program from $1.7 billion to $1.2 billion). There was one modest increase ($10 million) proposed for the Child Abuse Prevention and Treatment Act discretionary grants funding, to support new funding for nurse home visiting, shown by research to be effective at cutting child abuse and neglect among at risk families, and reducing later crime.

FY08 Appropriations bills for Labor/ Health and Human Services/Education were passed by the House on July 19, 2007, and by the Senate on October 23, 2007. House/Senate Conferences approved a compromise bill on November 1, 2007, and that compromise bill was filed on November 5, 2007. It is expected to be passed by the House and Senate this week, and sent to the President for his expected veto. It is unclear at this time whether Congress will be able to override the veto.

The compromise FY08 Appropriations bill for Labor/Health and Human Services/Education rejects the President’s proposed cut in SSBG, and includes a $12 million increase in CAPTA discretionary grants for home visiting. For most other child welfare programs, the bill largely keeps FY08 funding at the FY07 levels (e.g., Promoting Safe and Stable Families, Independent Living Vouchers, etc.). Head Start and Child Care funding get a modest increase for each (a $154 million increase for Head Start, and a $33 million increase for Child Care), and 21st Century Community Learning Centers (after-school) gets a modest $100 million increase.

Once again, this year, the Administration proposed large cuts in the area of juvenile justice and delinquency prevention, though there was a new twist this year: the proposed elimination of all of the current juvenile justice and delinquency prevention and juvenile accountability program funding, and replacement of those programs with a proposed new “Child Safety and Juvenile Justice” block grant, along with a 25% cut from last year’s juvenile justice funding levels. The House passed its FY08 Commerce, Justice, Science Appropriations bill on 7/26/07, and the Senate adopted its FY08 bill on 10/16/07. Neither bill incorporated the Administration’s proposed block grant. The Senate bill includes overall funding that is only $6 million over FY07 levels (redistributed amongst the programs slightly), and the House bill includes a funding increase of nearly $60 million for Juvenile Justice and Delinquency Prevention overall. House/Senate Conference is expected to occur soon.

Since these appropriations bills had not yet been enacted by the beginning of FY08 on October 1, 2007, Congress passed and the President signed a Continuing Resolution, to keep the federal government operating at FY07 levels until November 16, 2007.

State Child Health Insurance Program Reauthorization Legislation

Legislation to reauthorize, expand and improve the State Child Health Insurance Program (to cover children from families who cannot afford health insurance coverage on their own, but whose incomes are just over the Medicaid eligibility limit) passed the House on 8/2/07. A compromise (that was very similar to the bi-partisan Senate bill), which included $35 billion in additional funding over the next five years for SCHIP (paid for by a tobacco tax), was passed by the House on 9/24/07 and by the Senate on 9/27/07, but vetoed by the President. A House attempt to override the veto on 10/18/07 fell 13 votes short of the 2/3 vote required. Further negotiations are ongoing, to make modifications to the legislation that will garner the additional House support needed for veto override.

Head Start Reauthorization

On June 19, 2007, the Senate passed S. 556, the “Head Start for School Readiness Act”, a bill to reauthorize the Head Start early education program for disadvantaged kids. The House passed their Head Start reauthorization bill — H.R. 1429 — by a vote of 365-48 on May 2nd. The House- and Senate-passed legislation includes a variety of program improvements, including some language to improve Head Start access for foster children. Thankfully, the bill does not include state block grants with inade-
Nominations Must Include:
- A completed application form
- A list of nominee’s affiliations with other children and youth service organizations
- Any other relevant personal background information.

Nominations May Also Include:
- Supporting materials such as: Letters of Support, Photographs, Newspaper clippings, narratives, or other items describing the candidate’s efforts.

**Gangs Legislation**
On 6/14/07, the Senate Judiciary Committee approved Senators Feinstein and Hatch’s S. 456, the latest version of their “gangs bill”. This bill includes mandatory minimums and other enhanced penalties, and increased federalization of gang crime, although the bill now also includes some prevention resources, and no longer has the previously-included section providing for expanded prosecution of juveniles as adults in federal court. S. 456 passed on the Senate floor by unanimous consent on 9/21/07. Companion legislation in the House, H.R. 3547, was introduced on 9/17/07 by Rep. Schiff et al. On 10/16/07, the Chairman of the House Judiciary Chairman, Rep. Bobby Scott, introduced the Youth PROMISE Act, H.R. 3846. The bill would support a variety of proven-effective prevention and intervention approaches to reduce youth involvement in gangs and violent crime. No House Judiciary Committee markup of the Schiff or Scott bill is scheduled at this time.

**Indian Child Protection and Tribal Foster Care**

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**2008 Outstanding Legal Advocacy Award**

**NOMINATION APPLICATION**

**PURPOSE:** The NACC is looking for people who have tipped the scales in favor of children. Many children cannot rise above their circumstances without the help of real-life heroes. Our nation’s courts, clinics, schools, homes, law enforcement agencies and social service organizations are filled with people who have made a difference. The NACC created the Outstanding Legal Advocacy Award to honor excellence in the field of children’s law, advocacy, and protection. The NACC presents its Outstanding Legal Advocacy Award annually to individuals and organizations making significant contributions to the well being of children through legal representation and other advocacy efforts. Nominees’ accomplishments may include work in child welfare, juvenile justice, private custody and adoption and policy advocacy. All child advocates are eligible.

**The Nomination Letter should highlight:**
- The nominee's activities on behalf of children that have significantly promoted the protection and welfare of children.
- The history of the nominee’s involvement in child advocacy work.
- The nominee’s affiliation with children and youth service organizations.
- Any other relevant personal background information.

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**NOMINEE:**

NAME __________________________

DEGREE _________________________

TITLE / POSITION _________________________

FRM / ORGANIZATION _______________________ 

ADDRESS __________________________

CITY / STATE / ZIP ______________________

PHONE _______________ FAX ______________

E-MAIL ____________________________

NUMBER OF YEARS INVOLVED IN CHILD ADVOCACY _________________________

**NOMINATOR:**

NAME __________________________

TITLE / POSITION _________________________

FRM / ORGANIZATION _______________________ 

ADDRESS __________________________

CITY / STATE / ZIP ______________________

PHONE _______________ FAX ______________

E-MAIL ____________________________

Nominations Must Be Received By June 1st, 2008.

Send Nominations to: Awards Committee
National Association of Counsel for Children
1825 Marion Street, Suite 242, Denver, Colorado 80218

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Violent Prevention Act, was introduced. Among other things, this legislation requires that reports on tribal-related child abuse allegations include information on any federal, state or tribal final conviction, and that these reports be transmitted to and kept by the FBI. The full Senate passed this bill on May 25, 2007. No House action has occurred yet.

Further, on August 2, 2007, Sen. Baucus introduced S. 1956, the Tribal Foster Care and Adoption Access Act of 2007, a bill to amend Sec. Act Title IV-E (relating to foster care and adoption assistance) to enable tribes to receive IV-E payments. There has been no action on this legislation, yet.

Safe Babies Act
On March 15, 2007, the Senate Judiciary Committee marked up S. 627, the Safe Babies Act. The bill would amend the federal Juvenile Justice and Delinquency Prevention Act to create a National Court Teams Resource Center and to assist local court teams to more effectively address the needs of maltreated infants and toddlers. No Senate floor action has occurred, yet. H.R. 1082, the House version, was introduced S. 627/07, but no action on the bill has been scheduled.

Public Service Student Loan Forgiveness
New provisions for public service student loan forgiveness were enacted on 9/27/07 as part of P.L. 110-84, the College Cost Reduction and Access Act. Under Title IV of that Act, a person employed in public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law service agencies (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization), or public child care may be eligible for forgiveness of any remaining interest and principle payments owed after 120 monthly payments made while so employed with regard to federal student loans, such as a Federal Direct Stafford Loan, a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

Other Relevant Bills Introduced, But No Further Action Yet
• On 1/24/07, H.R. 687 (Rep. Ramstad) and S. 382 (Sen. Collins) were introduced as the Keeping Families Together Act - legislation to provide modest funding to support efforts to end the practice of parents giving legal custody of their seriously emotionally disturbed children to state agencies (child welfare or juvenile justice), for the purposes of obtaining mental health services for those children. No further action has been scheduled.
• On 2/16/07, Sen. Clinton and Sen. Snowe introduced the Kinship Caregiver Support Act (S. 661), which provides funding for kinship navigator programs, provides a IV-E support option for kinship care, and provides notice to relatives of children entering foster care. No Finance Committee action has yet been scheduled. On 5/7/07, Rep. Danny Davis introduced H.R. 2188, the House version of the legislation, but no further action has occurred.
• On 2/16/07, Sen. Bond and Sen. Clinton introduced S. 667, the Education Begins at Home Act, which would authorize $500 million in new federal funding for early childhood home visiting (some models of such parent coaching have demonstrated significant impact on the prevention of child abuse and neglect, and later delinquency). The House Education Reform Subcommittee held an excellent hearing on this legislation in the last Congress (on 9/27/06). On 5/16/07, Rep. Danny Davis and Rep. Todd Platts introduced the House version of the legislation, H.R. 2343. No action on this legislation has yet been scheduled in this Congress.

For further information on any federal legislation (including copies of bills, copies of committee reports, floor votes, etc.), visitThomas.loc.gov.

Children’s Law News

News
NACC Call for Abstracts. The NACC is soliciting abstracts for presentations at its 31st National Juvenile and Family Law Conference, August 3–6, 2008 in Savannah, Georgia. For more information visit: www.naccchildlaw.org/training/conference.html. Submissions must be received by February 1, 2008.

NACC 2008 Outstanding Legal Advocacy Award. Nominations for the 2008 Outstanding Legal Advocacy Award are now being accepted. The award is given annually to individuals and organizations making significant contributions to the well-being of children through legal representation and other advocacy efforts. Send nomination letter and supporting documentation to NACC Awards, 1825 Marion Street, Suite 242, Denver, CO 80218. Contact the NACC for more information. The deadline is June 1, 2008.

NACC 2008 Law Student Essay Competition. The NACC is accepting essays for the 2008 Law Student Essay Competition. The winning essay will be published in the 2008 Children’s Law
August 3–6, 2008

NACC 31st National Juvenile and Family Law Conference, Savannah, GA. For more information, contact the NACC or visit: www.NACCchildlaw.org/training/conference.html. Conference Brochures will be available in Spring, 2008.

Publications


Achieving Quality Legal Representation for Children, Families, and the State, the 2007 edition of the NACC Children’s Law Manual Series is now available for purchase. Copies may be ordered from the NACC by calling toll free 1-888-828-NACC, using the Publications Order Form in this issue, or online at www.naccchildlaw.org/training/manuals.html.

NACC Child Welfare Law Office Guidebook: Best Practice Guidelines for Organizational Legal Representation of Children in Abuse, Neglect, and Dependency Cases (The Blue Book). Created as part of the NACC Children’s Law Office Project (CLOP), the Blue Book is a collection of 33 best practice guidelines intended to move child welfare law offices toward model practice. It is organized by three areas of operation: administration, development, and program. Within these categories are guidelines and commentary developed by the CLOP staff and advisory board to promote best practices in the delivery of legal services to children. Limited numbers of hard copies are available for $20 each by contacting the NACC. The searchable electronic version is available at no charge at: www.naccchildlaw.org/about/nclop.html.


Jobs

Staff Attorney, ABA Center on Children & the Law, Washington, D.C. The American Bar Association is seeking a Staff Attorney for its Center on Children and the Law. This position provides substantive child welfare legal work for the Improving Representation for Parents in the Child Welfare System Project at the ABA Center on Children and the Law. Job responsibilities include providing training and technical assistance (TTA) for parents’ attorneys, parent attorney law offices, courts and others to improve the quality of representation parents receive; planning a national conference for parents’ attorneys; transitioning the project to a stand alone organization; and coordinating efforts with members of the National Steering Committee. Applicant must have: J.D. and at least eight to ten years of legal experience as an attorney in child welfare law, experience representing parents in the child welfare system, excellent writing skills, and expertise in public speaking and training. For more information and to apply directly online, please visit: www.abanet.org/hr (find C1155); or send cover letter, resume to abajobsdc@abanet.org (include position C1155 in subject line); or mail to American Bar Association, HR-C1155, 740 15th St. NW, Washington, DC 20005; or fax to (202) 662-1998.
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