KidsCounsel®

November 2007

a newsletter for attorneys representing children in Connecticut

CCA October Seminar Presentation

Vision for the Juvenile Court

Remarks of Judge Christine Keller, Chief Administrative Judge for Juvenile Matters
(abbreviated)

It is an honor to be asked to speak today.

I recently received a copy of correspondence from the National Association of Counsel for Children, directed to the Chairman of the Legal Specialization Screening Committee of the Superior Court Rules Committee, which submitted an application for authority to certify lawyers in Connecticut as Specialists in Child Welfare Law. So, the process for certification authorized by the judges of the Superior Court, effective January 1, 2008, is underway.

It will be a rigorous process: the proposed requirements include substantial involvement in child welfare law for the past 3 years, educational experience in the form of CLE credits during the past 3 years, peer review by attorneys and at least one judge, the submission of a writing sample, and the passing of the NACC Child Welfare Law written competency examination. I think it's important that the Chief Child Protection Attorney encouraged the enactment of the specialty rule. I encourage all who qualify to attain certification. It can only serve to recognize the difficult and important nature of the work you all do and I hope that the legislature can be persuaded that the recognition that many of our attorneys are this accomplished should require, at the very least, an adequate rate of compensation. I promise to assist the Chief Child Protection Attorney in her continued efforts to attract and keep the best lawyers she can find, which obviously includes elevating your level of pay.

Now, we look forward to new challenges. The acting Chief Court Administrator, Judge Barbara Quinn, and I are working to implement some proposals recommended by a committee in 2006 to reduce the amount of time it takes to resolve appeals from termination of parental rights cases. These include speedier preparation of transcripts and limits on filing extensions. I think it's about time we enacted a juvenile statute that outlines exactly what the courts should do when a child alleged to be a delinquent or from a family with service needs is found incompetent to stand trial. Several years ago, Judge Michael Mack and a committee of experts worked very hard to draft proposed legislation which was not passed. It's time to look at this issue again, especially with the pending raising of the jurisdictional age.

This summer, I supervised the drafting of proposed revisions to the Practice Book rules to conform to new legislation and policies that have emerged since our last revision in 2002. These include amending the sections on permanency planning, appointment of counsel, and family with service needs petitions. I will be reconstituting a juvenile rules task force to vet these proposed revisions before submitting them to the Rules Committee.

A recently enacted federal law, the Child and Family Services Improvement Act of 2006, requires courts to consider the child's wishes in approving a permanency plan. At a minimum, the law, as interpreted by federal regulation, requires the child's attorney to consult with the child, in an age-appropriate manner, and ascertain the child's position on the plan. Judge Maria Kahn and Judge Ted Baldwin established a committee earlier this year to recommend a protocol or standing order to ensure that we are complying with federal directives.

The Branch is seeking to increase the number of child protection matters that participate in

(continued on page 6)

KidsCounsel®

Published by
Center for Children's Advocacy
University of Connecticut School of Law
65 Elizabeth Street, Hartford, CT 06105

www.kidscounsel.org
860-570-5327
editor: bberk@kidscounsel.org

Josh Michtom Joins CCA Staff

Josh Michtom has joined the Center for Children's Advocacy as a Staff Attorney for the Teen Legal Advocacy Project. Josh is working in Fairfield and New Haven Counties, providing on-site trainings, legal representation, and systemic advocacy for teenagers, with the goal of removing barriers to school attendance and graduation. Josh has set up a Teen Legal Advocacy Clinic at Harding High School in Bridgeport, and is working with residents and staff at youth shelters and detention centers throughout southwestern Connecticut.

Before joining CCA, Josh worked as a public defender in Cambridge, Mass. He received his law degree with honors from Boston University School of Law in 2004 and clerked for Justice Joseph Trainor of the Massachusetts Appeals Court. Josh is a 1998 honors graduate of New York University.

CCA would like to thank the children and youth who contributed artwork to this issue of KidsCounsel.

Advocating for your Limited English Proficient Client in School

Emily Breon, Esq. & Justin Taylor, CCA Legal Intern

Limited English Proficient Students (LEPs) often present with similar issues that advocates encounter when working on their behalf. We review below some of the challenges and suggestions for solution.

The Right to Attend School

In 1982, the U.S. Supreme Court ruled in *Plyler v. Doe* that undocumented children and young adults have the same right as U.S. citizens and permanent residents to attend school.

Schools are prohibited from inquiring about immigration status and may not require students to produce passports, visas, or other immigration paperwork as part of the enrollment process. A school district cannot require a student or parent to have a Social Security number.

Curriculum and Instruction

The Fifth Circuit case *Castaneda v. Pickard* established three criteria for programs that serve LEP students. These measures determine whether a school district serving LEP students offers a program that addresses the needs of these students. LEPs are entitled to an instructional program that includes the following characteristics:

- Based upon recognized, sound educational principles;
- Implemented with sufficient resources and staffed by appropriately prepared personnel; and
- Producing evidence that students are overcoming their language barrier.

The most typical instructional programs for LEPs are bilingual education and English as a Second Language (ESL). Bilingual education is a program that uses both English and the student's native language. English is to be used for more than half the time after the first year. ESL is an instructional program that uses only English as the instructional language. The goal of both instructional programs is to assist students in achieving English proficiency and mastery of subject matter content and higher order skills.

Connecticut requires that bilingual education be provided whenever a school has at least twenty students who speak the same language and whose dominant language is not English.[1] In schools with fewer than twenty students who fit that description, LEP students should be offered ESL.

Programs of bilingual education and ESL must provide students with comprehensible content—that is, the student must be able to understand the instruction that s/he receives in such subjects as math, social studies and science.

Placement in bilingual education or ESL requires the consent of the student's parent or legal guardian following a meeting at which school officials explain various language program options.[2]

Students are limited to thirty months in bilingual education.[3] Students who cannot meet the standard within thirty months are entitled to language transition support services (LTSS), which may include ESL, sheltered English programs, immersion, tutoring and homework assistance.[4] The student will no longer be eligible for these services after meeting the state standard. Unlike bilingual education, there are no time limits for ESL instruction.

LEPs have a right to programming even if they attend alternative schools. For example, in June 2007, the Philadelphia School District entered into a compliance agreement with the Office for Civil Rights concerning services to LEPs assigned to an alternative school. Under the agreement, the District will make sure that children assigned to disciplinary schools are evaluated to determine whether they need help learning English, and the disciplinary schools will provide programs for LEP students.

Evaluation and Assessment

Schools must annually assess whether LEPs are making sufficient linguistic and academic progress toward meeting the state English mastery standard.[5] Additionally, LEPs are required to participate in state standardized tests, such as the Connecticut Mastery Test (CMT) and the Connecticut Academic Performance Test (CAPT), but accommodations are available and should be provided where necessary.[6] However, students enrolled in a bilingual education or ESL program for 10 school months or less are exempted from taking the CMT and the CAPT.[7]

Equal Access to Special Programs and Opportunities

According to federal civil rights law, LEPs must be given equal access to specialized programs and opportunities, such as tutoring and after school programs, vocational-technical programs, special high school options, gifted/talented programs, and so forth. Where access to these programs involves admission criteria, schools must ensure that the

(continued on following page)

criteria do not discriminate on the basis of a student's English proficiency.

Once a student is admitted to a program, schools must make the accommodations that are necessary in order to ensure that the student can receive a level of benefit from the program that is comparable to that received by non-LEPs. These accommodations may include providing ESL instruction and making other necessary adaptations.

Communication with Families

Federal regulations require school districts to provide information about assessment, academic achievement and related issues to parents in their native language or in their preferred mode of communication. Thus, information about school programs, information on test results, consent forms, disciplinary notices, and other important school documents must be made available in multiple languages.

Schools have the legal obligation to ensure that activities involving parents are equally accessible to non-English-speaking families. Thus, for example, translators should be available at presentations concerning the school program, "back-to-school nights," report card conference days, meetings about school improvement plans, etc.

Working Toward Solutions

- Advocates for LEPs should acquaint themselves with enrollment laws, support families in their dealings with school districts, and seek outside help when necessary to get a child enrolled in school. Unfortunately, enrollment rules are often misunderstood and misapplied, particularly when it comes to requiring students to produce immigration paperwork. Advocates should be particularly vigilant to ensure that no student is denied access to a public school based on his or her immigration status.

- Advocates should find out how a school measures an LEP's yearly progress toward reaching English mastery criteria and check to see if the child is making progress. If not, ask for a meeting with school staff to determine how to implement more supports for the student. If the student is not making progress, request periodic meetings to determine whether the new interventions are effective.

- If a child has reached the thirty months of bilingual education and still needs language support, advocates should ensure that the child receives LTSS. If there is a concern that the student is not receiving enough through LTSS, advocate for additional services.

- Advocates should be alert to situations in which LEP students are underrepresented in special programs. Where this results from the failure to supply families with information about the programs in their native languages, advocates can insist that materials be translated and that interpreter services be provided at meetings.

- Advocates should also help families push for their child's right to participate in special programs, and if necessary, to receive additional supports and services within those programs. While there can be situations where a program is just beyond the reach of a particular student, even with language assistance, the law generally favors inclusion of LEPs, even if this means that additional services must be brought in.

- Advocates should encourage families to demand interpretation and translation services when they need them.

Resources

- The state's ESL/Bilingual Education Adviser, Bureau of Curriculum and Instruction, CT State Department of Education, 165 Capitol Avenue, P.O. Box 2219, Hartford, CT 06145, (860) 713-6750.

- The Office for Civil Rights (OCR) of the U.S. Department of Education, which enforces the rights of ELLs to adequate instructional services. The OCR office for Connecticut is located at 33 Arch Street, Suite 900, Boston, MA 02110-1491, (617) 289-0111.

(Footnotes)

[1] Conn. Gen. Stat.§ 10-17f(b).
[2] Conn. Gen. Stat.§ 17f(e).
[3] Conn. Gen. Stat.§ 10-17f(d).
[4] *Id.*
[5] Conn. Gen. Stat.§ 10-17f(c).
[6] "Bilingual/ESL Education – CMT and CAPT Exemption Information," http://www.sde.ct.gov/sde/cwp view.asp?A=2618&Q=320820.
[7] *Id.*

Educational Stability for Youth in Foster Care

Sarah Healy Eagan, Esq.

CCA plans to introduce legislation promoting educational stability for youth in foster care. As for all children, school is an integral part of the lives of foster youth, and educational success for foster children is vital to their successful transition to adulthood.

Foster Children Benefit from Educational Stability

Children in the child protection system have already been traumatized by being abused or neglected in their home environment. A foster child may be moved to a home outside of his immediate community and must start over in a new school, perhaps in the middle of the academic year. Not only has this child lost his parents and possibly his siblings, but he has lost friends, classmates, a favorite teacher, a coach, music lessons, anything he identified with in his former school. At a minimum, the state should afford this child an opportunity to remain in his home school district.

Frustration and Failure

Through our representation of children and youth committed to the care of DCF, CCA has worked with many youth for whom school became nothing but a continuing source of failure and frustration.

One fourteen year old client came into foster care telling us that his favorite class was history, that he wanted to try out for the football and baseball teams, and that he wanted to join the marines and play college football. Over the course of the next three years, he lived in nine different placements (including two shelters and an emergency foster home) and changed schools at least 8 times. After he failed the 10th grade, he described college as a "place he just can't see himself."

Research indicates that students (homeless or non-homeless) who frequently transfer schools suffer academically, psychologically, and socially. It takes a child four to six months to recover academically from each school transfer.[1] Children who change schools also need as few as 6 or as many as 18 months to regain a sense of equilibrium, security, and control.[2] These young people often find it difficult to make new friends and are more likely to experience alienation, withdrawal or discipline problems.[3]

Studies Confirm that Foster Children do not Perform as Well in School

Abused and neglected youth are particularly vulnerable to school failure, a fact compounded by the likelihood that they will suffer educational disruptions due to changing placements. Numerous studies have confirmed that foster children perform significantly worse in school than do children in the general population. The educational deficits of foster children are reflected in higher rates of grade retention; lower scores on standardized tests; and higher absenteeism, tardiness, truancy and dropout rates.[4] As indicated in a policy paper published by the National Conference of State Legislators, the poor academic performance of these children contributes to higher-than-average rates of homelessness, criminality, drug abuse, and unemployment among foster care "graduates."

Several states, including California, Delaware, New Hampshire, Florida, Virginia, Arkansas, Washington and Oregon have taken the lead in promoting educational stability for youth in foster care.

These states' reform efforts emphasize the importance of allowing youth to stay in their schools of origin whenever feasible.

Connecticut's foster children deserve an opportunity to experience educational success. Allowing youth to stay in their schools of origin will help children maintain important school-based relationships and promote greater academic achievement. CCA will continue to partner with child protection professionals and foster youth in the community to address this important issue with the legislature and the courts. Those interested may email Sarah Eagan at seagan@kidscounsel.org.

(Footnotes)

[1] Research compiled by Homes for the Homeless and the Institute for Children and Poverty, *Homeless in America: A Children's Story (Part One)* 10 (1999) at 12.

[2] Linda Jacobson, "Moving Targets," *Education Week* (April 4, 2001) reporting on findings of the National Association of School Psychologists.

[3] Russell Rumberger, et al., "The Educational Consequences of Mobility for California Students and Schools," *Pace Policy Brief* (January 1999).

[4] See, e.g., studies cited in the following reports: Claire van Wingarden, John Emerson and Dennis Ichikawa, *Education Issue Brief: Improving Special Education for Children with Disabilities in Foster Care* (Seattle: Casey Family Programs, 2002); Mason Burley and Mina Halpern, *Educational Attainment of Foster Youth: Achievement and GraduationOutcomes for Children in State Care* (Olympia, Wash.: Washington State Institute for Public Policy, 2001); Pamela Choice, et al., *Education for Foster Children: RemovingBarriers to Academic Success* (Berkeley, Calif.: Bay Area Social Services Consortium, 2001); *See also Educating Children In Foster Care,* by Steve Christian December 2003 National Conference of State Legislators, Children's Policy Initiative Publication.

Vision for the Juvenile Court: Remarks of Judge Christine Keller

(continued from page 1)

mediation. Recently, a training was held for mediators and the referral process for mediations will be centralized through Court Operations. I hope to promote the use of mediation at the earliest stages of cases, rather than wait until a termination of parental rights case is pending. I think mediation should be used earlier in cases we identify as difficult, especially to overcome obstacles to reunification efforts that seem needlessly presented by one or more of the parties.

Monday, October 1, the new Family with Service Needs law went into effect. I serve on the FWSN Advisory Board, which is charged with overseeing the implementation of the law. A number of issues have been raised, some of which the branch is trying to address immediately and some where we will have to wait and see how it all plays out. Right now, in the early stages, the probation officer and the family support centers, as well as DCF and any other community-based providers we can involve in the implementation process, will be assessing the family's needs and matching them with appropriate services. The schools are being asked to step up to the plate and try to address truancy and school defiant issues within the school FIRST, before they make court referrals. It is hoped that this more intensive, diversionary approach will vastly improve the outcomes for the affected families. If we are successful, it is hoped that very few FWSN petitions will need to be filed. I see a real opportunity here to coordinate all the efforts that are being made in each town into a vast network of options for troubled families including the youth services bureaus, the JRBs, the YM and YWCAs, the Boys and Girls Clubs, and providers of therapeutic interventions, medical care, youth employment and positive social activities.

There are items that still need to be addressed. We must be funded next year for more Family Support Centers so all juvenile districts are covered. Right now, only Waterbury, Hartford, New Haven and Bridgeport will have opened these centers, which are for servicing children and families assessed as high risk. We are hiring clinical care coordinators and educational advocates for FWSNs and delinquents, but we need to be funded for the full number of them we requested. DCF should be provided with funding to ensure there are FWSN liaisons assigned to all 12 juvenile districts. We need to create more beds in 45-day staff secure FWSN centers. Currently, there are only 6 beds for girls, located at St. Francis Home in New Haven.

Remember too, that in 2010, we estimate the FWSN caseload in every court will increase by a third, and we will need more probation officers and other related service providers.

The Branch also has presented some minor statutory proposals to the FWSN advisory board to clarify some of the provisions of the new law, including the procedures for review of permanency plans for committed FWSN children, and the process that should be followed before an adjudicated child deemed to be at imminent risk can be committed to DCF. We are also looking at a statutory change to insure the confidentiality of certain communications to service providers so they cannot be used as evidence against the child if a petition is ultimately filed and the matter goes to trial.

The branch is drafting policies for the handling of youth in crisis petitions pursuant to Section 46b-150f. I hope to have this policy mirror, as closely as it can, the statutorily-imposed FWSN procedures, since effective January 1, 2010, when the Raise the Age legislation goes into effect, youths in crisis will be 16 and 17-year-old children from families with service needs.

Some of the changes you can expect to see:

- Regional Youth Courts. Some of these will be housed in facilities separate from the existing juvenile courts in New Britain, Bridgeport, Torrington, Danbury, Waterbury, Norwalk, New Haven, Middletown and Willimantic. The other courts have room in their existing facilities for Regional Youth Courts.

- A substantial increase in the number of probation officers, some of whom will be transferred from adult probation and trained to specialize in the treatment of youth ages 16 and 17. In fact, a substantial increase in staff hirings in CSSD, DCF, the clerk's office, the office of the public defender and the state's attorneys office.

- An increase in the population of the detention centers.

- An increase in the number of youth committed to DCF for placement; but hopefully, a growth in therapeutic foster homes and group homes to absorb this increased need.

- More services for youth than are now provided for youthful offenders in adult courts. I know some of you often represent youthful offenders as guardians-ad-litem. These youth should, if proper funding is provided, have access to services currently offered to delinquent children. In an effort to gear up for 2010, CSSD is hiring youth probation officers and starting to create programs for youthful offenders in certain areas that will be moved to the juvenile division when the time comes.

- An increase in the congestion at the courthouses. The lack of parking and areas where you can consult with your clients is sorely lacking in many courthouses; I wish I could commit to carving out more space, but we will be hiring a great many more employees to implement the Raise the Age legislation.

Vision for the Juvenile Court

Things you may see:

- The greater use of bail to insure court appearances. Currently, the judge in a juvenile delinquency proceeding can set bail, it just is rarely done. This option is being explored as a means to prevent detention center overcrowding. I'm not convinced. I'd like to hear what you think. Do you think parents will bail their children out, or will this result in more of them being held in detention?

- Reconsideration of the transfer laws, possibly affecting what gets transferred and who gets to decide, as well as a narrowed definition of what constitutes a serious juvenile offense.

Some potential problems:

- Multiple Jurisdictions: Access. Motor vehicle offenses committed by youths are staying in adult court. This can, in some instances complicate access. The previously-convicted-as-an-adult youth, whose delinquency act may also constitute a violation of an adult probation. Should this simply be referred to the adult court for prosecution of the VOP? When would it be best to leave it in juvenile court and await the outcome before violating the adult probation? Multiple prosecutors and multiple public defenders regarding the same child will have to increase their lines of communication.

Let me finish by saying that we all know that adolescents' brains are not fully developed until they enter their twenties, so I believe this legislation is an admirable, humane and progressive step in improving the manner in which we address the problems of Connecticut's youth.

The Branch also is committed to continuing to analyze where our juvenile procedures or policies have a disproportionate impact on minorities and develop ways to avoid this. One approach is to insure that information be considered in a measured, objective and uniform fashion by the decision-makers. We continue to expand and revise our use of risk assessment tools. DCF's new approach to assessing the need for an order of temporary custody, SBD, or strategic-based decision-making, is a good example of avoiding unfair discrepancies based only on individual perceptions, misconceptions or bias.

I will conclude by thanking all of you for listening, and encouraging you to advise me of any problems or solutions you see as we implement the certification process, the new FWSN law and the Raise the Age law. Don't hesitate to write, call or email me or to make your concerns known to those who represent you and your clients' interests.

New DCF Policies in Effect

Over the last few months, DCF has revisited its policies regarding clothing needs for children in placement, and acceptance of educational neglect cases.

Clothing Needs for Children in Placement
36-55-255

This policy clarifies that the DCF clothing "voucher" is limited to $300.00 and is issued to provide children with adequate clothing at the time of the child's initial placement. The voucher amount may be increased if there is a demonstrated and immediate need.

Foster parents are expected to purchase or provide clothing for youth in their care via their monthly reimbursement funds.

The policy provides that social workers are responsible for assessing their client's clothing needs at the time of the youth's placement as well as throughout the duration of the youth's commitment to DCF. If a child in care requires clothing that exceeds their placement reimbursement funds, the social worker shall obtain approval for the use of flex funds to purchase necessary clothing.

Educational Neglect
33-7-7

This policy clarifies that DCF *may* accept an educational neglect report if a child who is enrolled in school has a pattern of unexcused absences (*see* Conn. Gen. Stat. § 10-184, defining truancy and habitual truancy) or if the parent/guardian fails or refuses to meet the child's educational needs. DCF will consider the child's age (7-15) and the parent's actions or inactions in deciding whether to accept such a referral. The school must submit a written report detailing the child's absenteeism and all efforts made to address the problem with the family.

Dennis W.

Children's SSI: What are the Criteria for Eligibility?

What is SSI for children, and what are the eligibility criteria? How old must a child be to receive SSI? To receive disability benefits, must a child be permanently disabled? The Center's Medical Legal Partnership Project offers some basic guidance to clinicians and advocates who work with disabled children from low income families.

SSI for Children: Exploring Mental Disabilities

Alexis Williams, MLPP Intern

Supplemental Security Income (SSI) is a need-based, federal benefit for disabled individuals.

When does a child qualify for SSI?

Individuals under the age of eighteen are considered to be "children" for purposes of SSI eligibility. The standard used to determine whether a child qualifies for SSI is different from that used for an adult. A child is considered disabled, for purposes of SSI eligibility, when he or she has a medically determinable physical or mental impairment, resulting in marked & severe functional limitations, and it can be expected to result in death or it has lasted, or can be expected to last, for a continuous period of at least 12 months.

Any child with substantial gainful employment (full time work) does not qualify for SSI.

How does the Social Security Administration determine whether a child has an impairment or combination of impairments?

To qualify for SSI, a child's impairment or combination of impairments must either:

1. meet the listings published by the Social Security Administration (SSA) in the federal regulations;

2. medically equal one of the SSA listings; or

3. functionally equal one of the SSA listings.

The SSA considers the combined effect of all medically determinable impairments, even those that may not be severe when taken alone.

Will a child receive retroactive benefits if the Social Security Administration determines that the child has been disabled for some time?

Yes, a child will receive retroactive benefits. However, large payments covering more than six months will be placed in a dedicated account. The funds may only be used for those expenses primarily related to the child's disability and the SSA will monitor the use of the funds in the dedicated account.

When does a child qualify for SSI for a physical disability?

As noted above, if a child meets or functionally equals one of the medical "listings," s/he is deemed eligible for SSI benefits. The categories of physical listings include growth impairment; musculoskeletal impairment; special senses and speech; respiratory system; cardiovascular system; digestive system; genitourinary system; hematological disorders; skin disorders; endocrine system; impairments that affect multiple body systems; neurological; malignant neoplastic diseases; and immune system.

Listings are available on-line at *www.ssa.gov/disability/professionals/bluebook/ChildhoodListings.htm.*

What happens when a child's condition does not meet or equal the listings?

SSA must determine whether the child's condition is functionally equivalent to one of the listings. SSA does this by examining six domains of functioning, namely:

1. acquiring and using information;

2. attending and completing tasks;

3. interacting and relating with others;

4. moving about and manipulating objects;

5. caring for yourself; and

6. health and physical well being.

To functionally equal the listings, the child's impairment or combination of impairments must result in "marked" limitations in two domains of functioning or an "extreme" limitation in one domain. *See* 20 CFR § 416.926a(d).

When does a child qualify for SSI for a mental disability?

The SSA has listings for eleven mental disorders:

1. organic mental disorders;

2. schizophrenic, delusional (paranoid), schizoaffective, and other psychotic disorders;

3. mood disorders (major depressive syndrome, manic syndrome, or bipolar or cyclothymic syndrome);

4. mental retardation;

5. anxiety disorders;

6. somatoform, eating and tic disorders;

7. personality disorders;

8. psychoactive substance dependence disorders;

9. autistic disorder and other pervasive developmental disorders;

10. attention deficit hyperactivity disorder; and

11. developmental and emotional disorders of newborn and younger infants (birth to attainment of age one).

Generally, each listing provides a set of medical findings and impairment-related functional limitations that must be met for a child to be considered impaired under the listing. If a child does not meet a listing, the SSA will determine whether the evidence supports an impairment or a combination of impairments that functionally or medically equals one of the listings.

The "mental disorder" listing may be found on SSA's website at *www.ssa.gov/disability/professionals/bluebook/112.00-MentalDisorders-Childhood.htm.*

How does the SSA determine whether a child has a mental impairment?

The existence of the mental disorder and its duration must be established through medical evidence consisting of symptoms, signs, and laboratory findings. Laboratory findings include psychological and developmental test findings. In their findings, health professionals should also consider information obtained from parents and other individuals involved in the child's life. These individuals are familiar with a child's daily living, social functioning, and ability to adapt to different settings and, accordingly, their information should be used to establish the consistency of the medical evidence and the severity of the impairment over time. Records from early intervention programs and school records can likewise be helpful by establishing the severity and duration of the impairment.

I am the primary care physician for a mentally ill child but my specialty is not in pediatric psychiatry. Should the child's primary care records be included in the SSI application?

Yes. If your area of expertise is not in children's mental health, it may be necessary to obtain evidence from a psychiatrist, psychologist or developmental pediatrician. But, a reasonable effort should be made to provide records from the treating pediatrician because it will help establish the severity and duration of the impairment, where a single evaluation by a psychologist or psychiatrist cannot.

If a child's mental disorder is stabilized by hospitalization, will the child's hospitalization adversely affect his or her SSI eligibility?

No, the child's level of functioning in a hospital setting will not be used to determine the child's SSI eligibility. Rather, the SSA recognizes that when a child is hospitalized for a mental disorder, or the child is placed in another highly structured setting, the child's functioning may appear higher than it would in a normal setting. The SSA will thus determine the child's ability to function outside of a highly structured setting. Specifically, the SSA will determine, according to the child's age, to what degree the child can function independently, appropriately and effectively. However, hospitalization alone does not automatically qualify a child for SSI.

How does medicating a child affect his or her SSI eligibility?

The SSA will consider how the child functions while taking the medication. The SSA must also consider any functional limitations that remain, any side-effects of the medication, how frequently the medication is needed, and any evidence regarding how the medication helps or does not help the child. For example, though Thorazine may reduce a child's psychotic symptoms, the SSA would still consider any persisting psychotic symptoms and any adverse side effects, such as sedation, experienced as a result of the medication.

Where I can learn more about children's SSI?

The SSA website at *www.ssa.gov/pubs/10026.htm* is a good resource for information about children's benefits, as well as for forms needed to apply and to appeal unfavorable SSI decisions.

An SSA Eligibility Chart and SSI Office Contact Information also appears on our website at *www.kidscounsel.org/mmlpp%20news%20nov%202007.pdf*

New Status Offender Law in Effect

Martha Stone, Esq.

An overhaul of the processing of status offenders took place October 1, 2007 with the roll-out of Family Support Centers and other treatment options.

As a result of the passage of Sections 30, 33-34 of the Implementer Bill (Public Act 07-4), status offenders will no longer, in the first instance, face a Judge in Juvenile Court.

This means that any youth who is exhibiting behavior which is beyond the control of his/her parents, or who is truant or a runaway, will no longer be processed initially in the Juvenile Court. Instead, a probation officer will triage these cases, sending youth most at risk to newly established Family Support Centers where they can receive the treatment and services they need. Those who do not qualify for such referral will be steered to community-based services through the Juvenile Review Boards, Youth Service Bureaus and probation officers.

As of October 1, Family Support Centers have opened in the following cities:

Family Support Centers
(Court Support Services Divsion, Judicial Department)

Compliance Contract Specialist:
Sonia Contreras

Bridgeport
CT Renaissance
Linda Mosel
203-336-5225 x2109

New Haven
St. Francis Home for Children
Leslee Larivee
203-777-5513

Hartford
Wheeler Clinic
Reese Palmer
860-224-6366

Waterbury
CT Junior Republic
Dan Rezende
203-757-9939

Family Support Centers will offer community-based services including screening and assessment, crisis intervention, family mediation, educational assessments and advocacy, mental health treatment including gender-specific trauma treatment, resiliency skills building, and access to positive social activities.

In addition, short-term CARE Programs allow voluntary stays of up to 2 weeks for youth who need a cooling off period from their families. CARE Programs are available for girls and, for the first time for boys, at the following locations:

CARE Programs
(Court Support Services Divsion, Judicial Department)

Compliance Contract Specialist:
Kelly Stutzman

New Haven
St. Francis
Home for Children
2 locations:

651 Prospect Street
Gira Valentin
203-777-5513

672 Congress Avenue
(contingent on contract conditions, including zoning)
Danni Best
203-336-5225

Waterbury
CT Junior Republic
Chris Jaffer
203-757-9939x2109

Only if a youth fails out of the community-based services or the Family Support Centers can a petition then be formally presented in court. Once the youth is adjudicated FWSN, if there is no less restrictive alternative, s/he can be placed in a FWSN Center by the Court for a period not to exceed 45 days. FWSN Centers are located as follows:

FWSN Centers
(Court Support Services Divsion, Judicial Department)

Compliance Contract Specialist:
Kelly Stutzman

FWSN for Girls
St. Francis Home for Children
651 Prospect Street, New Haven
Steven Driffin
203-777-5513

FWSN Center for Boys
Location to be determined

Under no circumstances, pursuant to Public Act 05-250, as of October 1, 2007, can any status offender who is non-compliant with his/her court orders face incarceration.

Legislative efforts this year by the FWSN Advisory Board (*see www.cga.ct.gov/kid/FWSN/FWSN.asp*) will focus on securing funding to expand Family Support Centers to six additional locations throughout the State, on implementation of the recommendations of the Truancy Subcommittee which is focusing on truancy diversion programs, and on minor revisions to the law.

NACC 30th Annual Juvenile and Family Law Conference

Sarah Healy Eagan, Esq.

NACC Conference Features Presentations and Workshops on Juvenile Law Practice

On August 15, 2007, child welfare contract attorneys from Connecticut gathered in Keystone, Colorado for the National Association of Counsel for Children's (NACC) 30th Annual Juvenile and Family Law Conference. The event brought together more than 600 attorneys and child welfare professionals from around the country to discuss quality legal representation for children and families.

Presentations and workshops covered multiple legal and non-legal topics relevant to juvenile law practice, including: Interviewing Children, Understanding Psychological Evaluations, Advocating for Mental Health Services, Representing Parents with Disabilities, Litigating Racism and Classism, & Educational Advocacy for Youth in Foster Care.

Understanding Psychological Evaluations: TIPS from a workshop presentation by Kathleen Faller, PhD, Thomas Lyon, JD, PhD, and Norman Roitman, MD:

1. What information should the attorney provide to the evaluator? Evaluators often want everything in the child welfare file in addition to information from any of the child's collateral contacts (neighbors, teachers, mentors). The evaluator's motto is generally "more is better." It is "really helpful to know the child's life before you interview the child." An evaluator would like to interview neighbors and review their statements, review provider discharge summaries, and medical history. To render a reliable opinion, the evaluator must be, above all else, knowledgeable about the individual.

2. How does the evaluator determine how well a youth is functioning? According to the presenters, in order to render an opinion regarding a youth's level of functioning, a doctor needs strong clinical training regarding diagnostic assessment. The evaluator needs multiple instruments including checklists, evidence-based tests, and possible neurological exam reports.

The evaluator should also understand the nature and change in the youth's academic functioning (review records, consult teachers, understand IEPS). Evaluators understand that answers regarding a youth's functioning often come from the community.

3. How does the evaluator determine the child's level of attachment to a parent? These evaluations may require a specialist with training and experience in evaluating parent/child bonds. Presenters warned that attorneys should be careful about "giving too much away to an expert" in this regard. An evaluator will often use open-ended questions to determine what the child wants regarding his/her placement:

- "If you could stay anywhere..."
- "Who would you like to live with?"
- "What is it like with that person?"
- "Tell me more about that…"

Evaluators may find the "what are your three wishes" question effective as well. It is important for the evaluator to understand where the child currently lives as well as the history of how the child has functioned in each placement. While a portion of the evaluation must be devoted to a parent/child interactional observation, these observations may only tell the evaluator a little about the relationship between the child and parents. It is important for the evaluator to ask children about their attachment to siblings.

4. How does the evaluator determine the adult's parenting capacity? According to the presenters, the true test of capacity is "demonstrated skill over time." The evaluator will try to determine whether the parent's interactions are appropriate in the following areas:

- Affection
- Nurturing
- Discipline
- Developmental stimulation
- Appropriate use of language
- Individualization of children

The evaluator may ask the parent, "Tell me about each child's likes and dislikes." The evaluator is looking for the parent to have a positive balance regarding each child. Can the parent put him/herself in the child's shoes?

5. What should attorneys think about in addition to the report?

- Lawyers should understand the basis for the evaluator's opinions. The report may contain test scores and list conclusions, so attorneys need to understand the justification for the evaluator's conclusions.

- What are key articles in the issues raised by the report? What does the expert understand about the academic and theoretical base for his/her opinions?

- What can the expert contribute to the case on the witness stand?

- The lawyer should understand the vulnerabilities to address on direct examination.

Additional information about NACC Conferences may be found at *www.naccchildlaw.org/childrenlaw/news.html*.

TIPS for Lawyers: Accessing and Disclosing DCF Records

Sarah Healy Eagan, Esq.

How do I obtain records from DCF?

Connecticut General Statute § 17a-28 provides attorneys for parents and children in child protection cases the right to access records pertaining to their client's case.

"Records" is defined by the statute to include any "information created or *obtained* in connection with the Department's child protection activities."

Simply send a letter to DCF requesting the specific records you are seeking. Don't forget to include the DCF records-request form along with your letter.

This form is on line at: *www.kidscounsel.org Request%20for%20DCF%20Record.pdf.*

Address your letter to the DCF paralegal or principal attorney. Be sure to include a date by which you expect to receive the records.

These records, once obtained, cannot be disclosed to a third party unless otherwise authorized by statute or court order.

What kinds of records does DCF have?

DCF creates many documents that you will want to be aware of:

- **Investigation Documents:**

DCF creates an "Investigation Protocol," typically a 10 page document that tracks an investigation from the initial report to the agency's decision regarding substantiation. If you want a copy of this document, you will have to specifically request this document by name.

- **Running Narrative (or LINK record):**

The Running Narrative is a daily record of case activities created by the social worker and anyone else at DCF who worked on a particular case. The Narrative should detail all phone calls made or received, all meetings held, all court appearances, and all DCF-supervised or DCF-facilitated visits. Narrative entries should be made within 5 days of the described activity.

- **Structured Decision-Making Tools:**

DCF also uses specific risk, safety and reunification assessment tools pursuant to the agency's new Structured Decision-Making social work model. These tools help the agency determine, at every stage of a child protection case, how best to proceed. These tools encourage the Department to identify specific safety or risk factors so that the social work team can make a disciplined decision. If your parent client or child client has been subject to an Order of Temporary Custody, for example, DCF likely used a Safety Assessment Tool in making the decision to remove the child from his home. Be sure to ask for this document by name.

- **Treatment Plan:**

DCF also creates a treatment plan for every committed child and his family, and the attorney is entitled to have a copy of this document.

- **Multi-Disciplinary Evaluation (MDE) Reports:**

DCF facilitates a Multi-Disciplinary Evaluation (a comprehensive physical) for a child within 45 days of the child's commitment to the Department's care. The MDE report will contain useful information about your child client's physical, mental and emotional needs. It may contain recommendations for future evaluations or services that your client will be entitled to.

- **Service Provider Reports:**

DCF will also obtain records from DCF-contracted providers who are serving your client. For example, if your client was referred for counseling, and your client signed pertinent releases, DCF should be receiving regular written status reports from the clinical provider.

If DCF sends a child or youth to a residential facility, DCF should be receiving regular reports from the facility regarding the child's progress and well-being. *See* C.G.S. § 17a-151aa.

How do I obtain education records?

20 U.S.C. 1232g(a)(1)(A); 20 U.S.C. 1232g(b)(1) Federal (FERPA) and state law provide that a parent has a right to access a child's educational records and keep those records confidential under most circumstances.

34 CFR § 99.3; 61 FR 59294 A "parent" is defined to include a guardian or an individual acting as a parent in the absence of a parent or guardian, a definition which is generally interpreted to include a child welfare department and even, in some cases, a foster parent.

20 U.S.C. 1232g(b)(2)(B) FERPA provides that even without a parent's consent, educational records may be released pursuant to a lawfully issued subpoena.

34 CFR § 99.31 Federal law also allows schools to disclose records to appropriate officials in cases of health and safety emergencies as well as state and local authorities pursuant to specific state law.

DCF Records

If you represent a child in an educational proceeding, you should send a records request to the school district along with a valid release signed by the parent or guardian. If the child is committed to DCF custody, the release may be signed by the social worker, and in some cases, the foster parent. Connecticut regulations provide that the school district has five days to respond to such requests. Regs. Conn. State Agency § 10-76d-18.

Can DCF records be shared with a school district?

Connecticut law provides that if DCF believes, in good faith, that a child in its custody who has been adjudicated a serious juvenile offender poses a risk of imminent personal injury to others, the department shall notify the superintendent of schools for the school district in which such child may be returning to attend school. Conn. Gen. Stat. § 10-233k. The superintendent of schools shall notify the principal at the school the child will be attending that the child is potentially dangerous. The principal may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purpose of assessing the risk of danger posed by such child to himself, other students, school employees or school property and effectuating an appropriate modification of such child's educational plan or placement and for disciplinary reasons.

Connecticut law also provides that DCF may disclose records to a pubic or private agency responsible for the child's education for a purpose related to the agency's responsibilities. Conn. Gen. Stat. § 17a-28.

Can court records be shared with third parties?

Connecticut law provides, with limited exceptions, that juvenile court records are confidential and may be disclosed to a third party only upon the issuance of a court order. Conn. Gen. Stat § 46b-124. The law provides that certain employees and authorized agents of the state and federal government have access to the records if they are involved in delinquency proceedings, the provision of services to the child or the design and delivery of certain treatment programs. The law also provides that a crime victim has certain access to juvenile delinquency records to the same extent as the record of the case of a defendant in a criminal proceeding in the regular docket of the Superior Court.

Can police records involving juveniles be shared with school districts?

Connecticut law allows for police reports to be shared with school districts *only for* Class A misdemeanors, felonies and one particular Class B misdemeanor relating to "facsimile firearms", but *not* for other arrests. Conn.Gen.Stat.10-233h.

Therapeutic Bill Becomes Law

Jay Sicklick, Esq.

Vital Therapeutic Services Expanded to Children with Special Needs

On October 6, 2007 Governor Rell signed Public Act 07-5 which is the first part of the "technical changes" legislation that emanated from the June 2007 special session. In section 25 of the act, the legislature amended a small but critically important part of the state's Medicaid statute to expand vitally needed therapeutic services (physical, occupational and speech/language) to children with special needs. This statutory change now allows children with severe disabilities who are insured under all of the state's Medicaid plans to receive their therapies outside of the home, instead of inside the home as was previously required.

Many children with special needs attend after-school daycare or after-school programs, and don't return home until late in the day, which rendered therapeutic services either unfeasible or ineffective. With the passage of this statutory revision, these children can now receive physical, occupational or speech and language therapies in the after-school care setting – where the therapies are most effective and augment the basic therapies these children receive in school (or through the Birth to Three program).

This issue was brought to the attention of CCA through its representation of a West Hartford family who contacted CCA's MLPP in the fall of 2005. CCA's Medical-Legal Partnership Project responded to the issue by writing legislation to address the barrier to services. In 2006, in response to the MLPP's efforts, the legislature passed a statutory amendment providing insurance coverage for these therapeutic services outside of the home to the state's HUSKY A recipients, but not to children who are insured under the state's "fee for services" Medicaid program (such as Katie Beckett waiver recipients – i.e. those children who are severely disabled and require these therapies the most).

This year, the MLPP helped write legislation to expand coverage to all Medicaid insured children. Thanks to the efforts of state Sen. Jonathan Harris (D. West Hartford, Farmington, Burlington) the bill eventually made it into the June special session package - and will creatively and substantially impact the lives of numerous children with special needs by creating additional environments where therapeutic interventions will result in more effective care and treatment.

The public act may be found by going to the state General Assembly web site at *www.cga.ct.gov/2007/ACT/PA/2007PA-00005-R00HB-08006SS1-PA.htm*

Recent Developments in Child Law: Important Case Summaries

Education

Board of Educ. of City Sch. Dist. v. Tom F.
__ S. Ct. __ (Oct. 10, 2007)

On October 10, 2007, the Supreme Court affirmed, without opinion, a Second Circuit Court of Appeals decision upholding the proposition that parents need not "try out" a school district's placement for an identified child if the placement is not appropriate for the child. In *Bd. of Educ. v. Tom F.*, the federal district court held that because the child never attended public school, the parents were not entitled to tuition reimbursement for the private schooling the child had attended since kindergarten. The Second Circuit court of appeals reversed and remanded the case to the district court to consider whether the special education program offered by the school was appropriate, whether or not the parents "tried out" the program in the public school, rather than unilaterally removing their child and sending him to private school. The second circuit court's decision set up the Supreme Court's ruling (a 4-4 tie) – effectively affirming the circuit's opinion.

The Second Circuit panel based its finding (in a very short decision) on the case of *Frank G. v. Bd. of Educ.*, 459 F.3d 356 (2d. Cir. 2006). In *Frank G.*, the court set forth a groundbreaking decision (applicable only to the second circuit, but with significant national ramifications) that held that a disabled student's unilateral private school placement was appropriate, and that the Individuals with Disabilities Education act (IDEA), did not preclude reimbursement when the student had not previously received special education and related services in the school district.

Despite the fact that the case arose in New York State, the Second Circuit's holding is binding in Connecticut, and advocates should utilize the principle that unilateral placements are not per se inappropriate if the parents have not enrolled the student in the public school system prior to placing the child in the private school setting.

Abuse and Neglect
Termination of Parental Rights

In re Anna Lee M.
October 2, 2007
104 Conn. App. 121 (Oct. 2007)

In this termination of parental rights appeal, the mother claimed that the trial court erroneously relied on several pieces of inadmissible evidence to support its finding that she "failed to rehabilitate." Additionally, the mother asserted that the court's findings that she failed to rehabilitate and that termination was in the best interests of her children were clearly erroneous.

The mother made several evidentiary claims on appeal. First, she claimed that the court's reliance on the DCF social study was improper after it sustained the mother's objections to a social worker's testimony regarding the social study. The appellate court noted that, despite the mother's objections to the social worker's testimony, the social study itself was admitted into evidence as a full exhibit, without objection, and therefore could be relied on by the trial court in toto. Second, the mother challenged the court's reliance on evidence of two prior arrests, claiming that such reliance was inappropriate in that neither arrest resulted in conviction. The appellate court, citing *In re Helen B.*, 50 Conn. App. 818, 827-31 (1998), held that the arrests were admissible and relevant to the mother's ability to provide a safe and secure home for her children. The court did not rely on the evidence to determine whether the respondent had committed a crime. Third, the mother argued that the trial court impermissibly allowed the state to cross-examine her on issues that were not raised during direct examination. The appellate court concluded that the state's questions regarding the mother's violent relationship with her former husband were permissible because the mother testified on direct examination that she attended a domestic violence counseling session. The appellate court also held that the state's questions regarding the mother's fundraising efforts and false claims of cancer were appropriate because such questions were relevant to the mother's credibility.

The mother also challenged the merits of the court's adjudication. She claimed that DCF failed to make reasonable efforts to reunify her family when it allowed visitation to be aborted after a visitation center concluded that visits were inappropriate and should be stopped. The appellate court concluded that DCF did not have a "duty" to seek alternate supervisory assistance for the mother.

Finally, the appellate court upheld the trial court's finding that the mother failed to rehabilitate. The record contained evidence that the mother failed to comply fully with the court- ordered specific steps. She did not fully complete her parenting education; she was arrested for social security fraud; she did not advise the department of changes in the composition of her household; she did not visit as often as the department permitted; and she refused to cooperate with the visitation center's rules and expectations.

In re Ryan R.
July 24, 2007
102 Conn. App. 608 (Jul. 2007)

In this "failure to rehabilitate" TPR appeal, the court affirmed the termination of the mother's parental rights and concluded that DCF had made reasonable efforts to reunify her with her child. The record indicated that the mother had a history with DCF dating back 10 years and had struggled with domestic violence, mental illness and substance abuse. While the record indicated that the mother successfully completed one recovery program and demonstrated a certain amount of insight in therapy, her record of recovery was extremely spotty. She failed to complete one substance abuse program and failed to show for all scheduled drug screens. In the early fall of 2003, she began missing visits with her child and then dropped off of DCF's radar screen altogether. In November, 2003, DCF discovered that the mother had been arrested and incarcerated on insurance fraud charges, and was facing a maximum sentence of five years in jail. While in prison, the mother apparently successfully completed certain service programs. Evidence at trial also indicated that the mother had a demonstrative bond with her son and displayed genuine love and nurturance for him.

Despite the mother's belated compliance with services, the appellate court held that the trial reasonably considered the mother's history of relapse and the testimony of an expert witness who opined that the mother had a high risk of substance abuse

and would not be in a position to responsibly parent in the near future. The appellate court also affirmed the trial court's decision that termination was in the best interests of the child despite evidence of the loving relationship between the mother and Ryan R. The court cited multiple cases holding that "even when there is a finding of a bond between parent and a child, it still may be in the child's best interest to terminate parental rights."

Ryan R. highlights the need for parents to show signs of significant rehabilitation early and throughout the life of a case. Belated compliance with services and specific steps may not negate the court's impression that the parent failed to truly "rehabilitate." The decision also notes the connection between the "failure to rehabilitate" finding and the "best interests" finding. Here, despite the acknowledged bond between parent and child, the court found that the mother's lack of sustained progress with services militated in favor of a conclusion that termination was in the best interests of her child.

A noteworthy aspect of this relatively straightforward case is the footnoted comment by the appellate court expressing doubt as to whether a minor is a party to a termination proceeding with a corresponding right of appeal. However, Connecticut Practice Book § 32a-1 clearly provides that the child or youth has the right of confrontation and cross-examination and may be represented by counsel "in each and every phase of any and all proceedings in juvenile matters, including appeals" and that "[t]he judicial counsel shall appoint counsel for these parties … in the case of counsel for the child, whether a request is made or not, in any proceeding on a juvenile matter in which the custody of a child is at issue…". Additionally, the Official Commentary to Practice Book § 32a-5 provides that "Children, who are parties to the action, have the right to be present [in court] if they so request." Finally, Conn. Gen. Stat. § 46b-129a provides unequivocally that the child "shall be represented by counsel knowledgeable about representing such children…". Despite the appellate court's uncertainty regarding this issue, the court's footnote goes on to note the recent Supreme Court holding that ''[i]n cases involving parental rights, the rights of the child coexist and are intertwined with those of the parent, [and] [t]he legal disposition of the parent's rights with respect to the child necessarily affects and alters the rights of the child with respect to his or her parent.'' (quoting In re Christina M., 280 Conn. 474 (2006)). The court concluded, however, that the issue was presently moot as the parent and child raised the same issues on appeal.

In re Francisco R.
May 8, 2007
2007 WL 2080614 Conn. Super. Ct. (Foley, J.) (May, 2007)

In this case involving a deaf father and a 12 year old boy with significant mental health problems, the court rejected DCF's termination of parental rights petition on the grounds that the department never created an appropriate treatment plan for the father, failed to consider his disabilities in working with the father, and omitted positive steps the father completed in the department's report to the court. The court ruled that the substantive and procedural irregularities warranted an outright denial of the TPR petition.

The child was removed from his mother at age six, at which time the father came forward and established paternity. The child demonstrated severe behavioral and mental health needs and after moving through the foster care system, spent several years in a residential treatment center. Eventually the child was discharged to a non-adoptive foster placement, and he was doing well at the time the termination petition was filed.

The court made several findings regarding DCF's failure to appropriately manage the father's case. At many DCF meetings, including treatment plan meetings, there was no sign-language interpreter to allow the father to meaningfully participate in the planning process. Although at times the father lived almost two hours away from his son, DCF failed to secure mileage reimbursement for him. The court lamented that the father requested that visitation with his son at the residential treatment center take place during the day or on weekends so that he could keep his job and that this request was inexplicably denied. The court noted that none of the social workers in the case were trained regarding working with profoundly deaf clients. Additionally, the court was angry that the DCF social study, submitted in support of the TPR petition, stated that father had not been compliant with the court's order that he participate in counseling and make progress toward identified treatment goals. The Court found that the father's DCF-approved therapist wrote that the father was "highly motivated" and "intelligent," that his "improved self esteem bodes well for his potential," and that "his attitudes have greatly improved through therapeutic intervention." The court also found that the father spent a year in therapy and completed an anger management course. The Court characterized the Social Study as "intellectually dishonest[]," opining that DCF has "an affirmative obligation in making its presentation to the court to fairly and honestly present the positive behavior and conduct of the parents as well as the negative and unsuccessful behaviors. The department cannot protect or advocate for the child through deception."

The court also took issue with the fact that when the father lost contact with DCF in 2006, the Department indicated that it took all reasonable steps to locate him, including conducting a search via the Connecticut DSS and DMV Databases. The court noted that the father was known to be a long time Massachusetts resident, and that the Department never contacted the father's mother even though she had called DCF 6 times during in 2006 and the father had lived with the mother for decades.

Finally, the court found that when the father was located and he appeared in court in September, 2006, there was no interpreter present for him and he was not advised of his rights. Although the court conceded that grounds for termination of parental rights (abandonment and failure to rehabilitate) may indeed exist, the court was so concerned about the "systemic issues presented" that it denied the petition. The court specifically noted that there was never a clear and appropriate plan developed and conveyed to the [father] to facilitate reunification with his son.

KidsCounsel®

KidsCounsel Newsletter

Bimonthly Training Seminars

On-Line Access to Professional Tools
www.kidscounsel.org

ListServ

Legal Resource Center

Technical Assistance

KidsCounsel®
University of Connecticut School of Law
Center for Children's Advocacy
65 Elizabeth Street
Hartford, CT 06105

RETURN SERVICE REQUESTED

Non-Profit
U.S. Postage Paid
Permit No. 4759
Hartford, CT 06101