

No. 25002 -- In the Matter of Erica B., et al.

Workman, J., concurring:

As the majority recognizes in footnote six of its opinion, West Virginia Code § 49-6-12 (1996) is a new enactment specifying that an improvement period shall be terminated when the individual fails to participate in any provision of the improvement period. This statute is to be strictly construed and is consistent with this Court's prior pronouncements regarding the objectives of an improvement period. In State ex rel. Amy M. v. Kaufman, 196 W. Va. 251, 470 S.E.2d 205 (1996), for instance, this Court explained that House Bill 4138, effective June 8, 1996, revised West Virginia statutory law on improvement periods and "establishes a clear statutory mandate to limit pre-adjudicatory improvement periods to three months, and post-adjudicatory improvement periods to six months, with a three-month extension of a post-adjudicatory improvement period possible under certain circumstances." 196 W. Va. at 258, 470 S.E.2d at 212. We also stated in Amy M. that the "goal of an improvement period is to facilitate the reunification of families whenever that reunification is in the best interests of the children involved." Id.

We acknowledged in West Virginia Department of Human Services v. Peggy F., 184 W. Va. 60, 399 S.E.2d 460 (1990), that it is possible for an individual to demonstrate "compliance with specific aspects of the case plan" despite that individual's

failure to enhance his “overall attitude and approach to parenting.” 184 W. Va. at 60, 399 S.E.2d at 464. As we pointed out in In re Carlita B., 185 W. Va. 613, 408 S.E.2d 365 (1991), delays occasioned by multiple hearings and attempts to determine whether improvement periods should be continued wreak havoc upon the lives of these children whom the system is attempting to protect. 185 W. Va. at 623, 408 S.E.2d at 375.

Certainly many delays are occasioned by the fact that troubled human relationships and aggravated parenting problems are not remedied overnight. The law properly recognizes that rights of natural parents enjoy a great deal of protection and that one of the primary goals of the social services network and the courts is to give aid to parents and children in an effort to reunite them.

The bulk of the most aggravated procedural delays, however, are occasioned less by the complexities of mending broken people and relationships than by the tendency of these types of cases to fall through the cracks in the system. The long procedural delays in this and most other abuse and neglect cases considered by this Court in the last decade indicate that neither the lawyers nor the courts are doing an adequate job of assuring that children--the most voiceless segment of our society--aren't left to languish in a limbo-like state during a time most crucial to their human development.

Id.

Rule 23(b) of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings also provides that where “respondent(s) fail to comply with the terms and conditions of the improvement period or evidence an inability to remediate the

circumstances giving rise to the abuse and/or neglect, any party may file a motion to revoke the improvement period.”

It is incumbent on the circuit courts to be aware of this change and adhere to it.