

**The Supreme Court of Appeals of West Virginia  
Court Improvement Program presents**

**We're All in This Together**

**The Annual Child Abuse and Neglect  
Cross-Training Conferences**

**July 23-24, 2012, Charleston Marriott  
July 26-27, 2012, Lakeview Resort, Morgantown**



West Virginia Coalition  
**AGAINST  
DOMESTIC  
VIOLENCE**  
*for a safer state of family*

**Co-sponsored by the West Virginia Coalition Against Domestic Violence**

**[www.wvcip.com](http://www.wvcip.com)**



# About the Court Improvement Program

The West Virginia Court Improvement Program (CIP) is funded through the Administration for Children and Families and the Supreme Court of Appeals of West Virginia. The CIP Oversight Board is chaired by the Honorable Gary L. Johnson, Chief Judge of the 28th Judicial Circuit. The Board and its subcommittees are multidisciplinary.

Judge Johnson and Senior Status Judge Robert B. Stone co-chair the training committee that planned this year's conferences.

CIP aims to promote safety, timely permanency, well-being, and due process for children and families in the child welfare system.

To learn more about WV CIP, please visit its website: [www.wvcip.com](http://www.wvcip.com).

## Cancellation Policy

When you register, please specify if you plan to attend one or both days of the conference.

If you register but cannot attend, please cancel your registration by using the link for changes on your registration confirmation by contacting Tamerra Gilmore at 304-558-6573 or [Tamerra.Gilmore@courtswv.gov](mailto:Tamerra.Gilmore@courtswv.gov).

No shows are not cool. The Court Improvement Program training committee revisits instituting a registration fee each year. Please help keep this conference free by attending or cancelling your registration in advance.

## Continuing Education Credits

Each two-day conference provides a total of the following credits:

14.1 continuing legal education (CLE) and continuing judicial education (CJE) credits; and

12.61 continuing education credit hours for social workers, domestic violence advocates, and nurses.

Continuing education credits for counselors, law enforcement officers, addiction/prevention professionals, and psychologists are pending.

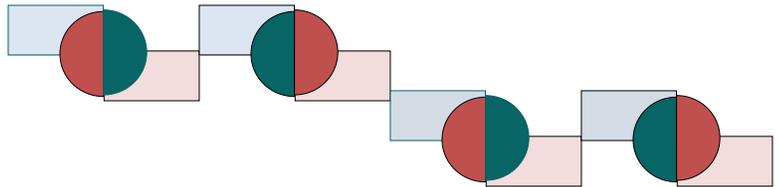
## Learning Objectives

### Day One:

- Learn the procedure of a Chapter 49 child abuse and neglect case, choosing either the basic or advanced track.
- Explore collaboration in identifying and addressing child abuse and neglect issues.

### Day Two:

- Learn updates in child abuse and neglect law.
- Explore specialized topics to improve practice.
- Explore collaboration in identifying and addressing child abuse and neglect issues.



## Conference Caveats

The two conferences will have the same format, but speakers for certain sessions will vary.

The conferences are free, but pre-registration is required and will be filled on a first-come, first-served basis.

Lunch will not be provided.

Travel expenses are the responsibility of participants and/or their organizations.

Space is limited to 300 people each day of the conferences. Once registration capacity is reached, a waiting list will be implemented. You must provide a valid email address to be placed on the waiting list.

If you do not receive an email confirmation, you may not be registered. Please call 304-558-6573 to confirm.



## Day One Agenda (July 23 in Charleston and July 26 in Morgantown)

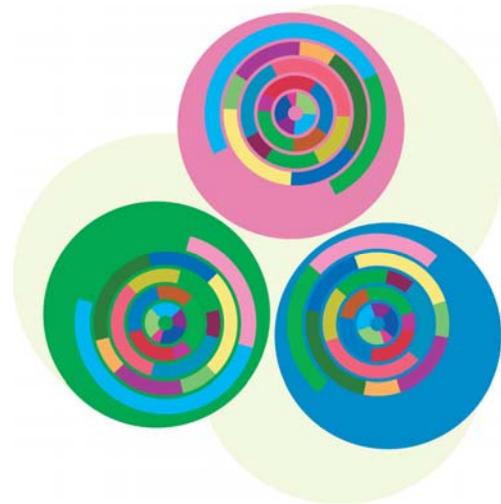
8 a.m. and 9 a.m.	Registration (conference begins at 9 a.m.)	
9 a.m. to 9:10 a.m.	Opening Remarks	
9:10 a.m. to 9:40 a.m.	<i>Transcending Child Abuse and Neglect</i>	Roger Lockridge
9:40 a.m. to 9:50 a.m.	Break (Participants will choose the Basic or Advanced Track)	
<b>Basic Track</b>		
9:50 a.m. to 10:40 a.m.	<i>Filing the Child Abuse and Neglect Petition</i>	Kelly Hamon, Braxton County Prosecuting Attorney
10:40 a.m. to 10:50 a.m.	Break	
10:50 a.m. to 11:50 a.m.	<i>The Child Abuse and Neglect Case, Part I</i>	Catherine D. Munster, Esq.
11:50 a.m. to 1:10 p.m.	Lunch (on your own)	
1:10 p.m. to 2:20 p.m.	<i>The Child Abuse and Neglect Case, Part II</i>	Catherine D. Munster, Esq.
2:20 p.m. to 2:30 p.m.	Break	
2:30 p.m. to 3:10 p.m.	<i>The Child Abuse and Neglect Case, Part III</i>	Catherine D. Munster, Esq.
3:10 p.m. to 3:20 p.m.	Break	
<b>Advanced Track</b>		
9:50 a.m. to 10:40 a.m.	<i>Critical Findings that Affect Federal Funding for Children</i>	Peter J. Conley, Esq. Douglas M. Robinson, Deputy Commissioner, W.Va. Bureau for Children and Families
10:40 a.m. to 10:50 a.m.	Break	
10:50 a.m. to 11:50 a.m.	<i>Creating Effective Pleadings and Orders</i>	Peter J. Conley, Esq.
11:50 a.m. to 1:10 p.m.	Lunch (on your own)	
1:10 p.m. to 2:20 p.m.	<i>Making the Most of Treatment MDTs</i>	Tracey A. Johnson-Brotosky, LSW, Program Manager, W.Va. Bureau for Children and Families Teresa J. Lyons, Esq.
2:20 p.m. to 2:30 p.m.	Break	
2:30 p.m. to 3:10 p.m.	<i>An Exercise in Case Planning</i>	Tracey A. Johnson-Brotosky, LSW, Program Manager, W.Va. Bureau for Children and Families Teresa J. Lyons, Esq.
3:10 p.m. to 3:20 p.m.	Break	
<b>Plenary Sessions</b>		
3:20 p.m. to 4:20 p.m.	<i>Preparing for Court</i>	Kelly Hamon, Braxton County Prosecuting Attorney Teresa J. Lyons, Esq.
4:20 p.m. to 4:50 p.m.	<i>Building Your Case with Judicial Benchbook Tools</i>	Hon. Jennifer F. Bailey, in Charleston Hon. Russell M. Clawges, Jr., in Morgantown
4:50 p.m. to 5 p.m.	Speakers Answer Questions, Evaluations	

## Day Two Agenda (July 24 in Charleston and July 27 in Morgantown)

8 a.m. and 9 a.m.	Registration (conference begins at 9 a.m.)	
9 a.m. to 10:10 a.m.	<i>Addressing Attachment Issues</i>	Timothy Saar, PhD
10:10 a.m. to 10:20 a.m.	Break	
10:20 a.m. to 11:40 a.m.	<i>Georgia's Initiatives to Improve Outcomes for Children</i>	Michelle Barclay, Esq., Project Director, Georgia Committee on Justice for Children
11:40 a.m. to 1 p.m.	Lunch (on your own)	
1 p.m. to 2:30 p.m.	<i>Protecting Children Throughout Multiple Court Systems</i>	Dave Lowman, W.Va. Bureau for Children and Families Teresa J. Lyons, Esq. Joyce Yedlosky, Protective Services Coordinator, W.Va. Coalition Against Domestic Violence
2:30 p.m. to 2:45 p.m.	Break	
2:45 p.m. to 4:30 p.m.	<i>Update on the Law</i>	Catherine Munster, Esq.

## Conference Tips

- Wear layers because temperature comfort varies.
- Help prevent distractions for other participants (turn off phone volume, limit typing and texting, avoid side conversations, etc.).
- Plan ahead for lunch.



**Questions or Comments?**

If you have questions about continuing education for this conference, please contact Kandi Greter at 304-340-2775 or [Kandi.Greter@courtswv.gov](mailto:Kandi.Greter@courtswv.gov).

For questions about registration, please contact Tamerra Gilmore at 304-558-6573 or [Tamerra.Gilmore@courtwv.gov](mailto:Tamerra.Gilmore@courtwv.gov).

For general questions or comments, please contact Nikki Tennis at (304) 340-2304 or [Nikki.Tennis@courtswv.gov](mailto:Nikki.Tennis@courtswv.gov).



**Online Registration (Preferred)**

***Please make sure that you enter your email address correctly when registering.***

To register for the cross-training conference in Charleston on July 23-24, 2012, go to <http://www.regonline.com/wvcipcrosstrainingcharleston2012>.

To register for the cross-training conference in Morgantown on July 26-27, 2012, go to <http://www.regonline.com/wvcipcrosstrainingmorgantown2012>.

**Registration by Mail or Fax**

**(Please Print Clearly and Include Email Address)**

Name \_\_\_\_\_

Profession/Role \_\_\_\_\_

Address \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Conference day(s) you would like to attend (check all that apply):

\_\_\_\_\_ July 23 at the Charleston Marriott      \_\_\_\_\_ July 24 at the Charleston Marriott

\_\_\_\_\_ July 26 at Lakeview, Morgantown      \_\_\_\_\_ July 27 at Lakeview, Morgantown

**Fax to 1-304-558-0775 or mail to Tamerra Gilmore, AOC, Capitol Building One, Room E-100  
1900 Kanawha Blvd., E., Charleston, WV 25305.**



## ROGER "ROCK" LOCKRIDGE: DV/CA Awareness Speaker, Fitness Writer/Expert

Roger is from Lewisburg, WV and was born on June 29, 1981. Having always been the "skinny kid" that was picked on growing up, Roger decided to take up weight training in 1999 and naturally has transformed himself from 125 pounds to walking around today at over 200 pounds. He has made quite the impact on the fitness industry since being discovered back in early 2009, but he has actually been helping others reach their fitness goals as far back as 2002. Roger was a fitness instructor and personal trainer at the Greenbrier Valley YMCA from 2002-2004 and also worked for two GNC stores from 2004 to 2006.

It would be in recent years, though, that would lead him to where he is today. Roger was writing motivational posts in his blog on the social fitness network, BodySpace, after working his way back from a shoulder injury and depression when he was encouraged to submit an article to Bodybuilding.com for possible publication. After his article was read, he was offered an opportunity to become a regular contributor to the popular website. In the end of 2009, his first year as a writer, Roger was named Bodybuilding.com Male Writer of the Year. Along with the Female Writing Award, it's the highest honor a writer can receive in the fitness world. Bodybuilding.com also named a supplement stack in his honor which is a top seller today. His work has also been recognized on the industry's biggest fitness radio show "Pro Bodybuilding Worldwide". Roger also contributes to Iron Man Magazine, the oldest and one of the most respected fitness publications in the world. His work was even featured in Iron Man's historic "75<sup>th</sup> Anniversary Issue". In all, he has been featured on over 200 websites and publications.

Roger's work doesn't stop with fitness, however. Having been a past child victim of domestic violence, staying with his mother and siblings at a local shelter, Roger has worked with Family Refuge Center for over 20 years now. He is the first person in FRC's history to have stayed as a victim in the FRC shelter, worked on the paid FRC staff, and served on the FRC Board of Directors. Roger has told his story to thousands of people at various trainings, events and he has even been the subject of two documentary films – "Full Circle" and "30". Today, Roger also works directly in the movement as the Program Coordinator for the Child & Youth Advocacy Center in Lewisburg, WV, where he records forensic interviews of possible victims of child abuse. He also publicly speaks on domestic violence (DV) and child abuse (CA) awareness, earning praise from West Virginia Governor Earl Ray Tomblin. He has been featured on several news channels, including "West Virginia Tonight Live".

To contact Roger directly, email him at [rogerrocklockridge@yahoo.com](mailto:rogerrocklockridge@yahoo.com), follow @RockLockridge on Twitter, or go to [Facebook.com/ROCKLOCKRIDGE](https://www.facebook.com/ROCKLOCKRIDGE).



**FILING THE CHILD ABUSE AND NEGLECT PETITION**  
**Kelly Hamon McLaughlin**  
**Braxton County Prosecuting Attorney**

**I. Purpose, Rules/Procedure, and Definitions**

**A. Purpose:** *West Virginia Code § 49-1-1*: To provide a coordinated system of child welfare for the children of this state/ assure each child care, safety and guidance/ serve the mental and physical welfare of the child/ preserve and strengthen the child's family ties/ recognize the fundamental rights of children and parents.

**Rule 2 of the West Virginia Rules of Procedure for Child Abuse and Neglect:** To achieve a safe, stable, permanent home for children and fairness to all litigants/ to provide fair, timely and efficient disposition of cases/ to encourage the involvement of all parties, including children and community agencies and service providers.

**B. Rules and Procedure:** The filing of petition is controlled by West Virginia Code §49-6-1, *et seq.* and the West Virginia Rules of Procedure for Child Abuse and Neglect.

**C. Definitions:** *West Virginia Code §49-1-3 and Rule 3 of West Virginia Rules of Child Abuse and Neglect Proceedings:*

**§49-1-3. Definitions relating to abuse and neglect.**

(1) "Abused child" means a child whose health or welfare is harmed or threatened by:

(A) A parent, guardian or custodian who knowingly or intentionally inflicts, attempts to inflict or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home; or

(B) Sexual abuse or sexual exploitation; or

(C) The sale or attempted sale of a child by a parent, guardian or custodian in violation of section sixteen, article four, chapter forty-eight of this code; or

(D) Domestic violence as defined in section two hundred two, article twenty-seven, chapter forty-eight of this code.

In addition to its broader meaning, physical injury may include an injury to the child as a result of excessive corporal punishment.

(2) "Abusing parent" means a parent, guardian or other custodian, regardless of his or her age, whose conduct, as alleged in the petition charging child abuse or neglect, has been adjudged by the court to constitute child abuse or neglect.

(3) "Battered parent" means a parent, guardian or other custodian who has been judicially determined not to have condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child or children due to being the victim of domestic violence as defined by section two hundred two, article twenty-seven, chapter forty-eight of this code, which domestic violence was perpetrated by the person or persons determined to have abused or neglected the child or children.

(4) "Child abuse and neglect" or "child abuse or neglect" means physical injury, mental or emotional injury, sexual abuse, sexual exploitation, sale or attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian who is responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child.

(5) "Child abuse and neglect services" means social services which are directed toward:

- (A) Protecting and promoting the welfare of children who are abused or neglected;
- (B) Identifying, preventing and remedying conditions which cause child abuse and neglect;
- (C) Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems which could lead to a removal of children and a breakup of the family;
- (D) In cases where children have been removed from their families, providing services to the children and the families so as to reunify such children with their families or some portion thereof;
- (E) Placing children in suitable adoptive homes when reunifying the children with their families, or some portion thereof, is not possible or appropriate; and
- (F) Assuring the adequate care of children who have been placed in the custody of the department or third parties.

(6) "Child advocacy center" means a community-based organization that is a member in good standing with the West Virginia Child Abuse Network, Inc., and is working to implement the following program components:

- (A) Child-appropriate/child-friendly facility: A child advocacy center provides a comfortable, private, child-friendly setting that is both physically and psychologically safe for clients.
- (B) Multi disciplinary team (MDT): A Multi disciplinary team for response to child abuse allegations includes representation from the following: Law enforcement; child protective

service

prosecution; mental health; medical; victim advocacy; child advocacy center.

(C) Organizational capacity: A designated legal entity responsible for program and fiscal operations has been established and implements basic sound administrative practices.

(D) Cultural competency and diversity: The CAC promotes policies, practices and procedures that are culturally competent. Cultural competency is defined as the capacity to function in more than one culture, requiring the ability to appreciate, understand and interact with members of diverse populations within the local community.

(E) Forensic interviews: Forensic interviews are conducted in a manner which is of a neutral, fact finding nature and coordinated to avoid duplicative interviewing.

(F) Medical evaluation: Specialized medical evaluation and treatment are to be made available to CAC clients as part of the team response, either at the CAC or through coordination and referral with other specialized medical providers.

(G) Therapeutic intervention: Specialized mental health services are to be made available as part of the team response, either at the CAC or through coordination and referral with other appropriate treatment providers.

(H) Victim support/advocacy: Victim support and advocacy are to be made available as part of the team response, either at the CAC or through coordination with other providers, throughout the investigation and subsequent legal proceedings.

(I) Case review: Team discussion and information sharing regarding the investigation, case status

and services needed by the child and family are to occur on a routine basis.

(J) Case tracking: CACs must develop and implement a system for monitoring case progress and tracking case outcomes for team components: *Provided*, That a child advocacy center may establish a safe exchange location for children and families who have a parenting agreement or an order providing for visitation or custody of the children that require a safe exchange location.

(7) “Court appointed special advocate (CASA) program” means a community organization that screens, trains and supervises CASA volunteers to advocate for the best interests of children who are involved in abuse and neglect proceedings. Court appointed special advocate programs will be operated under the following guidelines:

(A) Standards: CASA programs shall be members in good standing with the West Virginia Court Appointed Special Advocate Association, Inc., and the National Court Appointed Special Advocates Association and adhere to all standards set forth by these entities.

(B) Organizational capacity: A designated legal entity responsible for program and fiscal operations has been established and implements basic sound administrative practice.

(C) Cultural competency and diversity: CASA programs promote policies, practices and procedures that are culturally competent. “Cultural competency” is defined as the capacity to function in more than one culture, requiring the ability to appreciate, understand and interact with members of diverse populations within the local community.

(D) Case management: CASA programs must utilize a uniform case management system to monitor case progress and track outcomes.

(E) Case review: CASA volunteers meet with CASA staff on a routine basis to discuss case status

and outcomes.

(F) Training: Court appointed special advocates shall serve as volunteers without compensation and shall receive training consistent with state and nationally developed standards.

(8) "Imminent danger to the physical well-being of the child" means an emergency situation in which the welfare or the life of the child is threatened. Such emergency situation exists when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health or life of any child in the home:

(A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling or a babysitter or other caretaker;

(B) A combination of physical and other signs indicating a pattern of abuse which may be medically diagnosed as battered child syndrome;

(C) Nutritional deprivation;

(D) Abandonment by the parent, guardian or custodian;

(E) Inadequate treatment of serious illness or disease;

(F) Substantial emotional injury inflicted by a parent, guardian or custodian; or

(G) Sale or attempted sale of the child by the parent, guardian or custodian.

(H) The parent, guardian or custodian's abuse of alcohol, or drugs or other controlled substance as defined in section one-hundred one, article one, chapter sixty-a of this code, has impaired his

or her parenting skills to a degree to pose an imminent risk to a child's health or safety.

(9) "Legal guardianship" means the permanent relationship between a child and caretaker, established by order of the circuit court having jurisdiction over the child, pursuant to the provisions of this chapter and chapter forty-eight of this code.

(10) "Multi disciplinary team" means a group of professionals and paraprofessional representing a variety of disciplines who interact and coordinate their efforts to identify, diagnose and treat specific cases of child abuse and neglect. Multi disciplinary teams may include, but are not limited to, medical, educational, child care and law-enforcement personnel, social workers, psychologists and psychiatrists. Their goal is to pool their respective skills in order to formulate accurate diagnoses and to provide comprehensive coordinated treatment with continuity and follow-up for both parents and children. "Community team" means a Multi disciplinary group which addresses the general problem of child abuse and neglect in a given community and may consist of several Multi disciplinary teams with different functions.

(11) (A) "Neglected child" means a child:

(I) Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care or education, when such refusal, failure or inability is not due primarily to a lack of financial means on the part of the parent, guardian or custodian; or

(ii) Who is presently without necessary food, clothing, shelter, medical care, education or supervision because of the disappearance or absence of the child's parent or custodian;

(B) "Neglected child" does not mean a child whose education is conducted within the provisions of section one, article eight, chapter eighteen of this code.

(12) "Parent" means an individual defined as a parent by law or on the basis of a biological relationship, marriage to a person with a biological relationship, legal adoption or other recognized grounds.

(13) "Parental rights" means any and all rights and duties regarding a parent to a minor child, including, but not limited to, custodial rights and visitational rights and rights to participate in the decisions affecting a minor child.

(14) "Parenting skills" means a parent's competencies in providing physical care, protection, supervision and psychological support appropriate to a child's age and state of development.

(15) "Sexual abuse" means:

(A) As to a child who is less than sixteen years of age, any of the following acts which a parent, guardian or custodian shall engage in, attempt to engage in, or knowingly procure another person to engage in, with such child, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct:

(I) Sexual intercourse;

(ii) Sexual intrusion; or

(iii) Sexual contact;

(B) As to a child who is sixteen years of age or older, any of the following acts which a parent, guardian or custodian shall engage in, attempt to engage in, or knowingly procure another person to engage in, with such child, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct:

(I) Sexual intercourse;

(ii) Sexual intrusion; or

(iii) Sexual contact;

(C) Any conduct whereby a parent, guardian or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making such display, or of the child, or for the purpose of affronting or alarming the child.

(16) "Sexual contact" means sexual contact as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(17) "Sexual exploitation" means an act whereby:

(A) A parent, custodian or guardian, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct as that term is defined in section one, article eight-c, chapter sixty-one of this code;

(B) A parent, guardian or custodian persuades, induces, entices or coerces a child to display his or

her sex organs for the sexual gratification of the parent, guardian, custodian or a third person, or to display his or her sex organs under circumstances in which the parent, guardian or custodian knows such display is likely to be observed by others who would be affronted or alarmed.

(18) "Sexual intercourse" means sexual intercourse as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(19) "Sexual intrusion" means sexual intrusion as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(20) "Placement" means any temporary or permanent placement of a child who is in custody of the state in any foster home, group home or other facility or residence.

(21) "Serious physical abuse" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(22) "Siblings" means children who have at least one biological parent in common or who have been legally adopted by the same parents or parent.

(23) "Time-limited reunification services" means individual, group and family counseling, inpatient, residential or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care and therapeutic services for families, including crisis nurseries and transportation to or from any such services, provided during fifteen of the most recent twenty-two months a child has been in foster care, as determined by the earlier date of the first judicial finding that the child is subjected to

abuse or neglect, or the date which is sixty days after the child is removed from home.

**Rule 3:** (Some definitions omitted)

(a) “Adjudicatory hearing” shall mean the hearing contemplated by W.Va. Code § 49-6-2 to determine whether a child has been abused and/or neglected as alleged in the petition;

(d) “Civil Petition” shall mean the petition instituting child abuse and/or neglect proceedings under W.Va. Code §49-6-1.

(e) “Civil protection proceedings” shall mean proceedings instituted by the filing of a civil petition under W.Va. Code § 49-6-1.

(g) “Preliminary hearing” shall mean the hearing contemplated by W.Va. Code §49-6-3(b) that is held within ten days of service of the petition when the court finds that the petition alleges facts demonstrating the existence of imminent danger to the child, whether or not the court has ordered immediate transfer of custody of the child to the Department or a responsible person. The hearing is held for the purpose of determining (1)whether there is reasonable cause to believe that the child is in imminent danger; (2) whether continuation in the home is contrary to the welfare of the child, setting forth the reasons; (3)whether the Department made reasonable efforts to preserve the family and to prevent the child’s removal from his or her home or whether an emergency situation made such efforts unreasonable or impossible; and (4) whether efforts should be made by the Department to facilitate the child’s return, and if so, what efforts should be made.

(l) “Parent” or “parents” means the child’s natural parent(s), custodian(s), or legal guardian(s)

**II. Typical situations in which an abuse and neglect proceeding is commenced with the filing of a petition.**

A. On-going Child Protective Service case with the West Virginia Department of Health and Human Resources (DHHR)

B. Emergency Situations involving DHHR or law enforcement leading to filing of

petition C. Overlap process/ Pre-petition investigations leading to filing of a petition

### **III. Petitioners**

A. Typically the WV DHHR by the Prosecuting Attorney

B. A reputable person

C. A co-petitioning non-abusing parent: If a co-petitioner must indicate which allegations he/she verifies, and must be appointed counsel separate from the prosecuting attorney

D. *See* W.Va. Code § 49-6-1(a) and Rule 17(a) of the Rules of Procedure for Child Abuse and Neglect

### **IV. The Petition**

#### **A. Venue: *W.Va. Code §49-6-1 and Rule 4a:***

If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named respondent resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

#### **B. Contents of petition: *W.Va. Code §49-6-1 and Rule 18:***

1. The petition shall be verified by the oath of some credible person having knowledge of the facts.

2. Citations to statutes relied upon in requesting Court intervention
3. The alleged misconduct and how the misconduct meets the statutory definitions contained in W.Va. Code §49-1-3
4. Description of children: Including all the children in the home or in the temporary care, custody or control of the abusing person with the name, age, sex, and current location, unless the location would endanger the child
5. Any supportive services offered by the DHHR or others to remedy the situation
6. The relief sought
7. Information as required by Uniform Child Custody Jurisdiction Act, W.Va. Code § 48-20-101 *et seq.*
8. Petition must contain facts of specific misconduct to provide notice to the offending person
9. If a parent is alleged to be a battered parent as defined by W.Va. Code, the petition should request such a finding

**C. Amendments to Petition: *Rule 19 of the Rules of Procedure for Child Abuse and Neglect:***

1. A Court may permit the petition to be amended at any time until the final adjudicatory hearing begins, provided that an adverse party is granted sufficient time to respond
2. If new allegations arise after the final adjudicatory, the allegations should be included in an amended petition rather than in a separate petition in a new civil action, and the final adjudicatory hearing shall be re-opened for the purpose of hearing evidence on the new allegations in the amended petition.

3. If allegations arise against a co-petitioner during the pendency of the case, then the petition may be amended, including a realignment of the parties.

4. If the petition is amended after the conclusion of a preliminary hearing in which custody has been temporarily transferred to the Department or a responsible person, it shall be unnecessary to conduct another preliminary hearing.

**D. Order Upon Filing Petition: *W.Va. § Code 49-6-1 and W.Va. Code § 49-6-3***

1. Initial order filing petition and granting temporary custody to WV DHHR or responsible relative

2. Initial order filing petition and *not* granting temporary custody

3. First hearing date

4. Appointment of counsel

**E. Notice of first hearing: *W.Va. Code § 49-6-1 and Rule 20***

1. The petition and notice of the hearing shall be served upon both parents and any other custodian, giving to the parents or custodian at least ten days notice, unless the first hearing is a preliminary hearing regarding emergency custody pursuant to W.Va. §49-6-3, in which case the parties and all persons entitled to notice and the right to be heard must be provided at least five (5) days actual notice.

2. In cases wherein personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of such person. If the person signs the certificate, service shall be complete and the certificate shall be filed as proof of the service with the clerk of the circuit court. If service

cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code.

3. A notice of hearing shall specify the time and place of the hearing, the right to counsel of the child and parents or other custodians at every stage of the proceedings and the fact that the proceedings can result in the permanent termination of the parental rights.

**F. Temporary Custody: *W.Va. §49-6-3.***

(a) Upon the filing of a petition, the court may order that the child alleged to be an abused or neglected child be delivered for not more than ten days into the custody of the state department or a responsible person found by the court to be a fit and proper person for the temporary care of the child pending a preliminary hearing, if it finds that:

(1) There exists imminent danger to the physical well-being of the child; and

(2) there are no reasonably available alternatives to removal of the child, including, but not limited to, the provision of medical, psychiatric, psychological or homemaking services in the child's present custody: *Provided*, That where the alleged abusing person, if known, is a member of a household, the court shall not allow placement pursuant to this section of the child or children in said home unless the alleged abusing person is or has been precluded from visiting or residing in said home by judicial order. In a case where there is more than one child in the home, or in the temporary care, custody or control of the alleged offending parent, the petition shall so state, and notwithstanding the fact that the allegations of abuse or neglect may pertain to less than all of such children, each child in the home for whom relief is sought shall be made a party to the

proceeding. Even though the acts of abuse or neglect alleged in the petition were not directed against a specific child who is named in the petition, the court shall order the removal of such child, pending final disposition, if it finds that there exists imminent danger to the physical well-being of the child and a lack of reasonable available alternatives to removal. The initial order directing such custody shall contain an order appointing counsel and scheduling the preliminary hearing, and upon its service shall require the immediate transfer of custody of such child or children to the department or a responsible relative which may include any parent, guardian, or other custodian. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why; and

(B) Whether or not the department made reasonable efforts to preserve the family and prevent the placement or that the emergency situation made such efforts unreasonable or impossible. The order may also direct any party or the department to initiate or become involved in services to facilitate reunification of the family.

(b) Whether or not the court orders immediate transfer of custody as provided in subsection (a) of this section, if the facts alleged in the petition demonstrate to the court that there exists imminent danger to the child, the court may schedule a preliminary hearing giving the respondents at least five days' actual notice. If the court finds at the preliminary hearing that there are no alternatives less drastic than removal of the child and that a hearing on the petition cannot be scheduled in the interim period, the court may order that the child be delivered into the temporary custody of the department or a responsible person or agency found by the court to be a fit and proper person for the temporary care of the child for a period not exceeding sixty days: *Provided*, That the court order shall state:

(1) That continuation in the home is contrary to the best interests of the child and set forth the reasons therefor;

(2) Whether or not the department made reasonable efforts to preserve the family and to prevent the child's removal from his or her home;

(3) Whether or not the department made reasonable efforts to preserve the family and to prevent the placement or that the emergency situation made such efforts unreasonable or impossible; and

(4) What efforts should be made by the department, if any, to facilitate the child's return home:

*Provided, however,* That if the court grants an improvement period as provided in section twelve of this article, the sixty-day limit upon temporary custody is waived.

(C) If a child or children shall, in the presence of a child protective service worker, be in an emergency situation which constitutes an imminent danger to the physical well-being of the child or children, as that phrase is defined in section three, article one of this chapter, and if such worker has probable cause to believe that the child or children will suffer additional child abuse or neglect or will be removed from the county before a petition can be filed and temporary custody can be ordered, the worker may, prior to the filing of a petition, take the child or children into his or her custody without a court order: *Provided,* That after taking custody of such child or children prior to the filing of a petition, the worker shall forthwith appear before a circuit judge or a juvenile referee of the county wherein custody was taken, or if no such judge or referee be available, before a circuit judge or a juvenile referee of an adjoining county, and shall immediately apply for an order ratifying the emergency custody of the child pending the filing of a petition. The circuit court of every county in the state shall appoint at least one of the magistrates of the county to act as a juvenile referee, who shall serve at the will and pleasure of

the appointing court, and who shall perform the functions prescribed for such position by the provisions of this subsection. The parents, guardians or custodians of the child or children may be present at the time and place of application for an order ratifying custody, and if at the time the child or children are taken into custody by the worker, the worker knows which judge or referee is to receive the application, the worker shall so inform the parents, guardians or custodians. The application for emergency custody may be on forms prescribed by the Supreme Court of Appeals or prepared by the prosecuting attorney or the applicant, and shall set forth facts from which it may be determined that the probable cause described above in this subsection exists. Upon such sworn testimony or other evidence as the judge or referee deems sufficient, the judge or referee may order the emergency taking by the worker to be ratified. If appropriate under the circumstances, the order may include authorization for an examination as provided for in subsection (b), section four of this article. If a referee issues such an order, the referee shall by telephonic communication have such order orally confirmed by a circuit judge of the circuit or an adjoining circuit who shall on the next judicial day enter an order of confirmation. If the emergency taking is ratified by the judge or referee, emergency custody of the child or children shall be vested in the department until the expiration of the next two judicial days, at which time any such child taken into emergency custody shall be returned to the custody of his or her parent or guardian or custodian unless a petition has been filed and custody of the child has been transferred under the provisions of section three of this article.

(d) For purposes of the court's consideration of temporary custody pursuant to the provisions of subsection (a) or (b) of this section, the department is not required to make reasonable efforts to preserve the family if the court determines:

(1) The parent has subjected the child, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse and sexual abuse;

(2) The parent has:

(A) Committed murder of the child's other parent, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(B) Committed voluntary manslaughter of the child's other parent, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(C) Attempted or conspired to commit such a murder or voluntary manslaughter or been an accessory before or after the fact to either such crime; or

(D) Committed unlawful or malicious wounding that results in serious bodily injury to the child, the child's other parent, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(E) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(F) Has been required by state or federal law to register with a sex offender registry; or

(3) The parental rights of the parent to another child have been terminated involuntarily.

## **V. JANIS : Juvenile Abuse Neglect Information System**

A. Free download available on the West Virginia Court Improvement Program link

B. Printable checklists

C. Orders containing necessary language for Title IV-E requirements regarding initial removal of a child to include:

1. Whether reasonable efforts were made to prevent the child's initial removal from the home; or

2. That due to an emergency situation or imminent risk involving the safety or well-being of the child, it is reasonable under present circumstances to make no effort to maintain the child in the home; or

3. That reasonable efforts were not required in child abuse or neglect cases due to aggravated circumstances as contained in W.Va. Code §49-6-5(a)(7).

## **VI. Resources**

A. Janis: Juvenile Abuse and Neglect Information System

B. West Virginia Supreme Court of Appeals website and Judicial Bench book

C. West Virginia Court Improvement Program website links

*Disclaimer: Please note that code sections cited are in some instances paraphrased and may not contain complete text.*

# Estimated IV-E Federal Dollars Lost

- For the period of Oct 2011 – Feb 2012 for the cases we reviewed – we estimate a loss of IV-E revenue due to deficiencies in court orders for CTW and/or RE to be:

• **\$377,817**

# General Title IV-E Requirements

**45 CFR §1356.21 Foster Care maintenance payments program implementation requirements.**

To be eligible to receive Federal financial participation (FFP) for foster care maintenance payments under this part, a State must meet the requirements of this section, 45 CFR §1356.22, 45 CFR §1356.30, and sections 472, 475(1), 475(4), 475(5) AND 475(6) of the Act.

# Title IV-E Requirements

- 1. Judicial determination of reasonable efforts to prevent a child's removal from the home (RE).** 45 CFR §1356.21(B)(1) W. Va. Code §§ 49-6-3 (SB 484); 49-6-5a; WV Rules of Juvenile Procedure (WVRJP) Rules 6, 13, 14, 38 and 39. W. V. Rules of Practice and Procedure for Child Abuse and Neglect Proceedings, Rules 3(g), 16.
- 1. Circumstances in which reasonable efforts are not required to prevent a child's removal from home or to reunify the child and the family.** 45 CFR §1356.21(B)(3) W. Va. Code § 49-6-8 (SB 484); WVRJP Rules 6, 13, 14, 38 and 39.
- 1. Contrary to the Welfare determination (CTW).** 45 CFR §1356.21 (c) W. Va. Code §§ 49-5-13 (SB 484); 49-6-3 (SB 484); 49-6-5; WVRJP 6, 13, 14, 38, and 39.
- 1. Judicial determination of reasonable efforts to finalize a permanency plan (REFPP).** 45 CFR §1356.21(B)(2) W. Va. Code §§ 49-7-36 (SB 484); 49-6-8 (SB 484); 49-6-5a; 49-5-21, WVRJP Rules 42 and 43.

# Reasonable Efforts to Prevent Removal (RE-PR)

## A. When Required

1. *Within 60 days* of child's removal from home **OR** within ten days if the child is removed during the pendency of the case. (Rule 16(d))
2. Any return to out-of-home placement after a "trial home visit" (e.g. improvement period) exceeding the time period deemed appropriate by the court, would be considered a new removal requiring RE-PR findings.
3. A removal has *not* occurred when an order removes legal custody from parents but child remains in home with agency discretion for removal. At the time of any subsequent actual removal from the home (or within ten days thereafter) another hearing and order with RE-PR findings would be necessary.

# Reasonable Efforts to Prevent Removal (RE-PR)

## B. What Required

1. Court must find on a case-specific basis:
  - a) whether reasonable efforts were made to prevent the child's initial removal from the home; or
  - b) that due to an emergency situation or imminent risk involving the safety or well-being of the child, it is reasonable under present circumstances to make no effort to maintain the child in the home; or
  - c) that reasonable efforts were not required in child abuse or neglect case due to aggravated circumstances, conviction for specified crimes, or prior involuntary termination of parental rights regarding a sibling.  
[see W. Va. Code § 49-6-5(a)(7).]
2. RE-PR finding must be supported by specific facts/reasons summarized in order:
  - a) by court's own wording; or
  - b) by selecting applicable items from a detailed checklist; or
  - c) by cross-reference to matters in the petition or in a report submitted to the court.

# Reasonable Efforts to Prevent Removal (RE-PR)

## C. Comments

1. Even though the RE-PR determination may be in any order within 60 days (or ten days per Rule 16(d)) following initial removal, the findings must relate to efforts prior to the actual removal.
2. If reasonable efforts information is unavailable at the time of initial removal order, make sure a follow-up order with these findings is made within 60 days.

# Reasonable Efforts to Prevent Removal (RE-PR)

## C. Comments (Continued)

3. Absence of appropriate findings in either first removal order or another order within 60 days makes child ineligible for IV-E funding throughout entire custody period.
  - a) Only acceptable substitute would be hearing transcript showing findings were made.
  - b) *Nunc pro tunc* orders not acceptable substitute.
  
4. If a court orders a placement with a specific provider, without *bona fide* consideration of the agency's recommendation regarding a different placement, the court has assumed the State agency's placement responsibility, and the child may be disallowed IV-E funding for that placement. This does not mean the court  
must always concur with the agency's recommendation in order for the child's placement to be eligible for IV-E funding. As long as the court hears the relevant testimony, works with the parties and agency, and makes findings in arriving at what the Court determines the appropriate placement decision, IV-E funding should not be disallowed.

# Contrary to Welfare or Best Interests (CW)

## A. When Required

1. *First* order that sanctions child's removal (even temporarily) from family home.
2. Any return to out-of-home placement after a "trial home visit" (e.g. improvement period) exceeding the time period deemed appropriate by the court, would be considered a new removal requiring CW findings.
3. A removal has *not* occurred when an order removes legal custody from parents but child remains in home with agency discretion for removal. At the time of any subsequent actual removal from the home, another hearing and order with CW findings would be necessary.  
[See Rule 16(d)].

# Contrary to Welfare or Best Interests (CW)

## B. What Required

1. Court must find on a case-specific basis whether:
  - a) remaining in the home would be contrary to the welfare of the child, and if so, why; or
  - b) out-of-home placement is in the child's best interest, and if so, why. 45 CFR 1356.21(d)
2. CW finding must be supported by specific facts/reasons summarized in order:
  - a) by court's own wording; or
  - b) by selecting applicable items from a detailed checklist; or
  - c) by cross-reference to matters in the petition or in a report submitted to the court.

# Contrary to Welfare or Best Interests (CW)

## C. Comments

1. First removal order must contain the required CW findings, even if initial placement is not IV-E eligible.
2. Absence of appropriate findings in first removal order makes child ineligible for IV-E funding throughout entire custody period.
  - a) Only acceptable substitute would be hearing transcript showing findings were made.
  - b) *Nunc pro tunc* orders not acceptable substitute.

# Reasonable Efforts to Finalize Permanency in a Timely Manner (RE-FP)

## A. When Required

1. *Within 12 months* of the date the child is "considered to have entered foster care" *and* at least once every 12 months thereafter. [For the purpose of calculating the initial 12-month period, a child is considered to have entered foster care either 60 days following the child's removal from home, or on the date the court made a finding that the child was abused or neglected, whichever date comes first.]
2. If the court determines at any time that reasonable efforts to return the child home are not required due to aggravated circumstances, criminal conviction, or prior sibling TPR [W. Va. Code § 49-6-5(a)(7)], a permanency hearing must be held *within 30 days* of that determination, unless permanency hearing requirements are fulfilled at the same hearing where the no-reasonable-efforts-to-reunify determination was made.

# Reasonable Efforts to Finalize Permanency in a Timely Manner (RE-FP)

## B. What Required

1. Court must find on a case-specific basis:  
whether reasonable efforts have been made to finalize the permanency plan in a timely manner (reunification if possible, or adoption, legal guardianship, or placement with a non-abusive parent or other fit and willing relative).
2. RE-FP finding must be supported by specific facts/reasons summarized in order:
  - a) by court's own wording; or
  - b) by selecting applicable items from a detailed checklist; or
  - c) by cross-reference to matters in a report submitted to the court.
3. Court must document a compelling reason for rejecting the ASFA-preferred permanency options (reunification, adoption, legal guardianship, placement with a non-abusive parent or other fit and willing relative) before accepting any other planned permanent living arrangement, such as independent living or long-term foster care.

# Reasonable Efforts to Finalize Permanency in a Timely Manner (RE-FP)

## C. Comments

1. If a court orders a placement with a specific provider, without *bona fide* consideration of the agency's recommendation regarding a different placement, the court has assumed the State agency's placement responsibility, and the child may be disallowed IV-E funding for that placement. This does not mean the court must always concur with the agency's recommendation in order for the child's placement to be eligible for IV-E funding. As long as the court hears the relevant testimony, works with the parties and agency, and makes findings in arriving at what the court determines the appropriate placement decision, IV-E funding should not be disallowed.
2. Absence of appropriate finding within each 12-month interval will make the child ineligible for additional IV-E funding until the court makes such determination.
3. Examples of compelling reason for establishing a permanency plan other than an ASFA-preferred option:
  - a) Older teen who does not wish to proceed with TPR, and requests that emancipation be established as the permanency plan.
  - b) Parent and child with significant bond but parent unable to care for child due to physical or emotional disability and child's foster parents are committed to raising child and facilitating visitation with disabled parent.

# **Best Interests in Voluntary Placement (BI-VP)**

## **A. When Required**

*Within 180 days* of child's voluntary placement in foster care.

# **Best Interests in Voluntary Placement (BI-VP)**

## **B. What Required**

Court must find whether the continued voluntary placement is in the best interests of the child.

# **Best Interests in Voluntary Placement (BI-VP)**

## **C. Comments**

Absence of appropriate finding within the 180-day initial period will make the placement ineligible for additional federal financial participation for foster care expenditures.

# Pitfall Number 1

- Petition is filed and children are removed from the home at the time of filing. The required reasonable efforts/contrary to welfare findings are made in that removal order.
- At the preliminary hearing, the Court awards legal custody to the Department, and physical custody to the parent from whom the children were removed, explicitly stating that the Department has the discretion to again “remove” the children if necessary.
- A subsequent removal occurs without further hearing or order.

# Pitfall Number 1 (Continued)

- Because there was no finding of reasonable efforts/contrary to the welfare findings within ten days of the “second removal,” this placement becomes a IV-E non-compliant placement.
- If, at the preliminary hearing, the Court awards custody to the Department but directs that “placement” be with the parent, **and** a hearing is held within ten days of the second “removal,” at which time the Court finds that continuation in the home is contrary to the welfare of the children; and that reasonable efforts have been made to prevent removal, the order is compliant. [Note: To be eligible for funding, the Court must consider the Department’s position regarding placement, and it is best practice for the order following the preliminary hearing to reflect that the Court did so when it ordered the children placed with the mother]. Also note that Rule 16 (d) requires other findings as well.

## Pitfall Number 2

- Any Chapter 49 case in which the child is not removed at the time of the original filing, but is subsequently removed due to changed circumstances.
- The order that removes the child from the home:
  - Must grant custody to DHHR.
  - Must contain contrary to the welfare findings (CTW) and could contain the reasonable efforts (RE) finding.

# Pitfall Number 3

- A child is removed from home at the time an abuse and neglect petition filed.
  - All legal requirements are in the court order and the child is IV-E eligible.
  - An improvement period is subsequently granted to the parent from whom the child was removed.
    - During the course of the improvement period, the Court allows the child to go home for a 90-day “trial visit.”
    - The child is at home for the 90 days without problems and continues to remain at home exceeding the 90 days **without a hearing and court order granting the extension beyond 90 days and then a disruption (problem) occurs and the child is returned to foster care**
  - This placement is now considered a new placement for IV-E.
    - Reasonable efforts/contrary to welfare findings must be made within 60 days of the child being returned to foster care. 45CFR§1356.21(e)

## 45 CFR §1356.21(e) Trial Home Visits

- States, in part:
  - “.... If a trial home visit...exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement.... Under these circumstances the judicial determinations regarding contrary to the welfare and reasonable efforts to prevent removal are required.”

# Pitfall Number 4

- A status offense petition is filed against a juvenile.
- The child remains in the home until the adjudicatory hearing, but the problems which led to the filing of the petition persist.
- The Court accordingly orders that the child be adjudicated as a status offender and removed from the home.
  - The order that removes the child from the home:
    - Must grant custody to the DHHR.
    - Must contain contrary to the welfare findings (CTW) and should contain the reasonable efforts (RE) finding.
  - If RE is not in the initial removal order:
    - A subsequent hearing regarding RE must occur within 60 days of the removal.

# Pitfall Number 5

- In the course of an abuse and neglect case, a IV-E-eligible child has been in the Department's care for 12 months. All of the required reasonable efforts/contrary to welfare findings have been made, and the State is properly receiving federal IV-E funding for the foster care.
- The Court timely conducts a permanency hearing pursuant to W. Va. Code § 49-6-5(a) and Rule 36(a). In the order following the permanency hearing, the Court order must include a finding that the Department made reasonable efforts to finalize a permanency plan (if the Department has made such reasonable efforts).
  - Failure of the Department to make the reasonable efforts to finalize a permanency plan makes the child ineligible for IV-E funding
- These issues can be rectified to return the child to IV-E eligibility if:
  - The Department later makes reasonable efforts to finalize the permanency plan AND
  - The Court makes such a finding in a subsequent order.

JANIS and JUDI have been developed by the West Virginia Supreme Court of Appeals under the direction of the West Virginia Court Improvement Program (CIP) Oversight Board. The principal objective of the systems is to facilitate and expedite the handling of child abuse and neglect cases and juvenile cases by efficiently generating case orders and motions.

JUDI operates in PC/Windows environment using FileMaker Pro software. JANIS is currently a desktop system but will be web-based in the near future.

The JANIS and JUDI systems offer the following advantages:

- Case and party information needs to be entered only once
- Form language meets statutory and rule requirements
- Forms may contain stock and custom language
- Forms act as checklists for the various types of hearings
- Help track orders and motions
- Generate case summary sheets
- Save forms in Word® or WordPerfect® format
- Timeline feature that calculates hearing deadlines and provides customized reports (JANIS only)
- On-site training available upon request

For tech support or to arrange training, contact: Pete Conley at (304) 624-6391 or at [peteconley@me.com](mailto:peteconley@me.com).

To download JUDI, go to [www.wvcip.com/downloads](http://www.wvcip.com/downloads)

Making the Most of  
Treatment MDTs:  
An Interactive Presentation and  
An Exercise in Case Planning

Tracey Johnson-Brotosky

Teresa J. Lyons

2012 CIP Cross-Training

# Presentation Format

- Brief Lecture
- Interactive MDT Process
- Preparation of Case Plan
- Group Debriefing

# Family Centered Approach

*MDTs are supposed to provide a free exchange of information and brainstorming to come up with solutions to the problems facing the family. In our area they often are more like an inquisitor trial from the Middle Ages, with the DHHR and the GAL acting as the main interrogators of parents whose attorneys fail to show up or show up late.*

*Attorney's Comment from Multidisciplinary Treatment Team Study, 2007-2008, Dr. Corey Colyer*

# Family Centered Approach

*If the respondents are doing well, it is at best a 15-minute “keep up the good work.” However, most of the time, we all get to sit and listen to the DHHR worker(s) recite a litany of all the things the respondents have messed up on during the last month and how if they don't get their acts together they're going to file a motion to revoke and never see their kids again.*

*Attorney's Comment from Multidisciplinary Treatment Team Study, 2007-2008, Dr. Corey Colyer*

# Family Centered Approach

- When evaluated by DHHR personnel, parents were rated as being “extremely active” only 28% of the time.
- When evaluated by respondents’ attorneys, parents were rated as being “extremely active” only 22% of the time.
  - *Multidisciplinary Treatment Team Study, 2007-2008, Dr. Corey Colyer*

# Preliminary Findings

## From Dr. Colyer's Current MDT Study

- MDTs are a method to obtain information from treatment professionals that will be presented to the court.
- MDTs create an opportunity for stakeholders to discuss outstanding issues.
- Participation among stakeholders in the MDT process is uneven.
- MDTs in CPS cases are more adversarial than in youth services cases.

# Primary Goal of a Child Abuse and Neglect Case

## Child Safety:

- Primary goal or outcome is improvement in the parents' diminished capacities that created an unsafe situation for the child
- Placement of child in a safe, permanent home
  - Rule 2, RPCANP
  - W.Va. Code § 49-1-1

# Primary Functions of a Multidisciplinary Treatment Team: Child Abuse and Neglect

- **Assess, plan and implement** a comprehensive, individualized service plan or case plan for children who are subject to abuse and neglect
  
- Family involvement: Input from parents, custodians and other family members
  - W.Va. Code § 49-5D-3
  - W.Va. Code § 49-6D-3
  - W.Va. Code § 49-6-5(a)

# What are NOT Primary Goals of the MDT

- Primary goal should not be pretrial preparation for the lawyers
- Primary goal should not be extracting admissions from adult respondents
- Primary goal should not be dictating solutions to adult respondents
- Primary goal should not be to change all aspects of an adult respondent's life, especially aspects that are unrelated to safety

# Use Immunity

Admissions of abuse or neglect by an adult respondent or co-petitioner during the MDT process may not be used in a subsequent criminal prosecution, except for perjury or false swearing.

- W.Va. Code § 49-5D-3b(c)

# MDT Members: The Family

- Child's parent(s), guardian(s) or other immediate family members
- Any co-petitioner
- The child unless the MDT determines that such participation is inappropriate
  - Rule 8(d), RPCANP
- Custodial relatives
- Foster parents

# MDT Members: The Professionals

- Case manager for the child or family
- Child's attorney or guardian ad litem
- Attorney representing any party
- Prosecuting attorney or designee
- Child Advocacy Center representative (mandatory if child was "processed" through center, otherwise if appropriate)
- School personnel
- CASA
- Other professional whose input would be helpful or appropriate, including a domestic violence advocate

# Protective Capacities Family Assessment (PCFA) – CPS Cases

- Completed within 45 days of the approval of the Family Functioning Assessment
- A structured interactive process that is intended to build partnerships with caregivers in order to:
  - 1) Identify and seek agreement with families regarding what must change to ensure child safety; and
  - 2) Develop a case plan including strategies (goals) that will restore the caregiver to independence in protecting their children.

# Other Assessments for Adult Respondents or Children

- Drug and alcohol assessment
- Psychological evaluation of parent and/or child
- Psychiatric evaluation of parent and/or child
- CAPs assessment
- Opinions of treating professionals

# Developing the Case Plan

- Engaging families to be involved in case planning strategies
- Establishing what must change and developing goals to influence change
- Goals are behaviorally stated, understandable, individualized and measurable
- Identify the services associated with the goals which will reinforce enhancement of caregiver protective capacities

# Purpose of the Case Plan

- The case plan serves as a record of what will occur in order to effect what must change in order to ensure child safety.
- The case plan is a contract that stipulates who is responsible for what and serves to meet the requirements of accountability for the agency, the providers and the families.
- The case plan services and activities, providers, timeframes, etc. are directed at enhancing diminished caregiver protective capacities that are associated with the identified impending dangers threats.
- The case plan serves as a baseline for evaluating the suitability or effectiveness of the prescribed interventions within the context of measuring progress toward enhancing caregiver protective capacities thus eliminating or reducing impending danger threats.

# Managing the Case Plan: Measuring Progress

- The Case Plan Evaluation is a formally structured assessment process that tracks progress toward goal achievement
  - The Case Plan Evaluation occurs at a minimum of every 90 days
  - Progress toward goal achievement
    - No progress
    - Minimal progress
    - Significant progress
    - Achievement of identified change
- “The Protective Capacity Progress Assessment: Indicators of Change and Intention to Change,” Action for Child Protection, September 2010

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
UNIFORM CHILD OR FAMILY CASE PLAN**

**SECTION I Identifying Information**

Case ID: [REDACTED]  
Case Name: [REDACTED]

**Child**

Name	Civil Action No.	DOB	Gender
[REDACTED]	[REDACTED]	11/25/2005	Female

Name, address and phone number of parties to civil action and of those entitled to notice and a right to be heard: **Rule 28(c)**

**Respondent:**

Name	Address Line 1	Address Line 2	Phone Number
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	0000000000

Petitioner : Department of Health and Human resources  
1027 N Randolph Ave  
Elkins WV 26241  
(304)637-5560 Extn. 2083

**Co-Petitioner:**

Name	Address Line 1	Address Line 2	Phone Number

**Custodial Relatives**

Name	Address Line 1	Address Line 2	Phone Number
[REDACTED]			

**CASA:**

Name	Address Line 1	Address Line 2	Phone Number



**SECTION II            Type of Case Plan**

**Case Plan Filing Date** \_\_\_\_\_

  X          This plan is an original family case plan that is submitted within thirty days of the entry of an order granting an improvement period. (W. Va. Code ' 49-6-2(b)).

\_\_\_\_\_        This plan is an original child case plan that is being submitted at least five judicial days before the dispositional hearing. (W. Va. Code ' 49-6-5(a)).

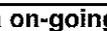
\_\_\_\_\_        This document is a revised or modified case plan.

**SECTION III            Child Already Out of Home**

**A.        Circumstances Necessitating Removal-Rule 28(c)(1)**

Child: 

Circumstance Necessitating Removal:

<p>Mrs.  maintains a relationship with Mr. , and the children have been exposed to domestic violence. She places her needs above the needs of the children. She fails to recognize, or to take action, to assess, address and manage threats that exist within the home</p>
<p>Mr.  has verbally and physically assaulted Mrs. . This has been on-going for approximately six years. He has been controlling in re: to finances, and Mrs.  actions. Mr.  violent behaviors have escalated over the past month, and the children witnessed a physical assault. Mr.  is impulsive and explosive.</p>
<p>Both caregivers have a history of abusing illegal substances. Historically, Mrs.  has driven with the children while under the influence of substances, and has been unavailable to meet the children's basic needs. Mrs.  has reported that the cost of their weekly drug habits has impacted their financial ability to meet the children's basic needs.</p>
<p><b>Imminent Danger is present in this home. Family is currently in crisis, and has failed to cooperate with the DHHR in the past. Safety of the children cannot be maintained in the home at this time.</b></p>

Date Removed: 02/18/2011

  
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**B. Identify Reasonable Efforts to Prevent Placement or Why Reasonable Efforts were not required Rule 28(b)(1)**

Child: 

Reasonable Efforts to Prevent Placement:

Reasonable Efforts Not Required:

Imminent danger exists,

The circumstances of care and custody by the Respondents constituted an imminent danger to the physical and emotional well being of the children.

**SECTION IV Termination of Parental Rights**

**A. Is termination of parental rights requested at this time? No**

**B. If the answer to the question above is yes, identify the reasons for requesting termination of parental rights.**

1. No The child has been in the custody of the agency and/or in out-of-home care for 15 out of the last 22 months.

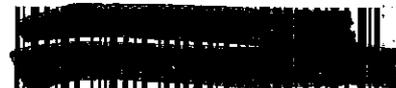
2. a) The court has determined that the child has been abandoned.

b) Date of determination:

3. a) If a court has determined the parent has committed murder or voluntary manslaughter of another of his or her children or the other parent of his or her children; has attempted or conspired to commit such murder or voluntary manslaughter or has been an accessory before or after the fact of either crime; has committed unlawful or malicious wounding resulting in serious bodily injury to the child or to another of his or her children or to the other parent of his or her children;

b) Date of determination:

4. a) There has been a prior involuntary termination of parental rights to a sibling.



b) Identify the court, the civil action number, the date of the involuntary termination and other relevant information.

5. There is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future.

Identify the case-specific facts supporting this assertion.

**C. If the Department would otherwise be required to seek termination of parental rights, is there a compelling reason not to seek termination of parental rights?**

No

**D. If the answer to the question above is yes, identify the compelling reason not to seek termination of parental rights and provide case-specific information that supports this conclusion:**

1. The child is being cared for by a relative;
2. The child's age The child's age and preference regarding termination of parental rights;
3. Adoption is not the appropriate permanency goal for the child;
4. The child has been placed in the Department's custody based upon juvenile proceedings brought pursuant to West Virginia Code ' ' 49-5-1, *et seq.*;
5. Filing the petition would not be in the child's best interests;
6. Reasonable efforts are required to return the child to his or her family, but the Department has not yet provided services necessary to return the child to the home; or
7. The child is an unaccompanied refugee minor as defined by 45 C.F.R. ' 400.11 or there are international legal obligations or compelling foreign policy reasons that preclude termination of



8. parental rights.  
Other.

Comments:

**SECTION V Child in Home**

**A. Circumstances Necessitating Court Intervention: RULE 28(a)**

*Note: The basis for the petition should be summarized here, including any circumstances in which the Department is required to file a petition.*

██████████ continues a violent relationship with ██████████ and exposing the children to domestic violence. She left the home Thursday night without the children. She places her own needs above the needs of the children, thereby affecting the childrens safety. Family violence is occurring and a child attempts to intervene. Family violence is occurring and a child could be inadvertently harmed even though the child may not be the actual target of the violence. Parent who is impulsive, exhibiting physical aggression, having temper outbursts or unanticipated and harmful physical reactions. Four of the five children were present during the domestic assault along with another child from a different home. During the incident ██████████ repeatedly called ██████████ a whore and a junky with the children present. No protective caretaker is available to care for the children.

**Safety Influences:**

**B. Safety Plan:**

Is there an in-home safety plan?  
No

If so, identify the terms.

**SECTION VI Recommended or Current Placement: RULE 28(c)(3); 42 U.S.C. 675(1)(A)**

**A.**  
Child: ██████████  
Type: Kinship/Relative



Provider Name: [REDACTED]  
Provider Address:

Provider Phone:  
Provider County:  
Entry Date: 02/18/2011  
Exit Date:  
Exit Reason:

**B. Describe how the placement assures the child's safety. RULE 28(c)(3); 42 U.S.C. 675(1)(B)**

Child: [REDACTED]

Caretaker: [REDACTED]

Unique Qualification which meets Child's Special Needs:  
Relative placement able to meet needs at this time and facilitate visitation with siblings.

Protection from Maltreating Parents:  
Knowledge and Understanding of Departments Policy regarding contact

How Placement Assures the Child's, Youth's and/or Community Safety:

Indicate if this is the most appropriate placement. If not, why?  
Current placement is in the same town as her parents. [REDACTED] is able to go to the same daycare she was in previously, and can participate in visits.

**C. Placement History**

**Placement #**  
**Entry Date:**  
**Exit Date:**  
**Provider Type:**  
**Provider Name:**  
**Provider Address:**

**Provider Phone:**  
**Provider County:**



**Exit Reason:**

**Caretaker #:**

**Date Entered:**

**Date Exited:**

**Caretaker Name:**

**Caretaker Address:**

**Caretaker Phone:**

**Caretaker County:**

**Exit Reason:**

Total number of Placement(s) for this client: 2

Has the child been subject to three or more placements in one year? No  
(W. Va. Code ' 49-6-8(d)). *Note: All placements except respite stays, hospitalizations and home visits of less than fourteen days are considered placements.*

**D. Placement Proximity: RULE 28(c)(3); 42 U.S.C. ' 675(1)(C)(iv)**

Child: 

Placement within 50 mile radius of Child's Community (Yes/No): Yes

If Not, then Explanation:

Proximity: Closest available placement to the child's town meeting the child's special needs

Is the child in an out of state placement? **42 U.S.C. ' 675(5)(A)(i)** No

If Yes, describe how the placement meets or continues to meet the best interest of the child in a manner that cannot be met in-state. **42 U.S.C. ' 675(5)(A)(i)**

**E. Relative Placements Considered:**

Identify relatives or friends, including those who live out of state, who were contacted regarding the possibility of placement, reasons that child was not placed with them or explain why no relatives or friends were contacted. **RULE 28(c)(2)**

Child is place with maternal aunt, [REDACTED] Worker is still seeking out additional kinship placements as a backup plan.

**SECTION VII Recommended Visitation Plan RULE 28(c)(4)**

*Note: For contact between siblings when they are separated, see Section VIII.*

**Visitation Plan**

Visitor(s)	Visitation	Supervision	Frequency	Duration
[REDACTED]	Mother -All Children	Supervised	1 time per week	2 hours
[REDACTED]	Father -All Children	Supervised	1 time per week	2 hours

**Visitation Log**

Date of Visit	Participants	Supervision	Court Ordered	Status

Identified Strengths: [REDACTED] and [REDACTED] have a strong bond with their children.

Identified Problems and Solutions: [REDACTED] and [REDACTED] are currently in personal crisis. Joint visitations are not currently in the best interest of the the children or parents. When [REDACTED] and/or [REDACTED] are available for visitation the MDT will have to meet to discuss frequency of visits and safety concerns.

Other Contact between Family Member and Child: [REDACTED] and [REDACTED] will only have supervised visits with the children. [REDACTED] and [REDACTED] will have weekly visits with each other to be supervised by family members.

Visitation Condition: Only MDT approved supervised visits will occur at this time.

**SECTION VIII Siblings RULE 28(c)(6)**

Are the siblings separated?  
No

If so, list the siblings, their location(s) and date of court order sanctioning separation.  
[REDACTED] and [REDACTED] are placed with [REDACTED] children's maternal aunt. [REDACTED] is placed with [REDACTED] is [REDACTED] step grandfather. [REDACTED] is placed with [REDACTED]. [REDACTED] is [REDACTED] maternal great aunt. [REDACTED] is placed with [REDACTED]. [REDACTED] is [REDACTED] maternal aunt.

If the siblings are not placed together, then explain why.  
Worker could not locate a home that could take all 5 of the children. Siblings are placed with relatives that live close to each other.

Describe plans to maintain contact and to reunify them if this is warranted.  
[REDACTED] and [REDACTED] see each other daily. [REDACTED] and [REDACTED] see their siblings on a weekly basis

Dates of actual visitation between siblings:  
Visitations are completed on a weekly basis with all of the siblings. Siblings have visited each other every weekend since the children were removed.

Other contact between siblings:



[REDACTED], [REDACTED], and [REDACTED] see each other on a daily basis as they live only a few houses away from each other. [REDACTED] also his siblings throughout the week as he is placed only a few miles away.

**SECTION IX      Respondent(s) Mental Health/Medical History**

Respondent: [REDACTED]  
DSM IV Diagnosis

Axis1:

Axis2:

Axis3:

Axis4:

Axis5:

Treating Mental Health Professional:

Medication: Depakote,

Mental Health/Medical Condition that Affects Ability to Parent:

[REDACTED] is suffering from mental health issues at this time and has been placed in a mental health facility.

Treating Physician: Dr. Roberts is her family doctor.

Recommended Evaluation: The MDT has recommended that Mrs. [REDACTED] have a psychological evaluation completed.

Respondent: [REDACTED]  
DSM IV Diagnosis



Axis1:

Axis2:

Axis3:

Axis4:

Axis5:

Treating Mental Health Professional:

Medication:

Mental Health/Medical Condition that Affects Ability to Parent:

██████████ has a history of anger and impulse control issues. There are no known medical conditions.

Treating Physician: Dr. Roberts is Mr. ██████████ doctor.

Recommended Evaluation: The MDT has recommended that Mr. ██████████ have a psychological evaluation completed

## **SECTION X**                      **Child's Special Needs and Services Provided during Placement**

Child: ██████████

Special Needs: There are no needs at this time.

Physical: No known physical conditions.

Emotional: ██████████ has had some acting out behaviors at home and in day care. ██████████ is having difficulty coping with the issues that are occurring in her family.

Developmental: There are no concerns at this time.

Services Provided: ██████████ currently attends play therapy at Youth Health Services.



Recommended Evaluations: No evaluations recommended at this time.

**SECTION XI Child Mental Health/Medical History 42 U.S.C. § 675(1)(C)**

**A. Medication and Reason**

Child: 

DSM IV Diagnosis:

Axis 1:

Axis 2:

Axis 3:

Axis 4:

Axis 5:

Other Diagnosis:

Medication and Reason:

Medication:

Reason:

Prescribing Physician:

Physician Address

Physician Phone:

Immunizations and Dates:

Type: Other, Specify

Date: 03/02/2007

Physician/Clinic:

Physician/Clinic Address:

Physician/Clinic Phone:

Type: Other, Specify  
Date: 04/10/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Other, Specify  
Date: 06/21/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Other, Specify  
Date: 02/06/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Hapatitis A - Dose 2  
Date: 12/16/2008  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Hapatitis A - Dose 2  
Date: 03/30/2010  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Hepatitis B Dose 1  
Date: 11/25/2005  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:



Type: HIB - Dose 1  
Date: 02/06/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

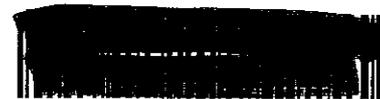
Type: HIB - Dose 2  
Date: 04/11/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: HIB - Dose 3  
Date: 06/21/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: HIB - Dose 4  
Date: 03/02/2007  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: OPV/IPV - Dose 1  
Date: 04/11/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: MMR/MR Dose 1  
Date: 12/04/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:



Type: PCV - Dose 1  
Date: 02/06/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: PCV - Dose 2  
Date: 04/10/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: PCV - Dose 3  
Date: 06/21/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: PCV - Dose 4  
Date: 03/30/2010  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Type: Varicella - Dose 1  
Date: 12/04/2006  
Physician/Clinic:  
Physician/Clinic Address:  
Physician/Clinic Phone:

Allergies:  
Type: No Clinical Diagnosis,  
Description:  
Treating Physician:

Contact Information:

Treating Mental Health Professional:

Contact Information:

Phone:

**EPSDT**

Client: [REDACTED]

Provider: Dr Samuel Roberts

Appointment Type: Initial Screening

Appointment Date: 03/30/2011

Next Appointment Date: 03/30/2012

Address:

Phone:

**B. Most Recent Physical, Dental & Visual Exam (Date) 42 U.S.C. ' 675(1)(c)(i)(viii)**

Child Name: [REDACTED]

Provider:

Appointment Type:

Appointment Date:

Next Appointment Date:

Address:

Phone:

**SECTION XII Educational Status 42 U.S.C. ' 675(1)(C)(i)(ii)(iii)**

Child Name: [REDACTED]

School Name:

Contact Person Name:

School Address:

School Phone:

Current Grade Status:

Education Status:

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[REDACTED]

Education Performance:  
Functioning Grade Level:  
IEP (Yes/No): Yes  
Special Needs:  
Have prior school records been transferred?  
Any Recommended Evaluations:

**EDUCATIONAL STABILITY 42 U.S.C. § 475 (1)(G)**

What assurances have been made that the child's current foster care placement accounts for the appropriateness of the current educational setting?

What assurances have been made that the child's current foster care placement accounts for the proximity to the child's current enrolled school at the time of placement?

\*What assurance have been made that the Department has coordinated with appropriate local educational agencies (as defined under Section 9101 of the Elementary and Secondary Education Act of 1965) to ensure the child remains in the school in which he/she is enrolled at the time of placement?

\*If remaining in the school in which the child is enrolled at the time of placement is not in the child's best interests, what assurances have been made by the Department and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school?

**SECTION XIII Independent Living Services**

*Note: This section is only applicable to children who are 14 years of age or older.*

- A. Child's Date of Birth: 11/25/2005
- B. What transition services is the Department providing to prepare the child for independent living?  
No



Does the child have an Individualized Education Plan (IEP)? No  
If so, what additional transition services are being provided under the IEP?

If the child will need further support as an adult, has the DHHR adult services unit been included in the planning?

Has the Division of Vocational Rehabilitation Services been included in the planning?

- C. What training has been or will be provided so that the child will be prepared to exercise his/her decision-making rights as an adult?  
No

Is adult legal guardianship/conservatorship being considered?  
If so, who will act in this capacity?

**SECTION XIV Child Support RULE 28(c)(7)**

**A. Child Support B Abuse and Neglect Case**

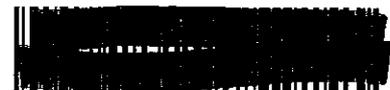
Describe the parent(s) ability to contribute to the cost of placement.  
[REDACTED] and [REDACTED] are currently both unemployed.

Has payment of child support by the parent(s) has been ordered by the court in the abuse and neglect case? No If not, explain.  
Judge Wilfong did not order child support in this case.

Either, enter updated child support info from FACTS or request CAO-25 from OSCAR and attach. Add additional comments, if any.

Parent	Source of Income	Order Date	Amount Ordered	Frequency	Last Payment	
					Amount	Date

Child(ren) Name: [REDACTED]



**B. Child Support B Family Court Case**

Is there a family court order in effect that establishes paternity for the child or that imposes a child support obligation?

No

If so, identify the court, the style of the case, and the case number.

Family Court = ,Case Style = ,Judge Name = ,Court Number =

Who is the child support obligor?

What is the amount of the monthly child support obligation?

\$0

Are there any arrearages? No If so, what is the amount?

0

**SECTION XV Treatment Plan RULE 28(a)(1) - (3)**

Client: [REDACTED],

Identified Change: [REDACTED] will do well enough emotionally that her needs and feelings don't immobilize her or reduce their ability to act promptly and appropriately [REDACTED] will not be consumed with her own feelings and anxieties.

Identified Problem or Deficiency: [REDACTED] is not emotionally able to intervene to protect the child. [REDACTED] does not understand her protective role.

Goals: [REDACTED] feels safe and demonstrates that she is effective at coping and is able to act to protect her children.

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

(a) Client Name: [REDACTED]

(b) Responsible Party Type: Provider

(c) Responsible Party ID: 30020726

(d) Responsible Party Name: Home Base-Upshur County

(e) Service: ASO Adult Life Skills

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(f) Begin Date:  
(g) End Date:  
(h) Submitted Date: 04/20/2011

Service Details: 2

(a) Client Name: [REDACTED]  
(b) Responsible Party Type: Provider  
(c) Responsible Party ID: 30005202  
(d) Responsible Party Name: APPALACHIAN COMMUNITY HEALTH CENTER  
(e) Service: Drug Abuse Counseling  
(f) Begin Date: 11/24/2010  
(g) End Date:  
(h) Submitted Date:

Referral Date:

Dates of Actual Participation: Services will be started when client becomes available to participate.

Client: [REDACTED]

Identified Change: [REDACTED] will understand the cause - effect relationship between her own actions and the results for her children.

Identified Problem or Deficiency: [REDACTED] is not self-aware as a caregiver.

Goals: [REDACTED] is aware of how her choices impact her children and makes decisions that reflect that the children are her number one priority. She provides a stable home free of violence for the children.

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

(a) Client Name: [REDACTED]  
(b) Responsible Party Type: Provider  
(c) Responsible Party ID: 30020726  
(d) Responsible Party Name: Home Base-Upshur County  
(e) Service: ASO Individualized Parenting  
(f) Begin Date:  
(g) End Date:  
(h) Submitted Date: 04/20/2011



Referral Date:

Dates of Actual Participation: Services will be started when client becomes available to participate.

Client: [REDACTED]

Identified Change: [REDACTED] will not act on her urges or desires. [REDACTED] will not behave as a result of outside stimulation. [REDACTED] will think before she acts. [REDACTED] will seek ways to satisfy her children's needs as the priority. [REDACTED] will do for herself after she has done for her children.

Identified Problem or Deficiency: [REDACTED] does not demonstrate impulse control. [REDACTED] does not set aside her needs in favor of her children.

Goals: [REDACTED] demonstrates self control and does not act on impulsive urges including avoiding substances. [REDACTED] makes providing for her children's basic needs her priority.

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30005202
- (d) Responsible Party Name: APPALACHIAN COMMUNITY HEALTH CENTER
- (e) Service: Drug Abuse Counseling
- (f) Begin Date: 11/24/2010
- (g) End Date:
- (h) Submitted Date:

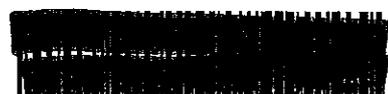
Referral Date:

Dates of Actual Participation: Services will be started when client becomes available to participate.

Client: [REDACTED]

Identified Change: [REDACTED] will understand the cause-effect relationship between his actions and results for his children. [REDACTED] will be open to who he is, to what he does, and to the effects of what he does. [REDACTED] will think about himself and judge the quality of his thoughts, emotions and behavior.

Identified Problem or Deficiency: [REDACTED] is not self-aware as a caregiver.



Goals: [REDACTED] will understand the influence of his behaviors/emotions and how his actions/behaviors affect the children [REDACTED] will be sensitive to the fact of how his actions affect the children

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30111785
- (d) Responsible Party Name: North Central Community Corrections
- (e) Service: Drug Screening
- (f) Begin Date: 03/01/2011
- (g) End Date:
- (h) Submitted Date:

Referral Date:

Dates of Actual Participation: Services will begin when client becomes available.

Client: [REDACTED]

Identified Change: [REDACTED] will recover quickly from setbacks or being upset. [REDACTED] will be effective at coping as a caregiver.

Identified Problem or Deficiency: [REDACTED] is not resilient as a caregiver.

Goals: [REDACTED] will demonstrate that he is effective at coping and can roll with setbacks or disappointments.

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30020726
- (d) Responsible Party Name: Home Base-Upshur County
- (e) Service: ASO Adult Life Skills
- (f) Begin Date:
- (g) End Date:

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(h) Submitted Date: 04/20/2011

Service Details: 2

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30020726
- (d) Responsible Party Name: Home Base-Upshur County
- (e) Service: ASO Individualized Parenting
- (f) Begin Date:
- (g) End Date:
- (h) Submitted Date: 04/20/2011

Referral Date:

Dates of Actual Participation: Services will be started when client becomes available to participate.

Client: [REDACTED]

Identified Change: [REDACTED] will do not act on his urges or desires. [REDACTED] will not behave as a result of outside stimulation. [REDACTED] will think before he acts, and [REDACTED] will be playful.

Identified Problem or Deficiency: [REDACTED] does not demonstrate impulse control.

Goals: [REDACTED] demonstrates self control and does not act on impulsive urges including avoiding substances and interacting with family members in a non-aggressive manner.

Beginning Date: 04/20/2011

Estimated Completion Date: 10/20/2011

Actual Completion Date:

Frequency:

Service/Service Provider: Service Details: 1

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30111785
- (d) Responsible Party Name: North Central Community Corrections
- (e) Service: Drug Screening
- (f) Begin Date: 03/01/2011
- (g) End Date:
- (h) Submitted Date:

Service Details: 2

- (a) Client Name: [REDACTED]

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(b) Responsible Party Type: Provider  
(c) Responsible Party ID: 30005202  
(d) Responsible Party Name: APPALACHIAN COMMUNITY HEALTH CENTER  
(e) Service: Drug Abuse Counseling  
(f) Begin Date: 03/02/2011  
(g) End Date:  
(h) Submitted Date:

Referral Date:

Dates of Actual Participation: Services will be started when client becomes available to participate.

Client: [REDACTED]

Identified Change: Child will feel safe in their home. Children will also be able to process events that have occurred, and acquire understanding and comfort with their parents and living environment.

Identified Problem or Deficiency: [REDACTED], and [REDACTED] have been having issues coping with the events that occurred in the home with Mr. and Mrs. [REDACTED]. The children do not always feel safe and conformable as a result of their exposure to substance use/abuse and domestic violence.

Goals: [REDACTED] and [REDACTED] will develop feelings of security and safety regarding their home environment. [REDACTED] and [REDACTED] will have a safe and permanent home.

Beginning Date: 04/20/2011  
Estimated Completion Date: 10/20/2011  
Actual Completion Date:  
Frequency:  
Service/Service Provider: Service Details: 1

(a) Client Name [REDACTED]  
(b) Responsible Party Type: Provider  
(c) Responsible Party ID: 30005172  
(d) Responsible Party Name: Youth Health Services, Inc.  
(e) Service: Counseling  
(f) Begin Date: 04/20/2011  
(g) End Date:  
(h) Submitted Date:



Service Details: 2

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30005172
- (d) Responsible Party Name: Youth Health Services, Inc.
- (e) Service: Counseling
- (f) Begin Date: 04/20/2011
- (g) End Date:
- (h) Submitted Date:

Service Details: 3

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30005172
- (d) Responsible Party Name: Youth Health Services, Inc.
- (e) Service: Counseling
- (f) Begin Date: 04/20/2011
- (g) End Date:
- (h) Submitted Date:

Service Details: 4

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30005172
- (d) Responsible Party Name: Youth Health Services, Inc.
- (e) Service: Counseling
- (f) Begin Date: 04/20/2011
- (g) End Date:
- (h) Submitted Date:

Service Details: 5

- (a) Client Name: [REDACTED]
- (b) Responsible Party Type: Provider
- (c) Responsible Party ID: 30005172
- (d) Responsible Party Name: Youth Health Services, Inc.
- (e) Service: Counseling
- (f) Begin Date: 04/20/2011
- (g) End Date:
- (h) Submitted Date:



Referral Date:

Dates of Actual Participation: Children attend services on a weekly basis.

**Case Management Tasks:**

Case Management Task Type	Frequency	Completion Date	Task Description
Appointment/meeting	As Necessary		Worker will set appointments as needed.
Request information/reports	As Necessary		Worker will request reports from providers as needed.
Visit	Monthly		Worker will meet with family members on a monthly basis.
Assessment and Evaluation	As Necessary		DHHR will evaluate progress of case and prepare reports every three months.

**SECTION XVI Permanency Plan 42 U.S.C. ' ' 675(5)(C) and (E), and Rules 28(a) and 37**

*Note: Since concurrent planning is required in all cases, this section should be completed when the case plan is submitted to the court.*

**A. PERMANENCY PLAN**

Recommended Plan for Permanent Placement:  
Reunification

Identify Steps Necessary to Achieve Permanent Placement in a timely manner:

Completion of Improvement Periods for [REDACTED] and [REDACTED] Enhance Protective Capacities.

*Note: Since the Department is required to make reasonable efforts to achieve permanency in a timely manner, the steps identified in this subsection should include target dates for completion.*

Target Date for Achievement of Permanency Plan:

Barriers to Achievement of the Permanency Plan:



## **B. CONCURRENT PERMANENCY PLAN**

Recommended Plan for Permanent Placement:  
Adoption

Identify Steps Necessary to Achieve Permanent Placement in a timely manner:  
Parental rights would have to be terminated. Case would then be transferred to adoption unit and adoption process would need to be completed.

*Note: Since the Department is required to make reasonable efforts to achieve permanency in a timely manner, the steps identified in this subsection should include target dates for completion.*

Target Date for Achievement of Permanency Plan:

Barriers to Achievement of the Permanency Plan:  
Parental rights would have to be terminated.

## **C. KINSHIP GUARDIANSHIP**

Steps taken by the Department to determine that it is not appropriate for the child to be returned home or adopted:

Reason why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests:

Ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment:

Efforts the Department has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship:

Reasons the relative foster parent has chosen not to pursue adoption of the child:

Efforts made by the Department to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made:

**SECTION XVII**

**MDT for Case Plan Preparation**

MDT Date: 04/04/2011 01:00 PM

MDT Participants:

[REDACTED]

MDT Recommendations: The MDT started at 1pm. Not all members of the MDT were present at the beginning of the MDT as [REDACTED] was in Magistrates court from approximately 11am to 130pm, and many of the MDT members were present at that hearing. The MDT discussed the results of the magistrate's court hearing. [REDACTED] charges of kidnapping were dropped, but the prosecutor's office reported that additional charges were going to be filed. The additional charges were going to be misdemeanor charges concerning domestic violence. The MDT had concerns of what Mr. [REDACTED] may do in the 24 hours he had before he had to report back to court. Mr. [REDACTED] was released and had to report back to Magistrates court in the afternoon on 04/05/2011. The family members voiced their concern that Mr. [REDACTED] may come to their homes and they were concerned about their personal safety. The MDT discussed what could be done to help. The MDT talked about some of the family members going to WAIC, or placing the children in foster care for a short time. The MDT finally agreed that the children would remain in their current homes, and all of the family members would go and get protective orders. Some of the family members stated that if Mr. [REDACTED] came to their homes and attempted to get the children or hurt them they would do whatever necessary to protect themselves and the children. Mr. [REDACTED] reported that Mr. [REDACTED] had stated to him that he would not be attempting to contact any of the family members, unless it was approved by the MDT. Mr. [REDACTED] requested a visit for Mr. [REDACTED] with his children during the time that he was going to be released. The MDT did not agree to any visitation at that time. The family members were very upset about what had occurred at the Magistrates hearing and asked what could be done to ensure that there were no more incidents like this one.

[REDACTED]

Objections to Case Plan: No objections to plan at this time.

**SIGNATURE(S)**

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
RESPONDENT'S ATTORNEY

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
RESPONDENT'S ATTORNEY

\_\_\_\_\_  
YOUTH

\_\_\_\_\_  
GUARDIAN AD LITEM

\_\_\_\_\_  
CASA

\_\_\_\_\_  
CPS WORKER

\_\_\_\_\_

\_\_\_\_\_  
TITLE



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TITLE



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## “Making the Most of Treatment MDTs: An Interactive Presentation and An Exercise in Case Planning”

### INSTRUCTIONS:

In your packet, you have an MDT scenario with some questions, a copy of a blank case plan and a copy of a blank progress report. You should conduct an MDT, answer the questions that follow your particular scenario and complete relevant parts of the case plan and progress report. You also need to choose a spokesperson who will make a brief presentation (no more than three to five minutes) to the group on your MDT session.

### **Multi Disciplinary Treatment Team I**

Amy Sencindiver is 32 years old and has five children. She has some medical problems and may have been diagnosed with bipolar disorder several years ago. The oldest child is Katherine, and she is 14 years old. Her father's name is Ralph Headley, and he lives in Ohio. He did not know he was Katherine's father until she was five years old, and Amy named him as a putative father in a paternity case. He has paid child support through income withholding since she was seven. Katherine has spent two weeks in the summer with him for the last three years. A family court order allows him visitation with her every other weekend, but this visitation has never occurred with any regularity. The second oldest child is Scott, and he is 12 years old. His full brother is Henry, and he is ten years old. Their father is Derrick Holding, and he is serving a 20-year penitentiary sentence for armed robbery. Scott and Henry's paternal grandmother, Ellen Holding, lives three hours away, has a CPS history, but visits with Amy and the children approximately every other month. The two youngest children are Mackenzie Sencindiver, age four, and Brooklyn Sencindiver, age three. Their father is Thomas Sencindiver. He has not seen his children for a year.

A petition was filed concerning the children after a Head Start worker made a referral concerning the conditions of the home after she had conducted a home visit. Apparently, it was January and the house was very cold. Amy had apologized for the cold and said that it occurred because she had run out of propane. Not only was the house cold, but it was extremely dirty. There were empty beer bottles and an open bottle of prescription painkillers on the kitchen counter. There were dirty dishes in the sink and on the table. Some of them had mold on them.

The children were removed from the home when the petition was filed. They were placed in three different foster homes in two different counties. At an adjudicatory hearing, Amy was granted a pre-adjudicatory improvement period. This is the first MDT that has occurred in the case. Amy is the only adult respondent who has appeared at the MDT.

- What information does the MDT need to obtain?
- What professionals should be in attendance?
- Which family members should be in attendance?
- Are there any services that could be provided to allow the children to return home?
- What type of visitation schedule should the MDT establish?
- How will the visitation ensure that the siblings maintain a bond?
- What other type of contact should be recommended for Amy and her children?
- Are there other relatives who should be included in the visitation?
- What types of evaluations should the MDT recommend?
- What is an appropriate concurrent permanency plan?
- What are potential obstacles to reunification?

- What, if anything, could be done to proactively address any potential obstacles?
- What agencies would serve as potential resources for this family?

### **Multi Disciplinary Treatment Team II**

Janie Crowder was born on June 3, 2010, with cocaine and opiates in her system in Martinsburg, West Virginia. A petition was filed on June 4, 2010, and she was “removed” from her parents’ care on that day. After a lengthy abuse and neglect case that included an appeal, the circuit court judge terminated both her mother and father’s parental rights. Janie is now two years old.

Janie has lived with a foster family, Jack and Susan Redman, since she was released from the hospital on June 8, 2010. Janie has a four-year old half-sister named Arianna who lives with their paternal grandmother in Martinsburg. Janie’s paternal grandmother has expressed an interest in adopting Janie. Jack and Susan Redman have expressed an interest in adopting Janie, now that she is “legally available” for adoption. Since Janie has been placed with them, Jack and Susan Redman had a biological child named Jake. He has a hearing disability, and Susan has had to invest a significant amount of time in caring for his needs. A maternal aunt who lives in Charleston, West Virginia, has also expressed interest in adopting Janie. Her name is Jacquelyn Parks, she is a single mother with a 12-year old son, and she works for a utility company. Although she has been aware that Janie has been in foster care, she has not participated in the case because of the distance between her residence and the county where the abuse and neglect case was pending. She had not wanted Janie to be placed with her originally because the distance between the two counties would have increased the difficulty of visitation between Janie and her biological parents. A permanency hearing is scheduled.

- What type of recommendation should the MDT make to the court before the permanency hearing?
- Who should participate in the MDT?
- What type of information or assessments should the MDT consider before the permanency hearing?
- What type of information should be elicited about the prospective permanent homes?
- Who is responsible for obtaining the information?
- What sort of financial assistance is available to each of the prospective adoptive homes?
- What steps could have been taken at an earlier time to avoid this type of scenario?
- What recommendation would you make to the court and why?
- If the MDT does not come to an agreement about recommendations, how should the MDT members present their respective positions to the presiding judge?

### **Multi Disciplinary Treatment Team III**

This case involves burns that an 18-month child, Thomas, suffered. At the time that the burns occurred, Thomas lived with his mother, Jane Hasten, and his infant sister, Ariel, aged six weeks. The burns were the result of contact with scalding water. Jane Hasten has insisted that the burns were accidental and that they occurred when Thomas had climbed up on a sink and turned the water on. Allegations in the petition describe the burns as immersion burns that Jane Hasten intentionally caused by holding Thomas in the sink. No criminal charges are pending, and it is not expected that any will be filed. Jane Hasten and her attorney have indicated that Jane Hasten will participate in reunification services, but Jane Hasten has remained consistent that the injuries to her son, Thomas, did not occur as a result of intentional abuse. She does concede that she may have been negligent in supervising Thomas. She has claimed that she had stepped outside of the townhouse where she lived in an attempt to make a cell phone call. After a criminal investigation, law enforcement decided not to file any criminal charges against Jane.

At the time that the petition was filed, both children were removed and placed in foster care. The petition has been pending for 70 days, and an adjudicatory hearing is scheduled in another month. The delay in the adjudicatory hearing is the result of scheduling difficulties because both the Department and Jane Hasten's counsel have retained expert witnesses who will testify as to the nature and character of the burns.

An MDT has been convened and will be conducted before the adjudicatory hearing. The assistant prosecuting attorney would like to attend the MDT but has insisted that she is too busy to attend an MDT at the Department offices. She has proposed that the parties have an MDT at the courthouse immediately before the adjudicatory hearing.

- What is your response to the prosecutor's proposal?
- What information should be elicited at the MDT?
- As counsel for Jane Hasten, what advice would you give her before the MDT?
- What ground rules would you insist upon at the MDT?
- What sort of visitation schedule should be established and why?
- What evaluations, if any, should be scheduled?
- What services could be provided to the Jane and her children?

After the adjudicatory hearing is conducted, the court found that the burns were not the result of intentional abuse on the part of Jane Hasten. However, the court found that she was negligent in supervising Thomas, and her negligent supervision caused his burns. The adjudicatory hearing lasted four days and was fairly heated.

- Based upon this development, how would you answer the questions above?
- Are your answers any different from the pre-adjudicatory scenario? If so, why?

#### **Multi Disciplinary Treatment Team IV**

Gail Howser, aged 35, has two children with her husband, Bill. Her son Matt is seven years old and Will is five years old. Gail has a nominal CPS background, primarily for substance abuse. Before the current case was initiated, she has never had an open case for services because she has declined to participate in them each time the DHHR has offered services to her.

The current abuse and neglect case has been pending for nine months. The allegations in the petition involved both adult respondents' substance abuse and a domestic violence incident in which Bill was trying to hit Gail, but Matt got in the way. Matt's nose was broken. Gail also suffered a dislocated shoulder in the incident. She originally sought and obtained a protective order and moved out of the family home with the children. No petition was filed at the time of the incident. However, Gail went back to living with Bill after she had lived in a domestic violence shelter for over a month. When Matt went to school one day, he told his teacher that his dad had been yelling and had almost hit him again. Matt's teacher made a referral to the Department, and after an investigation, a petition was filed and the children were removed. The criminal case was dismissed after Gail failed to appear and testify against Bill at trial.

During an improvement period, Gail participated in substance abuse treatment, attended parenting services and worked a part-time job. She obtained housing separate from Bill, but has made no effort to divorce him. When asked about her relationship with him, she indicates that she has to wait and see. She has consistently attended visits with her sons and is anxious to begin reunification with them. There have been reports that Gail has seen Bill several times in the last two months.

Bill was ordered to attend substance abuse treatment and a batterer's intervention program. He has participated in the batterer's program, but the police officer who conducts the program has indicated that he believes that Bill will return to battering Gail and perhaps the children. He bases his belief on the fact that Bill has indicated several times in a group session that Gail caused the incident because she would not listen to him. No other domestic violence incidents have occurred while the case was pending. Bill has not participated in substance abuse treatment or in any parenting services because of his work schedule. He has taken off time from work, though, to participate in visits.

- What type of professionals would be helpful to the MDT?
- What is the concern about Gail's participation in an improvement period?
- What about Bill's participation in an improvement period?
- What information should the MDT use as the case begins to move towards the dispositional phase of the case?

- In retrospect, what type of services should have been recommended for both of the adult respondents?
- Should the MDT recommend reunification with one or both of the adult respondents?
- What type of expert advice would be helpful with regard to the question of reunification?

### **Multi Disciplinary Treatment Team V**

Steve Hartman is 14 years old, and his sister, Angel, is 12 years old. Their mother died when they were eight and six years old respectively. They came into the Department's custody six months ago when their father, Jack Hartman, went on a month long binge of drinking and using other substances. A neighbor called CPS, and the investigation resulted in removal. Jack Hartman has had a long history of suffering from bipolar disorder and substance abuse. Once the children were removed from his care and placed in a foster home, he began participating in earnest with mental health and substance abuse treatment. While the case has been pending, he has consistently taken his prescribed medication. Although Jack has been successful thus far with substance abuse treatment, a substance abuse evaluation conducted earlier in the case recommends inpatient substance abuse treatment because of his lengthy substance abuse history. Very recently, Angel's foster mother has reported that Angel's reading level is at about the second grade level and that she has frequent outbursts. Steve is also having trouble in school. He has not turned in any homework for over a month and is failing every class. He recently was caught skipping. Jack is very concerned about his children. He keeps saying that they never had these types of problems while they lived with him. It is approximately halfway through the improvement period and an MDT is scheduled for the following week.

- Who should attend the MDT and why?
- What issues should the MDT address?
- What type of participation would be appropriate for the children? What type of preparation would help the children participate in the MDT?
- Would it be appropriate to have Jack assist his children with schoolwork? If so, how could the MDT facilitate a situation in which Jack provides some assistance to his children?
- What type of assistance could the school system provide to the children?
- What other types of services would be helpful to this family?

### **Multi Disciplinary Treatment Team VI**

Martha Geysler's three children, Jana, age nine, Joe age 14, and Tanya, age seven were removed after Jana disclosed to a teacher that she had been sexually abused by Martha's live-in boyfriend, James T. There is some dispute about Martha's reaction to being informed about the sexual abuse. At first, she said that she had a hard time believing that the abuse had occurred. She made this statement in the waiting room after Jana was interviewed. One of the social workers advised her to obtain a domestic violence protective order and told her that a safety plan would have to be developed. Martha initially agreed to come to the local CPS office the next day, but then did not come as scheduled. She also stopped answering her phone when CPS workers called her. A forensic examination was also scheduled for Jana, and Martha did not bring her to the scheduled appointment. On the day of the scheduled appointment, a CPS worker came to the home and found James T. in the home. Martha has stated that he had simply come to the house to obtain some personal items that he had left in the home and that he was no longer living there. All of the children were at school and did not see him. After this report, CPS sought and obtained custody of the children. A preliminary hearing has been conducted, and an adjudicatory hearing is scheduled. Martha has admitted that she had a difficult time believing that abuse occurred. She has, however, indicated that she intends to admit to the allegations in the petition and that she will do anything to get her kids back.

- What type of services or evaluations should be provided to the children?
- What type of services or evaluations should be provided to Martha?
- What type of visitation would be appropriate for Martha to have with her children?
- What type of conditions would have to be met for the children to be safely returned home?
- What type of permanency plan would you recommend in the case plan?
- What type of concurrent permanency plan would you recommend in the case plan?
- What type of information would you need to obtain with regard to the children's education?

### **Multi Disciplinary Treatment Team VII**

Amy Howard has four children: Janelle, age eight, Brittany age seven, Isaiah age four, and Tyler age three. She is 26 years old, has never obtained a G.E.D., and has never worked more than a month at a time. She has had several different live-in boyfriends, none of whom have stayed more than a few months at a time. Amy spent a significant amount of time in foster care when she was a teenager. She apparently had been sexually abused by her father when she was about 13 or 14 years old.

Amy Howard has a long-term substance abuse problem, and she had an open case for services for the six months before the filing of the petition. Part of the safety plan involved her willingness to undergo voluntary drug screens. A petition was filed after she refused to go to three drug screens. In addition, a neighbor called CPS because she had left her children at home without any adult supervision over a weekend. Ultimately, her children were removed and placed in the same foster home.

Brittany, age seven, has always been a handful. When she was in foster care, she was diagnosed with ADHD and medication was prescribed. Amy has disagreed with medicating Brittany and has said on several occasions that she intends to take her off the medication when she comes home.

Janelle, age eight, has thrived in the foster home. Her grades improved significantly, and she was identified as a gifted child. She did receive services for a speech defect.

Isaiah, age four, began preschool while he was in foster care. At first, he had significant trouble in school, but lately has really seemed to enjoy it. He started calling Dirk, the foster father, "Daddy." Apparently, Amy told him not to do that.

Tyler, age three, also started preschool while he was in foster care. He is very active and enjoys being outside and playing at the park. He often has temper tantrums after visits with his mother.

At the beginning of the case, Amy tested positive for cocaine on at least four occasions, and she was ultimately evicted from her apartment. However, she, with some fairly intensive services, has managed to obtain housing and remain drug free for nine months. At the disposition hearing, the judge ordered that the children be reunified. The guardian ad litem and CPS caseworker had opposed reunification because of Amy's history. Amy is very angry with both the GAL and caseworker, and has instructed her lawyer to ask for a different caseworker and GAL. Based upon the dispositional order, the MDT must now begin the reunification process.

- Who should attend the MDT?
- What information should the MDT consider?

- As Amy's attorney, how would you prepare Amy for the MDT?
- What type of reunification process would you recommend?
- What problems will the children and Amy likely experience during the reunification process?
- What type of services could be recommended to provide assistance to them?
- What safeguards should the MDT recommend once the children are returned?
- What services should be continued after reunification?

### **Multi Disciplinary Treatment Team VIII**

John is 14 years old, and his mother and father's parental rights were terminated because of extensive substance abuse. He was also subject to some physical abuse by his parents, but little information has ever been developed as to the extent of the abuse. He has been in foster care since he was 11 years old and has been in six different homes. His maternal grandmother visits with him once each month, but she has some health problems and cannot provide care for him on a full-time basis. He was placed with Tom and Susan Mahan who have considered an adoption or legal guardianship. They have a biological son named Toby who is 10 years old. John has lived with them for approximately four months. Very recently, he has begun having trouble in the home, and specifically, he is extremely disrespectful to Susan. One day while Tom was out shopping, he punched a hole in his bedroom wall when Susan asked him to do his laundry. He has been teasing Toby until Toby cries. School is not much better. He was recently suspended from riding the bus, and Susan has to drive him to school for a week. She is, therefore, late for work each day. John is passing his classes, but just barely. Tom and Susan have told the foster care agency that things at home will have to improve before they will consider an adoption or legal guardianship. Susan recently told the permanency worker that John's behavior has to improve, or they will consider asking that he be moved. An MDT has been scheduled to address these issues.

- Who should attend the MDT and why?
- What type of evaluations, if any, should be recommended?
- What type of concurrent permanency plan should the MDT develop?
- What services should be provided to John?
- What, if anything, could be done to strengthen John's relationship with his grandmother?
- What services, if any, could be provided to address the problems between Susan and John?
- What sort of services would assist John with his educational difficulties?

### **Multi Disciplinary Treatment Team IX**

Destiny Hilling is 19 years old and has an 18-month old son named Trevor. Brandon Offut is Trevor's father, and he has sent Trevor presents on his birthday and on Christmas. He has visited with Trevor a few times, but he has never visited with him on a regular basis.

Destiny abuses prescription pain medication, but she has managed to hold down a job since Trevor was born. Typically, she used pain medication on weekends when her mother, Mary Gray, watched Trevor. Destiny became involved with a man named Thomas Green who has several convictions for drug dealing. After they had begun living together, Thomas began watching Trevor while Destiny was working. The caseworker has heard through the grapevine that Trevor witnessed a stabbing while Thomas was watching him. He does not have any more specific information about the stabbing.

An abuse and neglect petition was filed that related to Destiny's substance abuse and a drug deal that occurred when Thomas was watching Trevor. Based on the allegations in the petition, Trevor was removed and placed in foster care. About two weeks after the petition was filed, both Destiny and Thomas were arrested on felony drug distribution charges. As a condition of bond, Destiny was ordered to attend the local day report program. At an adjudicatory hearing, she admitted to the allegations in the petition and was granted a post-adjudicatory improvement period. The criminal case remains pending.

During the course of the post-adjudicatory improvement period, Destiny lost her job and was evicted from her apartment. She also had several positive screens for marijuana. She has been uncertain about whether she intends to continue a relationship with Thomas Green. Unfortunately, these events occurred two weeks before a review hearing. An MDT is scheduled for a week before the review hearing. Trevor's foster parents were invited to attend the MDT, and they appeared. Destiny's attorney has asked that they be excluded.

- What information should be obtained and reviewed at the MDT?
- Whose responsibility is it to obtain this information?
- How should the MDT address the attorney's request to exclude the foster parents?
- What recommendations should the MDT make to the court and why?
- If there is a dispute about any recommendations, how should the different recommendations be presented to the court?
- What sort of services should be provided to Trevor?
- What type of concurrent permanency plan should be developed?
- What type of drug treatment program would you recommend for Destiny?

### **Multi Disciplinary Treatment Team X**

John H. is 30 years old and has a three-year old son named Kristopher. He has had long-term mental health issues and has been on disability for approximately five years. Kristopher's mother, Jayza P., has had a long-term drug problem and is in prison for fraudulent schemes. She was sentenced to prison when Kristopher was about nine months old. After Kristopher's mother went to prison, John H. cared for Kristopher with some assistance from his sister Vickie and her husband Josh. Although John had been subject to hospitalizations in the past, they became more frequent this year. Very recently, he was subject to an involuntary commitment proceeding. At the time that the involuntary commitment proceeding commenced, an abuse and neglect petition was filed because Vickie could not be located and Isaiah was placed in foster care. After a preliminary hearing, the presiding judge placed Kristopher in Vickie's physical custody. An adjudicatory hearing is scheduled, and it is expected that John H. will admit to the allegations in the petition. At this point, John H. is in an in-patient mental health treatment program.

- What sorts of information will the MDT need to consider when it prepares a case plan?
- How could this information be obtained?
- Who should attend the MDT and why?
- How should counsel for John H. prepare his or her client for this MDT?
- How should counsel for Jayza P. prepare his or her client for this MDT?
- What sort of assistance could be provided to Vickie that would facilitate her care of Kristopher?
- What type of provisions concerning visitation would you recommend?
- What type of permanency and concurrent permanency plans would you recommend?

### **Multi Disciplinary Treatment Team XI**

Hayley T., a single mother, is so depressed that she does not provide basic care for her three children, Jillian, age six, Thomas age four, and Janie age two. She is lethargic and sleeps on the couch throughout the day. She refuses to take medication, and cries and sobs excessively. Not surprisingly, the house is a mess. She has been referred to the Department by Jillian's school because Jillian is frequently absent. When she does come to school, Jillian is extremely unkempt, even dirty and she smells bad. Another referral was filed when Thomas and Janie wandered outside while Hayley was sleeping during the day. They live on a busy road and the police were contacted. After Hayley refused all services from CPS, a petition was filed and the children were removed. Hayley did not contest the allegations at the preliminary hearing and entered into a stipulated adjudication at the adjudicatory hearing. An improvement period was granted. An MDT has been scheduled to develop a case plan.

- What type of information is needed to develop a case plan?
- What type of visitation schedule should be adopted?
- What type of concurrent permanency plan should be developed?
- What sorts of evaluations would be helpful?
- What sort of services should be provided?
- What would you, as an MDT member, consider as satisfactory progress to allow the children to be returned home?

### **Multi Disciplinary Treatment Team XII**

Tamera J. and Anthony J. are both 19 years old. Tamera has some type of developmental delay, and she receives SSI. Anthony J. was raised in foster care, has a G.E.D. and works part-time at a restaurant. He seems to be of average intelligence. Neither of them appears to have a substance abuse problem. Anthony J. tends to be hot-tempered and controlling.

Tamera J. had a son named Jackson who is three months old. At birth, he appeared to be healthy but after a well-child checkup, a heart defect was discovered. Jackson required surgery and extensive hospitalization. During his hospitalization, hospital personnel became extremely worried about discharging him to his parents' care. Much of the concern arose when Tamera, despite repeated instructions, could not seem to get the hang of using the heart monitor. Anthony J. also became very belligerent when the nurses were explaining how to use the heart monitor. He stormed out of the hospital and said something to the effect that "he didn't need anyone to tell him how to take care of his boy." After that incident, Tamera left the hospital and did not come back for over 10 days. Neither did Anthony. CPS was called, a petition was filed and Jackson was placed in foster care. After an adjudicatory hearing, an improvement period was granted. Tamera has been very quiet during hearings and has sobbed quietly through most of them. Anthony has been belligerent, but has made it through the hearings without saying anything too outrageous. However, he was very angry when he found out he had to attend an MDT because he would have to call off from work.

The foster parents, Jack and Sheila, are an older couple, and they have been fostering for 15 years. Although they don't usually like to attend MDTs, they have been invited and have decided to attend and bring Jackson.

- How should the attorneys for Tamera and Anthony prepare them for the MDT?
- Should the caseworker do anything to prepare them for the MDT?
- What assessments would you as an MDT recommend?
- What information, as an MDT member, should you obtain concerning Jackson and his parents?
- Who should be responsible for obtaining this information?
- How could the MDT enlist the foster parents in reunification efforts?

### **Multi Disciplinary Treatment Team XIII**

Jan Singleton and Grayson Jones have two healthy children, Sarah age two and Will age three. The children were removed from their care after there had been multiple referrals based on negligence of the children. Both Jan and Grayson have long-term substance abuse problems. Jan's drug of choice is cocaine, and Grayson's drug of choice is heroin. After a stipulated adjudication, both parents were granted an improvement period and then a three-month extension. The three-month extension has almost expired.

Jan went to a drug treatment center for detoxification and was referred to a long-term treatment program. She attended for a month and left the program without completing it. When explaining her reasons for leaving the treatment program, she stated that the staff was unfair and she was not allowed to visit with her children. After several dirty drug screens, she recently began a second long-term treatment program. Grayson never went to a treatment program, but he attended some NA meetings. He has tested positive for marijuana throughout the case, but does not appear to be using heroin. Grayson has missed some weekly visits with the children throughout the case, but has acted appropriately with the children during visits. Jan has never missed a visit, but she has talked on the phone and has to be prompted to change Sarah's diapers. She has completed an individualized parenting class but does not seem to be putting what she learned into practice during visits. Although Grayson did not refuse to participate in parenting, he often had errands to run or would find some reason to be out of the home when the parenting provider was scheduled to come. The children have been out of the home for a year, and disposition is scheduled. The children have done well in foster care and have bonded with the foster parents. To the MDT's knowledge, the presiding judge has never allowed a second improvement period in a case.

- What recommendation should the MDT make to the court with regard to disposition and permanency?
- If there is disagreement among MDT members, what is the majority recommendation and what is the minority recommendation?
- How will these positions be communicated to the court?
- Under both recommendations, what type of services should be provided to the children?
- If you recommend termination under these facts, what sort of facts would make the recommendation be for reunification?
- If you recommend reunification under these facts, what sort of facts would make the recommendation be for termination?
- If termination is recommended, would post-termination visitation be appropriate?

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
UNIFORM CHILD OR FAMILY CASE PLAN**

**SECTION I                      Identifying Information**

**Case ID:**  
**Case Name:**

**Child**

Name	Civil Action No.	DOB	Gender

Name, address and phone number of parties to civil action and of those entitled to notice and a right to be heard: **Rule 28(c)**

Respondent:

Name	Address Line 1	Address Line 2	Phone Number
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Petitioner:

Co-Petitioner:

Name	Address Line 1	Address Line 2	Phone Number
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CASA:

Name	Address Line 1	Address Line 2	Phone Number
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**SECTION II                      Type of Case Plan**

**Case Plan Filing Date** \_\_\_\_\_

\_\_\_\_\_ This plan is an original family case plan that is submitted within thirty days of the entry of an order granting an improvement period. (W. Va. Code § 49-6-2(b)).

\_\_\_\_\_ This plan is an original child case plan that is being submitted at least five judicial days before the dispositional hearing. (W. Va. Code § 49-6-5(a)).

\_\_\_\_\_ This document is a revised or modified case plan.

### **SECTION III Child Already Out of Home**

#### **A. Circumstances Necessitating Removal-Rule 28(c)(1)**

Child:

Circumstance Necessitating Removal:

Date Removed:

#### **B. Identify Reasonable Efforts to Prevent Placement or Why Reasonable Efforts were not required Rule 28(b)(1)**

Child:

Reasonable Efforts to Prevent Placement:

Reasonable Efforts Not Required:

### **SECTION IV Termination of Parental Rights**

#### **A. Is termination of parental rights requested at this time?**

#### **B. If the answer to the question above is yes, identify the reasons for requesting termination of parental rights.**

1.\_\_\_\_\_ The child has been in the custody of the agency and/or in out-of-home care for 15 out of the last 22 months.

2.\_\_\_\_\_ a) The court has determined that the child has been abandoned.

b) Date of determination:

3.\_\_\_\_\_ a) If a court has determined the parent has committed murder or voluntary manslaughter of another of his or her children or the other parent of his or her children; has attempted or conspired to commit such murder or voluntary manslaughter or has been an accessory before or after the fact of either crime; has committed unlawful or malicious wounding resulting in serious bodily injury to the child or to another of his or her children or to the other parent of his or her children;

b) Date of determination:

4.\_\_\_\_\_ a) There has been a prior involuntary termination of parental rights to a sibling.

b) Identify the court, the civil action number, the date of the involuntary termination and other relevant information.

5.\_\_\_\_\_ There is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future.

Identify the case-specific facts supporting this assertion.

**C. If the Department would otherwise be required to seek termination of parental rights, is there a compelling reason not to seek termination of parental rights?**

**D. If the answer to the question above is yes, identify the compelling reason not to seek termination of parental rights and provide case-specific information that supports this conclusion:**

1.\_\_\_\_\_ The child is being cared for by a relative;

2.\_\_\_\_\_ The child's age and preference regarding termination of parental rights;

3.\_\_\_\_\_ Adoption is not the appropriate permanency goal for the child;

4. \_\_\_\_\_ The child has been placed in the Department's custody based upon juvenile proceedings brought pursuant to West Virginia Code §§ 49-5-1, *et seq.*;
5. \_\_\_\_\_ Filing the petition would not be in the child's best interests;
6. \_\_\_\_\_ Reasonable efforts are required to return the child to his or her family, but the Department has not yet provided services necessary to return the child to the home; or
7. \_\_\_\_\_ The child is an unaccompanied refugee minor as defined by 45 C.F.R. § 400.11 or there are international legal obligations or compelling foreign policy reasons that preclude termination of parental rights.
8. \_\_\_\_\_ Other.

Comments:

## **SECTION V Child in Home**

### **A. Circumstances Necessitating Court Intervention: RULE 28(a)**

*Note: The basis for the petition should be summarized here, including any circumstances in which the Department is required to file a petition.*

#### **Safety Influences:**

### **B. Safety Plan:**

Is there an in-home safety plan?

If so, identify the terms.

## **SECTION VI Recommended or Current Placement: RULE 28(c)(3); 42 U.S.C. § 675(1)(A)**

### **A.**

Child:

Type:

CPR-0740 Court Report

Created on 17 October 2011 9:58:00 AM Last printed 31 January 2012 8:32:00 AM

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Status:

Provider Name:  
Provider Address:

Provider Phone:  
Provider County:  
Entry Date:  
Exit Date:  
Exit Reason:

**B. Describe how the placement assures the child's safety. RULE 28(c)(3); 42 U.S.C. § 675(1)(B)**

Child:

Caretaker:

Unique Qualification which meets Child's Special Needs:

Protection from Maltreating Parents:

How Placement Assures the Child's, Youth's and/or Community Safety:

Indicate if this is the most appropriate placement. If not, why?

**C. Placement History**

Placement#  
Entry Date:  
Exit Date:  
Provider Type:  
Provider Name:  
Provider Address:

Provider Phone:  
Provider County:  
Exit Reason:

Caretaker#	
Date Entered:	
Date Exited:	
Caretaker Name:	
Caretaker Address:	
Caretaker Phone:	
Caretaker County:	
Exit Reason:	

Total number of Placement(s) for this client:

Has the child been subject to three or more placements in one year?  
(W. Va. Code § 49-6-8(d)). *Note: All placements except respite stays, hospitalizations and home visits of less than fourteen days are considered placements.*

**D. Placement Proximity: RULE 28(c)(3); 42 U.S.C. § 675(1)(C)(iv)**

Child:

Placement within 50 mile radius of Child's Community (Yes/No):

If Not, then Explanation:

Proximity:

Is the child in an out of state placement? **42 U.S.C. § 675(5)(A)(i)**

If Yes, describe how the placement meets or continues to meet the best interest of the child in a manner that cannot be met in-state. **42 U.S.C. § 675(5)(A)(i)**

**E. Relative Placements Considered:**

Identify relatives or friends, including those who live out of state, who were contacted regarding the possibility of placement, reasons that child was not placed with them or explain why no relatives or friends were contacted. **RULE 28(c)(2)**

**SECTION VII Recommended Visitation Plan RULE 28(c)(4)**

*Note: For contact between siblings when they are separated, see Section VIII.*

Visitation Plan

Visitor(s)	Visitation	Supervision	Frequency	Duration
------------	------------	-------------	-----------	----------

Visitation Log

Date of Visit	Participants	Supervision	Court Ordered	Status
---------------	--------------	-------------	---------------	--------

Identified Strengths:

Identified Problems and Solutions:

Other Contact between Family Member and Child:

Visitation Condition:

**SECTION VIII Siblings RULE 28(c)(6)**

Are the siblings separated?

If so, list the siblings, their location(s) and date of court order sanctioning separation.

If the siblings are not placed together, then explain why.

Describe plans to maintain contact and to reunify them if this is warranted.

Dates of actual visitation between siblings:

Other contact between siblings:

**SECTION IX                      Respondent(s) Mental Health/Medical History**

Respondent:  
DSM IV Diagnosis:  
Axis 1:

Axis 2:

Axis 3:

Axis 4:

Axis 5:

Mental Health/Medical Condition that Affects Ability to Parent:

Medication:

Treating Mental Health Professional:

Treating Physician:

Recommended Evaluations:

**SECTION X                      Child's Special Needs and Services Provided during Placement**

Child:

Special Needs:

Physical:

Emotional:

Developmental:

Services Provided:

Recommended Evaluations:

**SECTION XI Child Mental Health/Medical History 42 U.S.C. § 675(1)(C)**

**A. Medication and Reason**

Child:

DSM IV Diagnosis:

Axis 1:

Axis 2:

Axis 3:

Axis 4:

Axis 5:

Other Diagnosis:

Medication and Reason:

Medication:	
Reason:	
Prescribing Physician:	
Physician Address	

Physician Phone:	

Immunizations and Dates:

Type:	
Date:	
Physician/Clinic:	
Physician/Clinic Address:	
Physician/Clinic Phone:	

Allergies:

Type:

Description:

Treating Physician:

Contact Information:

Treating Mental Health Professional:

Contact Information:

Phone:

**EPSDT**

**Client:**

Provider:

Appointment Type:

Appointment Date:

Next Appointment Date:

Address:

Phone:

**B. Most Recent Physical, Dental & Visual Exam (Date) 42 U.S.C. § 675(1)(c)(i)(viii)**

Child Name:

Provider:	
Appointment Type:	
Appointment Date:	
Next Appointment Date:	
Address:	

Phone:	
--------	--

**SECTION XII Educational Status 42 U.S.C. § 675(1)(C)(i)(ii)(iii)**

Child Name:  
School Name:  
Contact Person Name:  
School Address:

School Phone:  
Current Grade Status:  
Education Status:  
Education Performance:  
Functioning Grade Level:  
IEP (Yes/No):  
Special Needs:  
Have prior school records been transferred?  
Any Recommended Evaluations:

**EDUCATIONAL STABILITY 42 U.S.C. § 475 (1)(G)**

What assurances have been made that the child's current foster care placement accounts for the appropriateness of the current educational setting?

What assurances have been made that the child's current foster care placement accounts for the proximity to the child's current enrolled school at the time of placement?

\*What assurance have been made that the Department has coordinated with appropriate local educational agencies (as defined under Section 9101 of the Elementary and Secondary Education Act of 1965) to ensure the child remains in the school in which he/she is enrolled at the time of placement?

\*If remaining in the school in which the child is enrolled at the time of placement is not in the child's best interests, what assurances have been made by the Department and the local

educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school?

### **SECTION XIII Independent Living Services**

*Note: This section is only applicable to children who are 14 years of age or older.*

- A. Child's Date of Birth:
- B. What transition services is the Department providing to prepare the child for independent living?

Does the child have an Individualized Education Plan (IEP)?  
If so, what additional transition services are being provided under the IEP?

If the child will need further support as an adult, has the DHHR adult services unit been included in the planning?

Has the Division of Vocational Rehabilitation Services been included in the planning?

- C. What training has been or will be provided so that the child will be prepared to exercise his/her decision-making rights as an adult?

Is adult legal guardianship/conservatorship being considered?  
If so, who will act in this capacity?

### **SECTION XIV Child Support RULE 28(c)(7)**

#### **A. Child Support – Abuse and Neglect Case**

Describe the parent(s) ability to contribute to the cost of placement.

Has payment of child support by the parent(s) has been ordered by the court in the abuse and neglect case? If not, explain.

Either, enter updated child support info from FACTS or request CAO-25 from OSCAR and attach. Add additional comments, if any.

Parent	Source of Income	Order Date	Amount Ordered	Frequency	Last Payment	
					Amount	Date

Child(ren) Name:

**B. Child Support – Family Court Case**

Is there a family court order in effect that establishes paternity for the child or that imposes a child support obligation?

If so, identify the court, the style of the case, and the case number.

Who is the child support obligor?

What is the amount of the monthly child support obligation?

Are there any arrearages? If so, what is the amount?

**SECTION XV Treatment Plan RULE 28(a)(1) - (3)**

Client:

Identified Change:

Identified Problem or Deficiency:

Goals:

Beginning Date:

Estimated Completion Date:

Actual Completion Date:

Frequency:

Service/Service Provider:

Referral Date:  
Dates of Actual Participation:

**Case Management Tasks:**

Case Management Task Type	Frequency	Completion Date	Task Description
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**SECTION XVI Permanency Plan 42 U.S.C. §§ 675(5)(C) and (E), and Rules 28(a) and 37**

*Note: Since concurrent planning is required in all cases, this section should be completed when the case plan is submitted to the court.*

**A. PERMANENCY PLAN**

Recommended Plan for Permanent Placement:

Identify Steps Necessary to Achieve Permanent Placement in a timely manner:

*Note: Since the Department is required to make reasonable efforts to achieve permanency in a timely manner, the steps identified in this subsection should include target dates for completion.*

Target Date for Achievement of Permanency Plan:

Barriers to Achievement of the Permanency Plan:

**B. CONCURRENT PERMANENCY PLAN**

Recommended Plan for Permanent Placement:

Identify Steps Necessary to Achieve Permanent Placement in a timely manner:

*Note: Since the Department is required to make reasonable efforts to achieve permanency in a timely manner, the steps identified in this subsection should include target dates for completion.*

Target Date for Achievement of Permanency Plan:

Barriers to Achievement of the Permanency Plan:

**C. KINSHIP GUARDIANSHIP**

Steps taken by the Department to determine that it is not appropriate for the child to be returned home or adopted:

Reason why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests:

Ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment:

Efforts the Department has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship:

Reasons the relative foster parent has chosen not to pursue adoption of the child:

Efforts made by the Department to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made:

**SECTION XVII**

**MDT for Case Plan Preparation**

MDT Date:

MDT Participants:

MDT Recommendations:

Objections to Case Plan:



**SIGNATURE(S)**

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
RESPONDENT'S ATTORNEY

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
RESPONDENT'S ATTORNEY

\_\_\_\_\_  
YOUTH

\_\_\_\_\_  
GUARDIAN AD LITEM

\_\_\_\_\_  
CASA

\_\_\_\_\_  
CPS WORKER

\_\_\_\_\_

\_\_\_\_\_  
TITLE

**UNIFORM FAMILY OR CHILD CASE PLAN PROGRESS REPORT**

*Note: This progress report is an excerpt and update from the Case Plan. The sections correspond to the sections from the original Case Plan; therefore, the sections in this document are not sequential. This progress report should be submitted to the court when the court reviews the progress or completion of the improvement period or when the court conducts permanency reviews.*

**SECTION I**

**Child**

<b>Client Name</b>	<b>Civil Action Number</b>	<b>DOB</b>	<b>Gender</b>

**Name, address and phone number of parties to civil action and of those entitled to notice and a right to be heard: Rule 28(c)**

**Respondent:**

<b>Client Name</b>	<b>Address Line 1</b>	<b>Address Line 2</b>	<b>Phone Number</b>

**Petitioner:** Department of Health and Human Resources

**Co-Petitioner:**

<b>Client Name</b>	<b>Address Line 1</b>	<b>Address Line 2</b>	<b>Phone Number</b>

**Foster Parents:**

<b>Client Name</b>	<b>Address Line 1</b>	<b>Address Line 2</b>	<b>Phone Number</b>

**CASA:**

<b>Client Name</b>	<b>Address Line 1</b>	<b>Address Line 2</b>	<b>Phone Number</b>

**SECTION VI            Placement of Child**

**A.      Current Placement**

**Child:**  
**Entry Date:**  
**Exit Date:**  
**Provider Type:**  
**Provider Name:**  
**Provider Address:**

**Provider Phone:**

**Provider County:**

**Reason for Exit:**

---

**Caretaker #:**\_  
**Date Entered:**  
**Date Exited:**

**Caretaker Name:**  
**Caretaker Address:**

**Caretaker Phone:**

**Caretaker County:**

**Exit Reason:**

**C.      Placement History**

**Placement #**\_  
**Entry Date:**  
**Exit Date:**  
**Provider Type:**  
**Provider Name:**  
**Provider Address:**

**Provider Phone:**

**Provider County:**

**Exit Reason:**

---

**Caretaker #:** \_

**Date Entered:**

**Date Exited:**

**Caretaker Name:**

**Caretaker Address:**

**Caretaker Phone:**

**Caretaker County:**

**Exit Reason:**

---

***Total Number of Placement(s) for this client:***

**Has the child been subject to three or more placements in one year? Yes/No**  
(WV Code 49-6-8(d)). *Note: All placements except respite stays, hospitalizations and home visits of less than fourteen days are considered placements.*

**SECTION VII Recommended Visitation Plan**

**VISITATION PLAN**

Visitor(s)	Visitation	Supervision	Frequency	Duration

**VISITATION LOG**

Date of Visit	Participants	Supervision	Court Ordered	Status

**Identified Strengths:**

**Identified Problems and Solutions:**

**Other Contact Between Family Members and Child:**

**SECTION VIII Siblings**

*Note: This section should only be included if there is a change in status regarding placement of the siblings or contact between the siblings.*

**Change:**

**SECTION IX Respondent(s)' Mental Health/Medical History**

*Note: This section should only be included if there is a change in status since the Case Plan was filed.*

**Respondent:**

**Change:**

**SECTION X Child's Special Needs and Services**

**Child:**

**Special Needs:**

**Physical:**

**Emotional:**

**Developmental:**

**Service Provided:**

**Recommended Evaluations:**

**SECTION XI Child's Mental Health/Medical History**

*Note: This section should only be included if there has been a change in status since the Case Plan was filed.*

**Child:**

**Change:**

**SECTION XII Educational Status**

**Child Name:**

**School Name:**

**Contact Person Name:**

**School Address:**

**School Phone:**

**Current Grade:**

**Education Status:**

**Education Performance:**

**Functioning Grade Level:**

**Have prior school records been transferred? YES/NO**

*(See attached document for child's school records)*

**IEP (Yes/No):**

**Special Needs:**

**Any Recommended Evaluations:**

**EDUCATIONAL STABILITY 42 U.S.C. 475 (1)(G)**

What assurances have been made that the child's current foster care placement accounts for the appropriateness of the current educational setting?

What assurances have been made that the child's current foster care placement accounts for the proximity to the child's current enrolled school at the time of placement?

**Child remains in the school in which he/she is enrolled at the time of placement.**

**OR**

**It is not in the child's best interest to remain in the same school in which he/she is enrolled at the time of placement.**

**OR**

**Child in not of school age.**

\*What assurance have been made that the Department has coordinated with appropriate local educational agencies (as defined under Section 9101 of the Elementary and Secondary Education Act of 1965) to ensure the child remains in the school in which he/she is enrolled at the time of placement?

\*If remaining in the school in which the child is enrolled at the time of placement is not in the child's best interests, what assurances have been made by the Department and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school?

**SECTION XIV Child Support**

**A. Abuse and Neglect Case**

**Parent:**

**Order Dt.:**

**Amount Ordered:**

**Frequency:**

**Last Payment Amount:**

**Last Payment Dt.:**

**Child(ren) Name:**

**Source of Income:**

<b>Parent</b>	<b>Income Type</b>	<b>Monthly Amount</b>	<b>Begin Date</b>	<b>End Date</b>	<b>Estimated/Verified</b>

**SECTION XV Treatment Plan**

**Client:**

**Identified Change:**

**Identified Problem or Deficiency:**

**Date for Completion of Identified Change:**

**Goals**

*Note: The goals should be case-specific, should be listed in the order of their priority, and should be designed to achieve the identified change noted above.*

**Frequency:**

**Beginning Date:**

**Estimated Completion Date:**

**Actual Completion Date:**

**Service/Service Provider:**

**Referral Date:**

**Dates of Actual Participation:**

**SECTION XVI Permanency Plan**

*Note: Since the Department is required to make reasonable efforts to achieve permanency in a timely manner, this section should include an evaluation of progress towards completion of the recommended and concurrent permanency plans.*

**A. Recommended Permanency Plan:**

**Progress Towards Achievement of Permanency Plan:**

**B. Concurrent Permanency Plan:**

**Progress Towards Achievement of Concurrent Plan:**

**C. KINSHIP GUARDIANSHIP 42 U.S.C. 475 (1)(F)**

Steps taken by the Department to determine that it is not appropriate for the child to be returned home or adopted:

Reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests:

Ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment:

Efforts the Department has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship:

Reasons the relative foster parent has chosen not to pursue adoption of the child:

Efforts made by the Department to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made:

**SECTION XVII MDT Report**

**MDT Date:**

**MDT Participants:**

Participant(s)	Role

**MDT Recommendations:**

**Goals Completed:**

**Objections:**

**SECTION XVIII Narrative/Relief Requested**

*Note: Provide any further explanation or information that is helpful to the court. Also, indicate the specific relief requested; i.e. that the improvement period should continue; that the improvement period should be revoked; that the court find that the respondent successfully completed the improvement period; that the Department has made reasonable efforts to achieve permanency in a timely manner, etc.*

\_\_\_\_\_  
Caseworker Signature

\_\_\_\_\_  
Date

# PREPARING FOR COURT: Contested Adjudicatory and Disposition Hearings

Kelly Hamon,  
Braxton Co. Prosecuting Attorney  
Teresa Lyons, Esq.  
2012 CIP Cross-Training Conference

## Contested Adjudicatory Hearing

- Central Question: Is the child an abused or neglected child?
  - W.Va. Code § 49-1-3
- Standard of Proof: Clear and convincing evidence that the abuse or neglect existed at the time the petition was filed.
  - W.Va. Code §49-6-2(c); Rule 25, RPCANP
- Secondary Question: Is the parent a non-abusive or non-neglectful parent or a battered parent?
  - W.Va. Code § 49-1-3; § 49-6-2(c)

## Substantive Evidence At Adjudication

- What is the nature and extent of the maltreatment?
    - Type of maltreatment
    - Severity of the maltreatment, results, injuries
    - Effect of the maltreatment or negligence on the child
    - Maltreatment history, similar incidents substantiated by CPS
    - History of domestic violence protective orders
    - Past referrals to CPS (substantiated, open case, previous services)
- (Lund and Renne)
- Allegations of the petition that identify the abuse and neglect

## Substantive Evidence At Adjudication

- What circumstances accompany the maltreatment?
  - How long has the maltreatment been occurring
  - Parental intent concerning the maltreatment
  - How substance abuse played a role in the maltreatment
  - Parent's attitude toward the maltreatment
  - Other problems, such as parent's mental health, connected with the maltreatment

(Lund and Renne)

## Sources of Evidence For Adjudication

- Substance Abuse
  - Admissions of parents
  - Adverse effects of substance abuse on child (neighbors, teachers)
    - Child unsupervised; lack of appropriate clothing and food
  - Photographs of evidence in home indicating substance abuse
  - Criminal history related to substance abuse
  - Treatment history, if any
- Medical Neglect/Failure to Thrive
  - Child's medical records
  - Examination of child after removal

(Florida International University)

## Sources of Evidence At Adjudication

- Physical abuse cases
  - Medical reports and expert opinions
  - Assess severity and frequency
  - Interview of child, if old enough
  - Police reports
- Sexual abuse cases
  - Interview of child
  - Forensic examination
  - Child's statements to treating mental health professionals

(Florida International University)

## Sources of Evidence At Adjudication

- Hazardous conditions at residence
  - Photographs of the residence
  - Law enforcement reports regarding the family
  - Information from neighbors
- Neglect from Mental Illness
  - Mental health records and/or testimony from mental health professional
  - Effect of the mental illness on parental care of the child

(Florida International University)

## DHHR'S CASE At Adjudication

- Burden of proof rests with the DHHR
- Prosecuting Attorney, therefore, is responsible for presenting the entire case
- Discovery is governed by Rule 10 of WVRPCAN
- Review all discovery, attend MDTs and subpoena witnesses well in advance
- Prepare, prepare and prepare some more

## Typical Witnesses

- FACT WITNESSES:
- CPS Worker: Usually the primary witness who ties the entire case together
- The importance of knowing the entire file in detail cannot be overstated
- Know dates and details. This will prevent unnecessary delay and fumbling on the stand
- Prepare a testimony outline before court

## Typical Witnesses

- Law enforcement officers
- Teachers
- Neighbors and family members
- The Adult Respondents
- Eyewitnesses
- Child(ren): See Rule 8 of WVRPCAN

## Expert Witnesses

- Medical personnel: Be prepared to qualify expert witnesses and to solicit expert opinions
- Certifying Scientists: Lab reports, toxicology reports, etc. Be prepared to lay foundation for proper chain of custody

## The Child's Case At Adjudication

- How does the child function day-to-day?
- How has the alleged abuse or neglect affected the following aspects of a child's life?
  - General mood and temperament
  - Intellectual functioning
  - Communication and social skills
  - Expressions of emotions/feelings
  - Behavior
  - Peer Relations
  - School Performance
  - Independence
  - Motor Skills
  - Physical/mental health (Are medical appointments and shots current?)
  - Especially if child is young, any developmental delays?

(Lund and Renne)

## The Child's Case At Adjudication

Present allegations that have fallen  
through the cracks

- *In Re Elizabeth A.*, 617 S.E.2d 547 (W. Va. 2005)

## Comment: Advocacy For Adult Respondents

- “[S]trong advocacy on behalf of parents almost always furthers the best interests of the children and improves the outcome for both the children and their families.”
- Obstacles: Clients in difficult circumstances, difficult to earn trust from client, complex law, engage in informal problem solving with other mdt members, short timeframes, low compensation, enduring criticism that respondents’ attorneys are harming the clients’ children

- State Court Administrative Office, Child Welfare Services Division, Michigan Hall of Justice, Parents’ Attorney Protocol, p. 3 (2008)

## The Adult Respondent's Case: Preparation For Adjudication

- Give client a copy of discovery and review it with them
- Ask client about potential witnesses
- Do not simply accept DHHR's version of the facts
- Ask about family, past referrals, criminal history, etc.

## The Adult Respondent's Case At Adjudication

- General practice tips for attorneys:
  - Do: Advocate zealously – make all valid and relevant legal points. Make a record
  - Don't: Argue with the Court, don't belabor points that are invalid or irrelevant
  - Do: Be prepared – know the facts of your case – equally or more than the law. Meet with/talk to client
  - Don't: BS the court, or grandstand. Don't defer blame on others unless warranted
  - Do: Be respectful but straightforward to the court and opposing counsel
  - Don't: Pander or grovel, be intimidated

Adapted from:  
James Jeffrey Culpepper, Former  
Monongalia County Family Court Judge  
Monongalia County Bar Association  
CLE, November 2011

## Objections

- Reasons for objections
  - Exclude evidence prejudicial to one's case
  - Protect a witness from improper questioning
  - Preserve an issue for appeal
- Substantive trial objections
  - Relevance, foundation, lack of personal knowledge, improper lay opinion, speculation, unfair prejudice, confidentiality and privilege, settlement offers, judicial notice, improper character evidence, hearsay

(Ventrell)

## Substantive Evidence At Adjudication: Respondent's Perspective

- Allegations of Petition
  - Do the allegations refer to conditions or events occurring when the petition was filed?
  - Is there information presented in the petition that does not support the allegations? (i.e., unsubstantiated referrals)

## The Adult Respondent's Case At Adjudication

- Physical/Sexual abuse/Medical neglect—  
failure to thrive
  - If warranted by the facts, present expert opinions that propose an alternate explanation for child's injury, condition or behavior
    - *State ex rel. DHHR v. Fox*, 624 S.E.2d 834 (W.Va. 2005)
    - *In re Faith C.*, 699 S.E. 2d 730 (W.Va. 2010)

## The Adult Respondent's Case At Adjudication

- If warranted by the facts, consider presenting evidence of battered spouse syndrome
  - Testimony of an expert
  - Testimony of the adult respondent who has been subject to abuse
- Neglect: Substance abuse/mental health
  - If factual support exists, present evidence of overall parenting practices that are positive
  - Sources of evidence: adult respondent, teachers, case workers

## The Adult Respondent's Case At Adjudication

- Testimony of adult respondent
  - Be aware that silence can be affirmative evidence of the individual's culpability
    - *DHHR v. Doris S.*, 475 S.E.2d 865 (W.Va. 1996)
  - Difficulties when a criminal case is pending; request protective orders or use immunity for statements based upon W.Va. Code § 49-5D-3b(c); § 49-6-4(a); § 57-2-3 and *In re Daniel D.*
  - Adult respondent's testimony can humanize or provide alternate explanations for events or conditions
  - Even if parent may be adjudicated, testimony of adult respondent may be helpful at disposition

## The Adult Respondent's Case At Adjudication

- Evidence of the parent's ability to manage his or her own life
  - Communication, social skills
  - Coping and stress management
  - Judgment and decision-making
  - Home and financial management
  - Mental health
  - Physical health

(Lund and Renne)

## Contested Disposition

- Central question:
  - Is there any reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future?
    - W. Va. Code § 49-6-5(a)
  - Does the welfare of the child necessitate the termination of parental or custodial rights?
    - W. Va. Code § 49-6-5(a)
  - Has the abusing/neglecting adult demonstrated an inability to solve the problems leading to the abuse or neglect on their own or with help?
    - W. Va. Code § 49-6-5(b)
  - Are there aggravating circumstances?
    - W. Va. Code § 49-6-5(a)(7)

## Contested Disposition

- Should sole custody be granted to a non-abusing non-neglecting parent or to a battered parent?
  - W. Va. Code § 49-6-5(a)(6)
- Is there a disposition short of termination that would be appropriate?
  - W. Va. Code § 49-6-5(a)(1-5)

**Contested Disposition  
DHHR's Case  
Typical Witnesses**

- CPS workers
- Service providers: Outline missed appointments and visitations etc.
- Foster parents
- Medical personnel
- Psychologists/ psychiatrists/ mental health professionals
- Certifying scientists
- Child(ren)

**Cross-Examination Of Case Worker:  
Marginalize and Minimize**

- Court summaries, case plans, prior statements from review hearings are possible sources of impeachment
- If new issue is presented to the court or issue was not a basis for adjudication, lack of prior concern may serve as basis for impeachment
- Issues which are outside of the case worker's expertise, i.e., mental health diagnosis
- Issues which are outside of the scope of abuse or neglect or safety, i.e., testimony about adult respondent's rude behavior

## Cross-Examination Of Expert: Marginalize and Minimize

- Ideology or bias, i.e., expert aligned with a particular cause or side
- Credentials: Weakness in educational or experiential credentials, i.e., expert who is board certified in family medicine and regularly treats wide range of conditions, does not regularly treat child abuse or neglect
- Limitation of assignment, i.e., a parent's mental health expert may not have observed parent and child together
- What the expert did not do
- Assumptions and methodology, i.e., if data presented to expert is flawed, opinion would also be flawed

(Ventrell)

## Contested Disposition Child's Case

- Bond between parent and child
  - Nature, quality and length of visits
- Child's overall functioning
  - Review factors from the child's case at adjudication
- Child's special needs

(Lund and Renne)

## Contested Disposition Child's Case

- Is the child age 14 or older or is the child of an age of discretion so that their wishes should be considered?
  - *In the Interest of Jessica G.*, 697 S.E.2d 53 (W. Va. 2010)
- Consider how to present this information to the court, i.e., *in camera* interview, report of child's attorney, input from therapist
- Conflicts of interest for child's attorney, i.e., child wants to return home but child's attorney believes it is contrary to child's best interests

## Contested Disposition Adult Respondent's Case

- Present evidence of the bond between parent and child and general parenting skills
  - Sources of evidence:
    - Service providers
    - Visit supervisors
    - Adult Respondents

## Contested Disposition Adult Respondent's Case

- Present evidence of parent's progress with regard to issues which formed the basis for adjudication
  - Parent's counselor, therapist or service provider
  - Parents can describe changes that were made and how the change produced benefits
  - Evidence about continuing supportive services

(Lund and Renne)

## Bibliography

- James Jeffrey Culpepper, Monongalia County Bar Association CLE (November 2011)
- Florida International University, Legal II: The Court Process, Child Welfare Pre-Service Training, State of Florida, Department of Children and Families (2006)
- Therese Roe Lund and Jennifer Renne, Child Safety – A Guide for Judges and Attorneys, American Bar Association (2009)
- State Court Administrative Office, Child Welfare Services Division, Michigan Hall of Justice, Parents' Attorney Protocol (2008)
- Marvin Ventrell, Trial Advocacy for the Child Welfare Lawyer: Telling the Story of the Family, National Institute for Trial Advocacy (2011)

# **BUILDING YOUR CASE WITH JUDICIAL BENCHBOOK TOOLS**

Hon. Jennifer F. Bailey  
Hon. Russell M. Clawges, Jr.

## I. The 2012 Judicial Benchbook

### A. Contents

1. Chapter 1: Timeline Summary
2. Chapter 2: Checklists for Abuse and Neglect Proceedings
3. Chapter 3: Overview of Law and Procedure in Child Abuse and Neglect Proceedings
4. Chapter 4: Child Abuse and Neglect Case Law Digest
5. Chapter 5: Relevant Statutes and Regulations
6. Chapter 6: Review of Procedure for Child Abuse and Neglect Proceedings
7. Chapter 7: West Virginia Cases

### B. Obtaining your own copy of the 2012 Judicial Benchbook

The benchbook can be downloaded from the West Virginia Supreme Court of Appeals website at <http://www.courtswv.gov> under the “Public Resources” heading and then the “Child Abuse and Neglect” heading and from the CIP website at [www.wvcip.com](http://www.wvcip.com).

## II. “The Time is Now” Video

This video, released in November, 2010, by the West Virginia Supreme Court of Appeals is designed to educate parents about the procedural aspects of abuse and neglect cases. The video can be downloaded from the West Virginia Supreme Court of Appeals website as well as the Court Improvement Program website at <http://www.wvcip.com/>.

## III. Practice Pointers and Special Emphasis.

### A. Be Prepared

1. Know the law
2. Know your client
3. Know the judge

### B. Be Aware

1. Scheduling
2. Time frames

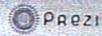
3. Data base

IV. Rule 2: Purposes of child abuse and neglect rules; construction and enforcement

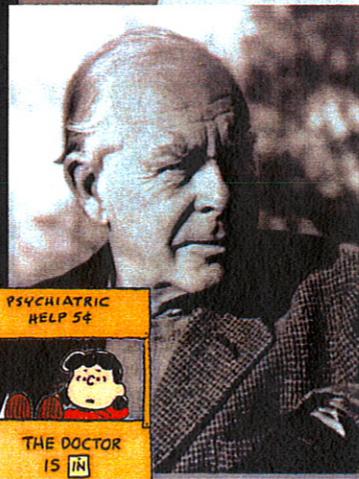
These rules shall be liberally construed to achieve safe, stable, secure permanent homes for abused and/or neglected children and fairness to all litigants. These rules are not to be applied or enforced in any manner which will endanger or harm a child. Those rules are designed to accomplish the following:

- (a) To provide fair, timely and efficient disposition of cases involving suspected child abuse or neglect;
- (b) To provide for judicial oversight of case planning;
- (c) To ensure a coordinated decision making process;
- (d) To reduce unnecessary delays in court proceedings through strengthened court case management; and
- (e) To encourage the involvement of all parties, including children, in the litigation as well as the involvement of all community agencies and resource personnel providing services to any party.

Timothy Saar, Ph.D.  
Presents



# Addressing Attachment Issues



# John Bowlby

## Psychiatrist

Born February 26, 1907 in London

Died September 2, 1990 at age 83

Influences: Fre



Influences: **Freud, Klien, Lorenz**

Coined the term **Attachment**

Key Idea was **Attachment Theory**

## What is Attachment?

Attachment can be defined as a unique emotional bond between carer and child that involves an exchange of **comfort**, **care** and **pleasure**



MISSING YOU...



The roots of research on attachment began with Freud's theories about **love**; however, John Bowlby's research usually credits him as the "**father of attachment.**"



Bowlby described it as a “lasting psychological connectedness between human beings.”

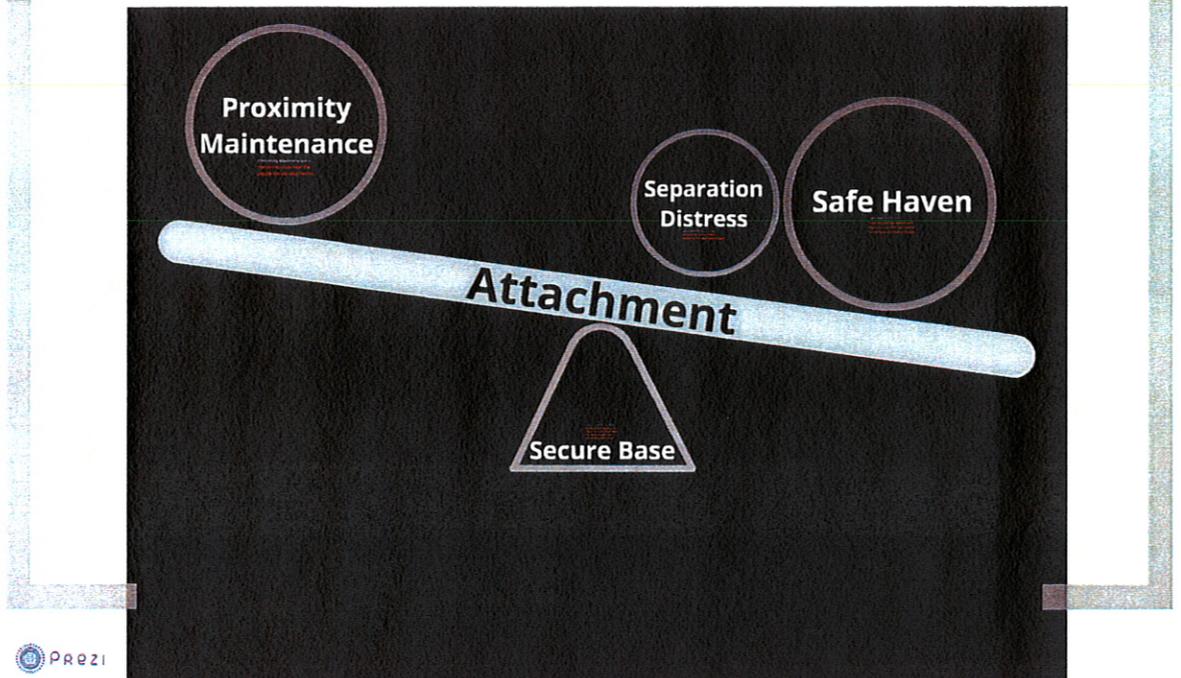
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Bowlby shared the psychoanalytic view that early experiences in childhood have an important influence on development and behavior later in life

Our early attachment styles are established through the infant/caregiver relationship.

Bowlby believed that attachment had a basis in evolution. He wrote, “The emotional bonds to particular individuals is a basic component of human nature.”

# Characteristics of Attachment



Proximity Maintenance is the desire to be near the people we are attached to.

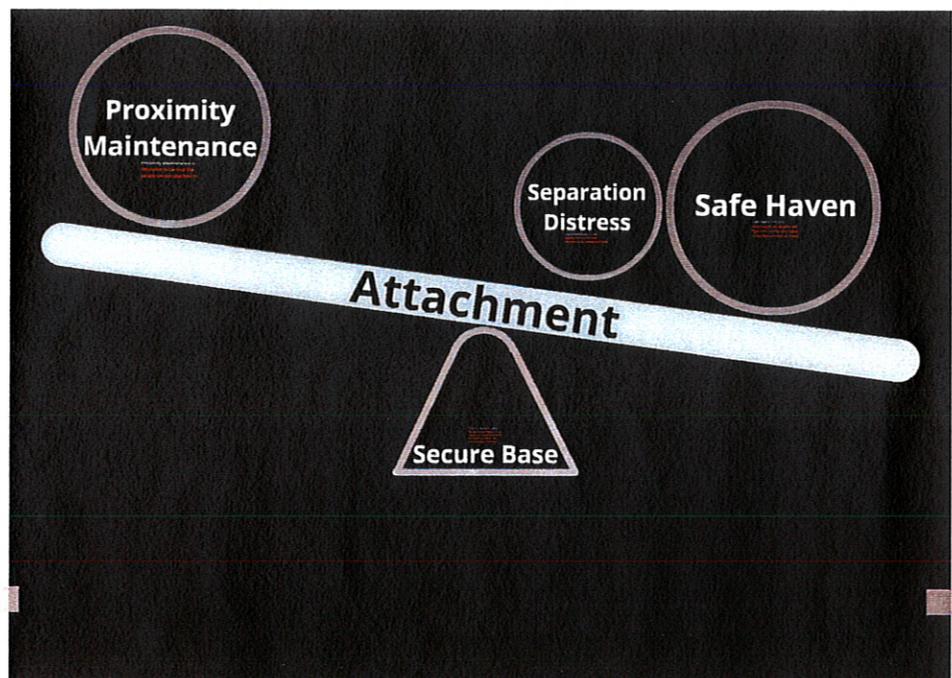
Safe haven refers to returning to the attachment figure for comfort and safety in the face of a fear or threat.

Separation Distress is the anxiety that occurs in the absence of the attachment figure.

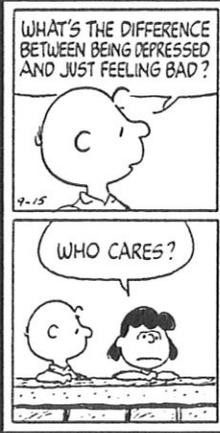
And a secure base is when  
the attachment figure acts as  
a base of security from which  
the child can explore the  
surrounding environment.



## Characteristics of Attachment



# Types of Attachment



Secure Attachment  
Ambivalent Attachment  
Avoidant Attachment  
Disorganized Attachment

# Characteristics of Secure Attachment

As Children	As Adults
Able to separate from parent.	Have trusting, lasting relationships.
Seek comfort from parents when frightened.	Tend to have good self-esteem.
Return of parents is met with positive emotions.	Comfortable sharing feelings with friends and partners.
Prefers parents to strangers.	Seek out social support



The **Caregiver** in a **Secure Attachment** responds **appropriately, promptly** and **consistently** to needs. The Caregiver has successfully formed a secure bond to the child.



# Characteristics of Ambivalent Attachment

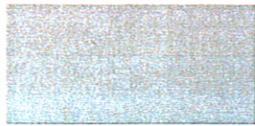
As Children	As Adults
May be wary of strangers.	Reluctant to become close to others.
Become greatly distressed when the parent leaves.	Worry that their partner does not love them.
Do not appear to be comforted by the return of the parent.	Become very distraught when a relationship ends.



The **Caregiver** in an **Ambivalent Attachment** has **little-to-no** response to a distressed child. The Caregiver **discourages crying** and **encourages independence**.



# Characteristics of Avoidant Attachment

As Children	As Adults
May avoid parents.	May have problems with intimacy.
Does not seek much comfort or contact from parents.	Invest little emotion in social and romantic relationships.
Shows little-to-no preference between parent and stranger.	Unable or unwilling to share thoughts and feelings
	



The **Caregiver** in an **Avoidant Attachment** is inconsistent between **appropriate** and **neglectful** responses. Generally will only respond after increased attachment behavior from the infant.



# Characteristics of Disorganized Attachment

At Age 1	At Age 6
Shows a mixture of avoidant and resistant behaviors.	May take on a parental role.
May seem dazed, confused or apprehensive.	Some children act as a caregiver toward the parent.



The **Caregiver** in a **Disorganized Attachment** exhibits **frightened** or **frightening** behavior, **intrusiveness**, **withdrawal**, **negativity**, **role confusion**, **communication errors** and **maltreatment**. Very often associated with many forms of abuse toward the child.

## Critique of Bowlby



After **World War II**, the **United Nations**, faced with many **dispossessed** and **orphaned children**, asked Bowlby to write a pamphlet on the matter. He went on to formulate his theory that **children need to form an attachment with at least one primary caregiver**.



Bowlby's views **idolized motherhood** and "**traditional family life**." Governments of the time used some of his ideas to justify the **closure** of **much-needed nursery provision**; thus, women who had worked in "**male occupations**" during the war were **forced** back into the home.

While acknowledging this, many contemporary practitioners in developmental psychology and psychotherapy still consider Bowlby's ideas **relevant**.



# Foster Care



Young children are more likely than older children to be placed in foster care and to spend a larger portion of their life in the foster care system.





Young children are in foster care longer than older children, and infants are in foster care significantly longer than other age groups.

## Factors leading to placement in foster care

1. Protection from immediate physical harm.
2. Substance abuse and the drug culture account for the majority of young children placed in foster care.

Foster care placement adequately provides for the **physical protection** of the children.



However, foster care placement has **implications** for the **healthy emotional development** of young children.



**Out-of-home placement** is typically associated with numerous **disruptions** in attachment relationships.

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**Out-of-home placement** is typically associated with numerous **disruptions** in attachment relationships.

**Losses** and **lack of permanence** undermine a child's attempt to form a **secure** attachment with a primary caregiver.



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Multiple changes in caregivers in young children can cause them to exhibit **oppositional behaviors, crying and clinging.**



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Disruptive attachment in relations can lead to **Reactive Attachment Disorder.**



## The importance of the foster parent

The relationship of the foster child to the foster parent should not be under-appreciated.

Infants placed in foster care for several months will view their caregiver as their attachment figure.



## Reducing Attachment Disruptions

The development of the **concurrent plan**

This is typically limited to 12 months. Placing the child initially in a possible adoptive home.

Concurrent planning **does not** eliminate the stress of attachment disruption.

But it may **reduce** the number of disruptions the child experiences.

## Potential Problems with Concurrent Plans

**Loyalty conflicts** between foster care parents and biological parents.

Possible **premature reunification** with parents.



## Infants and Toddlers in Foster Care

The quality of the infant-foster mother relationship is based on the foster mother's attachment style.

Toddler-foster mother relationship reflects the toddler's previous attachment experiences.

Toddlers may need more responsive care if they come from homes in which there was neglect or abuse.



# Infants

The **quality** of the **infant-foster mother relationship** is based on the foster mother's attachment style.



# Toddlers

**Toddler-foster mother relationship** reflects the toddler's **previous** attachment experiences.

Toddlers may need **more responsive care** if they come from homes in which there was **neglect** or **abuse**.



# Improving the Responsiveness of the Foster Care Parent

Developmental Education

Respite Care

Mental Health Intervention



Developmental Education

Respite Care

Mental Health Intervention

# Placement Breakdowns

Unintentional and premature terminations of placement.

## Risk and Protective Factors

Factors Associated with a Child's Background

The age of the child

Reason for out-of-home placement

Biological parents and family characteristics

Placement history

Behavioral problems

Mental disabilities and developmental problems

Other child characteristics



## Placement related factors

Kinship care has no significant association.

Foster parent's biological children

Siblings

Foster caregiving

Foster-care related aspects

Role of the biological parents during placement



Unintentional and premature terminations of placement.

# Risk and Protective Factors

## Factors Associated with a Child's Background

### The age of the child

Increased age of the child is correlated with **more** placement breakdowns.

### Reason for out-of-home placement

Children who are **abused** have **more** breakdowns.

Plan: Children who are placed due to **neglect**.

### Biological parents and family characteristics

**Mild** positive correlation between **drug** and **alcohol** abuse in the biological home and placement breakdowns.

### Placement history

Prior placements can **increase** future placement breakdowns.

Adjustment: Child's

- Children's age

- Behavioral problems

### Behavioral problems

Appear to be a **weak predictor** of placement breakdowns.

### Mental disabilities and developmental problems

**Not associated** with placement breakdowns.

### Other child characteristics

Adjustment: Child's

- Physical behaviors and other personal characteristics



## Factors Associated with a Child's Background.

### The age of the child

Increased age of the child is correlated with **more** placement breakdowns.

### Reason for out-of-home placement

Children who are **abused** have more breakdowns than children who are placed due to **neglect**.

### Biological parents and family characteristics

**Mild** positive correlation between **drug** and **alcohol** abuse in the biological home and placement breakdowns.

## Placement history

Prior placements can **increase** future placement breakdowns.

- Children's age
- Behavioral problems

## Behavioral problems

Appear to be a **robust predictor** of placement breakdowns.

## Mental disabilities and developmental problems

**Little association** with placement breakdown.

## Other child characteristics

- Attachment failure
- Pro-social behaviors and other positive characteristics

# Placement related factors

Kinship care has no significant association.

## Foster parent's biological children

Positive relation between the presence of foster parent's children and placement breakdown.

## Siblings

Overall, placement with siblings helps prevent placement breakdown.

## Foster caregiving

When the foster parent is warm and child-oriented, there is less chance of placement breakdown.

## Foster-care related aspects

- Care of a specific child
- Positive relationship between the department and the foster parent
- Foster parent training
- Social working training

## Role of the biological parents during placement

No conclusive evidence that the amount of contact between biological parents and their children decreases or increases the risk of placement breakdown.

- Parents' relationship with department



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Siblings

Foster caregiving

Foster-care related aspects

Role of the biological parents during placement

One of the most **fundamental** objectives of an alternative care system



must **surely** be to provide **placement stability from the outset.**



## Works Cited

- "A 2 year old goes to Hospital" - **Robertson**
- "Attachment Theory - John Bowlby" uploaded by **CounsellingResource**
- "Disruptions in foster care: A review and meta-analysis" by **Mirjam Oosterman**
- "The First Four Months in a New Foster Placement: Psychosocial Adjustment, Parental and Placement Disruptions" by **James G. Barber**
- "The Effects of Foster Care Placement on Young Children's Mental Health" by **Beth Troutman, Ph.D.**
- "Sibling Issues in Foster Care and Adoption" by the **Child Welfare Information Gateway**



# GROUND TRUTH:

*Using Data to Explore What's Happening at the Local Level*



**Michelle Barclay, Esq.**  
**GA CIP Director**

*Office of Children, Families & Courts*  
*Administrative Office of the Courts*  
*Judicial Council of Georgia*

**Cold Case Project Presentation**  
**West Virginia | July CIP Conferences, 2012**

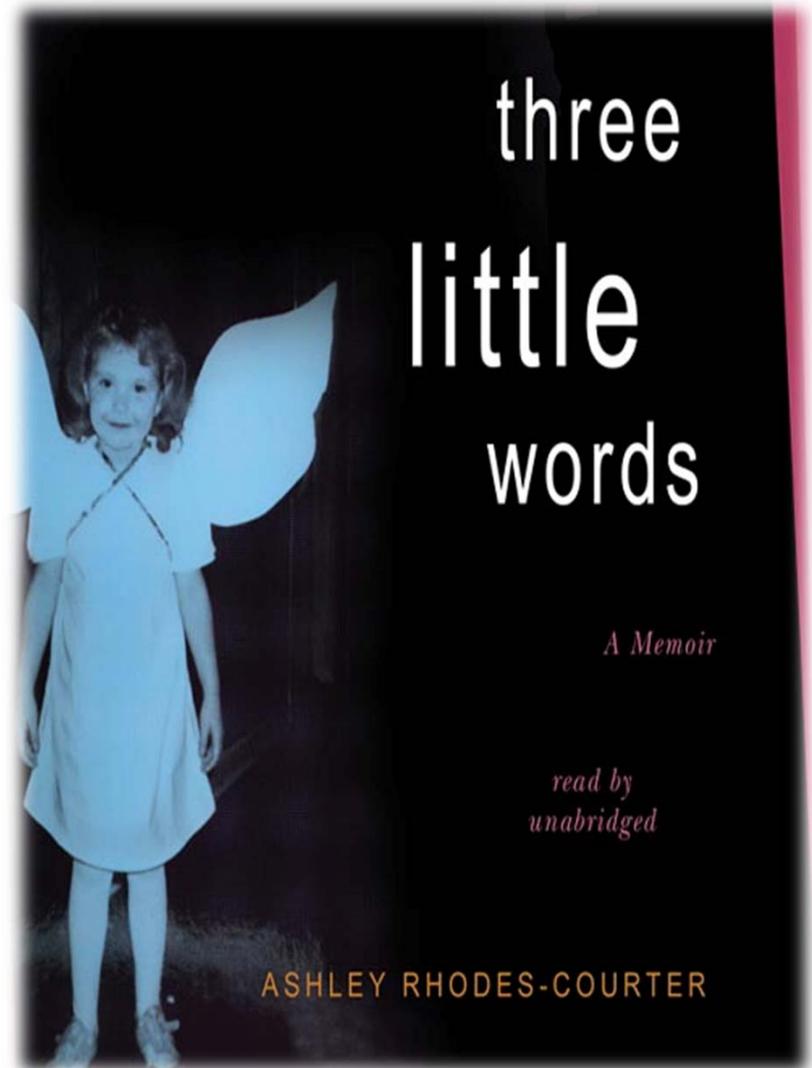
# AGENDA

- ▶ Introduction & Foundational Matters - 5 min.
- ▶ How does A Cold Case type project help the front line folk- 10 min.
- ▶ An Overview of the GA Cold Case Project- 20 min.
- ▶ Metrics of West Virginia - 5 min
- ▶ Q and A for rest of the time



## THREE LITTLE WORDS: ASHLEY RHODES COURTER

*I was asked to address a Senate reception. Hundreds of guests stood around the packed rotunda. While the presenters made introductory remarks, the room reverberated with chattering and clinking glasses. I figured nobody would pay attention to me; yet, the minute I began, there was a hush. Since many guests had legislative power to make reforms, I suggested they find a foster child who needed a permanent home and help make it happen in less than six months: 'It is not only what we do, but also what we do not do, for which we are accountable.'*



We all have something in common ...



Generally, employee turnover is higher when low “job positives” (*job expectations not being met*) combine with high “job negatives” (*demotivators*)



#### What motivated me to take this job?

- Protecting children
- Helping a child succeed
- Preserving families
- Providing for children and families in need
- Change in the field
- Prior experience as a foster youth
- Prior experience providing other agency services

#### What demotivates DFACS Case Workers?

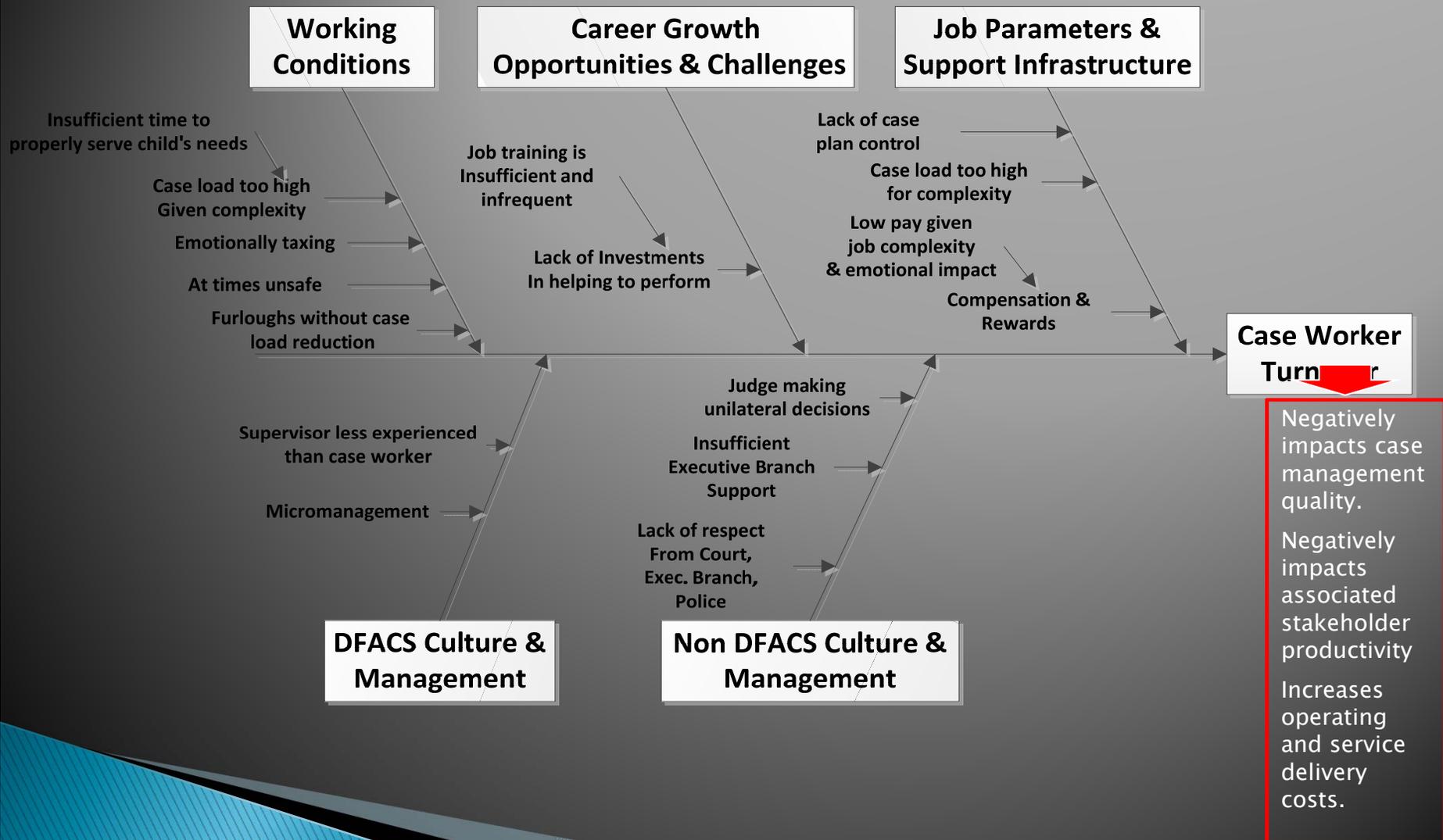
##### Within DFACS

- Insufficient training to properly serve
- Case load, insufficient time to properly serve
- Lack of control over case plan for family / child
- Not involved with policy change decision
- Not involved with planning policy execution
- Supervisor less experienced than case worker
- Being micromanaged

##### Outside of DFACS

- Judge making unilateral decisions
- Lack of respect from the court
- Lack of respect from the Police
- Lack of respect from the Executive Branch
- Insufficient Executive Branch support
- Inadequate tools to support rapid service delivery (e.g., research tools that show all services available in real-time)
- Taking the work home, emotionally

# What's drives case worker turnover?



Example initiative we could collaborate on:

**Increase stakeholder knowledge sharing (services, capabilities, “learnings”)**

Answering “why”	Envision the impact	How would we analyze it
<p>What specific results do we expect to achieve by increasing stakeholder knowledge sharing?</p>	<p>What IF all 4 stakeholder groups had a portal with up-to-date information regarding the detailed services, capabilities and knowledge gained at 1 readily accessible (both mobile, and web) portal?</p>	<p>What group process and tools could be employed to sufficiently analyze the problem?</p>
<ul style="list-style-type: none"> <li>• Improve the quality of case management</li> <li>• Increase the productivity of other stakeholders</li> <li>• Improve the quality of services provided to children in care</li> <li>• Optimize the cost of service delivery</li> <li>• Increase the speed at which resources can be aligned with a specific case need</li> </ul>	<ul style="list-style-type: none"> <li>• Would court proceedings be more effective and efficient?</li> <li>• Would resources be more efficiently used outside of court?</li> <li>• Would it be easier to align community services with the child and family?</li> <li>• Would it take less effort for attorney’s to support DFACS, children and parents?</li> <li>• Would case worker job satisfaction go up, because they see more cases through to a conclusion?</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge Management Methodology, starting with analyzing               <ul style="list-style-type: none"> <li>• User experience layer</li> <li>• Search layer</li> <li>• Content organization layer</li> </ul> </li> </ul>

# OVERVIEW OF GA'S COLD CASE

- ▶ How do we find the cases?
- ▶ What did we do once we found the cases?
- ▶ “Lessons Learned” from past 3 years



# COLD CASE

- ▶ Year 3
- ▶ Statistically Predictive Model to find children
- ▶ Discovered trends without looking for them
  - Psychotropic medications
  - Institutional care
  - Severe trauma
- ▶ Where we are today?



# PSYCHOTROPIC MEDICATIONS

- ▶ High number of mental health diagnoses
- ▶ High number of medications
- ▶ Effects of those medications
  - barrier to permanency?
- ▶ Effects of severe trauma



# TRAUMA BACKGROUND

- ▶ Are all staff trained regarding trauma-informed care?
- ▶ Are you?
- ▶ Dr. Bruce Perry's book
  - **The Boy Who Was Raised As A Dog:** and other stories from a child psychiatrist's notebook : what traumatized children can teach us about life, loss, love, and healing



# INSTITUTIONAL CARE

- ▶ Are all staff trained regarding trauma informed care?
- ▶ Are the weekend staff as well trained as the week staff?
- ▶ Are children socialized to be ready for families?
- ▶ What are some of the effects of long term institutional care



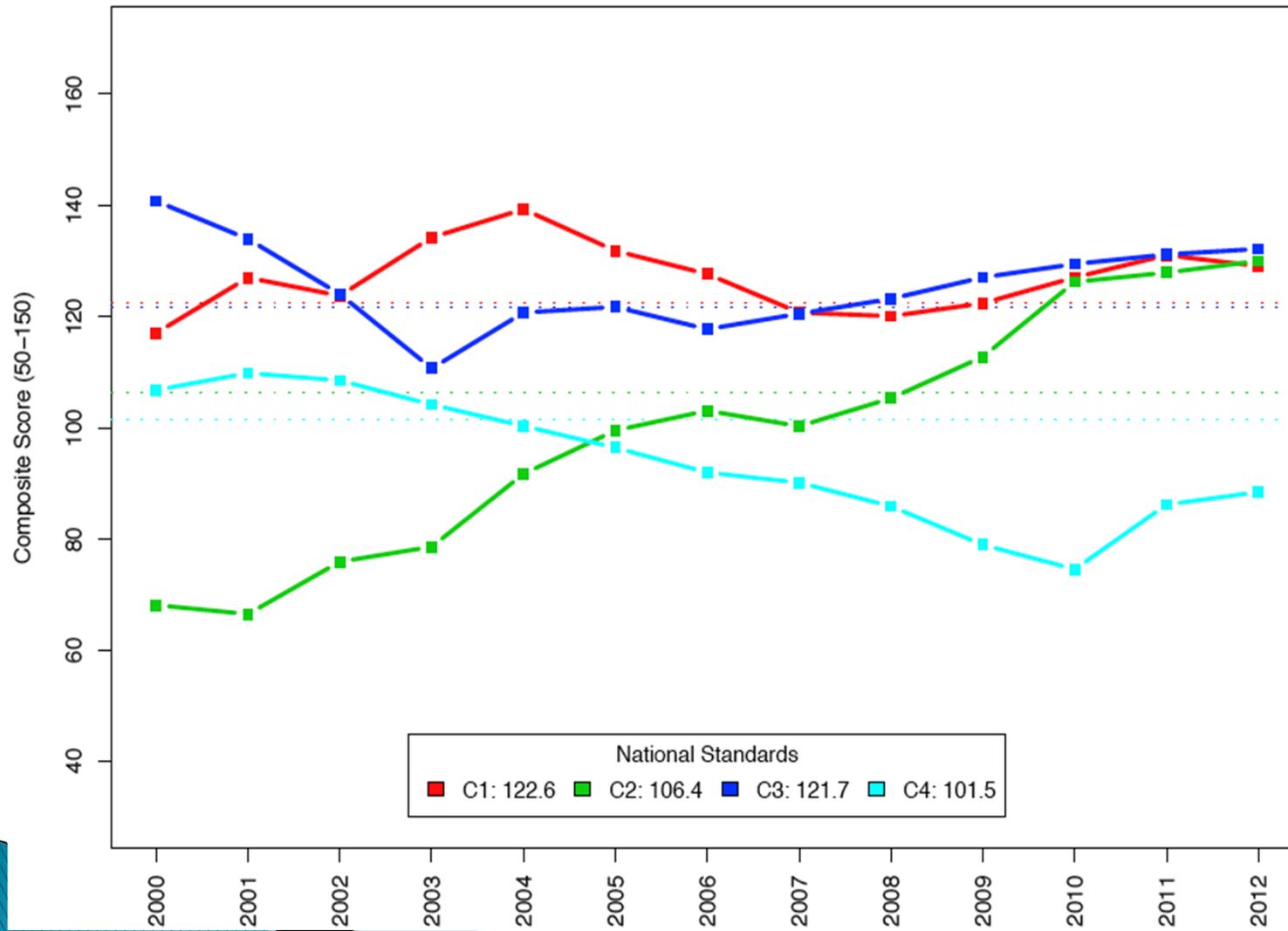
# PROFILE OF ONE COLD CASE

- ▶ T
- ▶ Appeared on the Cold List in 2009
- ▶ Removed from his home in 2001, he was 4
- ▶ Suffered severe abuse
- ▶ 15 placements
- ▶ Picked up many diagnoses and medications
- ▶ 15 now-will show video
- ▶ Last 3 years on the Cold Case list

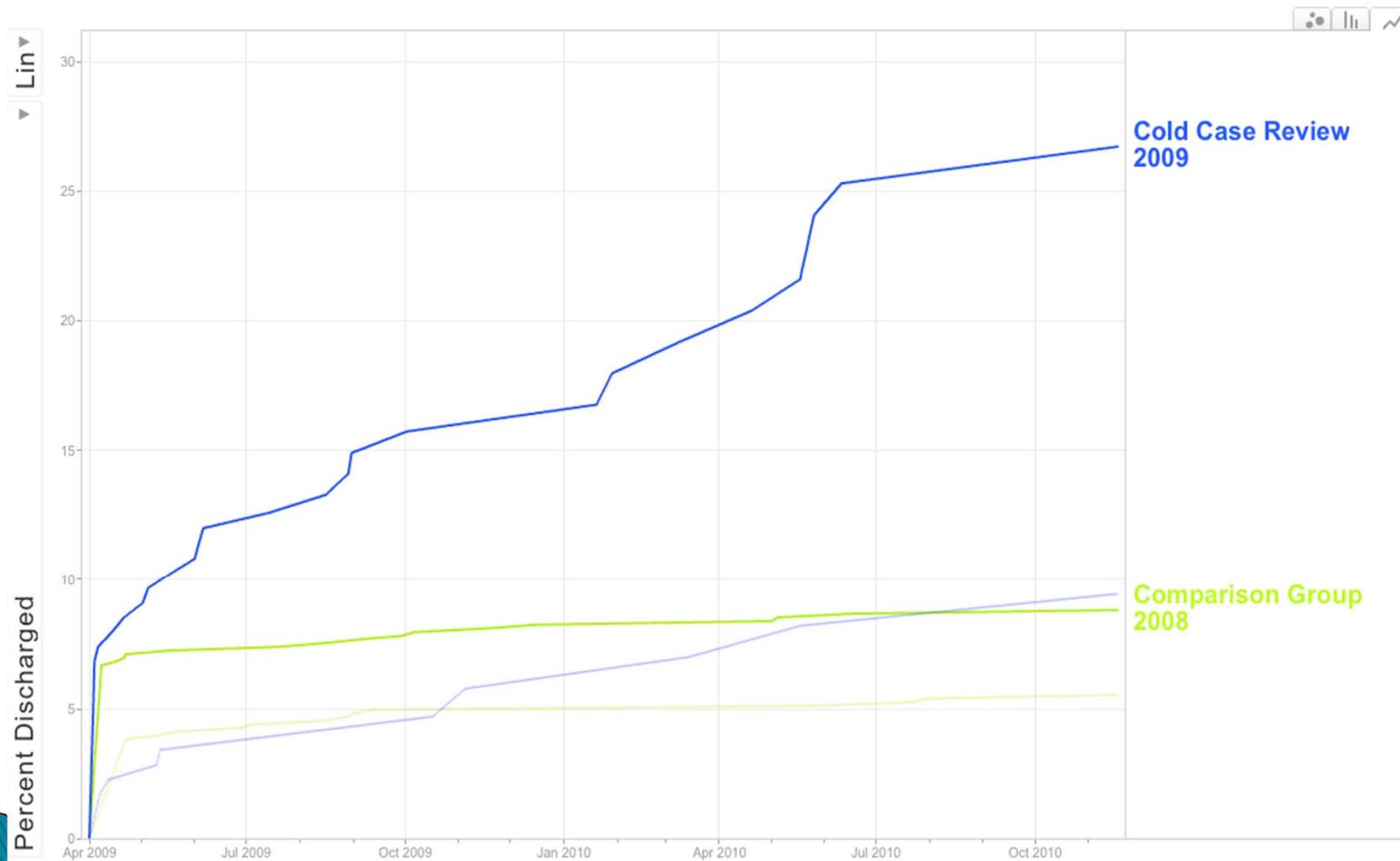
# PROFILE OF ONE COLD CASE



# BIG PICTURE RESULTS-CFSR SCORES



# BIG PICTURE RESULTS-COLD CASE



# The Cold Case Project

## ▶ 2009 Predictive Factors

1. Lack of Federal Funding Reimbursement
2. Current Length of Stay
3. Not Having Both TPR's
4. Caretaker (in the Removal Home) Year of Birth
5. Current Placement in an Institution
6. Age of the Child on 3.31.09
7. Number of Placement Settings

## ○ 2011 Predictive Factors

1. Per-Diem > \$17
2. Placement Type NOT Pre-Adoptive or Trial Home Visit
3. Length of Stay > 36 Months
4. Not Receiving IV-E Adoption Reimbursement
5. Number of Placement Settings
6. Not Having Both TPR's

# The Cold Case Project

## ○ 2011 Predictive Factors

1. Per-Diem > \$17
2. Placement Type NOT Pre-Adoptive or Trial Home Visit
3. Length of Stay > 36 Months
4. Not Receiving IV-E Adoption Reimbursement
5. Number of Placement Settings
6. Not Having Both TPR's

*extremely strong predictors factors are system (not person) dependent*

# The Cold Case Project

## ▶ The team today

- 6 lawyer fellows serving as reviewers, one lead
- Waiting to hire 6 master practitioners–CMs
- A private investigator
- A public relations person
- Experienced adoption recruiter
- A pro bono defender of delinquency charges
- A psychiatrist
- 2 statisticians–one paid by Casey Family Programs. One as an employee of our state agency.

# Metrics of West Virginia

- <http://cwoutcomes.acf.hhs.gov/data/>
- Foster Care Entry Rate Per Capita–7.4% –2012
- Poverty Rate–23%
- Roughly 4000 children in foster care on an average day
- 30% are 15 to 18
- Passing on Permanency Composite #3
  - Long stays in foster care
  - Legal orphans aging out
- 12 legal orphans
- Good adoption score, not passing on reunification score
- Very close to passing on placement stability

# TAKEAWAYS?

- ▶ Be worried about children institutional care and without a plan to get back to a family home.
- ▶ It is ok to question the professionals
- ▶ Empower folks to help the child welfare system stay true to its mission and fight despair, de-motivation. Are all our actions, efforts, expenses moving toward safety and permanency of children?
- ▶ Ask are we talking the same language regarding permanency? There is no such thing as permanent institutional care anymore.

# PAT O'BRIEN – YOU GOTTA BELIEVE!



**Georgia Child Welfare Legal Academy**

**Square-Peg Teens in Round Hole Families & Facilities**

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Visiting Scholar in Practice:  
Pat O'Brien, MSW

[www.bartoncenter.net](http://www.bartoncenter.net)

## Protecting Children Throughout Multiple Court Systems

Dave Lowman, BCF  
Teresa Lyons, Esq.  
Joyce Yedlosky, W. Va. Coalition Against  
Domestic Violence  
2012 CIP Cross-Training

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## Introduction

### Parameters and Ground Rules for this Presentation

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## What's a Magistrate to Do?

A 14-year old boy named Sam is brought to the magistrate court at 3:00 a.m. by his 20-year old sister to obtain an emergency protective order against Sam's mother. After hearing the boy's statements and noting his bruised lip and black eye, the magistrate enters an emergency protective order and places custody with the 20-year old sister.

Are the magistrate's duties complete?

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### What's a Magistrate to Do?

Are the magistrate's duties complete?

- a. Yes, the magistrate conducted the emergency protective order proceeding as required by the relevant court rules.
- b. Yes. Hopefully he can go home and get some sleep.
- c. No. A magistrate is a mandatory reporter and should report the suspected child abuse to CPS.
- d. No. The magistrate should attempt to contact the mother to hear her side of the story.

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### Mandatory Reporters

- Standard: Reasonable Cause
  - W.Va. Code § 49-6A-2
- Notification of Disposition of Reports
  - W.Va. Code § 49-6A-2a
- Privileged Communications
  - W.Va. Code § 49-6A-7

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### Children's Exposure to Domestic Violence

Jane is in family court for a DVPO hearing. There was a physical altercation where Jane received a black eye, strangulation wounds on her neck, and bruises on her arms. The police responded, arrested her husband and transported Jane and the kids to the shelter. The kids, ages 2, 4 & 5, were upstairs hiding in the bedroom during the physical altercation.

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### What's a Family Court Judge to Do?

What should the family court judge do?

- a. Grant DVPO with unsupervised visitation with dad (because children were not physically injured or in the room where the physical incident occurred).
- b. Grant DVPO with supervised visitation with dad.
- c. Grant DVPO with supervised visitation with dad and Call CPS, submit a written referral to CPS and copy the chief circuit court judge.
- d. Call CPS to immediately remove the children because the mom will probably return to dad.

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### Children's Exposure to DV & Child Abuse/Neglect

- Severe violence and lethality risk factors for adult victim are linked to child safety
- DV is the most frequently occurring violence children experience
- Children exposed to DV may experience many of the same symptoms and lasting effects as children who are direct victims of violence
- PTSD symptoms & children's exposure to violence against caregiver

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### Children, as Witnesses to Domestic Violence

Children who witness violence against one of their parents or other family or household members may suffer deep and lasting emotional harm from victimization and from exposure to domestic violence.

• W.Va. Code 48-27-101(a)(2)

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**What's a Family Court Judge to Do?**

- Tonya W. separated from husband, Jake W., has filed for divorce, and appears at the first divorce hearing and asks for supervised visitation
- Two children under the age of five
- Jake W.'s alleged alcohol abuse
  - Jake's neighbor calls Tonya, says kids are outside without supervision and Jake is passed out
  - Jake has had two DUIs in the last 6 months, but continues driving with a suspended license
  - Jake says he drinks but it is not problematic

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**What's a Family Court Judge to Do?**

What should the family court judge do?

- a. Put head in hands and sigh loudly because there are 10 more hearings scheduled and this hearing was called 45 minutes after it was scheduled.
- b. Call a CPS worker and ask about any prior referrals involving the children.
- c. Call CPS, submit a written referral to CPS and copy the chief circuit court judge.
- d. Include a provision in the temporary order that requires both parties not to drink when the children are in their care.

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**Reports of Child Abuse and Neglect  
By Family Court**

- Written referral to CPS
  - Copy to circuit court and prosecutor
  - Specific allegations or information that support reasonable cause concerning the abuse or neglect
    - Rule 48(b), RFCP
- Circuit court administrative order
  - 45 days for CPS to submit a report
  - Time frame may be shortened if circuit court believes imminent danger exists
    - Rule 3A, RPCANP

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**Reports of Child Abuse and Neglect  
By Family Court**

- Contents of Report
  
- Safety—Basis for CPS involvement

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**Domestic Violence Proceedings  
and CPS Policy**

<p><b>“Folklore” policy</b></p> <ul style="list-style-type: none"> <li>• Refer adult victim to get DVPO instead of filing A/N petition</li> <li>• If the adult victim is not willing to file DVPO, they are failing to protect the child</li> <li>• CPS is not involved in DVPO process</li> </ul>	<p><b>Actual Policy</b></p> <ul style="list-style-type: none"> <li>• DVPO is never a substitute for A/N petition</li> <li>• DVPO is never used to coerce the adult victim or assess their willingness to protect</li> <li>• CPS worker provide info &amp; be available for FC Judge</li> </ul>
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**Procedure for Domestic Violence  
Protective Orders for Child Protection**

- Parent, guardian or next friend files and requests protection on behalf of the minor child
- Limited to acts which meet the legal definition of domestic violence
  - Physical harm, reasonable apprehension of physical harm, creating fear of physical harm by stalking, etc.  
» John P.W. v. Dawn D.O., 591 S.E.2d 260 (W.Va. 2003)
  - Sexual assault or sexual abuse
  - Holding, confining, detaining or abducting another person
  - Neglect of a child does not meet the statutory definition of domestic violence

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### Pros and Cons of DVPOs for the Purpose of Protecting Children

**Pros**

- Can provide temporary protections
- Can help maintain stability for children to remain in familiar surroundings
- Allows for quick response in emergency situations

**Cons**

- Is not a permanent solution for children
- Is not a substitute for a Chapter 49 Child Abuse/Neglect petition
- Adult victims may be too traumatized to file
- Can increase risk to children

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### DVPO Scenario

Fourteen year old Alexis tells her guidance counselor that her stepfather has been sexually abusing her for two or three years. In turn, the guidance counselor tells mom and reports to CPS. Mom, not surprisingly, is shocked. She is advised to obtain a protective order and goes down to magistrate court and obtains one. It is likely that criminal charges will be filed, but they have not been filed yet.

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### DVPO Scenario

- A. Mom is protecting so CPS does not need to complete an assessment – the child is safe.
- B. CPS starts the assessment process and tells mom to follow through with the DVPO or CPS will file a Child Abuse Petition.
- C. CPS starts the assessment process, is available for the DVPO family court hearing and files a co-petition with mom in circuit court.

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### Parenting Plan Provisions

Which of the following is NOT a statutory basis for allocating parenting time under a parenting plan?

- a. The parents' relationship is so acrimonious that custody should be vested in one parent.
- b. A parent has abused, neglected or abandoned a child.
- c. A parent has committed domestic violence.
- d. A parent has repeatedly and fraudulently made reports of domestic violence or child abuse.

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### Grounds for Limitations In Parenting Plans

- Has abused, neglected or abandoned a child
- Sexual abuse or assault of a child
- Has committed domestic violence
- Has interfered with other parent's access to a child
- Has repeatedly made fraudulent reports of domestic violence or child abuse

• W.Va. Code § 48-9-209(a)

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### Parenting Plan Provisions

- Required findings
  - Child AND parent can be adequately protected from harm
  - Parent who has been found to have committed acts that limit parenting time has the burden to prove that the child AND parent can be safeguarded

• W.Va. Code § 48-9-209(c)

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**Parenting Plan Provisions:  
Establishing Limitations**

- Experts
- Guardians ad litem
- Other third parties
- Testimony of a party

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**Parenting Plans:  
Coercive Control by a Parent**

- “High Conflict” cases and allegations of child abuse
  - 75% of contested custody cases involve DV
  - Children feel safer disclosing when they are in a safe environment
- Guide for helping assess parenting time when there is coercive control (handout)

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**CPS and Parenting Plan Provisions**

- Provide information to family court judge to make timely parenting plan orders
- Process for providing information when there is not a Chapter 49 abuse and neglect case
- Material changes in circumstances
- Parenting plan modifications are not a substitute for a Chapter 49 abuse and neglect petition

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**Minor Guardianship Proceedings:  
Abuse and Neglect**

A minor guardianship proceeding filed by the children’s grandparents is removed from family court to circuit court because the allegations of the petition involve the parents’ substance abuse. What procedures should the circuit court judge follow?

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**Minor Guardianship Proceedings:  
Abuse and Neglect**

- a. The circuit court may remand the case for entry of a parenting plan with instructions that will provide safety for the child. (The circuit court knows the family court is an expert with parenting plans.)
- b. The circuit court has the discretion as to whether the Department will be provided notice of the proceedings.
- c. The circuit court may use the investigative and mandamus procedures as provided by the relevant child abuse and neglect rule.
- d. All of the above.
- e. None of the above.

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**Minor Guardianship Proceedings:  
Abuse and Neglect**

- Minor guardianships have a broader scope than child abuse and neglect
- Allegations of abuse, neglect or “unfitness” may be difficult for a private litigant to prove
  - (In re Antonio R.A., 719 S.E.2d 850 (W.Va. 2011))
- May allow relatives to obtain custody of a child without going through an A & N case
- May not provide permanency to the same extent as an A & N case
- Does not allow a parent the opportunity to improve with the support of services

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**Allegations of A & N  
in Circuit Court**

During the course of an incorrigibility case, a 15 year old girl is placed in a shelter for placement at a residential treatment facility. After several days, the girl tells a staff member that that her father has been sexually abusing her. In addition to making a mandatory CPS referral, the staff member includes this information in a report that will be presented to the court.

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**Allegations of A & N  
in Circuit Court**

Which of the following actions could be appropriate to address these allegations?

- a. The Court could continue the shelter placement while an investigation is pending.
- b. The Court could order appointed counsel for the juvenile to serve in the dual capacity as a guardian ad litem and counsel for the juvenile.
- c. The Court could order the Department to file an abuse and neglect case after an investigation.
- b. a & c only

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**Remember Jane  
From Slide 6**

Jane is in family court for a DVPO hearing. There was a physical altercation where Jane received a black eye, strangulation wounds on her neck, and bruises on her arms. The police responded, arrested her husband and transported Jane and the kids to the shelter. The kids, ages 2, 4 & 5, were upstairs hiding in the bedroom during the physical altercation.

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**Remember Jane  
From Slide 6**

After an A &N case in which Jane was found to be a non-offending parent but her now ex-husband's rights were terminated, Jane's children are placed in her sole custody. Dad would like to have visitation with the children because he has been ordered to pay child support. Which court has jurisdiction to address this issue and why?

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**Remember Jane  
From Slide 6**

- a. Family court because the A & N case was dismissed and custody was returned to a biological parent. See W.Va. Code § 51-2A-2.
- b. Either court because both courts have concurrent jurisdiction over this issue.
- c. Circuit court because Rule 6, RPCANP mandates this result.
- d. Family court because circuit court needs to catch up on cases involving car wrecks.

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**Criminal v. Civil "No Contact" Orders**

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| <p><b>Criminal (Bond Conditions)</b></p> <ul style="list-style-type: none"> <li>• Initiated by the state</li> <li>• Victim does not have clear documentation of the bond conditions</li> <li>• No registry for LE</li> <li>• Can protect victims not using the civil process</li> <li>• Limited provisions (safety/contact)</li> </ul> | <p><b>Civil DVPO, PSPO or Divorce</b></p> <ul style="list-style-type: none"> <li>• Initiated by party</li> <li>• Victim has clarity with the order (more immediately in PO)</li> <li>• DVPO has state registry</li> <li>• Requires victims to initiate</li> <li>• Comprehensive provisions</li> </ul> |
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## DOMESTIC VIOLENCE INTERVIEW GUIDE

Adapted from *Client Screening to Identify Domestic Violence Victimization*, Domestic Abuse Committee of the Family Law Section of the Minnesota State Bar Association, 2010; Holtzworth-Munroe, Beck & Applegate (2010), *Mediator's Assessment of Safety Issues and Concerns*; and Janet Johnston, et al., *IN THE NAME OF THE CHILD* (2d ed.), Springer Publishing Co., 2009.

1. Personal Interactions	Discussion Areas:	What to Listen For:
<p><b>A. Let's start by talking about your current relationship with _____.</b></p> <p><b>B. How comfortable are you interacting with _____ now?</b></p> <p><input type="checkbox"/> Being alone together</p> <p><input type="checkbox"/> Meeting face-to-face</p> <p><input type="checkbox"/> Talking by phone</p> <p><input type="checkbox"/> Emailing or texting</p> <p><input type="checkbox"/> Public encounters</p> <p><b>C. Do you have any concerns, fears or anxieties that I should be aware of?</b></p> <p><b>D. What worries you most?</b></p>	<p>1. Quality of interactions</p> <p style="padding-left: 20px;">a. Ability to express views</p> <p style="padding-left: 20px;">b. Trust in other's judgment</p> <p style="padding-left: 20px;">c. Reliance on other's word</p> <p style="padding-left: 20px;">d. Cost of disagreement</p> <p style="padding-left: 20px;">e. Post-separation changes</p> <p>2. Prior separations</p> <p>3. Snapshots</p> <p style="padding-left: 20px;">a. Happiest moments</p> <p style="padding-left: 20px;">b. Most worrisome moment</p> <p style="padding-left: 20px;">c. Scariest moments</p> <p>4. Decision-making history</p> <p>5. Stressors</p> <p style="padding-left: 20px;">a. Violence</p> <p style="padding-left: 20px;">b. Alcohol/drugs</p> <p style="padding-left: 20px;">c. Physical/mental health</p> <p style="padding-left: 20px;">d. Criminal activity</p> <p style="padding-left: 20px;">e. Poverty</p>	<p><input type="checkbox"/> Autonomy</p> <p><input type="checkbox"/> Control</p> <p><input type="checkbox"/> Balance of power</p> <p><input type="checkbox"/> Fear/danger/safety</p> <p><input type="checkbox"/> Vulnerability</p> <p><input type="checkbox"/> Dependability/predictability</p> <p><input type="checkbox"/> Dis/honesty/deception</p> <p><input type="checkbox"/> Dis/respect</p> <p><input type="checkbox"/> Manipulation</p> <p><input type="checkbox"/> Coercion/intimidation</p> <p><input type="checkbox"/> Degradation/humiliation</p> <p><input type="checkbox"/> Sabotage</p> <p><input type="checkbox"/> Surveillance</p> <p><input type="checkbox"/> Volatility</p> <p><input type="checkbox"/> Jealousy/possessiveness</p> <p><input type="checkbox"/> Entitlement</p>
2. Access to Resources	Discussion Areas:	What to Listen For:
<p><b>A. I'd like to get a sense of your economic wellbeing.</b></p> <p><b>B. Do you have access to your own resources, like money, bank accounts, food, housing, transportation and healthcare?</b></p> <p><b>C. Who decides how you spend your money and manage your financial affairs?</b></p>	<p>1. History/detail</p> <p>2. Ability to meet basic needs</p> <p>3. Ability to meet obligations</p> <p>4. Recent changes</p>	<p><input type="checkbox"/> Control/Rulemaking</p> <p><input type="checkbox"/> Dependence</p> <p><input type="checkbox"/> Isolation</p> <p><input type="checkbox"/> Denial of financial support</p> <p><input type="checkbox"/> Child abuse/neglect</p> <p><input type="checkbox"/> Child dependency</p> <p><input type="checkbox"/> Blackmail</p> <p><input type="checkbox"/> Financial sabotage</p> <p><input type="checkbox"/> Forced criminal activity</p> <p style="padding-left: 20px;"><input type="checkbox"/> Prostitution/pornography</p> <p style="padding-left: 20px;"><input type="checkbox"/> Theft/drug trafficking</p>

3. Children/Parenting	Discussion Areas:	What to Listen For:
<p><b>A. Let's talk about your children.</b></p> <p><b>B. Do you have any concerns about your children or fears for their safety?</b></p> <p><b>C. How are parenting time arrangements currently being worked out?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Division of duties</li> <li><input type="checkbox"/> Parenting skills/capacities</li> <li><input type="checkbox"/> Parenting concerns/conflicts</li> <li><input type="checkbox"/> Children's adjustment</li> <li><input type="checkbox"/> Access/exchange issues</li> <li><input type="checkbox"/> Satisfaction with the plan</li> </ul> <p><b>D. Has _____ ever used or threatened to use the children to manipulate, control, or monitor you?</b></p> <p><b>E. How are your children doing now?</b></p>	<p>1. What worries you most?</p> <p>2. Capacity for joint decisions</p> <ul style="list-style-type: none"> <li>a. Common beliefs/values</li> <li>b. Parental involvement</li> <li>c. Trust in parental judgment</li> <li>d. Support of other parent</li> <li>e. Respect for other parent</li> <li>f. Nurture/support of kids</li> <li>g. Conflict resolution skills</li> <li>h. Developmental stage(s)</li> </ul> <p>3. Interference with care</p> <p>4. Undermining authority</p> <p>5. Threats to:</p> <ul style="list-style-type: none"> <li>a. Take children away</li> <li>b. Harm children</li> <li>c. File CPS reports</li> <li>d. Deport</li> <li>e. Evict</li> </ul> <p>6. Post-separation changes</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Direct physical abuse</li> <li><input type="checkbox"/> Child sexual abuse</li> <li><input type="checkbox"/> Moral corruption <ul style="list-style-type: none"> <li><input type="checkbox"/> Pornography</li> <li><input type="checkbox"/> Racism/sexism</li> <li><input type="checkbox"/> Criminal activity</li> </ul> </li> <li><input type="checkbox"/> Post-separation violence</li> <li><input type="checkbox"/> Intimidation/trauma/terror</li> <li><input type="checkbox"/> Children treated as property</li> <li><input type="checkbox"/> Lack of attunement to kids</li> <li><input type="checkbox"/> Denial of kids' feelings</li> <li><input type="checkbox"/> Boundary violations</li> <li><input type="checkbox"/> Parenting styles</li> <li><input type="checkbox"/> Inconsistent parenting</li> <li><input type="checkbox"/> Erratic role reversals</li> <li><input type="checkbox"/> Unstable home environment</li> <li><input type="checkbox"/> Minimizing kids' needs</li> <li><input type="checkbox"/> Denying effects of violence</li> <li><input type="checkbox"/> Punishing kids being kids</li> <li><input type="checkbox"/> Criticizing kids being kids</li> <li><input type="checkbox"/> Lack of empathy for kids</li> <li><input type="checkbox"/> Drawing kids into abuse</li> <li><input type="checkbox"/> Grilling kids for information</li> <li><input type="checkbox"/> Using kids as weapons</li> <li><input type="checkbox"/> Children acting out</li> <li><input type="checkbox"/> Children using violence</li> <li><input type="checkbox"/> Children mimicking abuse</li> <li><input type="checkbox"/> Children withdrawn/clingy</li> <li><input type="checkbox"/> Age-inappropriate behaviors</li> <li><input type="checkbox"/> Torn allegiances/loyalties</li> <li><input type="checkbox"/> Changes in school work</li> <li><input type="checkbox"/> Changes in social life</li> </ul>

4. Control of Daily Life	Discussion Areas:	What to Listen For:
<p><b>A. I'd like to get a sense of how much freedom you have in your everyday life.</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> To come/go as you please</li> <li><input type="checkbox"/> To manage your own time</li> <li><input type="checkbox"/> To make own decisions</li> <li><input type="checkbox"/> To set your own priorities</li> <li><input type="checkbox"/> To interact with others</li> </ul> <p><b>Can you talk a little about that?</b></p> <p><b>B. Is there anything that gets in your way of doing the things you want or need to do?</b></p> <p><b>C. Has _____ ever:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Followed you</li> <li><input type="checkbox"/> Often checked up on you</li> <li><input type="checkbox"/> Examined your mail/email</li> <li><input type="checkbox"/> Examined phone records</li> <li><input type="checkbox"/> Hacked into email/accounts</li> <li><input type="checkbox"/> Grilled you/timed activities</li> <li><input type="checkbox"/> Used others to spy on you</li> <li><input type="checkbox"/> Invaded your space/privacy</li> <li><input type="checkbox"/> Misused social network sites</li> </ul> <p><b>D. Has _____ ever physically restrained you, forbidden you from leaving, made you do things you didn't want to do, or punished you for defying his/her wishes?</b></p> <p><b>E. Has _____ ever shown up unannounced, contacted you against your will, or left something for you to find in order to scare or intimidate you?</b></p>	<ul style="list-style-type: none"> <li>1. Detail</li> <li>2. Frequency</li> <li>3. Severity</li> <li>4. Intent of other's behavior</li> <li>5. Meaning of behavior to you</li> <li>6. Effect on: <ul style="list-style-type: none"> <li>a. Interactions</li> <li>b. Relationships</li> <li>c. Communications</li> <li>d. Self/children</li> <li>e. Parenting skills/capacities</li> </ul> </li> <li>7. Change: <ul style="list-style-type: none"> <li>a. Over time</li> <li>b. Pre/post pregnancy</li> <li>c. Pre/post separation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Micro-management of life</li> <li><input type="checkbox"/> Rulemaking</li> <li><input type="checkbox"/> Demands for obedience</li> <li><input type="checkbox"/> Compliance/resistance</li> <li><input type="checkbox"/> Monitoring/surveillance</li> <li><input type="checkbox"/> Disrespect of privacy</li> <li><input type="checkbox"/> Disregard of boundaries</li> <li><input type="checkbox"/> Jealousy/possessiveness</li> <li><input type="checkbox"/> Expectations of loyalty</li> <li><input type="checkbox"/> Entitlement/privilege</li> <li><input type="checkbox"/> Power/control/omnipotence</li> <li><input type="checkbox"/> Fear/intimidation/dread</li> <li><input type="checkbox"/> Danger/insecurity</li> <li><input type="checkbox"/> Unpredictability/instability</li> <li><input type="checkbox"/> Stalking</li> <li><input type="checkbox"/> Hostage-taking</li> <li><input type="checkbox"/> Trafficking</li> </ul>

5. Emotional Abuse	Discussion Areas:	What to Listen For:
<p><b>A. Let's talk more about how you and _____ relate to one another. Can you describe how _____ treats you as a person?</b></p>	<p>1. Detail</p>	<p><input type="checkbox"/> Attacks on sanity  <input type="checkbox"/> Attacks on dignity  <input type="checkbox"/> Extreme cruelty  <input type="checkbox"/> Humiliation/embarrassment</p>
<p><b>B. Does _____ ever:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Insult you or put you down</li> <li><input type="checkbox"/> Ridicule you in public</li> <li><input type="checkbox"/> Purposely humiliate you</li> <li><input type="checkbox"/> Play mind games</li> </ul>	<p>2. Frequency</p>	<p><input type="checkbox"/> Entrapment/paralysis  <input type="checkbox"/> Hopelessness/futility  <input type="checkbox"/> Trauma/fear/anxiety  <input type="checkbox"/> Sabotage</p>
<p><b>C. Does _____ ever:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Intimidate you</li> <li><input type="checkbox"/> Yell or scream at you</li> <li><input type="checkbox"/> Act aggressively toward you</li> </ul>	<p>3. Severity</p> <p>4. Intent of other's behavior</p>	<p><input type="checkbox"/> Obsessive jealousy  <input type="checkbox"/> Narcissism  <input type="checkbox"/> Entitlement</p>
<p><b>D. Does _____ ever:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Get jealous or possessive</li> <li><input type="checkbox"/> Accuse you of infidelity</li> </ul>	<p>5. Meaning of behavior to you</p> <p>6. Effect on:</p> <ul style="list-style-type: none"> <li>a. Interactions</li> <li>b. Relationships</li> <li>c. Communications</li> <li>d. Self/children</li> <li>e. Parenting skills/capacities</li> </ul>	<p><input type="checkbox"/> Blackmail  <input type="checkbox"/> Access to weapons</p>
<p><b>E. Does _____ ever interfere with:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Your work/school life</li> <li><input type="checkbox"/> Your social life</li> <li><input type="checkbox"/> Your sleep</li> <li><input type="checkbox"/> Your healthcare/medications</li> </ul>	<p>7. Change:</p> <ul style="list-style-type: none"> <li>a. Over time</li> <li>b. Pre/post pregnancy</li> <li>c. Pre/post separation</li> </ul>	<p><input type="checkbox"/> Seemingly innocent acts with hidden meaning</p>
<p><b>F. Has _____ ever threatened to:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Kill you or the children</li> <li><input type="checkbox"/> Kill him/herself</li> <li><input type="checkbox"/> Harm you or the children</li> <li><input type="checkbox"/> Harm someone you care for</li> <li><input type="checkbox"/> Harm or kill pets</li> </ul>		
<p><b>G. Has _____ ever:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Destroyed your property</li> <li><input type="checkbox"/> Threatened you w/ weapon</li> <li><input type="checkbox"/> Put your life in danger <ul style="list-style-type: none"> <li><input type="checkbox"/> Disabled car/equipment</li> <li><input type="checkbox"/> Driven recklessly to scare</li> </ul> </li> </ul>		

6. Physical Abuse	Discussion Areas:	What to Listen For:
<p><b>A. Let's turn to your personal safety, both now and in the past. Has _____ ever used or threatened to use physical force or violence against you or the children?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Hold, pin down, restrain</li> <li><input type="checkbox"/> Kneel, stand or sit upon</li> <li><input type="checkbox"/> Tie up, bind, gag</li>   <li><input type="checkbox"/> Push, shove, shake, grab</li> <li><input type="checkbox"/> Scratch, pull hair, shave hair</li> <li><input type="checkbox"/> Twist arm</li>   <li><input type="checkbox"/> Bite</li> <li><input type="checkbox"/> Spit on</li> <li><input type="checkbox"/> Urinate upon</li>   <li><input type="checkbox"/> Slap</li> <li><input type="checkbox"/> Hit or punch</li> <li><input type="checkbox"/> Kick or stomp</li> <li><input type="checkbox"/> Strike w/ or throw object at</li>   <li><input type="checkbox"/> Choke, strangle</li> <li><input type="checkbox"/> Burn</li> <li><input type="checkbox"/> Poke, stab, cut</li>   <li><input type="checkbox"/> Withhold food/medication</li> <li><input type="checkbox"/> Disable medical equipment</li>   <p><b>B. What's the worst thing _____ has ever done to you?</b></p>   <p><b>C. What's the scariest thing _____ has ever done to you?</b></p> </ul>	<ol style="list-style-type: none"> <li>1. Detail</li> <li>2. Frequency</li> <li>3. Severity</li> <li>4. Intent of other's behavior</li> <li>5. Meaning of behavior to you</li> <li>6. Effect on: <ol style="list-style-type: none"> <li>a. Interactions</li> <li>b. Relationships</li> <li>c. Communications</li> <li>d. Self/children</li> <li>e. Parenting skills/capacity</li> </ol> </li> <li>7. Change: <ol style="list-style-type: none"> <li>a. Over time</li> <li>b. Pre/post pregnancy</li> <li>c. Pre/post separation</li> </ol> </li> <li>8. Injuries</li> <li>9. Medical attention</li> <li>10. Hospital visits</li>   <li>11. Calls for help/to police</li> <li>12. Arrests</li> <li>13. Convictions/sanctions</li> <li>14. Protection orders</li> <li>15. Protection order violations</li> </ol>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Safety/risk of danger</li> <li><input type="checkbox"/> Potential lethality</li> <li><input type="checkbox"/> Recent escalation</li> <li><input type="checkbox"/> Fear/dread/doom</li>   <li><input type="checkbox"/> Control, intimidation</li> <li><input type="checkbox"/> Manipulation</li> <li><input type="checkbox"/> Entitlement/privilege/power</li> <li><input type="checkbox"/> Rulemaking</li> <li><input type="checkbox"/> Demands for obedience</li> <li><input type="checkbox"/> Compliance/resistance</li>   <li><input type="checkbox"/> Humiliation</li> <li><input type="checkbox"/> Autonomy/personhood</li> <li><input type="checkbox"/> Equity/trust/security</li> <li><input type="checkbox"/> Predictability/stability</li> <li><input type="checkbox"/> Capacity to negotiate</li> <li><input type="checkbox"/> Relative bargaining power</li>   <li><input type="checkbox"/> Capacity to co-parent</li> <li><input type="checkbox"/> Capacity to communicate</li> <li><input type="checkbox"/> Ability to meet kids' needs</li> <li><input type="checkbox"/> Differentiation of self/other</li> <li><input type="checkbox"/> Trauma/fear/anxiety</li> <li><input type="checkbox"/> Healthy attachments</li> <li><input type="checkbox"/> Appropriate boundaries</li> <li><input type="checkbox"/> Perspective of children</li>   <li><input type="checkbox"/> Hopelessness</li> <li><input type="checkbox"/> Futility</li>   <li><input type="checkbox"/> Primary aggressor</li> <li><input type="checkbox"/> Proportionality of force</li> <li><input type="checkbox"/> Offensive/defensive wounds</li> <li><input type="checkbox"/> Criminal justice interveners</li> <li><input type="checkbox"/> Defiance of authority</li> </ul>

7. Sexual Abuse	Discussion Questions:	What to Listen For:
<p><b>A. While it is uncomfortable to talk about these kinds of things, it's very important for me to know if _____ ever pressured or forced you to do sexual things that you did not want to do or that made you scared, uncomfortable, or ashamed. Has anything like that ever happened?</b></p>	<p>1. Detail</p> <p>2. Frequency</p> <p>3. Severity</p> <p>4. Intent of other's behavior</p>	<p><input type="checkbox"/> Safety/risk/lethality</p> <p><input type="checkbox"/> Sexual assault/coercion</p> <p><input type="checkbox"/> Degradation/humiliation</p> <p><input type="checkbox"/> Use of pornography</p> <p><input type="checkbox"/> Control/intimidation/terror</p> <p><input type="checkbox"/> Escalation</p> <p><input type="checkbox"/> Jealousy/possessiveness</p>
<p><b>B. Has _____ ever interfered with your decisions about birth control, pregnancy, and/or safe sex?</b></p>	<p>5. Meaning of behavior to you</p> <p>6. Effect on:</p> <p>a. Interactions</p> <p>b. Relationships</p> <p>c. Communications</p> <p>d. Self/children</p> <p>e. Parenting skills/capacity</p>	<p><input type="checkbox"/> Capacity to negotiate</p> <p><input type="checkbox"/> Relative bargaining power</p> <p><input type="checkbox"/> Capacity to co-parent</p> <p><input type="checkbox"/> Capacity to communicate</p> <p><input type="checkbox"/> Danger to children</p> <p><input type="checkbox"/> Moral corruption of kids</p> <p><input type="checkbox"/> Impact on children</p> <p><input type="checkbox"/> Threat of child abuse</p> <p><input type="checkbox"/> Trauma/fear/anxiety</p> <p><input type="checkbox"/> Inappropriate boundaries</p>
<p><b>C. Has _____ ever used your image, or forced or pressured you to use your own image, to engage in sexting or pornography?</b></p>	<p>7. Change:</p> <p>a. Over time</p> <p>b. Pre/post pregnancy</p> <p>c. Pre/post separation</p>	<p><input type="checkbox"/> Primary perpetration</p> <p><input type="checkbox"/> Offensive/defensive wounds</p> <p><input type="checkbox"/> Proportionality of force</p> <p><input type="checkbox"/> Criminal justice response</p> <p><input type="checkbox"/> Protection orders</p> <p><input type="checkbox"/> Defiance of authority</p>
<p><b>D. Is there anything else you think I should know about _____'s sexual behavior towards you?</b></p>	<p>8. Injuries</p> <p>9. Medical attention</p> <p>10. Hospital visits</p> <p>11. Calls for help/to police</p> <p>12. Arrests</p> <p>13. Convictions/sanctions</p> <p>14. Orders for protection</p> <p>15. Protection order violations</p>	

## Implications of Domestic Violence for Safety and Parenting:

### Immediate Safety Concerns:

*See Risk Assessment Factors and Questions 1(A)-(D), 3(B), 4(E), 5(F)-(G), 6(A)-(C), 7(A)-(D)*

### Immediate Economic Concerns:

*See Questions 2(A)-(C), 4(C), 5(E)*

### Immediate Parenting Concerns:

*See Questions 1(A)-(C), 2(A)-(C), 3(A)-(E), 4(A)-(E), 5(E)-(G), 6(A)-(C), 7(A)-(D)*

### Long-Term Concerns:

### Risk Assessment Factors:

- Increase in frequency/severity
- Access to firearms
- Recent separation
- Unemployment
- Use or threat to use lethal weapon
- Threat to kill
- Avoidance of arrest for dom.viol.
- Step-children
- Forced sex
- Attempted strangulation
- Illegal drug use
- Alcohol dependency
- Control of daily activities
- Violent or constant jealousy
- Assault during pregnancy
- Threatened or attempted suicide
- Threat to harm children
- Belief in capacity to kill
- Stalking
- Major mental illness

## INSTRUCTIONS FOR DOMESTIC VIOLENCE INTERVIEW GUIDE

### Talking about Domestic Violence

This interview guide is designed to help you identify domestic violence and coercive controlling behaviors in family law cases. It should be used with all adults who are parties, or who play a parental role in a case, regardless of gender, marital status, sexual orientation, or parenting status. Screening for domestic violence is often complicated by the fact that victims: (1) may not know why it might be in the interests of their children or themselves to disclose abuse; (2) may be unclear or concerned about the ramifications of disclosure; (3) may not trust you with information about domestic violence, in spite your good intentions; and (4) may not perceive that their current level of risk warrants disclosure. For these and other reasons, victims are often reluctant to disclose abuse. Screening for domestic violence, therefore, is not a one-time event, but should occur periodically over the course of your involvement in the case. Bear in mind that talking about abuse may be an emotionally difficult experience for the interviewee, as well as for you. It is important to plan accordingly.

### Introduction to the Interviewing Guide

The **first column** of this guide seeks general information across seven broad topic areas: (1) personal interactions; (2) access to resources; (3) children and parenting; (4) control of daily life; (5) emotional abuse; (6) physical abuse; and (7) sexual abuse. Below each broad topic area are examples of the kinds of things you might ask about in order to help you identify whether domestic violence is, or may be, present. Research shows that asking behaviorally specific questions is the most effective method of screening for abuse and coercive control.

Learning about these seven broad topic areas can help you identify important issues in the case. It can help you assess the relative capacities of the parties to meaningfully participate in alternative dispute resolution processes. It can help you recognize the kinds of protections that ought to be put in place to ensure that court proceedings are safe and effective. And, it can help you and the parties with whom you are working to determine together what the most beneficial and realistic outcomes might be for themselves and their children.

The **second column** suggests follow-up areas to explore when any domestic violence issues are identified or disclosed under column one. These discussion areas will help you gain a deeper understanding of the nature, context, severity and implications of domestic violence and coercive controlling behaviors.

The **third column** contains a checklist of key concepts, behaviors, and dynamics to listen for in the narrative responses to the questions asked in columns one and two.

### Practical Considerations

For safety reasons, care must be taken in determining where, when and how to conduct this interview. *The interview should not be conducted in the presence or proximity of any other party or interested person unless s/he is an advocate or support person and it is determined that the*

presence of that person will not create any confidentiality problems or threaten any applicable professional privilege, such as the attorney-client privilege.

**Before** conducting the interview, you should explain to the interviewee:

- (1) That the professional standards that guide your work require that you look into certain issues in every case, including domestic violence, and that knowing about any history of domestic violence will help you carry out your functions and fulfill your professional responsibilities.
- (2) What your specific role and function is in relation to the case, including:
  - What you were appointed, hired or referred to do;
  - How you intend to do it;
  - What you will and won't share with the court, the opposing party, and others; and
  - Whether the information will appear in the record and/or a pleading or report.
- (3) The scope and/or limits of confidentiality and your duty to report suspected child abuse and certain serious crimes.

**If a person discloses domestic violence**, you should:

- (1) Obtain as much information as possible in order to fully understand its implications, without confining yourself to the topics listed in this guide;
- (2) Assess with the person the risks s/he may be facing, including risks of injury, death or other dangers, especially those arising from disclosing abuse; and
- (3) Refer the person to a qualified domestic violence advocate for safety planning assistance and a more in-depth risk assessment, as appropriate.

Remember that risk from domestic violence is never static, that it is difficult to predict, that it can fluctuate over time, *and that it often escalates once it has been disclosed and/or the parties separate.*

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# Initial Domestic Violence Screening for Family Court Practitioners

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This initial screening is designed to help family court practitioners identify domestic violence and coercive controlling behaviors in family law cases. It should be used with any adult who plays a parenting role in the case, or who has a significant relationship with a parent in the case, regardless of gender, marital status, sexual orientation, or parenting status. See page 4 for further information and instructions on the use and limits of this guide.

## Basic Screening Questions:

## What to Listen For:

### How comfortable are you interacting with \_\_\_\_\_ now?

- Do you have any concerns, fears or anxieties that I should be aware of?
- What worries you most?

Any indication of controlling behaviors, fearfulness or anxiety about the other party's behavior, excessive jealousy or possessiveness, fundamental disrespect or contempt, financial or emotional dependence, imbalance of power or inequity in the relationship, difficulties with the children, or any other relationship concerns.

### When you look back over time, how were practical, everyday decisions made in your relationship?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- What happened when disagreements arose?

Any indication that one parent claims decision-making authority or otherwise dominates the household; imposes his/her will on others; threatens, intimidates, manipulates or coerces; makes unreasonable demands; fails to recognize or respect others' feelings or boundaries; or punishes others when s/he doesn't get his/her way.

### Is there anything that gets in your way of doing the things you want or need to do in your daily life, like:

- Managing your daily affairs
- Meeting your basic needs
- Meeting the basic needs of the children
- Fulfilling your everyday responsibilities
- Making your own decisions
- Interacting with other people

Any indication that one parent controls, interferes with or undermines the other's everyday life (food, shelter, transportation, healthcare, daycare) or economic independence.

**Has there ever been any physical violence between you and \_\_\_\_\_?**  
If so, can you tell me about that?

Any indication of physical violence and, if so, its frequency, severity, and degree of harm.

**Have you ever felt so ashamed, humiliated, embarrassed or fearful by something you or \_\_\_\_\_ said or did to the other that you didn't want anyone else to know about it?** If so, can you tell me about what that was like for you (without revealing specifics)?

Any indication of emotional abuse, degradation, humiliation, manipulation or psychological coercion.

**Have you or \_\_\_\_\_ ever forced the other to do sexual things the other didn't want to do or insisted on having sex when the other didn't want to?**  
If so, can you tell me about that?

Any indication of forced sex, sexual assault, or sexual coercion.

**Have you or \_\_\_\_\_ ever been concerned that the other was going to physically or psychologically harm the other, the children, or pets?** If so, please explain.

Any indication of threatening, manipulative, humiliating, violent, or controlling behavior.

**How are parenting time arrangements currently being worked out?**

- How did you arrive at that arrangement?
- Are you comfortable with that?
- Any concerns about children or fears for their safety?

Any indication that children are in danger or that one parent claims decision-making authority or otherwise dominates the household; imposes his/her will on others; threatens, intimidates, manipulates or coerces; makes unreasonable demands; fails to recognize or respect others' feelings or boundaries; or punishes others when s/he doesn't get his/her way.

Physical/Sexual Abuse	Emotional Abuse	Control of Daily Life	Economic Abuse
<input type="checkbox"/> Hold, pin down, restrain <input type="checkbox"/> Kneel, stand or sit upon <input type="checkbox"/> Tie up, bind, gag  <input type="checkbox"/> Push, shove, shake, grab <input type="checkbox"/> Scratch, pull hair, shave hair <input type="checkbox"/> Twist arm  <input type="checkbox"/> Bite <input type="checkbox"/> Spit on <input type="checkbox"/> Urinate upon  <input type="checkbox"/> Slap <input type="checkbox"/> Hit or punch <input type="checkbox"/> Kick or stomp <input type="checkbox"/> Strike w/ or throw object at  <input type="checkbox"/> Choke, strangle <input type="checkbox"/> Burn <input type="checkbox"/> Poke, stab, cut  <input type="checkbox"/> Withhold food/medication <input type="checkbox"/> Disable medical equipment	<input type="checkbox"/> Insult you or put you down <input type="checkbox"/> Ridicule you in public <input type="checkbox"/> Purposely humiliate you <input type="checkbox"/> Play mind games  <input type="checkbox"/> Intimidate you <input type="checkbox"/> Yell or scream at you <input type="checkbox"/> Act aggressively toward you <input type="checkbox"/> Get jealous or possessive <input type="checkbox"/> Accuse you of infidelity  <input type="checkbox"/> Interfere with: <ul style="list-style-type: none"> <li><input type="checkbox"/> work/school life</li> <li><input type="checkbox"/> social life</li> <li><input type="checkbox"/> sleep</li> <li><input type="checkbox"/> healthcare or medication</li> </ul> <input type="checkbox"/> Threaten to: <ul style="list-style-type: none"> <li><input type="checkbox"/> kill you or the children</li> <li><input type="checkbox"/> kill him/herself</li> <li><input type="checkbox"/> harm you or the children</li> <li><input type="checkbox"/> harm someone you care for</li> <li><input type="checkbox"/> harm or kill pets</li> </ul> <input type="checkbox"/> Destroy things you care about <input type="checkbox"/> Threaten you w/ weapon <input type="checkbox"/> Put your life in danger <input type="checkbox"/> Disable your car/equipment <input type="checkbox"/> Drive recklessly to scare you	<input type="checkbox"/> Follow or stalk you <input type="checkbox"/> Often check up on you <input type="checkbox"/> Examine your mail/email <input type="checkbox"/> Examine phone records  <input type="checkbox"/> Hack into email/accounts <input type="checkbox"/> Grill you/time activities <input type="checkbox"/> Use others to spy on you <input type="checkbox"/> Invade your space/privacy <input type="checkbox"/> Misuse social network sites  <input type="checkbox"/> Physically restrain you <input type="checkbox"/> Forbid you from leaving <input type="checkbox"/> Punish you for disobeying  <input type="checkbox"/> Show up unannounced <input type="checkbox"/> Contact against your will <input type="checkbox"/> Leave things to scare you  <input type="checkbox"/> Make you do things you don't want to do	<input type="checkbox"/> Deny access to money <input type="checkbox"/> Refuse to pay bills <input type="checkbox"/> Deplete bank accounts <input type="checkbox"/> Hide assets  <input type="checkbox"/> Destroy your credit <input type="checkbox"/> Restrict access to credit <input type="checkbox"/> Run up debt <input type="checkbox"/> Forge financial documents <input type="checkbox"/> Refuse to pass title  <input type="checkbox"/> Destroy your property <input type="checkbox"/> Steal your money/property <input type="checkbox"/> Sell your property  <input type="checkbox"/> Shut off utilities <input type="checkbox"/> Refuse to pay insurance <input type="checkbox"/> Cancel insurance <input type="checkbox"/> Cancel credit cards  <input type="checkbox"/> Refuse to work <input type="checkbox"/> Refuse to let you work <input type="checkbox"/> Try to get you fired  <input type="checkbox"/> Hide bills <input type="checkbox"/> Hide financial information  <input type="checkbox"/> Constantly return to court

## Note to practitioners:

Before you begin, you should explain to the person you are working with:

- (1) That the professional standards that guide your work require you to look into certain issues in every case, including domestic violence, and that knowing about any history of domestic violence will help you carry out your functions and fulfill your professional responsibilities;
- (2) What your specific role and function is in relation to the case, including:
  - What you were appointed, hired or referred to do;
  - What steps you plan to take to carry out your functions;
  - What you will and won't share with the court, the opposing party, and others; and
  - Whether the information will appear in the record and/or a pleading or report.
- (3) The scope and/or limits of confidentiality and your duty to report suspected child abuse and certain serious crimes.

If a person discloses domestic violence, you should:

- (1) Obtain as much information as possible in order to fully understand the context and implications of the abuse;<sup>1</sup>
- (2) Conduct a thorough domestic violence risk assessment<sup>2</sup> or refer the person to a qualified risk assessment specialist; and
- (3) Refer the person to a qualified domestic violence advocate for safety planning assistance.

Remember that risk from domestic violence is never static, that it is difficult to predict, that it can fluctuate over time, *and that it often escalates once it has been disclosed and/or the parties separate*. Consequently, screening for domestic violence is not a one-time event, but should occur periodically over the course of your involvement in the case.

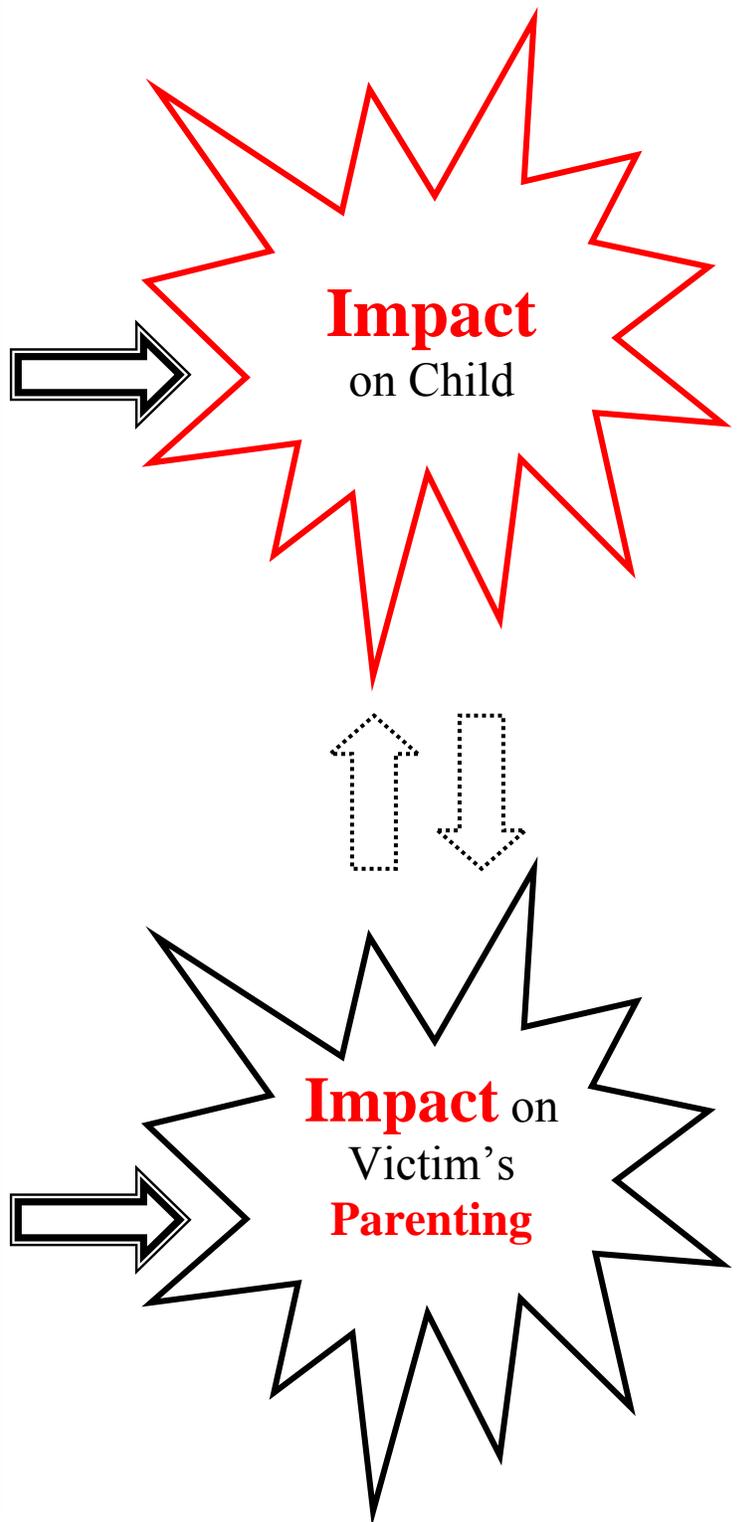
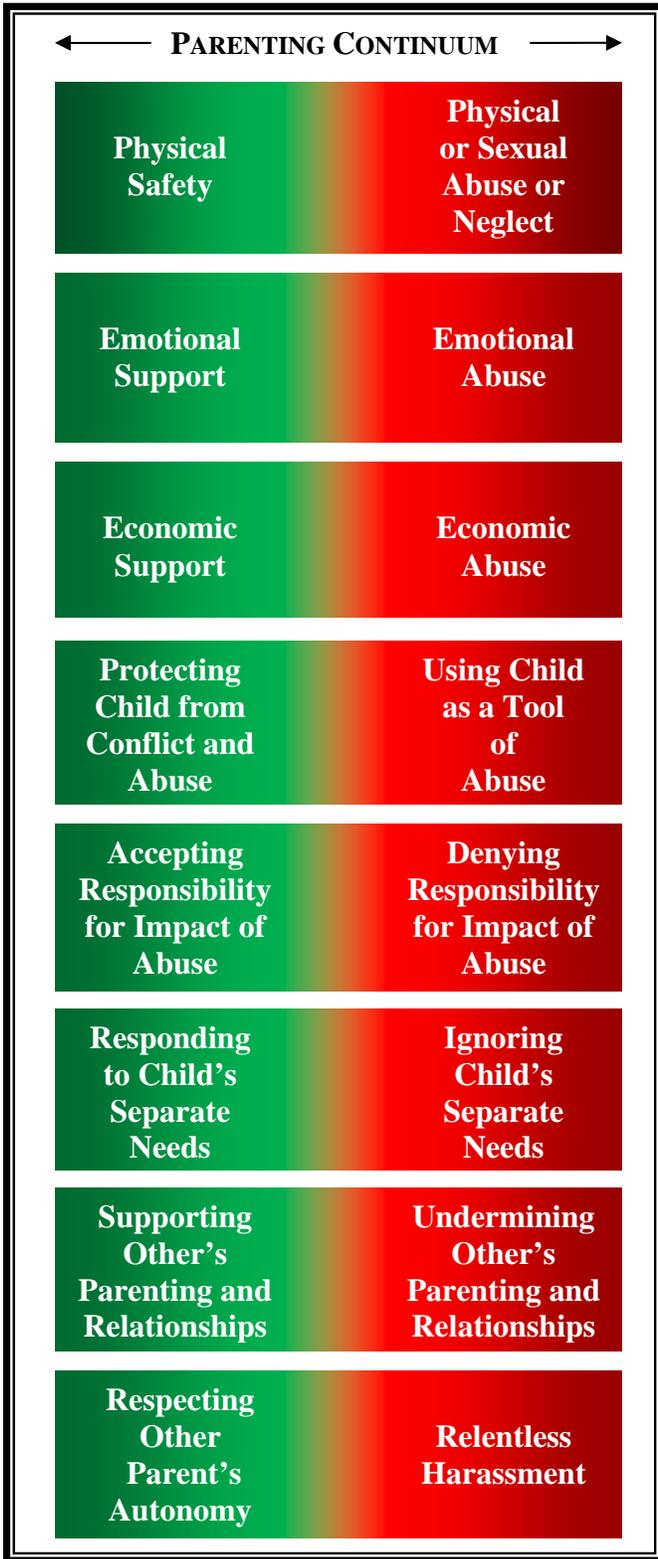
*[This project is supported by Award 2009-TA-AX-K025 from the Office of Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusion, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.]*

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<sup>1</sup> The accompanying Domestic Violence Interview Guide may assist in this effort.

<sup>2</sup> The accompanying Risk Assessment Guide may assist in this effort.

**PARENTING BY COERCIVE CONTROLLING ABUSERS**  
 (Chart \_\_\_ of \_\_\_)



**Physical or Sexual Abuse or Neglect of Child:** Decisions and behaviors that directly harm the child's physical safety, security and well-being, including but not limited to:

- Hitting, punching, slapping, pushing child
- Using excessive/coercive discipline
- Refusing to tolerate age-appropriate behavior
- Violating child labor laws (forced labor)
- Denying food, clothing, necessary medical care
- Forcing other parent to participate in child abuse
- Abducting or threatening to abduct child
- Forcing child into criminal activity
- Promoting truancy
- Having inappropriate sexual contact
- Sexually exploiting/grooming child
- Exposing child to pornography
- Using child in pornography
- Forcing child to have sex with others
- Violating child's physical privacy
- Abandoning child
- Exposing child to drugs
- Willfully violating health or housing codes

**Emotional Abuse of Child:** Wide-ranging decisions or behaviors that directly or indirectly harm the child's emotional safety, security, development, and/or well-being, including but not limited to:

- Denigrating child's feelings
- Calling child names
- Making child feel stupid or inadequate
- Demanding demonstrations of affection/loyalty
- Isolating child from friends or family
- Embarrassing, humiliating or shaming child
- Promoting gender bias or disrespect of women
- Refusing to meet child's basic emotional needs
- Creating a chaotic or unpredictable home life
- Missing visits or appointments
- Exposing child to violence
- Modeling bad behavior
- Harming or threatening to harm animals or pets
- Breaking promises
- Violating child's boundaries
- Denying support or affection to child
- Interfering with school or homework
- Micro-managing or monitoring child
- Disrupting child's structure or routines
- Destroying child's toys or personal items
- Mocking child's interests or ambitions
- Fluctuating involvement with child
- Threatening to harm or kill parent or child
- Saying one thing and doing another
- Exposing child to aftermath of violence
- Morally corrupting child
- Inducing fear or terror
- Threatening suicide

**Economic Abuse:** Decisions to or behaviors that unnecessarily harm the child's economic stability or security, including but not limited to:

- Refusing to provide available financial support
- Interfering with other parent's work
- Withholding important financial information
- Trading money or support for time with child
- Shutting off utilities
- Disabling vehicles
- Stealing property from child or other parent
- Denying other parent access to resources
- Depleting bank accounts
- Destroying other parent's credit
- Preventing other parent's access to credit
- Refusing to pay insurance premiums
- Cancelling insurance
- Selling other parent's or child's property

**Using Child as a Tool of Abuse:** Decisions to or behaviors that employ the child to manipulate, control, threaten or harm the other parent, including but not limited to:

- Drawing child into abuse
- Using child to monitor other parent
- Pitting child against other parent
- Separating children from their siblings
- Encouraging child to disrespect other parent
- Rewarding child for rejecting other parent
- Threatening to harm child
- Threatening to take child from other parent
- Using child to bargain with other parent
- Dividing child's loyalties
- Using child to coerce other parent
- Hurting child in order to hurt other parent
- Using custody to harass other parent
- Disrupting established visitation schedule
- Using visitation to access other parent
- Threatening to seek custody to hurt parent
- Degrading other parent to child
- Neglecting child on visits

**Denying Impact of Abuse on Child:** Decisions or behaviors that fail to acknowledge and repair the damage resulting from one's own abuse, including but not limited to:

- Failing to acknowledge damage from abuse
- Interfering with other parent's treatment efforts
- Refusing to seek counseling for abuse
- Interfering with other parent's care of child
- Interfering with child's counseling/healthcare
- Justifying abuse
- Being intolerant of criticism for abuse
- Demanding respect in the face of abuse
- Failing to acknowledge child's needs
- Failing to respond to child's needs
- Disregarding child's needs
- Refusing to apologize for abuse
- Forcing unwanted engagement with child
- Blaming others for abuse

**Undermining the Other's Parenting or Relationship with Child:** Decisions to or behaviors that either: (1) interfere with the other parent's ability to parent or exercise parental authority; or (2) disrupt or harm the child's relationship with the other parent, including but not limited to:

- Refusing to enforce established rules
- Violating established parenting agreements
- Withholding information concerning the child
- Disrupting child's schedule or routine
- Sharing too much information with child
- Disrespecting other parent's new partner
- Ignoring child's allergies or illnesses
- Refusing to agree to rules or structure
- Making false allegations to authorities
- Under- or over-medicating child
- Using new partner to replace other parent
- Disparaging other parent in front of child
- Criticizing other parent
- Manufacturing tensions

**Ignoring Child's Separate Needs:** Beliefs that the child's interests, needs and perceptions are either: (1) indistinguishable from the other parent's interests, needs and perceptions; or (2) attributable to the other parent, including but not limited to:

- Elevating one's own needs above the child's needs
- Believing one's own needs and child's need are identical
- Believing that oneself and one's child think and feel the same way
- Believing that one knows exclusively what is best for the child
- Believing that one's own pain is mirrored in the child
- Obsessive attachment to the child
- Seeing no value in the child's contact with the other parent, absent sufficient cause
- Believing that child's mind is being poisoned by the other parent
- Believing that the child is mirroring the other parent
- Believing that the other parent and the child are conspiring

**Relentless Harassment:** Decisions to or behaviors that disrupt the everyday life of, and create persistent instability, insecurity or unpredictability for the child and/or the other parent, including but not limited to:

- Constantly disrupting the child's schedule
- Constantly disrupting the child's routines
- Engaging in harassing litigation
- Making false reports to authorities
- Fluctuating parental involvement
- Monitoring other parent's whereabouts
- Making unreasonable demands on time
- Making oneself look good in harmful ways
- Hacking into other parent's computer
- Cutting off phone service
- Constantly raising "technical arguments"
- Missing visits and appointments
- Interfering with the other parent's work
- Interfering with school, sleep or social life
- Interfering with health care
- Disparaging other parent to family/friends
- Constantly changing rules or expectations
- Stalking other parent or child
- Cancelling or rescheduling appointments
- Disrupting utilities
- Disrupting other parent's transportation
- Setting off home alarm system
- Showing up unannounced
- Sabotaging other parent at every turn

This project is supported by Award 2009-TA-AX-K025 from the Office of Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

# Protecting Children Throughout Multiple Court Systems Suggestion Form

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This form is provided for participants who want to provide feedback to better protect children throughout multiple court systems. Information provided in this form will be shared with the WV Supreme Court Improvement Board for use in analysis of current response and recommendations for systemic change.

*What is working well in your community?*

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*What is not working well in your community?*

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*Suggestions for systemic change:*

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## CIP UPDATE ON THE LAW OUTLINE

Catherine D. Munster, Presenter

July 2012

I. Introduction: Welcome. As a preliminary matter, this review does not include all new statutes, rules changes, or cases decided by the state supreme court since the last conference; but instead, is intended to cover those matters of particular significance. [2:45—2:55]

II. Update of Significant Case Law. [2:55—3:10]

A. Remember, **Memorandum Opinions have no precedential value, period; per curiam decisions can be cited as legal authority and used to demonstrate how established law can be applied to new factual situations.**

B. In the last 2 terms of court, the supreme court has issued **no authored opinions with new developments of law.**

C. The court has published a plethora of memorandum decisions, one with an excellent dissent by Justice Workman (Robert W.), and only **2 per curiam decisions**, which we will briefly discuss.

D. *In re Ashton M.*, Slip Op. no. 11-0755 (W. Va., dec. Feb. 28, 2012)  
[Webster Circuit Court]

1. The state supreme court reiterated the law that prosecutors are attorneys for the DHHR and must represent the DHHR's position, not an independent position of their own. However, the circuit court may refuse to accept the DHHR position and order something else.
2. The state supreme court then found that having rejected the DHHR's child's case plan at disposition, another hearing was required after the DHHR submitted a new plan pursuant to Rule 34.
3. The DHHR had recommended "termination of custodial rights" in a sexual abuse case and the circuit court terminated parental rights. The mother argued that such a difference constituted a "rejection" of the case plan under subsection (d) of Rule 34, which required submission of a new case plan and another hearing before her parental rights could be terminated.

4. The case was remanded for compliance with Rule 34 and to ascertain the wishes of the child who was 16 years old (17 at time of appeal)
5. Justice Workman's Concurrence/Dissent: She agreed that the prosecutor had not violated his duty of representation to the DHHR but dissented as to compliance with Rule 34 and consideration of Ashley's wishes.
  - a) She cited the record as replete with consideration of Ashley's wishes and no point in denying permanency since Ashley just wanted visitation, which she could have post-termination.
  - b) As to Rule 34, Workman pointed out that the difference in the circuit court's disposition and the DHHR's was largely one of semantics, so plan was not rejected for purposes of sub§ (d), but was modified in accordance with the evidence at the hearing, which under Rule 34 does not require another hearing.
6. CM's observations:
  - a) **How can a circuit court require the DHHR to file a modified plan consistent with the court's disposition if the DHHR does not agree with that disposition?** How do we ever get to a final dispositional hearing (and the ability to appeal) if the DHHR will not modify its plan? And if forced to modify, is that a waiver of its position on appeal? (Could probably file under objection...) **Doesn't this unnecessarily delay permanency for the child?**
  - b) Why do all that **when Rule 34 (c) specifically provides for the circuit court to change the plan based on the evidence adduced at the hearing , enter an order of disposition and proceed ahead.** This procedure is the common practice under the Rules and what was contemplated by the Rule.
  - c) Rule 34(d) was designed to be used only when the circuit court did not accept the DHHR plan **but the court did not have another based on the evidence and so did not want to rule at all, but wanted the DHHR to try again.**
  - d) So Justice Workman had the right of it... **Use Rule 34(c).**

E. *In re Kasey M.*, Slip Op. no. 11-0203 (W. Va., dec. Nov. 15, 2011)  
[Kanawha Circuit Court]

1. Circuit Court dismissed petition as to biological parents, finding no abuse or neglect of the child C.C. However, before dismissing the case, the court transferred custody of the child C.C. from the biological father to the biological mother who had custody of 2 siblings and thereby essentially modified the prior Florida custody order. Father appealed.
2. The **state supreme court reversed, finding that an adjudication of abuse and neglect is essential before making any dispositional decision, including change of custody.**
3. This decision is consistent with the **new A/N Rule 6** which says once circuit court has taken jurisdiction, then all placement decisions (including later modifications) are the Circuit Court's, not family court, **except** when the petition has been dismissed as non-meritorious.
4. Justice Workman's concurrence found fault with the family court's order, not the result of the majority decision.

III. Update of Significant Statutory Changes: Chapter 49—SB 484, effective June 2012 [3:10—3:50]

- A. SB 484 contains a partial rewrite of Chapter 49, containing many significant revisions to, hopefully, clarify and resolve several practice issues.
- B. §49-1-3 (Definitions), sub§ (7) defines what a **CASA** program is and what is required, consistent with Rule 52.
- C. §49-2-17 on **Subsidized Adoption and Legal Guardianship** has been modified:
  1. To allow **direct payment** by the DHHR for legal fees to the attorney representing the adoptive parent; no longer have to obtain payment from the parent who then submits invoice for reimbursement to DHHR.
  2. To **eliminate need to make reasonable efforts to place a child without subsidy if it is in the best interest of the child because of such factors as the existence of significant emotional ties to the prospective parent or guardian while in care as a foster child.**

D. Very important **changes to the MDT process**

1. §49-5D-2 requires **new mandatory members** to the MDIT,
  - a) a health care provider with pediatric and child abuse expertise, where available
  - b) a mental health professional with pediatric and child abuse expertise, where available
  - c) an educator [not sure why, since not required for CAC accreditation], and
  - d) a DV representative from licensed program. **This requirement no longer based on availability or where “appropriate” to a given case.**
2. §§49-5D-3, 49-5D-3a, and 49-5D-3b contain much reorganization of the prior statute MDT **treatment process** for more clarity, but the essential **substantive changes** are:
  - a) **Any member of the MDT who disagrees with the recommendations of team may inform the court** of objections and his recommendations and may be made in a hearing, made in writing and served on each team member and filed with the court and indicated in the case plan or both. **Upon receiving objections, the court will conduct a hearing in accordance with sub§ (a),** which requires hearing within 10 days.
  - b) **New mandatory members include co-petitioners and custodial relatives. Excluded are parties whose parental rights have been terminated,** unless otherwise ordered by the court.
  - c) **Must meet at least every 3 months until the case is dismissed from the docket of the court.** [This time frame was required by Rule, now by statute.]
  - d) **If a respondent or co-petitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her statements [can] not be used in any subsequent criminal proceeding against him or her,**

**except for perjury or false swearing. This statutory addition overrules Daniel D.**

3. §49-5D-3c: Sets up a separate multidisciplinary treatment process for status offenders or delinquents, including ability of court to require DHHR to do an assessment and conduct a MDT. If the juvenile is committed to DJS, then DJS is required to convene a MDT and conduct assessment, all to be in compliance with the Rules of Juvenile Procedure.

**E. §49-6-2 changes CLE requirements for attorneys appointed in A/N cases.**

1. Effective July 1, 2012, such attorneys must receive **8 hours** per reporting period.
2. After July 1, 2013, any attorney appointed to represent children must first complete training on representation of children that is approved the state supreme court's administrative office.

**F. §§49-6-3 and 49-6-5 add another ground to the "crimes" list for finding that no reasonable efforts to preserve the family need be made:**

1. When the respondent has **been required by state or federal law to register with a sex offender registry.**
2. §49-6-5 also **creates sex offender registration as a separate category for not requiring reasonable efforts to preserve the family when** the court "has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family."

**G. §49-6-6 makes several highly significant changes in the Modification of dispositional orders section of the Code [the A/N Rules have also been modified, see Rule 46 below, so now both statute and Rules are consistent with each other]:**

1. The **circuit court of origin has exclusive jurisdiction over placement of the child and such placement shall not be disrupted or delayed by any administrative process of the department. So no more use of grievance procedures as method for making an end run around the circuit court's placement authority.**

2. The court may modify a dispositional order **if the court finds by clear and convincing evidence a material change of circumstance and that such modification is in the child's best interests.** The persons who may seek such a modification has not been changed, so Cesar L. remains the law on parents whose rights have been terminated (have no standing, since no longer parents; see also new A/N **Rule 46**)
3. Persons entitled to notice and the right to be heard must also be provided with timely notice of the hearing.
4. Sub§ (b) adopts "Tabby's Rule" (Rule 45(b)), requiring that if a child is removed or relinquished from any permanent placement after the case has been dismissed, then **any party with notice thereof and the receiving agency shall promptly report the matter to the circuit court of origin, the DHHR and the child's counsel. The court must schedule a permanency hearing within 60 days of the report and the DHHR must convene an MDT within 30 days.**
5. The court **cannot modify a dispositional order after the child has been adopted, except where Tabby's Rule applies.**
6. If a child has not been adopted, the child or DHHR may move the court to **place a child with a parent or custodian whose rights have been terminated and/or restore such parent's or guardian's rights, if the court finds by clear and convincing evidence a material change of circumstances and that such placement and/or restoration is in the child's best interests.**

H. §49-6-8 addresses issues with the Permanency Hearing and permanent placement review process, making them ASFA compliant. [See also, §49-7-36 discussed below]

1. **Permanency hearing now required within 30 days following the entry of any order which finds the DHHR is not required to make reasonable efforts to preserve the family. Otherwise, within 12 months of the DHHR's receipt of physical custody of the child and once a year thereafter.**
2. **A permanent placement review hearing must be held at least once every 3 calendar months thereafter until a permanent placement is achieved.**

3. Any foster parent, pre-adoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing.
4. Statute also now requires that when a child will not be returned to a parent and the child has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living.

**I. Change to §49-6-12, to make Improvement Period statute ASFA compliant.**

1. None of the requirements for obtaining and maintaining an improvement period have changed; but the number and length of possible improvement periods were not ASFA compliant.
2. So, “notwithstanding any other provision..., no combination of any improvement periods or extensions thereto may cause a child to be in foster care more than 15 months of the most recent 22 months, unless the court finds compelling circumstances by clear and convincing evidence that it is in the child’s best interest to extend the time limits contained in this paragraph.”

**J. §49-6D-3 addresses Unified Child and Family Case Plans.**

1. The statute requires the DHHR to develop the Unified Plan (which has been done and should be in use in your jurisdiction)
2. The plan must be filed with the court within 60 days of the child coming into care or within 30 days of the inception of an improvement period, whichever occurs first.
3. The case plan must comply with federal law and the A/N Rules.

**K. §49-7-36 sets for the requirements for Quarterly Status Review and Yearly Permanency Hearings.**

1. Inter alia, this statute gives circuit courts jurisdiction to continue to conduct status hearings and permanency hearings for transitioning adults as defined by §49-2B-2(x) (adjudicated A/N, 18-21 years of age and in DHHR custody when turned 18 and enters a contract with the DHHR to continue in an educational, training, or treatment program; also applies to person in department custody who committed an act of

delinquency before 18 and requires supervision and care to complete an education and/or treatment program which was initiated prior to 18). **See also new A/N Rule 54.**

2. The statute also requires the court to make findings as to whether the DHHR has made **reasonable efforts to finalize a permanency plan to prepare a transitioning adult for emancipation or independence or another approved permanency option.**

L. **Changes to Mandatory Reporting Act, §49-6A-2, not SB 484 but SB 161,** may be important to A/N practice.

1. **Adds as mandatory reporters, members of the general public who observed or received a disclosure from a credible witness about any sexual abuse or sexual assault of a child, within 48 hours. Only exception is if good faith belief that reporting would put reporter, the subject child, the reporter's children or other children in the subject child's household in increased threat of serious bodily injury and then only while taking measures to remove from the perceived threat of additional harm. Must thereafter report "as soon as practicable after the threat of harm has been reduced."**
2. There is no marital privilege under Mandatory Reporting Act, so respondent parent may face criminal charges for failure to report. **Need to address this issue in representation of such an affected party.**

IV. Update on Significant Rules Changes: Revised Abuse & Neglect Rules,  
effective January 3, 2012 [3:50—4:30]

A. Rule 3:

1. Sub§ (h) and (i) slightly change the definitions of permanency hearing and disposition hearings, to clarify that at a disposition hearing the court determines the appropriate **disposition** of the case and the permanency plan for the **family**, while the **permanency hearing** determines the permanency plan for the **child**.

2. Sub§ (3) defines an **ASFA compliant permanent out-of-home placement** (adoption, legal guardianship, AAPLA, or emancipation).
3. Sub§ (o) makes “Persons entitled to notice and the **right** to be heard” ASFA compliant.

B. **Rule 6. Maintaining case on court docket** significantly revised to **clarify which court has jurisdiction over later modifications and under what circumstances**. The **circuit court of origin** retains **exclusive jurisdiction** over placement of the child while the case is pending, as well as **over any subsequent requests for modification including, but not limited to, changes in permanent placement or visitation** with the following 2 exceptions:

1. if the petition is dismissed for failure to state a claim, or
2. if the petition is dismissed and the child is thereby ordered placed in the legal and physical custody of both of his/her cohabitating parents without any visitation or child support provisions.

If either of these 2 exceptions applies, then **family court** may consider future child custody, visitation and/or child support proceedings between the parents. **In all other situations, once the circuit court takes jurisdiction, its jurisdiction is exclusive over all future modifications, including child support.** (See In re Ryan.) See also **Rule 46** below.

C. **Rule 7—Time Computation**, addresses how time frames are to be computed...in accord with Civil Procedure Rule 6(a)

D. **Rule 8**—Adds **participation of child at hearings and MDTs**, making it clear that children are to attend **hearings** unless the **court** deems such attendance inappropriate and **attend MDTs** unless the **MDT** deems it inappropriate. **Consideration shall be given to the child’s preferences and maturity.**

E. **Rule 16**—**Makes significant additions to Emergency Custody rule.**

1. **Sub§ (d)** makes a **removal hearing mandatory following the DHHR taking of physical custody of a child regardless of whether the DHHR was previously granted legal custody or when in the case the removal occurs**. The DHHR must immediately notify the court and the hearing must take place within **10 days** of the removal to determine (1) whether there is imminent

danger and (2) whether there is no reasonably available alternative to removal

2. Sub§ (e) sets forth the required findings in a removal order—essentially the court **should make the same ASFA findings as required at a preliminary hearing if the removal occurred prior to the filing of the petition.** (Imminent danger, continuation in the home contrary to welfare of child, reasonable efforts to prevent removal, whether efforts should be made by DHHR to facilitate child’s return and if so, what efforts should be made.)

F. Rule 19, Amendments to petition, revised to make clear that

1. Petition can be amended both **prior to or after the adjudicatory hearing.** Subsection (b) specifically states that even if allegations arise after the adjudicatory, **the petition should be amended and the final adjudicatory hearing reopened for hearing evidence on the new allegations, no new petition should be filed.**

2. If new allegations arise as to a **co-petitioner, the petition should be amended and the parties realigned.** Sub§ (c).

G. Rule 22, Preliminary hearing, revised to add procedure for **waiver or stipulation of preliminary hearing.** Sub§ (c). The hearing may be waived or stipulated if the **court determines:**

1. parties and persons entitled to notice understand the content and consequences of the waiver/stipulation and voluntarily consent;
2. the waiver/stipulation meets the purposes of the rules and statutes and is in the best interest of the child;
3. the court shall hear any objection by any party or person entitled to notice; and
4. the court shall include in the order the specific stipulations or waiver.

H. Rule 28—The Child’s Case Plan, makes **significant additions:**

1. Added new requirements for **educational stability** in compliance with the **Fostering Connections Act.** So the plan submitted to parties/persons and the court must include assurances:

- a) that the **placement of the child takes into account the appropriateness** of the current educational setting **and the proximity** to the school in which the child is enrolled at the time of placement [the “school of origin”];
- b) that the DHHR has coordinated with appropriate local education agencies to **ensure that the child remains in the school of origin, including provision for reasonable travel;**
- c) that if remaining in the **school of origin is not in the child’s best interest, the DHHR and local education have provided immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school.**

2. Added **new requirements for adult transitioning.**

- a) For children **16 or older**, the plan should specify **services aimed at transitioning** the child into adulthood.
- b) When the child turns 17, the DHHR must provide assistance and support in developing a **transition plan that is personalized at the direction of the child.** The plan must include **specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services.**
- c) When a child **with special needs turns 17**, the child is **entitled to the appointment of a DHHR adult services worker to the MDT and coordination of MDT with other planning teams, such as an IEP team.**

I. **Rule 36--Disposition Order**, includes a new subsection to address the issue of the court’s **interaction with administrative processes of the Department.**

- 1. **Sub§ (e)** reiterates that the circuit court has **exclusive jurisdiction to determine the permanent placement of the child.**
- 2. **“Placement of a child shall not be disrupted or delayed by any administrative process of the Department, including an adoption review committee or grievance procedure.”**

3. This rules revision should put an end to the practice in some jurisdictions of making disputed placements a matter for a DHHR hearings examiner. It is already a matter of DHHR policy that MDTs are to make adoption recommendations, not an “ARC”.

J. Rule 36a—New revisions make time frames for **Permanency Hearings** ASFA compliant.

1. **Whenever** court finds that the DHHR is **not required to make reasonable efforts to preserve the family**, the permanency hearing must be conducted within **30 days**. [If reasonable efforts are being made, then the Rule has always required that the permanency hearing be conducted within 1 year of removal.]

2. **Permanent placement reviews** occur at least **every 3 months thereafter**.

K. Rule 41—Includes as subjects of the **Permanent Placement Review** the same **educational stability and adult transitioning** factors required under Rule 28, the Child’s Case Plan. Rule 42 requires the order reflecting the review to additionally address:

1. whether the DHHR has made reasonable efforts to finalize the permanency plan for the child;
2. changes to the educational plan for the child, if any, to further the child’s educational stability; and
3. steps to be taken to assist a child 16 or older with the development of a transitional plan.

L. Rule 43—**Time for permanent placement** now requires that permanent placement of each child be achieved within **12 months of the final dispositional order, unless the court finds on the record extraordinary reasons sufficient to justify the delay**.

M. Rule 45(b)—Makes it clear that if permanency fails after dismissal of the case, then it must be reported to **the circuit court of origin** to schedule a permanent placement review hearing within **60 days** and the DHHR has **30 days of the notice of disruption to convene an MDT**.

N. Rule 46— Essential rewrite of **Modification or supplementation of court order; stipulations** rule to make consistent with new statute and address some practice issues.

1. **All** modifications or supplementation of **any** circuit court of original jurisdiction over the A/N case must be made by motion to **that court**, except no TPR order can be modified after adoption.
2. The court **shall** conduct a hearing and, upon showing of **material change of circumstances**, may modify or supplement the subject order if, by **clear and convincing evidence**, it is in the best interest of the child.
3. A child support order may be modified if, by a **preponderance of the evidence**, there is a **substantial change in circumstances**, pursuant to W. Va. Code §48-11-105.
4. The court may enter a **stipulated** modification order, if the child has not been adopted, if the court finds that the parties and persons entitled to notice understand **the contents and consequences of the stipulation and voluntarily consent to its terms, the stipulation meets the purposes of these rules and controlling statutes, and that the stipulation is in the best interest of the child.**

O. Rule 49—Makes the A/N rule on **Appeals** consistent with the new Revised Appellate Rules. Among other things, Rule 49

1. Makes the attorney representing the children a party to the appeal;
2. Makes clear that “the filing of any motion to modify an order **shall not toll the time** for appeal.”
3. Continues the requirement that the state supreme court shall give priority to A/N cases and shall administer an accelerated schedule for briefing, oral argument and decision.

P. Rule 54—a new Rule pertaining to **Transitioning Adults**, making all of the A/N rules pertaining to **case reviews and permanency hearings** applicable to “transitioning adults” as defined by W. Va. Code §49-2B-2(x)