The NACC envisions a justice system that protects the rights of children by ensuring their voices are heard through the assistance of well-trained, well-resourced, independent lawyers.

Treat Teens As Teens: California’s Growing Recognition of the Special Circumstances Surrounding Pregnant and Parenting Teenagers in the Dependency System

It seems that no matter how much society progresses or advances, the topic of pregnant and parenting teens always remains one wrought with stigma and disdain. Many people strongly feel that teenagers are still children learning to care for themselves — how then, would they be able to care for yet another human being, especially a helpless baby? That being said, if we believe that teenagers are not ready to become parents, it should necessarily follow that society has a job to provide appropriate resources and support for those teens who have already had children or are pregnant. This is even more true of parenting and pregnant teenagers in the dependency system, who often lack the strong parental or community support that would assist them in navigating through this difficult time.

The passage of a trio of bills in the California legislature in 2014 and 2015 — AB 2668, AB 260 and SB 68 — acknowledge the need to view pregnant and parenting teens in the dependency system as a unique class of individuals who deserve tailored resources, support, and treatment that acknowledge their age and background. However, in order for teen parents to obtain the support and assistance they need, it is vital that their counsel be well-versed both in these new laws as well as all the available services and resources that their clients are now entitled to receive.

Legislative History and Background

In 2011, shortly after the California legislature passed AB 12, which extended foster care services to non-minor dependents (known as NMDs) through the age of 21, the Children’s Data Network began conducting a study to determine the potential impact AB 12 might have on pregnancy among NMD foster youth.¹ In the course of this study, the investigators discovered that while teen birth rates had been declining nationally over the previous 25 years,² approximately 35.2% of California female foster youth had given birth at least once by their 21st birthday.³ Further, approximately two-thirds of all first births occurred after age 18,⁴ clearly showing that a significant portion of parenting teens in the foster care system were NMD foster youth. In addition, a study in 2013 — also conducted by the Children’s Data Network in collaboration with the Conrad N. Hilton Foundation — revealed that in Los Angeles County, more than one in every four teen mothers with prior CPS involvement had children who were referred to

². Id. at pg. 3
³. Id. at pg. 6.
⁴. Id. at pg. 10.
CPS for abuse or neglect before they reached the age of 5. In other words, children born to teen mothers who were victims of maltreatment were abused and neglected at twice the rate of other children.

Both of these studies provided tremendous impetus for the trio of bills mentioned above. The drafters of AB 2668 summarized the studies as clearly demonstrating a need “to provide young parents in foster care with adequate support and services to overcome the challenges they face, and to preserve and strengthen the family unit.” The drafters further acknowledged that while AB 12 provided many NMD parents with the independence they need to begin a life outside of foster care, it also left them with a lack of support and guidance with caring for their own children. AB 2668, therefore, provided for the creation of California Welfare and Institutions Code section 16501.26, which gave the option to NMD parents in independent living situations of having a responsible adult as a parent mentor. The NMD parent and parent mentor would then create a comprehensive parenting support plan, which addressed basic requirements and needs for the child, ranging from feeding and clothing to sleeping arrangements and transportation to and from child care, medical appointments, or school. By creating this plan, the NMD parent would be able to still have autonomy over her child’s upbringing, but would have the guidance and resources necessary to build a supportive and safe home environment for herself and her child.

With AB 260, the focus shifted from supporting teen parents during pregnancy and initial parenting to decreasing and limiting the possibilities of removal of children from teen parents’ care. AB 260 specifically emphasized the need to acknowledge the unique circumstances facing pregnant and parenting youth in the dependency system and helping them to create strong families, instead of creating additional obstacles or burdens in their path. To that effect, AB 260 created California Welfare and Institutions Code section 361.8, which stated that a child could not be considered to be at risk of abuse or neglect solely based on a minor or NMD parent’s placement history, past behaviors, or health or mental health diagnoses prior to pregnancy. In addition, if a child welfare agency requested involuntary foster care placement or termination of parental rights for such children, the agency had the burden of proof to show that it made reasonable efforts to provide services to prevent removal, and that such efforts were unsuccessful. Furthermore, efforts to prevent removal had to utilize available resources of the minor or NMD parent’s “extended family, social services agencies, caregivers, and other available service providers.” AB 260 also expanded the scope of California Welfare and Institutions Code 16002.5 by placing more responsibility on foster care providers to help support and preserve teen parenting family units, including referring them to preventative services to address any of the child’s safety or health concerns, and helping to prevent, to the extent possible, the filing of dependency petitions for teen parents’ children.

Finally, SB 68 reexamined the type and length of reunification services that should be made available to minor and NMD parents after their children have been removed from their care.

11. Id.
14. Id.
15. Id.
16. Id.
SB 68 looked at both case law and statutory law that recognized the unique barriers faced by certain classes of parents — namely incarcerated or institutionalized parents, or parents in residential substance abuse treatment programs. The authors of SB 68 recognized that minor and NMD parents often faced similar barriers that justified their being treated as similarly situated to these other classes of parents. SB 68 expanded the scope of California Welfare and Institutions Code 361.5, which allowed for extended services from 18 months to 24 months, to include minor and NMD parents who were in the process of transitioning into an independent living arrangement. While the minor and NMD parents held the burden of proving significant progress towards establishing a safe home for their children and substantial compliance with their case plans, SB 68 now provided these parents with the ability to regain custody of their children when extenuating circumstances and barriers did not allow for return at the 18 month date. All three bills clearly demonstrate the importance of recognizing pregnant and parenting teens in the dependency system as a separate, unique class apart from other parents, and treating them as such. In so doing, the bills have provided an avenue not only for more successful parenting by these teens, but also a chance to stop the cycle of multi-generational involvement in CPS and the dependency system.

Practitioner’s Tips and Suggestions

The impact of the new law created by these bills lies primarily in its proper enforcement and implementation by the various players in the dependency system, particularly the minor or NMD parent’s attorney. I have been privileged to witness firsthand how an attorney’s successful argument of these new laws can change the outcome of a case, and would like to offer a few thoughts on how minor’s counsel can use these laws to help their clients during pregnant and early parenting years.

1. Ensure that your client knows the resources available during her pregnancy and early parenting: Many young parents are completely unaware that they have the option of being assigned a parenting mentor and developing a parenting plan. With the passage of AB 2668, this is especially important for NMDs who are moving to independent living programs and are often in the most need of guidance and support during their transition. Having a parenting plan may also be a key component in reducing the possibility of removal. In addition, AB 260 places more responsibility in the hands of foster care providers to make sure these young families stay safe and together. It is vital to make sure that the foster care provider is willing to provide a supportive environment for your client and her child.

2. If a 300 petition is filed, determine if there is a valid basis for the petition: AB 260 has made it clear that a minor or NMD’s past history before pregnancy is not proof, on its own, that their child is at risk of abuse or neglect. Further, AB 260 requires the social worker to take numerous preventative steps and utilize a number of resources before filing a petition. Therefore, it is very important to ensure that all appropriate measures have been taken to prevent removal, and that the worker is not simply using your client’s past against him or her.

3. If a removal occurs and reunification services begin, check to see if the plan is sufficiently tailored to your client’s particular situation: Make sure the reunification plan accounts for your client’s young age, living situation, transportation issues, and other possible circumstances that may pose limitations on your client’s participation in reunification services. It is equally important to remember that AB 12 participants are also bound by a set of requirements they must meet regarding employment and educational opportunities; therefore, be sure the reunification plan does not pose difficulties with your client’s AB 12 compliance.

4. Keep tabs on how reunification is going and whether you can justify extending services out to 24 months: Even though SB 68 provides the opportunity for extended reunification services, don’t let this become an excuse for your client to make lackluster reunification efforts. Remember that SB 68 places the burden of proof on the minor or NMD parent to show consistent progress towards building a safe home, as well as substantial compliance with his or her reunification plan.

5. Overall, do not be afraid to speak up if it feels like your client is not being treated appropriately given her age and history: It is up to you to ensure that the court and the agency remember that your client is also a child in the dependency system and is a young teen, not an adult.
Obstacles Beyond the Law: Lessons Learned from Colorado Expungement Laws

WRITTEN BY
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There is a pervasive myth in our society that once a youth reaches eighteen, any juvenile record simply disappears. To the contrary, the majority of states do not automatically seal or expunge juvenile records. Additionally, some states require a series of complicated steps to seal or expunge, including notification of numerous parties, before a court will even consider a petition to expunge. Youth with juvenile records face consequences long after their juvenile sentence ends: they have trouble finding work, applying for higher education, funding their education, obtaining housing, getting a driver’s license, and much more, far into adulthood.

Laws in many states attempt to alleviate “collateral consequences” of juvenile justice involvement by utilizing sealing or expunging provisions for juvenile records. Despite these efforts, many justice-involved youth continue to face “collateral consequences.”

The Juvenile Law Center (JLC) 2014 report, Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement, examines the importance of juvenile record confidentiality, the limited availability of expungement and sealing, and the procedural barriers to sealing or expunging a record even when one is eligible. The report provided important policy recommendations, including automatic expungement and schools taking measures to limit access to information they receive from courts. Just this last year, the JLC released another report on the long-term collateral consequences of juvenile records, Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records.

Colorado laws contain many policies admonished by the JLC in its 2014 expungement report card — earning Colorado the second worst rating in the nation — because of its numerous restrictions on expungement.

The Colorado Juvenile Defender Center (CJDC) is a nonprofit organization dedicated to ensuring excellence in juvenile defense and advocacy and justice for all children and youth in Colorado. CJDC seeks to protect the rights and improve the treatment of children and youth in the juvenile justice system through public advocacy, community organizing, non-partisan research, and policy development.

See e.g., Colo. Rev. Stat. § 19-1-106.


2. See e.g., Colo. Rev. Stat. § 19-1-106.


ABOUT THE AUTHORS

Dafna Gozani is a staff attorney with Bay Area Legal Aid’s Youth Justice Project providing holistic civil legal services for youth. Dafna advocates for youth in the areas of public benefits, education, and housing, focusing on youth with disabilities and involvement with the juvenile court system. Prior to joining Bay Area Legal Aid, Dafna was Colorado Juvenile Defender Center’s Employment Opportunity Legal Corps Equal Justice Works (EJW) AmeriCorps Legal Fellow. Through that fellowship, Dafna co-authored “Obstacles Beyond the Law” on her work providing post-dispositional legal assistance to individuals with a barrier to success due to involvement in the juvenile justice system. Prior to joining CJDC, Dafna was a Bridge to Practice Fellow for Rocky Mountain Immigrant Advocacy Network. Dafna has a Juris Doctorate from Loyola Law School at Los Angeles and a B.A. in Philosophy and Political Science from the University of Colorado at Boulder. During law school, Dafna was involved in numerous public interest projects, including co-chairing Loyola’s Public Interest Law Journal, and participating in Loyola’s Human Rights Clinic.

Elise Logemann is a juvenile defense attorney in Denver, Colorado, where she represents indigent juveniles through a contract with Alternate Defense Counsel and works for the Colorado Juvenile Defender Center, where she supervises the Believe in Youth expungement and deregistration project, assists in managing the Access to Juvenile Justice: The Rural and Tribal Southwest project, and plans CJDC’s
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In the last year and a half CJDC has been providing free expungement legal services to indigent youth and former youth. Currently, CJDC’s youngest expungement client is twelve and the oldest is thirty-three. Some clients come from urban areas and others from rural communities. One commonality of CJDC clients is that their lives are negatively affected by their juvenile records. Some clients have previously attempted to expunge their records and found it too confusing while others gave up after being told that it would cost them over a thousand dollars to retain representation. Many clients are eligible to expunge eventually, but are stuck in a holding pattern watching opportunities slip away because they are subject to a waiting period under the current law. Often times clients never attempted to expunge their record because they thought they were ineligible or they never tried because they were unaware of the expungement process.

Through direct legal services, CJDC has explored the obstacles posed by current sealing and expungement laws and the challenges involved in reforming those laws. These issues are not limited to Colorado and should be areas of consideration for advocates across the nation attempting to mitigate the “collateral consequences” of juvenile records. The following article provides a set of questions for advocates to use in evaluating their records. The following article provides a set of questions for advocates to use in evaluating their records. The following article provides a set of questions for advocates to use in evaluating their records. The following article provides a set of questions for advocates to use in evaluating their records.

A. Does your state law require the destruction of records?

Juvenile expungement in Colorado is a misnomer. Expungement generally means the physical destruction of records. Colorado law actually prohibits the destruction of records and in fact Colorado only seals a juvenile’s records when they have been “expunged.” Sealing records alone can be ineffective because the file may still be physically or electronically accessible and therefore can interfere with the youth’s future plans.

Sealing a record also has different meaning in different states, and a “sealed” record can still be made available to certain parties. For example, in Colorado, after expungement, basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile shall not be open to the public, but shall be available to a district attorney, local law enforcement agency, the department of human services, the state judicial department, and the victim. Therefore it is important to know whether records are sealed or destroyed in your state, and if they are sealed, who will have access to them after expungement or sealing is completed.

B. What courts in your state handle juvenile cases? Are the records retained by all of the courts that handle juvenile cases expungeable under your current expungement laws?

In Colorado, juvenile courts generally have jurisdiction over juvenile delinquency cases. However, for certain petty offenses, county courts have concurrent jurisdiction over juveniles. While the charges tried in county court and juvenile court may be the same, they result in very different consequences for the youth. It has become a commonly accepted practice to treat dispositions from Colorado county court cases involving juveniles in the same manner as adult convictions. This results in juvenile records becoming publicly available on background checks and deprives children of the right to expunge these records. Additionally, children — particularly indigent children — are often not represented by counsel in county court, and plead guilty without being advised of the consequences. While these may be considered petty offenses, the consequences are anything but petty.

Additionally, children in Colorado charged with violating municipal ordinances have their cases heard by municipal courts. Children are occasionally granted sentences of community service and fines in conjunction with probation. The expungement forms provided by the Colorado
For example, involvement in the juvenile justice system results in a variety of consequences impacting a child’s education. Such involvement may trigger court notification to the school regarding the youth’s arrest or case and may result in school disciplinary action through expulsion and suspension hearings. The school retains these school disciplinary records and records of information sent by the prosecution or court to the school. While a court order may require court and police records to be sealed, it is rare for a court to order a school to seal school records. Some states place limitations on how information is sent. For example, the justice system may require such records to be separate from a child’s permanent school record. Other states do not limit how the school may use such information.

Colorado, unfortunately, does not protect children from the “collateral consequences” of juvenile delinquency records that are included in school records. While Colorado’s expungement law states that a juvenile court may order expunged “any records in the custody of any other agency or official,” which can be interpreted to include school records, CJDC’s efforts to expunge school records have been met with resistance. Unfortunately, the existence of such records undermines the court’s expungement of juvenile delinquency records and may result in a barrier to higher education.

For example, CJDC client Maria*, a seventeen-year-old honor student, successfully completed a deferred sentence, which was supervised by probation, for drug possession. Maria’s dream college requires her to disclose whether she has been on probation. Thus, while she has no adjudication or conviction on her record, her interaction with juvenile justice system still creates obstacles to her success.

Driving records from the Department of Motor Vehicles are also impacted by involvement in the juvenile justice system. In Colorado, a number of juvenile adjudications result in a child losing their driver’s license or being prevented from obtaining a driver’s license. CJDC client Jerome* stole a book of CDs from a parked car when he was fifteen. He was prosecuted in municipal court and given community service, fines, and restitution, all of which he paid. However, the financial penalty continued long after Jerome completed his sentence. When he went to get his driver’s license he was required to pay a “reinstatement fee,” even though he never even held a driver’s license, because of his juvenile adjudication. Additionally, he was required to pay an additional insurance fee, even though his adjudication had nothing to do with his safety as a driver. Jerome was also turned down for several jobs that required a clean driving record, because while his court record was kept confidential, there was no similar provision requiring the DMV not to disclose his juvenile adjudication. These are just two examples of records that may not be held within the “juvenile justice” system, and therefore may not be included as expungable records under state law. Records excluded from expungement statute, whether by an act of unconscious omission or a deliberate exclusion from...
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the law, are records that have a serious impact on children and their families. Expungement reform efforts need to consider not only how to improve the sealing and expungement of records inside the juvenile justice system, but also how to include those agencies and institutions outside the system that possess related records.

D. Does your state’s expungement law include arrest records?

Arrest records, not just court records, may negatively impact youth. Children are often unaware that they need to expunge an arrest-only charge.

In Colorado, the expungement statute has a specific provision addressing arrest-only charges that do not result in adjudications. While the existence of a provision contemplating arrest-only charges is positive, the fact that a child has to wait an entire year before they can expunge that record creates an issue. Youth transitioning into adulthood may lose the opportunity to pursue education and employment opportunities as a result of an arrest record that did not result in charges.

Arrest charges may also cause issues in cases where a child is ultimately adjudicated on lesser charges. For example, CJDC client Micah was fifteen when he successfully completed all the terms of his deferred sentence for a minor charge in municipal court. Micah tried to enlist in the Marines and was required to obtain and submit his arrest record. Although Micah was never charged with a felony, the arrest record showed a felony arrest. The recruiter told Micah that he was not eligible because of the “felony.”

Additionally, where a state has a policy to keep juvenile arrest records confidential, advocates should examine if confidentiality is based on the child’s age or if the arrest will be kept confidential if the child turns eighteen and is arrested in connection with a juvenile case. For example, CJDC client Xavier was granted a juvenile probation sentence for an assault case. After he turned eighteen, he was arrested for a probation violation. While his juvenile case record did not appear on his Colorado Bureau of Investigation background check, the arrest for his probation violation did appear, and referenced his juvenile case. Thus, the juvenile case was made available to the public.

It is important that records from all stages of proceedings are included in the expungement process. Advocates should examine their state statutes to determine whether records of all contacts with the juvenile justice system, including arrests that do not result in charges, are eligible for expungement.

E. Does your state’s law include private databases?

Those with juvenile records may encounter additional obstacles when the public has access to juvenile records because there are generally no limits on how private individuals may re-transmit that information.

The JLC report “Futures Interrupted” found that 90% of agencies that provide access to criminal and juvenile records consider themselves exempt from the regulations governing the Fair Credit Reporting Act. The JLC report highlights how such companies often have inaccurate outdated information, which can create havoc on a child’s future.

Such records may continue to exist in the private arena after public records have been changed, sealed, or expunged. For example, companies that collect information and sell it for profit may choose to publish juvenile arrest or court records. These companies may continue to share this information even after the records have been expunged or sealed. Whether purposefully or simply, it occurs because the private database is not regularly updated. Thus, while a state background check may not reveal an arrest or an adjudication, a background conducted through a private company may still release that information to potential employers, education institutions, and landlords.

F. Does your state’s law prevent individuals from inquiring about expunged or sealed records?

Juvenile records may be an obstacle to employment, housing, or education even after expungement or sealing because many states do not prohibit landlords, employers, schools, and other individuals from asking about those records.

If a youth pursues education beyond high school, a juvenile record may again become an obstacle. Some applications ask about juvenile adjudications, including those that have been sealed or expunged. Additionally, some college applications ask about school disciplinary violations, resulting in disclosure of the incident to the educational institution even if the case was subsequently sealed or expunged.

Questions on housing, employment, and other applications also often ask youth if they have ever been arrested, have ever been on probation, or even specifically whether they have expunged records, which leads youth to either disclose information they are not required to disclose or give up on opportunities because they do not want to release information from sealed records.

13. Id.
States like Illinois and Oregon protect youth by explicitly stating that an applicant is not obligated to disclose expunged juvenile records.\textsuperscript{15} In Colorado, the legislature has afforded this protection to adults with sealed criminal records, stating explicitly that they are not required to disclose any information about a sealed record.\textsuperscript{16} However, Colorado’s juvenile expungement law does not have an explicit provision protecting expunged information. This creates problems for youth who believed that record expungement would not subject them to answering questions about their juvenile justice involvement.

Beyond ensuring that laws protect children from having to answer questions about expunged records, children must be educated to ensure that they understand their rights where they are afforded protection.

**Conclusion**

As a society we want our youth to become successful, productive, and contributing members in our communities. Giving children a clean slate is in the community’s and child’s best interest. Advocates need to adapt their reform approaches to an age where most records are digital and the disclosure of sensitive information can have massive, often irreparable, and devastating implications for a child’s future. This requires us to look beyond the juvenile justice system when reforming juvenile sealing and expungement laws to ensure that these statutes truly provide children with a chance for a better future.


**Board of Directors Re-Election**

Under the NACC’s by-laws, members of the Board of Directors are elected and re-elected by the membership. In this election cycle, there are two board members up for re-election:

**H.D. Kirkpatrick, Ph.D.**

H.D. (‘De’) Kirkpatrick, Ph.D. is a licensed psychologist and is a board certified specialist in forensic psychology. He is currently serving as president of the NACC Board of Directors and has been involved with the NACC for twenty years. He lives in North Carolina and is married to Katie Holliday.

**Stephanie Ledesma, MA, JD, CWLS**

Professor Ledesma is nationally recognized as a dynamic and inspired speaker with a focus on child abuse and neglect issues, disproportionality in the child welfare system and on issues involving human dignities and systemic changes. Professor Ledesma is also a professor of law, the director of Experiential Learning at Thurgood Marshall School of Law; a national consultant and a national educator in the areas of trial and advocacy skills and in the art of persuasion through purposeful communications.

Professor Ledesma has been invited to speak, provide direct training, and develop professional training curricula for multiple agencies and entities throughout the United States. She also serves a faculty and leader for trainings offered by the National Institute of Trial Advocacy, and a board member and training facilitator for the National Association of Counsel for Children.

Professor Ledesma is an appointed member of the State Bar of Texas Committee on Child Abuse and Neglect; an appointed member of the Collaborative Counsel of the Supreme Court of Texas Judicial Commission for Children, Youth and Families; an invited member of the ABA Steering Committee of the National Parent Representation Project; a member of the State Bar College; a member of the Pro Bono College of Texas; a frequent lecturer at Continuing Legal Education programs across the nation; and a national Trial Skills trainer with the National Institute of Trial Advocacy.

**Ballots close December 31, 2016.** Members may vote online at naccchildlaw.org/surveys/?id=2016_Board_of_Directors_Election
The NACC Training Program: Partnering to Spread Expertise Across Networks

by Betsy Fordyce, JD, CWLS, NACC Staff Attorney

Child welfare law is perhaps one of the most challenging specialties in the American legal system. Attorneys must develop extensive knowledge and skill in federal, state, and local law, as well as countless non-legal subjects. For many of us practitioners, this was not the stuff of law school. The practice of child welfare law requires attorneys to develop their own expertise, all the while interacting with children, youth, and families in high-conflict, emotion-packed environments.

It is in this arena that NACC hopes to collaborate with you and hopefully share the learning burden. Many of you engage tirelessly in your own communities to ensure that your legal colleagues, judges, and social case workers receive the training and support necessary to reach high standards of practice. The Training Program at the NACC is dedicated to bringing our expertise and experience to partner with you in these efforts.

For over thirty years, the NACC Training Program has delivered first-rate learning opportunities to child welfare professionals across the country. We are the only organization approved by the American Bar Association to certify attorneys as Child Welfare Law Specialists. We pool our knowledge and resources from child welfare and juvenile justice experts across the country. We build our curricula on our knowledge and resources from child welfare and juvenile justice experts across the country. We are the only organization approved by the American Bar Association to certify attorneys as Child Welfare Law Specialists. We pool our knowledge and resources from child welfare and juvenile justice experts across the country. We build our curricula on

Let us introduce you to some of our core offerings:

- **The Red Book: Child Welfare Law and Practice**: This is the NACC’s signature training, the “bread and butter” of the work. The Red Book Training follows the NACC publication, *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Custody Proceedings*. It explores the intersection of federal law and state practice. The training has been delivered across the country and is consistently praised for providing valuable information on a broad array of pertinent topics in child welfare law. While the Red Book Training is often utilized by states as a primer for attorneys preparing to take the certification examination, it can also be used as a child welfare law overview. **ONE DAY; INTERMEDIATE LEVEL.***

- **Child Welfare Law 101: A Primer for Attorneys New to Dependency and Neglect**: This introductory training begins with a brief historical account of child welfare law, and then systematically guides the practitioner through state, federal, and constitutional rules governing child welfare proceedings. From the fundamental rights of parties to adoption proceedings, *Child Welfare Law 101* is a “what every practitioner needs to know” style course chock full of relevant and practical material. **ONE DAY; BASIC LEVEL.***

- **The Red Book II: Advanced Practice for Child Welfare Law Specialists**: The Red Book II is an advanced practice training specifically designed for Child Welfare Law Specialists (CWLS) and attorneys with substantial experience in dependency law. This mastery-level training focuses on expert skills, such as motions and appellate practice, client-counseling, trauma-informed advocacy, out-of-court negotiation tactics, child development-focused advocacy, and litigation strategies for parent, agency, and children’s attorneys. **ONE DAY; EXPERT LEVEL.***

- **Trial Skills for Lawyers Practicing Child Welfare Law**: This hands-on training provides one to three days of trial skills practice. Experts from the child welfare legal community work with attorneys in small groups to develop practical skills, like delivering effective opening and closing statements, witness examinations, introduction of exhibits, impeachment, objections, and building effective trial notebooks. Video recording and live peer review is also available. **ONE TO THREE DAYS; BASIC, INTERMEDIATE, OR EXPERT LEVELS AVAILABLE.***

The NACC Training Program can also design trainings by combining a number of the modules below:

- Motions Practice
- Child Welfare Appellate Law and Practice
- Expert Testimony (designed to help non-attorney professionals prepare to be expert witnesses)
- The Letter of the Law: ADA, ICWA, ASFA and MEPA
- Child Development Fundamentals
- The Indian Child Welfare Act
- Interviewing, Counseling, and Examining Children
- Ethical Challenges for Child Welfare Attorneys

Most importantly, we want to work with you – to meet your specific needs in your jurisdictions. NACC will work to custom-design curricula and provide unique trainings to support the professionals in your communities.

We are here to help you meet the challenges of child welfare law. We would love to speak with you about local opportunities to spread expertise!
Interested in Writing for the NACC?

At the NACC, we realize that we don’t have all the answers, and believe that difficult and complex problems require multidisciplinary solutions. If you’re a passionate professional with an interesting perspective on a topic relevant to child welfare and juvenile justice, we’d love to hear from you. Please fill out the online form and give us an idea of what you’d like to write about, or contact us at Admin@NACCchildlaw.org.

In an effort to promote and advance the rights of children and families, the National Association of Counsel for Children publishes both a weekly blog and a monthly law journal. *Children, Families, and the Law*, also known as the NACC Child Law Blog, challenges readers to re-examine how America’s legal and social service systems impact the lives of children and families. The blog tackles important subjects such as child abuse and neglect, delinquency and family conflict, health care, education, and poverty with the goal of building a better world in which courts, agencies, families, and communities work together to improve the lives of children.

The Guardian, our monthly law journal, offers an in-depth look at issues affecting practitioners in the fields of child welfare, family law, and juvenile justice. The publication is sent exclusively to NACC members and includes child welfare policy updates, tips and advice from leading experts in child welfare law, upcoming trainings, job openings, case reviews, and more.

If your answer involves family and friends, then it is a great time to support those that are experiencing difficulties at home. It is the holiday season. Black Friday, Cyber Monday, Giving Tuesday are all hitting your pocketbook; give *yourself* a gift – make a donation to NACC before December 30, 2016 for a chance to win. *Half the net donation proceeds will go to the winner on a Visa gift card!*

Your generous support will help ensure that the NACC continues to be a resource in the child welfare community. Our training, programs and technical assistance would not be possible without the contributions of advocates and allies like you. Every contribution is needed and will be put to good use. Here are just a few programs and activities that NACC provides:

- 600+ Child Welfare Law Specialists – identifying the best and brightest
- Over 4,000 dedicated professionals receive critical updates, support, and information vital to their practice
- Published the only national treatise on child welfare law (*The Red Book*) – 3rd edition 2016 added 40% more content (1100 pages)
- Hosts the largest national annual conference of its kind for child welfare law

Enter the contest by visiting NACCchildlaw.tapkat.org/WinAShoppingSpree for details, to donate and your chance to win!

As always, regular donations can be made to NACC via our website.
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- Katie Icenhauser-Ramirez
- Anna Imbeau
- Diana Knapp
- Deborah Liverence
- Jessica Long
- Susan Mulligan
- Betsy Musselman
- Otha “Curtis” Nelson
- James Henry Norman
- Leslie K. Odom
- James Ottesen
- Louise Paglen
- Robin Sax
- Nicole Schmidt
- Tamera Shanker

Thank you for your continued membership to NACC.

Interested in upgrading your membership? Check out our different membership levels here or contact us at Membership@NACCchildlaw.org for more details.

**New Career Center**

Looking for a job? Posting an opening? Search through opportunities nationwide and advertise to over 3,900 members including 600+ Child Welfare Law Specialists through our new NACC Child Law Career Center!

The NACC Child Law Career Center also offers professional services to help you build and manage your career for maximum potential for success. Find resources for reference checking, resume writing, career coaching and much more online at: http://careers.naccchildlaw.org/
Happy Holidays from the NACC

Greetings NACC members,

On behalf of the entire NACC staff and Board of Directors, I extend our warmest wishes to you, your family, and loved ones this holiday season. This year is truly a time for reflection and I want to take a moment to share with you how much we value our partnership with each and every member of our NACC community.

Your NACC membership and support are central not only to our organization, but also critical to the children, youth and families touched by the child welfare system across the country. It is the advocacy, skill, passion, and tireless efforts of our members that truly make a difference to the lives of countless children and families every single day. Thank you for your contributions, dedication, expertise, and support that help us continue to serve as a valuable resource for you in these efforts.

NACC is committed to supporting you in achieving high standards of excellence in your daily work and we are here to assist you all year long through customized trainings, amicus curiae assistance, a myriad of resources, specialized certification, and legal and policy updates. Please know that you can reach out to us any time of the year. We always love hearing from you.

Happy Holidays!

H.D. Kirkpatrick, PhD, ABPP
President, NACC Board of Directors
Child Welfare Law Certification

by Daniel Trujillo, Certification Director

Red Book Third Edition and Certification Exam

The third edition of the Red Book was just released in August and we have plenty of applicants asking the same question — when will the exam change to the third edition? The 2016 exam will be on the second edition. The 2017 exam year will be split so we encourage anyone with only a second edition to sit this year or early 2017.

Pending Vote in South Carolina

We anticipate approval of the Child Welfare Law Specialist (CWLS) program by the SC Supreme Court Commission on CLE & Specialization at their meeting this month. If you practice in South Carolina and would like to be one of your state’s first CWLS, stay tuned for that notice and start working on your application!

Why I Became a CWLS

by Cherrilynne Thomas

I am currently an assistant district attorney with the Orleans Parish District Attorney’s Office. I almost exclusively handle child welfare cases. I have also been employed as counsel for the Louisiana Department of Children and Family Services (DCFS). Most of my legal career has consisted of law practice in the area of child welfare. I have enjoyed facilitating many sessions in the area of child welfare. As I share my knowledge of child welfare law with other professionals, the Child Welfare Law Specialist certification will demonstrate my commitment to being among the most prepared and knowledgeable in the field. The certification further demonstrates the specialized expertise shared by practitioners in the field of child welfare.

About Cherrilynne

Cherrilynne Washington Thomas is a graduate of Loyola University with a Bachelor of Business Administration in Marketing, and Southern University Law Center. Ms. Thomas has been a practicing attorney for over twenty years, most of those years practicing in the area of child welfare. Ms. Thomas is currently an assistant district attorney with the Orleans Parish District Attorney’s Office, Juvenile Division and a Certified Child Welfare Law Specialist by the National Association of Counsel for Children.

In addition to her employment in the legal community, Ms. Thomas has also served as a former president of the Louis A. Martinet Legal Society, the past co-chairperson of the Children’s Law Committee of the Louisiana State Bar Association and a board member of Milestone Academy in New Orleans. During her tenure on the Children’s Law Committee, the video “Louisiana Foster Care: An Introduction” was produced. The video is designed to give children and adults alike an explanation of the participants in the foster care system and what their responsibilities are. Ms. Thomas is also a trained mediator and has been a facilitator/presenter for several organizations, including the State of Louisiana, Department of Children and Family Services, the Louisiana State Bar Association and the Anti-Defamation League.

First Mississippi CWLS

Congratulations to Kelly Williams, a solo practitioner out of Madison who has become her state’s first Child Welfare Law Specialist!

Congratulations to All Our New CWLS

Rebekah Bradley, JD, CWLS
Tennessee Court of Appeals
Knoxville, TN

Christopher Hempfling, JD, CWLS
Hempfling & Associates Law Firm, LLC
Covington, GA

Mark Semien, JD, CWLS
Mental Health Advocacy/Child Advocacy Program
Knoxville, TN

Claire Terrebonne, JD, CWLS
Jackson County CASA
Baton Rouge, LA

Pamela Tripp, JD, CWLS
Pamela Rae Tripp, Attorney at Law
Burbank, CA

Cynthia Widitora, JD, CWLS
Children’s Law Center of California
Monterey Park, CA

NACC the Guardian December 2016

www.NACCchildlaw.org
Abstracts are Open!


The conference will be held August 10–12, 2017 at the Roosevelt New Orleans with our pre-conference sessions held on August 9, 2017. As always, presenters will receive complimentary registration to the conference.

We seek conference sessions which will expand attendees’ understanding of child law and provide them with practical tools to help protect the rights of the children, youth, and families they serve.

Visit our website for more information about the conference, suggested topic areas, selection process, or to submit an abstract.

Please contact us at Conference@NACCchildlaw.org with any questions or comments. We are looking forward to another exciting conference!

Early Registration is Open, Too!

You can now register for the 40th National Child Welfare, Juvenile and Family Law Conference in New Orleans! Visit our conference page to register.

www.TheRooseveltNewOrleans.com

Can’t wait to…

See ya in NOLA
Amicus Curiae Brief Summary – Reasonable Efforts and Parents with Disabilities

The National Association of Counsel for Children filed an amicus curiae brief regarding In re Hicks/Brown before the Michigan Supreme Court. The primary issue before the Court is whether it should grant leave to determine whether the Court of Appeals correctly vacated an order terminating Ms. Brown’s parental rights where the DHHS failed to provide services that accommodated Ms. Brown’s known intellectual disability. The brief argues that the Michigan Supreme Court should not grant leave to determine this issue and if it does, the Court should affirm the decision of the Court of Appeals in its finding that the DHHS failed to make reasonable efforts to reunify the family. The National Association of Counsel for Children filed the amicus curiae brief with the goal of ensuring that the best interests of the children of Michigan are served and protected by the court system when making decisions that profoundly affect their lives.

The brief argues that the interests of a parent and child are reciprocal, rather than antithetical. In the context of termination of parental rights proceedings, the child’s and parent’s rights are often pitted against one another, but those rights are actually closely interrelated. Until parental unfitness has been proven, both the child and parent share a vital interest in preventing an erroneous termination of this relationship. When a parent with a disability has not been provided properly tailored services to achieve reunification, the Court lacks the necessary information to make a finding of unfitness. Ending this fundamental relationship between a parent and child has damaging consequences for the child as well, so if the State is going to intervene in this relationship, it should do so only after it has complied with its obligation to provide properly tailored services unique to the parent’s individual needs.

Next, the brief argues that discrimination against individuals with disabilities in the child welfare system is both a state-wide and nation-wide issue. According to the brief, Ms. Brown’s situation is not unique as parents with disabilities are overly, and often inappropriately, referred to child welfare services. Once they become involved, they are permanently separated at disproportionately high rates. The brief argues that the intersection of disability and poverty creates an enabling environment for discrimination. The brief points out that families with a parent with a disability are twice as likely to be living in poverty as families with nondisabled parents. A combination of heightened intrusion into family life necessitated by poverty and heightened parenting standards for parents with a disability ultimately contribute to discrimination toward parents with disabilities within the child welfare system.

Next, the brief argues that parents with intellectual disabilities are generally presumed unfit and incompetent to raise their child. Even among parents with disabilities, parents with intellectual or psychiatric disabilities face even greater discrimination due to negative stereotypes, failure to conduct appropriate assessments, and failure to provide necessary services. When parents with intellectual disabilities, such as Ms. Brown, enter the child welfare system, courts are often ill-equipped to handle the case due to issues such as limited understanding and large dockets that may prevent the court from making a full inquiry into the parent’s needs.

Lastly, the brief argues that the Americans with Disabilities Act (ADA) applies to termination proceedings, and if the DHHS had notice of the disability, failure to provide appropriate services

2. Id. at 23.
3. Id. at 3.
4. Id.
7. Id. at 6.
10. See Representing Parents with Disabilities, at 28.
is grounds for reversing the termination decision. According to the U.S. Department of Justice (DOJ) and U.S. Department of Health and Human Services (USDHHS), state court proceedings such as termination of parental rights proceedings are state activities for the purposes of the ADA. Further, the DOJ and USDHHS have confirmed that an ADA claim may be raised in child welfare proceedings.14

In order for DHHS to accommodate a disability, the agency must first be put on notice, which need not be expressly provided.15 Here, DHHS was given sufficient notice of Ms. Brown's disability as reflected in the numerous interactions with DHHS workers since the case opened. Once on notice, the DHHS had an affirmative duty to provide reasonable accommodations to the disabled parent prior to terminating her parental rights.16

The brief argues that Ms. Brown was not provided with services that addressed her specific needs due to her intellectual disability.17 According to the Appellee’s supplemental brief, Ms. Brown’s caseworker waited until a month before the termination proceeding to explore developmental disability services for Ms. Brown.18 The brief argues that termination of parental rights without first providing services to accommodate Ms. Brown’s intellectual disability is grounds for reversal because termination was premature and therefore not in the child’s best interest.19 This effectively prevented the DHHS from obtaining the requisite clear and convincing evidence to support termination.20

The brief concludes by requesting that the Court deny leave, or if granted, that the Court affirm the decision of the Court of Appeals. The interests of children involved in the child welfare system in Michigan are best served by a system that accommodates their parents’ intellectual disabilities when providing services. Without the availability of said accommodation, children are at great risk of losing their fundamental relationship with their birth parents prematurely. While not all parents will be successful, a termination of parental rights before providing these services deprives the parent of the opportunity to demonstrate parental fitness and deprives the child of the ability to maintain a relationship with his or her natural parent.21

16. See Mary Ellen C v. Arizona Dep't of Econ Sec, 971 P2d 1046 (Ariz App 1999).
17. Brief of Amicus Curiae, supra at 20.
18. Appellee’s Supplemental Brief, at 33-34.
20. Id at 21.
21. Id.

Farewell, Carolyn and Betsy

It is with the warmest of wishes that we announce the retirement of Carolyn Moershel. Carolyn has brought a wealth of business and non-profit experience to the NACC. Not only has Carolyn played an integral role to our organization over the last three years, but her quirky sense of humor and quick wit have kept us all smiling year-round. Her diligence, vision, and passion will be truly missed by the entire staff. Carolyn plans to spend her time on family, playing more music, and doing more art and we wish her all the best in those endeavors. Please join us in sending Carolyn off to retirement in good spirits.

Betsy Fordyce will be leaving us to serve as the Director of Youth Empowerment Programs at the Rocky Mountain Children’s Law Center in Denver, Colorado. Betsy’s skill, ambition, and ingenuity will be greatly missed by the NACC board and staff alike. Over the last year, Betsy has enhanced NACC’s training program bringing her expertise as an advocate, educator, and policy expert to develop a robust and comprehensive program that will continue to serve as an invaluable resource across the country. In her own words, Betsy is “excited to take all of the lessons learned and experiences gained from my time at NACC to my new position, guiding older youth in on-the-ground system change advocacy.” Farewell, Betsy. We wish you all of the best in your new chapter!
National Association of Counsel for Children

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NACC Mission
As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families

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