Standing at the Forefront: Effective Advocacy in Today’s World

The 32nd National Juvenile and Family Law Conference of the National Association of Counsel for Children

August 19-22, 2009
Brooklyn, New York

New York Marriott at the Brooklyn Bridge
# Mission

The mission of the NACC is to:

- Strengthen the delivery of legal services for children
- Enhance the quality of legal services affecting children
- Improve courts and agencies serving children, and
- Advance the rights and interests of children

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## Table of Contents

1. **NACC WELCOMES NEW PRESIDENT**
2. **THE NACC 32ND NATIONAL CONFERENCE**
3. **CASES**
   - Delinquency / Criminal Gang Activity (Georgia)
   - Dependency / Agency Immunity (United States Court of Appeals for the Eighth Circuit)
   - Criminal Law / Exclusionary Rule (Oregon)
   - ICWA / Child Medical Needs (Alaska)
   - Custody / Sufficiency of Evidence (South Dakota)
   - Dependency / Termination of Parental Rights (California)
4. **AMICUS CURIAE UPDATE**
   - People v. McBride (Michigan)
5. **FEDERAL POLICY UPDATE**
   - by Miriam Rollin, JD
6. **THE CHILD WELFARE LAW SPECIALIST COLUMN**
7. **CHILDREN’S LAW NEWS**
   - News, Conferences & Trainings, Publications, and Jobs
8. **AFFILIATE NEWS**
9. **NACC CONTRIBUTORS**
10. **NACC MEMBERSHIP APPLICATION**

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The National Association of Counsel for Children is pleased to announce Maureen Farrell Stevenson, JD as new President / CEO.

Ms. Farrell-Stevenson brings immense experience to the organization and a commitment to advocacy on behalf of children and families. As the co-founder and Executive Director of the Colorado Center on Law and Policy, Farrell-Stevenson has engaged in education, legislative and administrative advocacy, research and analysis, and litigation in the areas of welfare, health care and fiscal reform on behalf of low income children and families.

Farrell-Stevenson has dedicated her legal career to advocating for impoverished children and families as a litigator and policy advocate. Before moving to policy advocacy, Farrell-Stevenson litigated public benefits and welfare reform issues for the Legal Aid Society of Metropolitan Denver (now known as Colorado Legal Services). Her areas of practice included representing children and families in domestic relations proceedings involving domestic violence, child sexual abuse, public benefits and child support enforcement. Early in her career, Farrell-Stevenson also represented children and parents in dependency and neglect proceedings.

Farrell-Stevenson graduated from Antioch School of Law in Washington D.C. in 1983 and she has a Bachelor’s of Science (Honors) in Criminal Justice from Rutgers University.

The conference is comprised of General Sessions and Workshops. Workshops are primarily organized along five tracks:

1. Abuse & Neglect;
2. Juvenile Justice;
3. Family Law;
4. Policy Advocacy; and
5. Children’s Law Office Program.

Attendees are free to sign up for and attend sessions in different tracks. NACC conferences are rated highly by participants for content, administration, networking opportunity, and enjoyment. The conference is the product of 32 years of training.

Conference Sponsors

**Co-Sponsors**

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- NACC Megan Louise Furth Youth Empowerment Fund
- Northern California Association of Counsel for Children

**Cooperating Organizations**

- ABA Center on Children and the Law
- ABA Section of Litigation, Children’s Rights Litigation Committee
- Association of Family and Conciliation Courts
- Connecticut Commission on Child Protection
- First Star
- National Center for State Courts
- National Council of Juvenile and Family Court Judges
- National Court Appointed Special Advocate Association
- National Institute for Trial Advocacy
- Judicial Council of California Center for Families, Children, and the Courts
The NACC 32nd National Conference will be held in Brooklyn, NY at the New York Marriott at the Brooklyn Bridge.

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New York City is home to many of America’s iconic landmarks. Sail to the Statue of Liberty or visit the Empire State Building Observatory at dusk and watch the city light up. For a true New York City experience, visit Times Square — the center of the city which spans over 800 acres in the heart of Manhattan. Walk on Wall Street. Visit the ground-zero site of the World Trade Center.

Walk, run, or bike across the Brooklyn Bridge, a city highlight not to be missed. The bridge, which spans nearly 6,000 feet and links Brooklyn to Manhattan, is a web of steel cables mixed with Gothic-inspired architecture. Built in 1883, the Brooklyn Bridge is known today as an engineering milestone and ranks among the world’s greatest suspension bridges.

The New York City skyline is a highlight in its own right. The city’s collective landmarks — skyscraping buildings, suspension bridges and Central Park — are breathtaking. These attractions are only the tip of the iceberg. While in New York for the NACC Conference, discover and explore the sights that define New York City.

LODGING

New York Marriott at the Brooklyn Bridge
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The conference will be held at the New York Marriott at the Brooklyn Bridge. The hotel's location at the foot of the Brooklyn Bridge, just across the river from Manhattan, is ideal. Recently renovated, the hotel possesses state-of-the-art amenities, superior accommodations, and elegant meeting spaces. It blends Brooklyn simplicity with New York City sophistication.

Perhaps more important than the hotel’s superb location and amenities, however, is the NACC room rate… a shockingly low $169 per night, single or double occupancy!

Book online at: www.brooklyn-marriott.com: On the homepage, in the box titled “Check Rates & Availability,” enter arrival/departure information and Group Code: CHICHIA.

Book via phone at: 888.436.3759 or 718.246.7000. Indicate that you would like to make a reservation for a group block. Group Name: NACC 2009 Conference.

Note: The cutoff date for discounted hotel reservations is July 28, 2009. In the event the room block fills entirety before the cutoff date, additional rooms are subject to availability and the rate is subject to change.

TRAVELING TO NEW YORK

By Rail: New York City has two main rail stations: Grand Central Terminal (on the East Side) and Penn Station (on the West Side). Both stations connect with bus and subway lines.

By Air: Three major airports serve New York City: LaGuardia Airport (LGA) and John F. Kennedy (JFK), both in Queens, and Newark Liberty International Airport (EWR) in neighboring New Jersey. All three airports provide access to the city via taxis, buses, subways and trains.

ANNUAL LUNCHEON BANQUET

Friday, August 21, 12:00 – 1:45 pm

This year’s banquet lunch speaker will be Rachel Lloyd, Girls Educational & Mentoring Services (GEMS), Founder & Executive Director. Ms. Lloyd will address Commercial Sexual Exploitation and Domestic Trafficking. The banquet will also honor the NACC 2009 Outstanding Legal Advocate, Law Student Essay Winner, and newly Certified Child Welfare Law Specialists (CWLS). This year’s luncheon is generously sponsored by The Legal Aid Society of New York City.

The Annual Luncheon Banquet is an important NACC event and we encourage all to attend. This banquet is included in your registration fee; however, you must indicate your attendance on the registration form. Limited space is available for non-conference attendee guests at $50 per person.
# Conference Program

**Day 1  Wed Aug 19**

## PRE-CONFERENCE

9:00 AM – 4:00 PM  
The NACC Red Book Training:  
1-Day Survey and Certification  
Exam Prep Course in Child Welfare Law and Practice

## CONFERENCE

2:00 – 4:30 PM  
Conference Registration & Exhibits

4:30 – 5:30 PM  
Reception

5:30 PM  
Welcome to the Conference

5:45 PM  
Message from Brooklyn Borough President

6:00 PM  
Message from Retired Chief Judge of the State of New York

6:30 PM  
Do No Harm

7:30 PM  
Adjourn;  
Dinner on Your Own

## Day 2  Thu Aug 20

7:30 AM  
Registration Opens

8:00 – 8:30 AM  
New Member/Attendee Orientation  
Session: Membership Benefits

8:30 – 9:00 AM  
Continental Breakfast

9:00 – 9:15 AM  
Opening Comments from NACC President/CEO

9:15 – 10:15 AM  
General Session 1:  
How Things Got the Way They Are, Why the Way They Are Is So Hard to Change, and What Can be Done about It

10:15 – 10:45 AM  
Coffee Break

10:45 AM – 12:00 PM  
General Session 2:  
Fostering Connections to Success Act

12:00 – 1:45 PM  
Lunch on Your Own

1:45 – 3:15 PM  
Concurrent Session A

1 ABUSE & NEGLECT  
Treating Parents as Experts:  
How Family-Centered Child Welfare Practice Improves Outcomes for Children

3 JUVENILE JUSTICE  
Protecting Children from Self-Infamy While Being Screened, Assessed, and Treated in the Juvenile Justice System

4 POLICY ADVOCACY  
Design Your Own Special Education Advocacy Project — Working Models

5 CLOP  
Law Office Management: Executive Directors Roundtable Discussion

3:15 – 3:45 PM  
Catered Break

3:45 – 5:15 PM  
Concurrent Session B

1 ABUSE & NEGLECT  
Psychotropic Medications and Youth in Foster Care: The Role of Lawyers and Judges

2 FAMILY LAW  
Domestic Violence Cases:  
Linking Social Science Research and Family Court Practice

3 JUVENILE JUSTICE  
Youth at Risk: Representing Homeless, Runaway, and Status-Offending Youth

4 POLICY ADVOCACY  
Improving Foster Care Outcomes through Impact Litigation

5 CLOP  
Powerful, Cost-Effective Multidisciplinary Team Advocacy:  
Two Working Models

3:45 – 5:15 PM  
Concurrent Session C

1 ABUSE & NEGLECT  
The Impact of Abuse and Neglect on Right Brain Development and Emotional Regulation

2 FAMILY LAW  
Custody and Same Sex Partners:  
Civil Marriage, Domestic Partnership, and Civil Union

3 JUVENILE JUSTICE  
An Evaluation of the Nation’s First Juvenile Mental Health Court for Delinquent Youth with Chronic Mental Health Needs

4 POLICY ADVOCACY  
Comprehensive Sexual Health Care for Youth in State Custody:  
Transforming Rights Into Reality

5 CLOP  
Engaging the Media to Effect Change and Promote Justice

Day 3  Fri Aug 21

8:30 – 9:00 AM  
Introduction to Certification

8:30 – 9:00 AM  
Continental Breakfast

9:00 – 10:15 AM  
Concurrent Session C

1 ABUSE & NEGLECT  
When Poverty is at Odds With Fundamental Rights: Advocating for Homeless Parents

2 FAMILY LAW  
The Missing Link: Speaking with Children about Divorce or Dependency Proceedings

3 JUVENILE JUSTICE  
Dispositional Advocacy and Planning in Delinquency Proceedings

4 ALL  
Prenatal Alcohol Exposure and Traumatic Stress: Implications for Child Welfare Law and Practice

5 CLOP  
Attorney Training with a Limited Budget

3:30 – 4:00 PM  
Catered Break

4:00 – 5:30 PM  
Concurrent Session F

1 ABUSE & NEGLECT  
Family Matters: The Science, Statutes, and Substantive Due Process Behind Kinship Foster Care

2 FAMILY LAW  
Attachment: A Crucial Factor in Family Law

3 JUVENILE JUSTICE  
Toward Culturally Sensitive Practice with Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth in the Juvenile Justice System

3:30 – 4:00 PM  
Catered Break

4:00 – 5:30 PM  
Concurrent Session F

1 ABUSE & NEGLECT  
Family Matters: The Science, Statutes, and Substantive Due Process Behind Kinship Foster Care

2 FAMILY LAW  
Attachment: A Crucial Factor in Family Law

3 JUVENILE JUSTICE  
Toward Culturally Sensitive Practice with Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth in the Juvenile Justice System

10:15 – 10:45 AM  
Coffee Break / Exhibitors

10:45 AM – 12:00 PM  
Concurrent Session D

1 ABUSE & NEGLECT  
Health Needs of Children and Youth in the Child Welfare System

2 FAMILY LAW  
Parenting Coordinators:  
An Examination of an Intervention for High Conflict Custody Cases

3 JUVENILE JUSTICE  
An Evaluation of the Nation’s First Juvenile Mental Health Court for Delinquent Youth with Chronic Mental Health Needs

4 POLICY ADVOCACY  
Comprehensive Sexual Health Care for Youth in State Custody:  
Transforming Rights Into Reality

5 ALL  
Engaging the Media to Effect Change and Promote Justice

12:00 – 1:45 PM  
Conference Lunch Banquet  
Commercial Sexual Exploitation and Domestic Trafficking  
Presentation of Awards  
NACC Outstanding Legal Advocate, and NACC Student Essay Winner  

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Day 4 Sat Aug 22

8:00 – 8:30 AM
Continental Breakfast

8:30 – 10:00 AM
Concurrent Session G
1 ABUSE & NEGLECT
Successful Appeals: Different Appellate Approaches to Children’s Continuously Changing Circumstances

2 FAMILY
Guardians Ad Litem: Bridging the Gap Between High-Conflict Divorce and Domestic Violence

3 TRIAL SKILLS
Part 1 of 2: Dependency Court Trial Skills

4 POLICY ADVOCACY
Coordinating Protection of Children in Probate and Juvenile Court

5 CLOP
Client Counseling and Decisionmaking

10:00 – 10:30 AM
Coffee Break

10:30 AM – 12:00 PM
Concurrent Session H
1 ABUSE & NEGLECT
Closing the Circle: Bringing Home the Promises of the Indian Child Welfare Act

2 FAMILY LAW
Use of Psychological Testing in Court

3 TRIAL SKILLS
Part 2 of 2: Dependency Court Trial Skills

4 POLICY ADVOCACY
Children At Risk of Commercial Sexual Exploitation: From Legislation to Services

5 CLOP
Maintaining Appropriate Professional Boundaries with Child Clients

12:00 – 12:15 PM
Closing Session
• 2010 CONFERENCE ANNOUNCEMENT
• DOOR PRIZES — MUST BE PRESENT TO WIN!
• CLOSING REMARKS

12:15 PM Adjourn

Registration Form

The NACC 32nd National Juvenile and Family Law Conference
Wednesday, August 19 – Saturday, August 22, 2009

Registration fee includes conference tuition, 2009 NACC Children’s Law Manual, opening-night reception, continental breakfasts, catered breaks, and Friday’s banquet luncheon. Additionally, non-member registrants will receive a complimentary 1 year NACC membership.

Please indicate which sessions you plan to attend for Concurrent Sessions A–H by checking the session number:

A : 1 2 3 4 5
B : 1 2 3 4 5
C : 1 2 3 4 5
D : 1 2 3 4 5
E : 1 2 3 4 5
F : 1 2 3 4 5
G : 1 2 3 4 5
H : 1 2 3 4 5

Regular Registration postmarked on/after July 17, 2009
NACC Member: $375
Non-Member: $475

Procrastinator Registration postmarked after July 17, 2009
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Non-Member: $505

DISCOUNTS: Register online at www.NACCchildlaw.org and receive a $10 discount. NACC Certified Child Welfare Law Specialists: Take 10% off the applicable rate.

Pre-Conference | Wed, Aug 19
The NACC Red Book Training (includes the Red Book)
Yes, I will attend ($200)

Conference Registration Fee

Annual Luncheon Banquet
Fri, Aug 21
Yes, I will attend (including in registration fee)
I will bring guest(s) @ $50 per person

Total Amount Enclosed or to be Charged

Please indicate which meals you will need:

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Space is limited. Registrations will be filled based on date registrations are received. If you will require handicap access to facilities or special assistance at the program, please contact the NACC as soon as possible.
Vagueness invalidates criminal warning as to what constitutes “criminal gang activity.” K.R.S. argued that the Georgia gang statutes are unconstitutionally vague and overbroad. The trial court denied the motion, but certified the issue for immediate interlocutory review to the Georgia Supreme Court.

K.R.S. argued that the Georgia gang statutes are unconstitutionally vague because they fail to provide a clear warning to the average citizen about what conduct is criminally forbidden. Additionally, vagueness invalidates statutes that fail to provide explicit standards for enforcement, which can result in unfair, discriminatory enforcement.

The court found that the Georgia statutes not only define the prohibited conduct, but they explicitly define what conduct is prohibited. A plain reading of the statute demonstrates that a defendant must do more than just commit a criminal offense in violation of state or federal law.

A defendant can only be charged under this statute if he commits one of the statute’s enumerated crimes. According to the court, the description of these enumerated crimes, taken together with their correlating statutory provisions in the criminal code, provide sufficient notice to the ordinary citizen as to what constitutes “criminal gang activity.” This construction provides sufficient clear guidance to law enforcement as to what conduct is forbidden.

Lastly, the court held that the statutory construction sufficiently informs ordinary citizens about what associations with a “criminal street gang” are prohibited. The court cited a decision handed down by the same court, which stated that the statute “implies the presence of others who are managed, controlled, led or guided in the ‘criminal street gang activity’ by the defendant or who take part in or share in that activity with the defendant,” constitutes illegal street gang association. This court found that the explicit description provides sufficient notice to ordinary citizens and law enforcement.

The Georgia Supreme Court found that K.R.S. failed to establish any unconstitutional vagueness and therefore rejected his arguments.

Cases

**Delinquency / Criminal Gang Activity**

*Georgia Supreme Court Holds Criminal Gang Statutes Not Unconstitutionally Vague or Overbroad. In re K.R.S., 284 Ga. 853 (Ga. 2009).*

K.R.S. was a minor charged in a delinquency petition with multiple crimes, including two counts of street gang activity. At trial, K.R.S. moved to dismiss the street gang charges on the ground that the relevant statutes are unconstitutionally vague and overbroad. The trial court denied the motion, but certified the issue for immediate interlocutory review to the Georgia Supreme Court.

K.R.S. argued that the Georgia gang statutes are unconstitutionally vague because they fail to provide a clear warning as to what constitutes “criminal gang activity” and because they fail to define what constitutes illegal association with a “criminal street gang.” K.R.S. argued that the statute does not set explicit standards for law enforcement.

The Georgia statutes at issue are OCGA §§ 16-15-4(a) and 16-15-3. OCGA § 16-15-4(a) makes it unlawful for “any person employed by or associated with a criminal street gang to conduct or participate in criminal street gang activity through commission of any offense enumerated in [16-15-3].” A “criminal street gang” is defined as “any organization, association, or group of three or more persons associated in fact, whether formal or informal, which engages in criminal gang activity.” The enumerated crimes include racketeering, aggravated sodomy, statutory rape, criminal trespass, property damage, and violent crimes.

Due process mandates that a statute is void for vagueness if its prohibitions are not clearly defined. Vagueness invalidates criminal statutes that fail to provide a clear warning to the average citizen about what conduct is criminally forbidden. Additionally, vagueness invalidates statutes that fail to provide explicit standards for enforcement, which can result in unfair, discriminatory enforcement.

The court found that the Georgia statutes not only define the prohibited conduct, but they explicitly define what conduct is prohibited. A plain reading of the statute demonstrates that a defendant must do more than just commit a criminal offense in violation of state or federal law.

A defendant can only be charged under this statute if he commits one of the statute’s enumerated crimes. According to the court, the description of these enumerated crimes, taken together with their correlating statutory provisions in the criminal code, provide sufficient notice to the ordinary citizen as to what constitutes “criminal gang activity.” This construction provides sufficient clear guidance to law enforcement as to what conduct is forbidden.

Lastly, the court held that the statutory construction sufficiently informs ordinary citizens about what associations with a “criminal street gang” are prohibited. The court cited a decision handed down by the same court, which stated that the statute “implies the presence of others who are managed, controlled, led or guided in the ‘criminal street gang activity’ by the defendant or who take part in or share in that activity with the defendant,” constitutes illegal street gang association. This court found that the explicit description provides sufficient notice to ordinary citizens and law enforcement.

The Georgia Supreme Court found that K.R.S. failed to establish any unconstitutional vagueness and therefore rejected his arguments.

**Dependency / Agency Immunity**


Braxton was a foster child in the custody of DSS and placed with DSS-approved foster parents, Mr. and Mrs. Gordon. One day, Mrs. Gordon left Braxton, 8 years old, and her biological son Ethan, 14, alone at home while she attended to a work-related errand. While home alone, Ethan retrieved a .38 caliber handgun from his parents’ closet. While playing “cops and robbers,” Ethan, unaware that the gun was loaded, pulled the trigger and shot Braxton in the head. Braxton died en route to the hospital.

Thereafter, Braxton’s biological mother, Ms. McLean, filed suit in a Missouri State court against the Children’s Division of the Missouri Department of Social Services (DSS), the DSS social worker, and the DSS supervisor. Ms. McLean asserted claims under 42 U.S.C.S. § 1983 and Missouri’s Wrongful Death Statute.

Ms. Mclean alleged the following: (1) defendants “acted negligently, recklessly and with gross negligence” in failing to properly evaluate and supervise the foster parents, including ensuring that adequate supervision was available and that there were no weapons accessible to children in the home, and (2) defendants acted “in a gross and negligent manner and with deliberate indifference” in failing to follow internal policies and practices designed to protect foster children, in violation of § 1983.

The defendants voluntarily removed the case to federal court and filed a motion for summary judgment. The social worker and supervisor asserted
that they were shielded from suit under the doctrines of qualified and official immunity, while DSS claimed that it was protected from liability by sovereign immunity.

The United States District Court for the Western District of Missouri denied defendants’ motion for summary judgment, holding that the social worker and the supervisor were not entitled to qualified immunity as to the mother’s § 1983 claim, that they were not entitled to official immunity as to her wrongful death claim, and that DSS waived its Eleventh Amendment sovereign immunity as to the mother’s § 1983 claim by removing the suit from state court to federal court.

Defendants filed an interlocutory appeal before the United States Court of Appeals for the Eighth Circuit. The court of appeals first considered the motion for summary judgment on qualified immunity grounds. The court made two inquiries: (1) whether the facts alleged, taken in the light most favorable to Ms. McLean, showed that the social worker’s and supervisor’s conduct violated a constitutional right, and, if so, (2) whether the constitutional right was clearly established at the time. *Flowers v. City of Minneapolis*, 478 F.3d 869 (8th Cir. 2007). To establish a violation of substantive due process rights by an executive official, plaintiff must show: (1) that the official violated a fundamental constitutional right, and (2) that such conduct was conscience shocking.

The court, in considering whether the social worker’s and supervisor’s conduct reached the level of shocking the conscience, found that there existed no evidence prior to the shooting that any firearm was unsecured or accessible to the children. The court held that the repeated failure to check the Gordon’s home for unsecured firearms or inquire about the location of the firearms was not conscious-shocking, which was required to establish a substantive due process violation. Thus, the court found that the district court erred in

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- All Advocates for Abused and Neglected Children

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denying the protections of qualified immunity to the social worker and supervisor on the § 1983 claim.

Secondly, the court considered the denial of official immunity on the state-law wrongful death claim. The district court found that some of the social worker’s and supervisor’s actions did not involve any degree of discretion, but instead involved simply following DSS policy. The district court also found that factual disputes remained regarding what DSS policy required of DSS employees, and what degree of discretion DSS employees were afforded.

The court noted that in Missouri, the doctrine of official immunity protects public officials from civil liability for injuries arising out of their discretionary acts or omissions performed in the exercise of their official duties. The court noted that official immunity does not shield officials for liability arising from their negligent performance of ministerial functions, defined as a function which a public officer is required to perform upon a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to his/her own judgment or opinion concerning the propriety of the act to be performed. *Charron v. Thompson*, 939 S.W.2d 885 (Mo. 1996).

The court found that the district court erred in denying the motion for summary judgment on the ground of official immunity. The court noted that Ms. McLean failed to present facts that created a genuine issue of material fact that the social worker or supervisor negligently performed or failed to perform any ministerial duty. Further, the court noted that the responsibility to ensure the safety of the home was discretionary as a matter of law. Accordingly, the court held that official immunity protected the social worker and supervisor from liability under the state’s Wrongful Death Statute.

Lastly, the court considered whether the district court erred in failing to grant summary judgment for DSS on the §1983 claim. The district court held that the defendants’ voluntary removal of the case to federal court resulted in DSS’s waiver of Eleventh Amendment immunity. The court held that it need not address this issue because § 1983 provides for an action against a “person” for a violation. The court held that DSS was not a “person” for § 1983 purposes. Thus, the court held that the district court erred in failing to grant summary judgment for DSS on the § 1983 claim.

The court therefore reversed the district court’s order to the extent that it denied summary judgment to appellants as to the mother’s § 1983 claim and denied summary judgment to the social worker and supervisor as to the wrongful death claim. The court remanded the case and instructed the district court to enter summary judgment for appellants.

### Criminal Law / Exclusionary Rule

**Oregon Supreme Court Holds Exclusionary Rule Not Applicable in Dependency Proceedings.** *State ex rel. HHS v. W.P.*, 345 Ore. 657 (Or. 2009).

W.L.P. lived in Oregon with his mother and father. In connection with a drug investigation involving Mother, police executed a search warrant of the family’s home. During the search, officers found drugs in the home and on the father’s person. The police arrested both parents and contacted the Department of Human Services. Due to the parents’ arrest and the existence of drugs within the child’s reach, DHS filed a dependency petition and placed W.L.P. in foster care.

At the dispositional hearing, Father moved to suppress all evidence of the drugs found in the home. Father argued that the initial search warrant was invalid, and thus the Fourth Amendment exclusionary rule required suppression of the evidence. The court held that it denied summary judgment for appellants.

The court held that the Fourth Amendment exclusionary rule only applied to criminal proceedings. Under Oregon law, dependency proceedings are not criminal matters. In addition, any liberty interest of the father in suppressing the evidence is not so closely analogous to a criminal proceeding as to invoke these Fourth Amendment protections. Thus, because of the lack of any criminal underpinning and because the juvenile courts exist to protect the best interests of the children, the court rejected any application of the exclusionary rule.

The Oregon Supreme Court rejected the father’s claim on the basis that the best interests of the child are supported by admitting such evidence. The statutory basis for dependency proceedings explicitly recognizes the state’s policy “that children are individuals who have legal rights” and that those rights include “permanency with a safe family, freedom from physical, sexual or emotional abuse or exploitation, and freedom from substantial neglect of basic needs.” Further, parents have a duty to afford their children those rights and if a parent fails to fulfill those duties, the court retains authority to remove the child if it serves the child’s best interests. A juvenile court is charged under the Fourteenth Amendment with guarding the liberty interests of the parent to direct the upbringing of his or her child, while at the same time protecting the rights and interests of the child.

Based on this framework, the statutory scheme requires that a juvenile court fully evaluate any conditions or circumstances that may endanger the welfare of the child. In this regard, any evidence of parental use of drugs or drug dealing or trafficking presents a dangerous environment for a child. Thus, the evidence discovered in a search, whether or not the search was legal from its inception, of drug use and/or dealing is circumstantial to assessing the best interests of the child.

The court held regardless of whether the evidence was lawfully obtained, the exclusionary rule is inapplicable because the rule applies only to criminal proceedings. Under Oregon law, dependency proceedings are not criminal matters. In addition, any liberty interest of the father in suppressing the evidence is not so closely analogous to a criminal proceeding as to invoke these Fourth Amendment protections. Thus, because of the lack of any criminal underpinning and because the juvenile courts exist to protect the best interests of the children, the court rejected any application of the exclusionary rule.
ICWA / Child Medical Needs

J.W. was born to Larry and Francine. Francine was affiliated with the native village of Kaltag, Alaska, and therefore J.W. was an Indian Child for purposes of the Indian Child Welfare Act (ICWA).

Francine had a longstanding problem with alcohol abuse, and after an incident in which Larry obtained a protective order against her, Francine moved out of the family home. Thereafter, Larry became the sole caretaker for J.W. A couple years later, however, the Office of Children’s Services (OCS) received a report that Larry had sexually abused J.W. The State petitioned for temporary custody under ICWA and the Child in Need of Aid statute, and J.W. was taken into emergency custody and placed with an unrelated native family.

The superior court conducted an exhaustive review of Larry’s parental capacities. A specialist from OCS testified that, during her investigation of the potential sexual abuse, J.W. had said that Larry sometimes left her alone at night and that he became “mean” when he drank. In addition, OCS revealed that Larry often locked J.W. in a bathroom as a means of punishment, and that for a time the two of them lived on the streets in a “hut.”

Larry was ultimately diagnosed as exhibiting schizotypical or schizophrenic personality traits that caused him to have erratic and paranoid thoughts. Larry was constantly suspicious of outsiders, and he frequently misinterpreted social cues. Based on this diagnosis and the report of the OCS specialist, the superior court preliminarily concluded that it was in J.W.’s best interests to remain in state custody.

A chemical dependency counselor indicated that J.W. may have suffered the effects of Fetal Alcohol Syndrome (FAS) due to Francine’s alcohol habits. Later, however, a doctor diagnosed J.W. with alcohol-exposed neurobehavioral disorder, attention deficit hyperactivity disorder, and moderate mixed language disorder. J.W. was never diagnosed with FAS.

The superior court concluded that J.W. had special needs. The court noted that she needed routine, attention, order, stability and predictability, all of which were needs “foreign” to Larry’s life. The court determined that J.W. would certainly suffer emotionally and likely physically, if she remained in Larry’s care. As such, the court terminated Larry’s parental rights. Larry appealed.

On appeal, Larry argued that the superior court mistakenly relied on testimony concerning FAS children, that it improperly equated J.W.’s neurobehavioral disorder with FAS, and that it consequently misunderstood the severity of J.W.’s condition. No doctor had actually diagnosed J.W. with FAS, but the superior court nonetheless relied on testimony concerning FAS children in its ruling. Larry argued that the court’s mistaken reliance on FAS constituted reversible error.

The Alaska Supreme Court disagreed. The court noted that, regardless of what mental condition the superior court relied upon, it correctly noted that J.W. had a brain impairment requiring special consideration for her education, social expectations, and general health. The findings showed that J.W. faced a myriad of dangers beyond her diagnosed disorders, including emotional and physical harm from Larry’s alcohol use and frequent absence. These findings, along with J.W.’s diagnoses, demonstrated that Larry significantly lacked an understanding of the overall care needs for J.W. Larry failed to comprehend and attend to J.W.’s primary physical and emotional needs, and therefore he could not be deemed capable of attending to her special needs. Accordingly, the court determined that the superior court correctly used its discretion in terminating Larry’s parental rights.

The court held that any erroneous attribution of J.W.’s current mental state to FAS was harmless error because the lower court nonetheless relied on analysis of brain impairment and on Larry’s demonstrated inability to tend to that.
court gave Father’s testimony more weight than it did Mother’s.

On appeal, Mother argued that the trial court abused its discretion when it changed the custody order based on virtually no evidence against her. Mother had presented nearly the same evidence against Father as he did against her, but the trial court still changed the custody order. Mother argued that the lower court improperly weighed certain factors over others without a rational basis for doing so. The Supreme Court of South Dakota agreed, holding that the trial court abused its discretion by placing too much weight on certain factors.

In particular, although Father maintained a dedication to his faith for many years, Mother had maintained a dedication to her own faith. A court may take religious affiliation into account, but cannot place one party’s dedication over another. In addition, although Mother made negative remarks about Father in front of their child, Father did the same with regard to Mother. The court held that one parent’s attempts to alienate the other parent cannot be weighed over the other, unless the alienation is extreme.

Lastly, the court held that the trial judge erred in concluding that Father was more capable of providing for their child’s basic needs. Father had owed $5000 in child support and medical bills. The court found that the trial court abused its discretion by concluding that Father’s consistent failure to pay child support, and his failure to pay more than $150 per month, was “not a serious concern.”

**Dependency / Termination of Parental Rights**


In 2003, California enacted a statute which permitted probate guardians to seek to terminate parental rights upon a showing, by clear and convincing evidence, that a child had been in their custody for more than two years, would benefit from being adopted by them, and adoption would be in her best interest. (CA Probate Code, §1516.5.)

In February 2004, the legal guardians of Ann Marie S. filed a petition under §1516.5 to terminate the rights of Ann’s natural mother. Ann had been in the custody of the guardians for five years. She had a parent-child relationship with her guardians, but no relationship with her mother. Mother, who had a long history of heroin addiction and criminality, was not in a position to take custody of the minor and could not say when she could do so. Mother was not seeking to terminate the guardianship; she merely wanted to visit the minor. The trial court freed Ann from the mother’s custody and control. Ann’s father having consented earlier to the termination of his rights, the order left Ann eligible for adoption.

The mother appealed, claiming that the statute was unconstitutional on its face as a violation of due process because it terminated parental rights without a current finding of unfitness. The Court of Appeal affirmed, and the California Supreme Court granted review.

The Northern California Association of Counsel for Children (NCACC), an affiliate of the National Association of Counsel for Children, filed a brief on behalf of itself and Legal Services for Children as amici curiae urging that the interest of Ann’s natural mother was not entitled to the heightened protections of the due process clause because it could not be deemed a “fundamental” interest deeply rooted in this nation’s history and traditions. The protected interest was the parents’ interest in the care, custody, and control of their children. Ann’s mother was not seeking custody or termination of the guardianship; she merely sought visitation. Thus, the statute passed constitutional muster under decisions upholding the termination of parental rights upon a best interests showing, including *Quilloin v. Walcott* (1978) 434 U.S. 246, 98 S.Ct. 549 and *Lehr v. Robertson* (1983) 463 U.S. 248, 103 S.Ct. 2985. Curiously, NCACC’s brief, authored by Donna Furth, was the only amicus brief filed on behalf of the child, and the only brief that made this argument.

The affiliate is therefore pleased to report that the California Supreme Court issued a unanimous decision in March 2009 holding that best interests showing was sufficient where the parent was not seeking to protect his or her fundamental interest in child custody. “Section 1516.5 applies to parents whose custody rights have been suspended during a probate guardianship. A termination proceeding under this statute occurs only when the parent has failed to exercise any custodial responsibility for a two-year period... In this context, it would make little sense to require a showing that the parent is currently unfit. As guardianship continues for an extended period, the child develops an interest in a stable, continuing placement, and the guardian acquires a recognized interest in the care and custody of the child. Section 1516.5 appropriately requires the court to balance all the familial interests in deciding what is best for the child.”

**Amicus Curiae Update**


The NACC filed a brief in the *In re McBride* case before the Michigan Supreme Court. The firm Honigman, Miller, Schwartz and Cohn in Detroit, Michigan authored the brief on behalf of the NACC.

The trial court terminated the rights of Ronald McBride, an incarcerated parent, without providing him with his statutory and constitutional right to counsel. McBride, who was incarcerated throughout the child...
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.

When he appeared at the hearing, he
violated McBride's constitutional
and statutory rights by denying him
court-appointed counsel but held that
the error was harmless. In the dissent,
Judge Gleicher argued that the denial
of counsel in child protective proceed-
ings should not be governed by the
harmless error standard and instead
constituted structural error requiring
automatic reversal.

The Michigan Supreme ordered
 oral argument upon application and
 supplemental briefing to address what
 standard should be used to deter-
mine the remedy when a trial court
deprees an indigent parent the right
to court appointed counsel at a termina-
tion of parental rights hearing.

The amicus brief argues that the
denial of counsel in child protective
proceedings constitutes structural
error requiring automatic reversal.

Thank you to Lara Phillips and
Stephanie Douglas from Honigman,
Miller, Schwartz and Cohn for their
outstanding work. The brief is
available on the NACC website at
www.nacchildlaw.org/?page=Amicus_Curiae.

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.

Since the previous Guardian update, Congress finalized the FY09 appropriations, from early March ’09 to the end of September ’09, the President released his federal budget proposal for FY 2010 and Congress adopted its budget for FY 2010.

Economic Recovery Package

On Friday, February 13, 2009, the House and Senate completed action on the $800 billion economic recovery package, the American Recovery and Reinvestment Act, and sent it to the President, who signed it into law on Tuesday, February 17. The legislation includes many provisions that will help at-risk families and children, including:

• IDEA Special Education: $12.2 billion for formula grants to increase the federal share of special education costs and prevent these mandatory costs from forcing states to cut other areas of education.

• Title I Help for Disadvantaged Kids: $13 billion for grants to help disadvantaged kids in nearly every school district and more than half of all public schools reach high academic standards.

• Statewide Data Systems: $250 million for competitive grants to states to design and develop data systems that analyze individual student data to find ways to improve student achievement, providing teachers and administrators with effective tools.

• Education for Homeless Children and Youth: $70 million for formula grants to states to provide services to homeless children including meals and transportation when high unemployment and home foreclosures have created an influx of homeless kids.

• Improving Teacher Quality: $300 million, including $200 million for competitive grants to school districts and states to provide financial incentives for teachers and principals who raise student achievement and close the achievement gaps in high-need schools and

$100 million for competitive grants to states to address teacher shortages and modernize the teaching workforce.

• Child Care Development Block Grant: $2 billion to provide child care services for an additional 300,000 children in low-income families while their parents go to work. Today only one out of seven eligible children receives care.

• Head Start and Early Head Start: $2.1 billion to provide comprehensive development services to help children succeed in school. Funds are distributed based on need. Only about half of all eligible preschoolers and less than 3 percent of eligible infants and toddlers participate in Head Start.

• Community Health Centers: $2 billion to increase the number of uninsured Americans who receive quality healthcare and renovate clinics and make health information technology improvements. More than 400 applications submitted earlier this year for new
or expanded CHC sites remain unfunded.

- **Rental Assistance:** $2 billion for full-year payments to owners receiving Section 8 project-based rental assistance.

- **Neighborhood Stabilization:** $2 billion to help communities purchase and rehabilitate foreclosed, vacant properties in order to create more affordable housing and reduce neighborhood blight.

- **Homeless Assistance Grants:** $1.5 billion for the Emergency Shelter Grant program to provide short term rental assistance, housing relocation, and stabilization services for families during the economic crisis. Funds are distributed by formula.

- **Supplemental Nutrition Assistance:** $19.9 billion to provide a 13% increase in nutrition assistance to modest-income families and to lift restrictions that limit the amount of time individuals can receive food stamps.

- **School Lunch Program:** $100 million to provide schools with assistance in purchasing equipment with priority for low-income schools.

- **Emergency Food Assistance Program:** $150 million to purchase commodities for food banks to refill emptying shelves.

- **Emergency Food and Shelter:** $100 million to help local community organizations provide food, shelter, and support services to the nation’s hungry, homeless, and people in economic crisis including one-month utility payments to prevent service cut-off and one-month rent or mortgage assistance to prevent evictions or help people leave shelters. Funds are distributed by formula based on unemployment and poverty rates.

- **Increase Eligibility for the Refundable Portion of Child Credit.** The bill would increase the eligibility for the refundable child tax credit in 2009 and 2010. For 2008, the child tax credit is refundable to the extent of 15 percent of the taxpayer’s earned income in excess of $8,500. The bill would reduce this floor for 2009 and 2010 to $3,000. This proposal is estimated to cost $14.830 billion over 10 years.

- **Temporary Assistance for Needy Families Contingency Fund:** The bill creates through FY 2010 a capped, temporary TANF Emergency Contingency Fund to provide states with relief during this recession. This provision is estimated to cost $2.418 billion.

- **Extension of TANF Supplemental Grants.** Through FY 2010, the bill provides additional assistance to qualifying states with high population growth and/or increased poverty at the same amount awarded in FY 2009. This provision is estimated to cost $319 million.

- **Child Support Enforcement.** The bill repeals cuts to child support enforcement funding through September 30, 2010. This provision is estimated to cost $1 billion.

- **Temporary Federal Medical Assistance Percentage (FMAP) Increase.** The bill increases FMAP funding for a 27-month period beginning 10/1/2008 through 12/31/2010, with an across-the-board increase to all states of 6.2% and a similar increase for territories. A bonus structure (in addition to the across-the-board increase) provides an additional decrease in State financial obligations for Medicaid based on increases in the State’s unemployment rate. States will also be required to maintain effort on eligibility. The estimated cost of these provisions is $86.6 billion.

- **Extension of Moratoria on Medicaid Regulations.** The bill extends moratoria on Medicaid regulations for targeted case management, provider taxes, and school-based administration and transportation services through June 30, 2009. The bill also adds a moratorium on the Medicaid regulation for hospital outpatient services through June 30, 2009. The provision includes a Sense of Congress that the Secretary of HHS should not promulgate regulations concerning payments to public providers, graduate medical education, and rehabilitative services. These provisions are estimated to cost $105 million.

- **Extension of Transitional Medical Assistance (TMA).** The bill extends TMA beyond the current expiration date of June 30, 2009, to December 31, 2010. This provision is estimated to cost $1.3 billion.

**SCHIP Reauthorized; Implementation of Proposed SCHIP Directive Halted**

On 2/4/09, the House agreed to the Senate-passed version of H.R. 2, State Children’s Health Insurance Program (SCHIP) Reauthorization by a vote of 280-135. Later that afternoon, President Obama signed the bill into law. This legislation reauthorizes and improves SCHIP SCHIP was created in 1997 to provide health care coverage for children in modest-income families that earn too much for Medicaid, but not enough to afford private insurance. Over the last ten years, it has proven to be a successful and cost-effective program for providing health care.

President Obama has also rescinded the August 17, 2007 SCHIP directive, which would cap coverage of children at 250% of poverty and effectively prohibit “income disregards.” This directive would clearly have had a negative impact the coverage of children in a number of states. In fact, some states would have been forced to roll-back coverage, others would have covered children without federal support (thereby precluding other investments in kids), and others have already foregone expansions passed by their states waiting to see whether this directive would go into effect in August.

**Fiscal Year 2009 Appropriations and FY 2010 Budget**

On 2/25/09, the House passed H.R. 1105, the FY 2009 Omnibus Appropriations Act, and the Senate passed the bill on 3/10/09. The next day, President Obama signed the bill into law, finishing the appropriations process for fiscal year 2009. Funding levels were largely “split the difference” levels between the House and Senate FY 09 appropriations bills considered last year, and funding levels for most programs were not significantly different from FY 2008 levels.
In late February, President Obama submitted his first budget proposal (for FY 2010) to Congress. The budget included funding for most current programs that benefit court-involved children and families, as well as new initiatives in education (including early childhood education), health care and home visitation (see below). The House and Senate passed the final Congressional Budget Resolution for FY 2010 (S. Con. Res. 13) on April 29. Congress will soon begin work on the FY10 appropriations bills.

Voluntary Home Visiting Legislation
On 1/14/09, Sens. Bond and Murray introduced S. 244, the Education Begins at Home Act, which would authorize $500 million in new (discretionary) 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 version of the legislation, H.R. 2205, was introduced on 4/30/09 by Representatives Danny Davis and Todd Platts. Last year, the bill was favorably voted out of the House Education and Labor Committee, and the bill was discharged from the House Committee on Armed Services (to which the bill had also been referred), but no House floor action or Senate Committee action occurred. In this session of Congress, no action has yet been scheduled on the legislation.

Meanwhile, President Obama included in his FY 2010 Budget proposal a new (capped entitlement) federal formula grant to states of $8.6 billion over 10 years, for evidence-based voluntary home visitation. This proposal may be included as a part of health care reform legislation expected to move through the Senate Finance Committee and House Energy and Commerce Committee in June.

Child Safety in Boot Camps and other Private Residential Programs
H.R. 911, the Stop Child Abuse in Residential Programs for Teens Act of 2009, was voted out of House Education and Labor Committee on 2/11/09, and was adopted (under suspension of the rules) by the full House of Representatives by a vote of 295-102 on 2/23/09; a similar bill had passed on the floor of the House on 6/25/08, but was never enacted. The legislation sets minimum standards for boot camps and other private residential programs as well as civil penalties for violation of those standards, and provides for federal oversight of such programs, including mandates that complaints of child abuse/neglect in the programs be investigated.

Gangs Legislation
On 1/6/09, Senators Feinstein and Hatch reintroduced the latest version of their “gangs bill” as S. 132. 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. Companion legislation in the House, H.R. 1022, was introduced on 2/12/09 by Reps. Schiff and Bono Mack.

On 2/13/09, the Chairman of the House Judiciary Subcommittee on Crime, Rep. Bobby Scott, introduced the Youth PROMISE Act, H.R. 1064, along with Rep. Castle and several other cosponsors. The bill would support a variety of proven-effective prevention and intervention approaches to reduce youth involvement in gangs and violent crime. The Senate companion legislation, S. 435, was introduced on 2/13/09 by Senators Casey and Snowe.

No House or Senate Judiciary Committee markup of any of these bills has been scheduled.

Juvenile Justice Reauthorization Bills
On 3/24/2009, S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act, was introduced by Senators Patrick Leahy, Herb Kohl, and Arlen Specter. The Senate Judiciary Committee is expected to consider the bill in June, but no House companion bill has been introduced yet. On 3/16/2009, Rep. Bobby Scott (Chairman of the House Judiciary Subcommittee on Crime) introduced a simple reauthorization bill (H.R. 1514) for the Juvenile Accountability Block Grants (JABG) program; no markup has been scheduled yet, and no Senate companion bill has been introduced at this time.

New Federal Leadership in 2009
In Congress, the House and Senate top leadership remain intact, with Senator Reid as Majority Leader and Senator McConnell as Minority Leader, and Speaker Pelosi, and Representative Boehner as Minority Leader, and Representative Boehner as Minority Leader in the House. Senate membership includes several new faces, with the Democratic caucus including 59 votes (up from 51), including two Independents who continue to caucus with the Democrats. The Republican caucus will have 40 votes (down from 49). One Senate race (Minnesota) remains unresolved at this time. The House Democratic Caucus also picked up a number of additional seats.


The Child Welfare Law Specialist Certification Update

by Maureen Martin, NACC Staff Attorney for Certification

Child Welfare Attorney Specialization is a program of the NACC whereby the NACC certifies qualified attorneys as Child Welfare Law Specialists (CWLS). Attorneys receive the CWLS credential from the NACC by showing their proficiency in child welfare law through a comprehensive child welfare law competency process. For more information, please visit: www.NACCchildlaw.org, or contact Maureen Martin at Martin.Maureen@tchden.org or 303-864-5321.

NACC Child Welfare Attorney Certification Open in 10 Jurisdictions
The NACC is currently open in ten jurisdictions: California, Connecticut, the District of Columbia, Iowa, Michigan, New Hampshire, New Mexico, North Carolina, Tennessee and Utah. Interested in bringing Child Welfare Law Specialization to your state? Contact Maureen at Martin.Maureen@tchden.org.

2009 NACC Child Welfare Attorney Certification Exam
This spring NACC staff administered the Certification Exam to 135 attorneys in six jurisdictions: California, Connecticut, the District of Columbia, Iowa, North Carolina, and Tennessee. The new Child Welfare Law Specialists will be announced in June 2009 and will be publicly acknowledged at the NACC Annual Conference Banquet Luncheon on Friday, August 21, 2009 in Brooklyn, New York.

Red Book Training – Brooklyn, NY – August 19, 2009
Don’t miss the NACC Red Book Training! Whether you are a new child welfare attorney, an experienced attorney wanting an update, or anticipate taking the NACC Certification Exam, this is the course for you. Please see the NACC Conference information in this issue of The Guardian for more information and registration for the Red Book Training.

The NACC Red Book Training is a 1-day Child Welfare Law and Practice survey course. The course follows the Red Book (Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases) covering the major competency areas of dependency practice and prepares you for the NACC Child Welfare Attorney Certification Exam. The course fee of $200 includes your own copy of the Red Book.

NACC Child Welfare Law Attorney Specialty Certification

Child Welfare Attorney Specialization is a program of the National Association of Counsel for Children (NACC) whereby the NACC certifies qualified attorneys as Child Welfare Law Specialists (CWLS). Attorneys receive the CWLS credential from the NACC by showing their proficiency in child welfare law through a comprehensive child welfare law competency process.

For more information on Child Welfare Law Attorney Specialty Certification, contact the NACC.
Call toll-free: 1-888-828-NACC
Visit our website: www.NACCchildlaw.org
Or email: advocate@NACCchildlaw.org
**The Annual National Moot Court Competition in Child Welfare and Adoption Law**

The National Center for Adoption Law and Policy at Capital University Law School in Columbus, Ohio held its annual National Moot Court Competition in Child Welfare and Adoption Law March 13–14, 2009. This year’s topic was Interstate Placement: Challenges to Timely Permanency.

Sixteen law schools from across the nation were represented in the competition. The National Champions for 2009 are Christen Steimle, Danielle Ravencraft, and Brad Gibson from Northern Kentucky University – Salmon P. Chase College of Law.

Gerard Glynn, NACC Board Member, represented the NACC as a judge in the final round of the competition. The NACC was a sponsor of the event.

**News**

**NACC 2009 Outstanding Legal Advocacy Award.** Nominations for the 2009 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, 13123 E. 16th Ave., B390, Aurora, CO 80045. The deadline has been extended to June 15, 2009.

**NACC 2009 Law Student Essay Competition.** The NACC is accepting essays for the 2009 Law Student Essay Competition. The winning essay will be published in the 2009 Children’s Law Manual, and the winner will be given $1,000, a one-year NACC membership, and a scholarship to the 2009 conference in Brooklyn, NY. Essays will be evaluated on the importance of the topic to advancing the legal interests of children, persuasiveness, and quality of research and writing. Essays should be submitted electronically to Kellogg.Aanne@tchden.org. The deadline is June 1, 2009.

**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 on a variety of children's law issues. To join, send an e-mail to advocate@NACCchildlaw.org, and request to be added.

**NACC Child Welfare Law Attorney Certification is now open in the following ten jurisdictions:** California, Connecticut, District of Columbia, Iowa, Michigan, New Hampshire, New Mexico, North Carolina, Tennessee, and Utah. For more information on applying in one of these states, contact the NACC or visit: www.naccchildlaw.org.

**Conferences & Training**

**May through December, 2009:**

**NACC’s Texas Training Series – The Abuse and Neglect Case: A Practitioner’s Guide.** This one-day training focuses on the needs of Respondent Parents’ Counsel, Attorneys ad litem, and other practitioners who work in the area of child abuse and neglect. The training will benefit attorneys of all experience levels, and will provide a multidisciplinary overview of an abuse and neglect case from its inception through final orders and appeal.

The training has been approved for 8.25 credit hours including 1.25 ethics. Total cost is $18 to cover lunch and breaks. The training is sponsored and underwritten by the Texas Supreme Court Permanent Commission for Children Youth & Families through a grant from the Court Improvement Program.

For more information and to register, visit: www.NACCchildlaw.org.

**July 30, 2009:**

**How to Effectively Represent Child Victims in Criminal Cases,** presented by the American Bar Association Criminal Justice Section Child Victims Committee. Thursday, July 30, 2009, 3:00–5:00 pm at the Swissotel Chicago, IL. For more information, visit www.abanet.org. To register, send email to slwenger@hotmail.com.

**August 19-22, 2009:**


**Publications**


**Hidden in Plain Sight: The Tragedy of Children’s Rights From Ben Franklin to Lionel Tate,** by Barbara Bennett Woodhouse (2008).

**The Dependency Quick Guide (Dogbook).** The California Administrative Office of the Courts Center for Families, Children, and the Courts has recently developed a new reference manual for attorneys representing parents and children in juvenile dependency proceedings. The guide is divided into three major parts: Hearings, Fact Sheets, and Summaries of Seminal Cases. It is designed to provide guidance and short answers to common problems that attorneys face. Available online at: www.courtpage.ca.gov.

**If It Were Easy, Anybody Could Do It: The Specialized Practice of...**
Juvenile and Family Law, the 2008 edition of the NACC Children’s Law Manual Series is now available for purchase. The Manual is a compilation of articles authored by presenters and produced in conjunction with the conference. To order, call 888.828. NACC, use the Publications Order Form in this issue, or order online at www.NACCchildlaw.org.

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.

Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect and Dependency Cases (The Red Book). Please see the ad in this issue or contact Bradford Publishing at 800.446.2831, or www.bradfordpublishing.com. NACC members receive a 20% discount.

Where Are All the Children? Increasing Youth Participation in Dependency Proceedings, by Erik Pitchal. This article considers the absence of foster children from juvenile court cases that decide their future and present a framework for thinking about how to increase their engagement. This article is available at: epitchal.googlepages.com/prof.ereiks.pitchal.


Rethinking the Privilege Against Self-Incrimination in Child Abuse Dependency Proceedings: Might Parents Be Their Own Worst Witnesses?, by William Wesley Patton. 11 U. C. Davis J. of Juv. L. & Policy 101-149. This article analyzes parent’s and children’s Fifth Amendment privilege against self-incrimination in relation to state immunity statutes and the dangers in relying upon those immunity statutes to protect those witnesses from criminal prosecution.

To Err Is Human, To Forgive, Often Unjust: Harmless Error Analysis in Child Abuse Dependency Proceedings, by William Wesley Patton. 13 U. C. Davis J. of Juv. L. & Policy 99-141. This article discusses recent developments in harmless error analysis in child dependency proceedings. It provides a rebuttal to those who have been arguing, both in federal and state courts, that the Chapman beyond a reasonable doubt harmless error standard should be lowered in dependency proceedings to harmless by clear and convincing evidence.


Jobs
Note: Full Job Descriptions are available at: www.NACCchildlaw.org/networking.

Social Worker / Child Advocacy Specialist, Maryland Legal Aid, Baltimore, MD. Qualifications: The position of social worker/child advocacy specialist requires a minimum of a bachelor’s degree with course emphasis or field experience in child welfare or family counseling. A master’s degree in social work is preferred. Good written and oral communication skills are required. Under Maryland state law, an individual may not be called a “social worker” unless the person is licensed as a social worker by the state of Maryland. That licensing will determine whether or not the employee’s title is “social worker” or “child advocacy specialist.”

The position is full-time and will remain open until filled. To apply or for more information, go to www.mdlab.org/Employment.

Director, Bureau of Milwaukee Child Welfare, Wisconsin Department of Children and Families, Milwaukee, WI. This position is responsible for managing the state-operated Bureau of Milwaukee Child Welfare (BMCW), which is responsible for delivery of public child welfare services in Milwaukee County. The BMCW service structure includes state employees responsible for Access, Initial Assessment, and quality assurance activities and contracts with community based organizations for Safety Services, Ongoing Case Management, Kinship Care, Out-of-Home Care and Adoption. The responsibilities include management of over 150 state staff as well as overseeing more than 400 contract staff and managing a child welfare

NACC’s 2009 Texas Training Series

Sponsored by the Texas Supreme Court Permanent Judicial Commission for Children, Youth & Families, and the Court Improvement Program.

The Abuse and Neglect Case: A Practitioner’s Guide

This training has been pre-approved for 8.25 participatory hours, including 1.25 ethics hours.

Visit our website for more information and to register for this important training.

www.NACCchildlaw.org
program budget of over $100 million dollars.

The BMCW Director provides leadership and direction for all facets of child welfare services in Milwaukee County, including maintaining working relationships with the court system and other stakeholders of the child welfare service system and building community awareness of child welfare issues and support for child welfare services. The BMCW Director serves as a public spokesperson working with state legislators, county officials and the media to address comments and concerns about child welfare services. The BMCW Director also works with the Partnership Council, a statutorily-required advisory committee to the BMCW. The position fulfills a number of roles including community liaison, change agent, facilitator, conflict resolution expert and program manager.

For more information, contact Dionne Groth at 414.220.7066 or dionne.groth@wisconsin.gov.

Executive Director, Florida’s Children First, Inc, Coral Springs, FL. Florida’s premier children’s legal advocacy organization seeks full-time Executive Director. Responsible to a 23 member non-profit Board. The successful applicant will be responsible for: public policy development, legislative and executive branch advocacy, legal advocacy, development and delivery of training programs, fund development, media relations, budget development and implementation, and day-to-day management of a 4½ member staff.

The successful applicant will be passionate about children’s rights, have a proven track record in child welfare, education or juvenile justice matters with at least 5 years of experience in advocacy work. A law degree is preferred.

Send resume and cover letter with salary requirements to: management@floridaschildrenfirst.org or fax to 954.796.0862. Deadline for consideration will be June 15, 2009.

Children’s Attorney, Legal Aid Center of Southern Nevada, Las Vegas, NV. Legal Aid Center of Southern Nevada, Inc., a non-profit, public interest law firm is seeking a staff attorney for its Children’s Attorney Project (CAP). Candidate will provide direct representation to abused and neglected children currently in foster care. Prefer a minimum of two years litigation experience in public interest law and good legal writing and communication skills. Qualified candidates will possess an active/good standing Bar license from any United States jurisdiction. Salary depends upon experience with an excellent benefits package provided.

Please send cover letter, resume and a brief writing sample to:

Terry Bratton, Administrator, Legal Aid Center of Southern Nevada
800 South Eighth Street, Las Vegas, Nevada 89101
Facsimile: 702.366.0569
E-mail: info@lacsn.org

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 NACC and we will put you in touch with an affiliate in your area or work with you to form one. Affiliate development materials and a current list of affiliates with contact information are available on our website at www.NACCchildlaw.org/about/affiliates.html.

New York
The New York affiliate is now forming! For more information, please contact Tamara Steckler at tasteckler@legal-aid.org or 212.577.3502.

Tennessee
The Tennessee affiliate is now forming! For more information, please contact Jeanne “Rickey” Schuller at Jeanne.Schuller@state.tn.us or 615.741.9183.

Northern California
Training/Affiliate Meeting – Fathers are Parties, Too: Engaging and Representing Fathers in Juvenile Dependency Cases, May 19, 2009, 5:30 to 9:00 pm, San Francisco, CA. For training information, please contact Albert Youn at albert.youn@jud.ca.gov, or 415.865.8993.

For general information on NCACC, please contact Jan Sherwood at jgsherwood@mac.com or 415.924.0585.
Thank You
The National Association of Counsel for Children thanks the following donors and members for their generosity.

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