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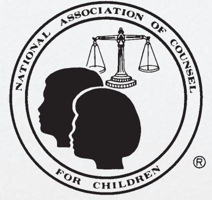

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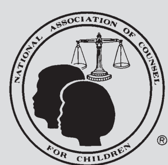

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Improve Courts and Agencies Serving Children, and

Advance the Rights and Interests of Children

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THE GUARDIAN

NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN

Vol. 28, No. 2 ▪ Spring 2006

President's Message

NACC CERTIFIES FIRST CHILD WELFARE LAW SPECIALISTS

by Marvin Ventrell, NACC President / CEO

The National Association of Counsel for Children has certified the first class of *Child Welfare Law Specialists* in the country. Eighty-Five attorneys who represent children, parents, and state welfare agencies in abuse, neglect, and dependency cases were awarded specialty certification in child welfare law in June. The NACC is proud to list those lawyers with their well-earned credential, *CWLS* (Child Welfare Law Specialist), on the cover of this *Guardian*. The list is also available at *www.naccchildlaw.org/training/certification.html*. These lawyers will be publicly recognized at the NACC National Children's Law Conference in Louisville, Kentucky on October 14, 2006.

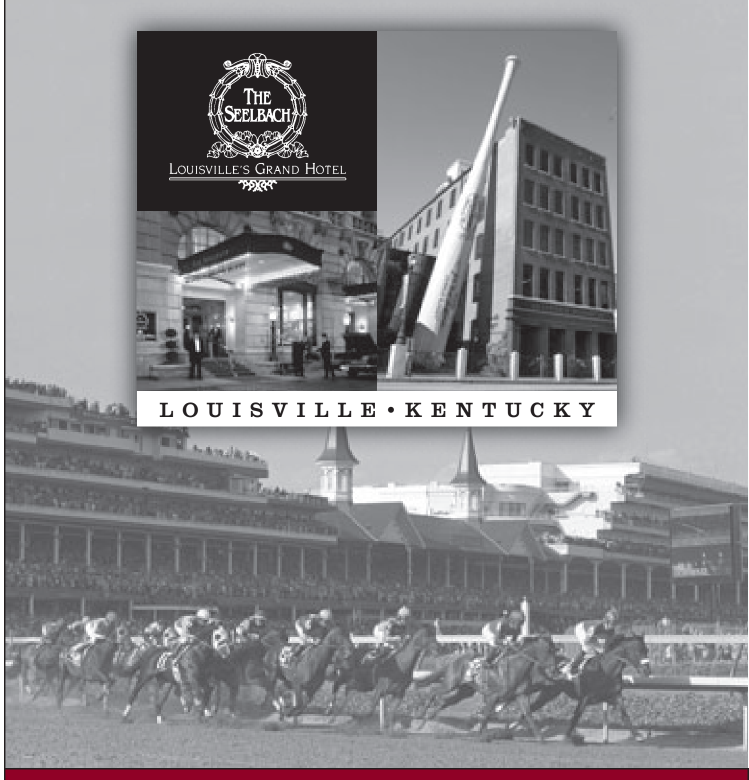
Legal specialty certification, similar to medical board certification, is awarded to attorneys who demonstrate competence in a recognized legal specialty by satisfying the requirements of good standing, substantial involvement, education, peer review, writing, and substantive knowledge. Specialists must pass a comprehensive child welfare law written examination. By attaining specialty certification, lawyers identify themselves to the court, bar, and community as having the training, knowledge, and skill to practice law in a specialized area.

In 2001, the American Bar Association recognized Child Welfare Law as a legal specialty. In 2004, the ABA accredited the NACC as the child welfare law certifying body. The U.S. Dept. of HHS Children's Bureau then sponsored the NACC's pilot program to certify the nation's first child welfare law specialists. The NACC conducted the pilot program in California, Michigan, and New Mexico.

Child welfare law specialty certification is designed to improve outcomes for children and families in the foster care and court systems by improving the quality of legal services delivered. It is a component of the NACC and federal government initiatives to produce safety, permanence, and well-being for our nation's foster care population.

This fall, the NACC will begin phase two of the project to expand the program beyond the pilot states. The NACC certification preparation course will be offered for all interested attorneys as the pre-conference session to the national conference in Louisville, KY on October 12, 2006. For more information on certification go to *www.NACCchildlaw.org* or contact the NACC at 888-828-NACC or *advocate@NACCchildlaw.org*. ■

Save the Date : October 12–15, 2006



Mark your calendars now and plan to join us for the National Association of Counsel for Children's 29th Annual

For information on the NACC 29th National Children's Law Conference:

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Cases

Dependency / Hearsay Statements

Introducing Child's Out Of Court Statements In Civil Proceeding Did Not Violate Parents' Due Process Rights. In Re Pamela A.G., No. 29,018, New Mexico Supreme Court (April 2006).

The New Mexico Supreme Court upheld the state Court of Appeals decision that the Children's Court did not violate the parents' due process rights by admitting statements as evidence of sexual abuse. The child lived with her natural grandparents who were her adoptive parents. In November 2001, when the child was almost four-years-old, the Children Youth and Families Department (CYFD) removed her from her parents' care due to unsanitary living conditions and placed her in a foster home. Four months later CYFD amended the petition to allege that the father had sexually abused the child, and mother failed to protect her from the abuse.

The sexual abuse allegations were based on statements the child made to her foster mother, to a CYFD social worker during a "Safe House" interview, and to her therapist. Before the adjudication hearing on the sexual abuse allegations, CYFD notified the parents of its intent to introduce the statements under the hearsay rule. New Mexico law recognizes the "catch-all" or residual hearsay exception: statements not covered by any of the other hearsay exceptions can be admitted under certain circumstances if there are "equivalent circumstantial guarantees of trustworthiness." (Rule 11-804 B(5) NMRA).

The father filed a motion *in limine* arguing that admitting the statements would deny him due process because he did not have an opportunity to participate in questioning the child and the child was not competent to testify. The Children's Court judge decided to hear the evidence relating to the statement before ruling on the motion. The foster mother, social worker, safe house interviewer, and child's therapist testified about the statements. The child's therapist also stated that she believed the child would not be able to say anything in a court setting and that it would be harmful to the child to testify. The judge found that the circumstances surrounding the child's statements indicated that they were trustworthy and concluded that the statements were admissible. The court then concluded that clear and convincing evidence supported the allegations of neglect and abuse.

The Court of Appeals affirmed the Children's Court decision. The New Mexico Supreme Court considered whether the parents' due process rights were violated when the Children's Court admitted the out-of court statements without the parents having an opportunity to question the child. The court reviewed the constitutional claim *de novo*.

The court noted that parents have a fundamental liberty interest in the care, custody, and control of their children. When a proceeding interferes with the parent-child relationship, courts must afford constitutional due process. In this case, although it was not a termination of parental rights proceeding, the court concluded that the statutory scheme adopted by the state legislature recognizes a continuum of proceedings beginning when a petition is filed. Since neglect and abuse cases are civil proceedings, the Sixth Amendment Confrontation Clause does not apply; however, parents are given constitutional due process, and they must be given a reasonable opportunity to confront and cross-examine a witness. The court considered, therefore, whether the parents received the minimum level of due process.

The court's analysis turned on whether the procedures used for the admission of the child's statements increased the risk of an erroneous finding of abuse, which could lead to the parents losing their fundamental rights to a relationship with their child, and whether additional safeguards would have lowered that risk. In this case the court concluded that the Children's Court judge followed the statutory procedure for determining whether a statement was trustworthy and reliable. Neither parent called the child as a witness nor asked to question the child. The child's statements were consistent and spontaneous. Furthermore, the child demonstrated sexualized behavior and language not common in children her age. The court noted that even in civil cases, confrontation is preferred, and encouraged the Children's Court to explore alternatives for questioning children to assist the fact-finder in determining the reliability of statements while protecting the child's emotional state. The court concluded that the parents were not denied due process: they were allowed to cross-examine hearsay witnesses and challenge reliability methods, they were provided with proper notice, assistance of counsel, and an opportunity to review and present evidence.

The NACC filed an *amicus curiae* brief in this case urging the New Mexico Supreme Court to find that the child's statements were admissible under the residual hearsay exception.

Mandatory Reporting/ Privacy Rights

U.S. District Court Holds Mandatory Reporting Of Consensual Underage Sexual Activity Violates Minor's Informational Privacy Right.

Aid for Women v. Foulston, 2006 U.S. Dist. LEXIS 23226 (Kan. 2006).

The U.S. District Court considered whether consensual underage sexual activity must be reported under the state reporting statute. In 2003, Kansas Attorney General Kline issued an opinion seeking to significantly change the standard of reporting in the state's reporting statute. According to the Kline Opinion, all sexual activity of a minor is considered sexual abuse and is *per se* injurious, and thus, a mandatory reporter must automatically report any indication that a minor is sexually active.

A few months after the Kline Opinion was issued, plaintiffs brought suit seeking declaratory and injunctive relief against the application of the reporting statute to incidents of consensual sexual activity between minors under the age of sixteen when mandatory reporters conclude, in their professional judgment, that the sexual activity did not injure the minor. Plaintiffs claim that this application violated the rights of adolescents under sixteen to maintain the confidentiality of private information about their sexual behavior without serving a compelling state interest.

The Court began by interpreting the Kansas reporting statute. The statute requires reporting by certain persons who have reason to suspect that a child has been injured as a result of sexual abuse. The Court stated that although the Attorney General is required to render an opinion on his interpretation of the law under certain circumstances, the true interpretation of the law is a judicial function. The Court held that the Kline Opinion contradicts the plain meaning of the statute for two reasons. First, the Kline Opinion improperly ignored the discretion given to licensed professionals by the legislature. Specifically, it did not take into consideration the statutory language, "reason to suspect that a child has been injured" as a result of sexual abuse. Second, the Kline Opinion incorrectly redefined the common understanding of state agencies and mandatory reporters by denoting all sexual activity to be "inherently injurious."

To grant a permanent injunction, a court must find that four requirements have been satisfied: 1) actual success on the merits; 2) irreparable harm unless the injunction is granted; 3) threatened injury outweighs the harm that the injunction may cause the opposing parties; and 4) the injunction, if issued, will not adversely affect the public interest. The Court found that the plaintiffs satisfied the four requirements and were entitled to permanent injunctive relief on the claim of violation of the right to informational privacy.

The Court first considered the actual success on the merits regarding whether minor patients have a right to informational privacy concerning consensual sexual activity where there is no evidence of force, coercion, or power differential. The Tenth Circuit recognizes a right to informational privacy concerning personal sexual matters and confidential medical information. Thus, an individual's right to informational privacy may be implicated when the government compels disclosure of that individual's personal sexual or health-related information to the government and/or to other third parties.

To determine whether mandatory reporting of consensual sexual activity of minors violates a minor's informational privacy rights, the court applied a three-prong analysis: a) is there a legitimate expectation of privacy; b) does disclosure serve a compelling state interest, and c) can disclosure be made in the least intrusive manner? First, the statute recognizes an expectation of privacy in conduct when there is no reason to suspect injury. Second, the state clearly has a compelling interest in protecting children from abuse, but, as the statute indicates, this interest is limited to circumstances when there is a reason to suspect injury. Thus, a minor's privacy ends where the state's interest in protecting the minor begins. Finally, the statute recognizes that privacy should be breached only when injury to the child is reasonably suspected. By its very terms, the statute recognizes an element of privacy in mandatory reporting of unlawful sexual activity of a minor.

The Court also found that the plaintiffs satisfied the irreparable harm requirement for the following reasons. First, the Kline Opinion placed the plaintiffs on notice that they may be prosecuted for not reporting sexual activity of minors. Second, plaintiffs did not have fair notice of what is reportable under the statute. Third, based on the testimony and other evidence, serious questions arise as to whether minors will continue to seek timely medical care and psychological services if all sexual activity is automatically reported. Similarly, automatic mandatory reporting of sexual activity involving a minor will change the nature of the relationship between a health care provider and the minor patient. Finally, beyond the irreparable harm that all minors are subject to, evidence supports a finding that mandatory reporting of all underage sexual activity will harm those minors who are actual victims of sexual abuse. Thus, the Court found that mandatory reporters, all minors, and minor victims of sexual abuse will suffer irreparable harm if all consensual underage sexual activity must be reported.

The Court then concluded that the threatened injury outweighs the harm that the injunction may cause the opposing parties. The Court found there was clear risk that mandatory reporting will reduce the number of minors seeking care, and may even lead to increased health risk to minors because they will delay or forego health care. The Court also found no evidence that the state's interest will be affected.

The Court then concluded that the injunction would not adversely affect the public interest. There is no indication that under-reporting is or has been a problem under the Kansas reporting statute, and there is no indication that the legislature has perceived under-reporting as a problem since there has been no change to the reporting statute since its enactment.

The Court held that a plain reading of the statute assigns mandatory reporters with discretion to determine when there is reason to suspect a child has been injured as a result of sexual abuse. The Kline Opinion imposed a mandatory reporting rule for a broad range of underage sexual activity, eliminating all discretion on the part of the reporter. The Court concluded that the legislature placed discretion in

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Written and edited by NACC President Marvin Ventrell, NACC Board Member Donald Duquette, with contributions from 23 national experts.

reporters; to require reporting in every instance is contrary to the law.

Custody / Child's Attorney Immunity

Maryland Court Of Appeals Holds That Court-Appointed Attorney For Minor Not Entitled To Immunity From Tort Liability. Fox v. Wills, 390 Md. 620; 890 A.2d 726 (Md. 2006). This case was previously reported in the Summer 2003 issue of *The Guardian*.

The Maryland Court of Appeals considered whether court appointed counsel for a minor was entitled to immunity from tort liability. The Maryland Court of Appeals held that an attorney appointed pursuant to § 1-202 of Maryland's Family Law Article is not entitled to any type of immunity from a legal malpractice suit.

Vincent Wills, an attorney, was appointed K.F.'s "guardian" in her parent's divorce proceeding, for the purpose of deciding whether K.F. should waive her patient-psychiatrist privilege. Subsequently, Wills was appointed as counsel for K.F. pursuant to § 1-202 of the Family Law Article.

Following the judgment in the divorce case, K.F.'s mother filed a legal malpractice action against Wills, on behalf of her daughter. The complaint alleged that Wills was negligent in his representation of K.F. while acting as her "guardian *ad litem*." The complaint asserted that Wills did not act in accordance with K.F.'s best interests, and that he instead acted as an advocate for the child's father who was suspected of sexually abusing the child. The complaint made several claims that Wills breached his duties as counsel by inappropriately allowing his friendship with K.F.'s father to influence his judgment regarding her best interest.

Wills filed a motion to dismiss the complaint arguing that because of his position as counsel for the child, he was entitled to either absolute quasi-judicial immunity or qualified immunity. Wills contended that he was entitled to absolute quasi-judicial immunity because he was functioning on behalf of and for the benefit of the court; or he was entitled to qualified immunity because allegations in the complaint were insufficient to show the malice needed to overcome qualified immunity.

The trial court granted the motion to dismiss and stated that there was privilege whether it was qualified or quasi-judicial. The appellate court affirmed, primarily relying on authority from other jurisdictions. The appellate court reasoned that counsel appointed pursuant to § 1-202 did not function strictly as the child client's legal counsel, but instead acted primarily as an arm of the court, performing judicial functions, and thus enjoyed at least qualified immunity.

Disagreeing with the decision of the appellate court, the Court of Appeals reviewed the history of Maryland's position of guardian *ad litem*. The Maryland Legislature and courts rarely used the term "guardian *ad litem*." When the term had been used, it usually was synonymous with "next friend" or "prochein ami," which is one who brings suit on behalf of a minor or disabled person because that person lacks the capacity to sue in his/her own right. The Court noted that this is different from other jurisdictions whose statutes or case law provide for the appointment of a guardian *ad litem* and describe their power, function and duties.

The Court concluded that Maryland does not have a statute or rule which would support a decision that Wills was acting primarily as an arm of the court and performing judicial functions. Specifically, § 1-202 does not support the idea that an attorney appointed under the statute functions primarily as an arm of the court. Neither the language nor the history of this section suggest that an attorney appointed pursuant to the statutes owes his or her principle duty to the court and performs judicial functions or that the attorney does not act primarily as an advocate for the child. The only role of counsel under § 1-202 is to represent a minor child.

The Court noted that all Maryland attorneys are officers of the courts and have obligations and responsibilities to the courts. However, an attorney appointed pursuant to § 1-202 is not by statute or rule rendered any more an arm of the court than any other Maryland attorney. The functions of an attorney appointed under § 1-202 are no more judicial than the functions of any other trial attorney who is subject to malpractice suits. Additionally, when the General Assembly intended to grant immunity to court-appointed attorneys or advocates for children, it has done so expressly. The General Assembly specifically refused to grant immunity to a group of court-appointed persons including the guardian described in § 1-202.

The Court concluded that as an attorney appointed under § 1-202, Wills was not acting as an arm of the court but rather as an advocate for the child, and thus was not entitled to immunity from a malpractice action.

Right To Counsel

New Jersey Supreme Court Holds Parents Have A Right To Counsel In Child Support Hearings. Pasqua v. Council, 186 N.J. 127, 892 A.2d 663 (N.J. 2006).

The New Jersey Supreme Court concluded that the Due Process Clause of the U.S. Constitution and the New Jersey Constitution require appointment of counsel to indigent parents in child support proceedings when the parent is facing the possibility of incarceration. The plaintiffs in this case are indigent parents who were arrested and incarcerated for failure to pay child support. They challenged the child support enforcement hearing procedure and argued that they have a right to counsel at the proceedings. They filed a lawsuit in federal district court, which was dismissed. The parents then filed the same complaint in the Superior Court Law Division. A Superior Court Judge issued an opinion in support of the parents, which was overruled by the appellate division. The parents then filed a motion for a stay of the appellate division's decision and the New Jersey Supreme Court accepted the case for review.

At a child support enforcement hearing (ability-to-pay hearing in New Jersey) the judge makes a determination as to the parent's ability to pay child support. If the judge decides that the parent is in willful disobedience of the order, the parent can be sentenced to jail for failure to pay. In this case, the parents

argued that incarceration was ineffective because they could not afford to pay their child support obligations. Additionally, they asserted that without the assistance of counsel they could not prove their inability to pay at the hearing, in effect denying them a fair hearing. They asked the New Jersey Supreme Court to require appointment of counsel for indigent parents facing incarceration at an ability-to-pay hearing. The defense argued that counsel is not necessary because the hearings are simple, and the judge is capable of making an inquiry and determination about the parent's ability to earn income.

When determining whether the federal constitution requires counsel for indigent parents, the court turned to the U.S. Supreme Court decision *Lassiter v. Department of Social Services.* In *Lassiter* the Court recognized a right to counsel in civil termination of parental rights proceedings on a case-specific basis. The New Jersey court noted that numerous state courts have recognized a right to counsel for indigent parents at enforcement hearings. These states have found that when an indigent parent proceeds at an ability-to-pay hearing without the assistance of counsel, there is a high risk of an erroneous determination and wrongful incarceration.

The court found that the defense's argument did not provide constitutional safeguards. It stated that the "good intentions and fair-mindedness" of a judge are not adequate substitutes for counsel when incarceration is possible. Accordingly, the court concluded that the due process clause requires appointment of counsel for indigent parents at child support enforcement hearings when the parent is facing possible incarceration. The court found that the parents must be advised of the possibility of incarceration and their right to appointed counsel.

Guardianship / Best Interest Of The Child

Colorado Supreme Court Holds That Best Interest Of Child Standard Governs Guardianship Disputes.
In the Matter of R.M.S., 128 P.3d 783 (Colo. 2006).

This case came before the Colorado Supreme Court on appeal from the child's, R.M.S., maternal aunt and uncle. Shortly after returning from active combat in Iraq, the child's father shot and killed his wife, and then killed himself. Authorities placed R.M.S. in the care of her maternal aunt and uncle, the Villers.

The Villers filed an emergency petition for the appointment of a guardian for R.M.S., which stated that parental rights had been terminated by death and the Villers were interested persons. The child's paternal grandmother petitioned for appointment of guardianship on the basis that she was appointed by the will. The Villers objected to the grandmother's petition for the appointment of guardianship and argued that it would be in R.M.S.'s best interest to remain in their care and custody.

The trial court applied a harm standard and entered a ruling appointing the grandmother guardianship of R.M.S. The court held that the father's will controlled the guardianship appointment unless the appointment of guardianship would cause harm or injury to R.M.S. The trial court also held that the father's will was valid and that it controlled the appointment of guardianship because he was the second parent to die. The Villers appealed to the Colorado Supreme Court and asked that the Court vacate the ruling and enter a new ruling based upon the best interest of R.M.S.

The Court considered whether an objection to a parental appointment required judicial appointment of a guardian, determined by the best interest standard. The Court noted that the Colorado Probate Code governs the appointment of guardians. A guardian may be appointed by a parent, a testamentary appointment, or by a court, a judicial appointment. The Court first reviewed *de novo* the statutory provisions governing parental appointments, objections, and judicial appointments. The Court concluded that a judicial appointment following an objection to a testamentary appointment should be made pursuant to the best interest of the child standard.

The Court noted that although a parent may appoint a guardian, whose appointment will be effective upon his or her death, the court must be petitioned to confirm the appointment. Section 15-14-203(1) of the Colorado Probate Code addresses objections by others to a parental appointment. An objection to the appointment may be filed only by the other parent, or a person other than the parent or guardian having care or custody of the minor. Once the person with the care or custody of the minor terminates the testamentary appointment by objection, the parental appointment is ineffective and the appointee has no authority. An objection to a testamentary appointment of a guardian has two interrelated effects on a parental appointment. First, the appointment terminates and may prevent the appointment; and second, it requires judicial appointment of a guardian.

The parties agreed that the objection to guardianship appointment triggers a court's involvement in the guardianship process, but disagreed about the scope of the court's involvement. The Villers argued that a guardian must be judicially appointed under the best interest of the child standard. R.M.S.'s grandmother asserted that a valid testamentary nomination removes all discretion from the court and requires the court to enforce the terms of the will, unless the guardianship appointment could cause harm or injury to the child. The Court agreed with the Villers and concluded that an objection to the guardianship appointment triggers the judicial appointment statute's best interest standard.

Section 15-14-205(2) of the Colorado Probate Code states: "The court, upon hearing, shall make the appointment if it finds that…the best interest of the minor will be served by the appointment." The Court stated that the legislature made it clear that the primary consideration in appointing a guardian is the best interest standard. If the legislature had intended a court to appoint a guardian under a harm standard, it would have stated that. Although the court recognized the strong public policy in favor of encouraging parents to make testamentary decisions, the court concluded that the legislature did not intend to preclude the court from considering the best

interest of the child who has been in the care or custody of persons other than the testamentary guardian. Thus, the Court remanded the case with directions to the trial court to appointment a guardian for R.M.S. pursuant to the best interest of the child.

Dependency

California Court Of Appeal, Fourth Appellate District, Considers Minors' Counsel Duties. In re Barbara R., 137 Cal. App. 4th 941; 2006 Cal. App. LEXIS 384 (Cal. 2006).

In this case, the mother appealed the termination of her parental rights to her daughter Jade. The case involved ten year-old Jade, a member of the Sycuan Band of the Kumeyaay Nation (Tribe), and her half-sister K.N., who is not an Indian child.

The sisters were removed from their parent's care and placed with K.N.'s paternal grandparents (Grandparents). Although Jade's placement with a nonrelative was not a placement preference under the Indian Child Welfare Act (ICWA), the Tribe did not object. After almost two years in placement, the Agency moved to terminate reunification services based on the mother's inability to complete a drug treatment program and difficulties during visits with her children. The Agency moved to terminate parental rights and recommended adoption by the Grandparents.

The Tribe opposed adoption of Jade because she would lose her culture and, as a member of the tribe, she was entitled to significant benefits. Jade's tribal benefits included a home on the reservation, monthly financial support, a higher education stipend, and medical and dental coverage. The Indian Child Welfare Expert recommended that the court establish a guardianship for Jade with the Grandparents. The court found that reunification efforts were unsuccessful and scheduled a permanency hearing.

Soon there after, Jade began to express a desire to be adopted by Grandparents. She stated that she was afraid of her mother's temper, and she no longer wanted to attend visits. She started to become upset and ill after visits. The court suspended visits and the Agency changed Jade's permanency recommendation from guardianship to adoption. Initially the adoption caseworker thought that a guardianship would be better so Jade would not lose her tribal benefits. After a discussion with Jade and her Grandparents, however, the adoption caseworker concluded that in Jade's situation the emotional security of adoption outweighed the financial benefits of tribal membership. The Tribe objected to adoption, and the court suggested that the parties provide information about what benefits the child would receive. The child's attorney objected to the admission of any evidence concerning Jade's tribal benefits. He argued that the existence of financial benefits was not relevant in a permanency hearing. The court adopted the permanency plan of adoption. Mother appealed.

On appeal, mother argued that the termination judgment violated the Indian Child Welfare Act, because the court did not make a sufficient ICWA detriment finding that reunification would be harmful for Jade. Additionally, she alleged that Jade received ineffective assistance of counsel based on her assertion that the attorney should not have represented Jade and her sister because they had different interests, and that the court should have appointed a separate guardian *ad litem* for Jade to investigate tribal benefits.

The court affirmed the termination judgment, and found that the trial court made a sufficient finding that returning Jade could be detrimental. It noted that the mother had a history of domestic violence and anger problems and that she failed to complete her domestic violence program. The court concluded that it was reasonable to conclude that returning Jade to her mother's care could be detrimental.

Next the court considered the allegations against minors' counsel. It first considered whether it was a conflict of interest for the attorney to represent both siblings and noted that courts should appoint one attorney to represent siblings unless an actual conflict exists. In this case, there was no conflict between the sisters' interests and it was not improper for minors' counsel to represent both sisters. The court then considered whether minors' counsel provided Jade with ineffective assistance of counsel. The court turned to section 317 of the California Welfare and Institutions Code. It concluded that minors' counsel zealously and effectively performed his duties. He conducted a proper investigation and made a recommendation that adoption by Grandparents was in Jade's best interest. His recommendation was based on the fact that Jade expressly wanted to be adopted by her Grandparents. Furthermore, the Grandparents had become Jade's surrogate parents and her sister's adoptive placement. The court concluded that minors' counsel's decision that any consideration of financial benefits was not relevant to the question of adoption was based on his determination of what was in Jade's best interest.

The court concluded that Jade's best interests were met by adoption, and it affirmed the trial court's decision.

Education / IDEA

Ninth Circuit Court Of Appeals Affirmed Denial Of Attorney's Fees To Parents Who Prevailed In District Court. Park v. Anaheim Union High School District, 2006 U.S. App. LEXIS 9575 (9th Circuit, 2006).

The youth involved in this case, J.P., was born in 1990 with a genetic defect that impacts development and cognitive ability. J.P. entered the Anaheim public school district (School District) as a special day class student at age three. According to the Individuals with Disabilities Education Act (IDEA), an acceptable individualized education plan was adopted and implemented for him, and the district annually reviewed the individualized education plan.

In March 2002 the School District conducted a routine periodic review. A special education professional conducted an assessment, and based on the results of the assessment, the School District recommended that J.P. be placed in a special education class for the extended school year. J.P.'s parents, the Parks, contested the recommendation and requested a due process hearing identifying the School District as respondent.

A Hearing Officer of the California Special Education Hearing Office conducted a full hearing. Both sides

presented witnesses and evidence. The Hearing Officer concluded that the School District conducted appropriate assessments, and that the proposed IEP was appropriate. It found however, that J.P. was denied a free and appropriate public education during a time when his IEP had not been implemented and that the district must provide compensatory education services to J.P.'s teachers for his benefit. The Parks appealed to the District Court, which affirmed the decision of the Hearing Office. The Parks appealed to the Ninth Circuit Court of Appeals. The Parks alleged numerous procedural violations and challenged the award of compensatory services to J.P.'s teachers. They challenged the district court's determination that the School District did not have to pay their attorney's fees for the costs of the due process hearing.

The Parks first asserted that there was a failure to undertake an appropriate medical examination for evaluation purposes. The California Education Code requires a student to be tested in the areas related to the suspected disability. The School District undertook the appropriate tests; thus, there was no procedural violation. Similarly, the Parks alleged the vision assessment was flawed because the special education professional was unqualified to assess for double vision or optic nerve damage. The School District is not required to administer a test if it does not affect a child's educational needs. The Court concluded there was no procedural violation.

The Parks also asserted that the School District denied J.P. an educational opportunity. The Court found that the Hearing Officer conducted a thorough hearing to review the IEP and, after considering the testimony from the witnesses and the evidence, approved the School District's proposal, but supplemented the plan with further goals. The Court found, therefore, that there was no procedural violation.

Next, the Parks argued that procedural error occurred when the School District failed to test J.P. in his primary language, Korean. The Hearing Officer agreed with the psychologist that giving Korean cues would have disturbed the validity of the test. The Court found that native language administration was not reasonable and there was not a procedural violation.

Finally, the Parks contended that the School District failed to provide adequate support services to allow J.P. to meet the proposed educational goals. The Hearing Officer agreed with the School District that J.P. could achieve the goals of the IEP through alternative communications, ongoing practice at home with his mother and ongoing adaptive physical education. Because the Hearing Officer's findings are given due weight, the Court agreed there was no violation of the IDEA.

The Hearing Officer also concluded that, while it could be appropriate for J.P. to receive compensatory education, it would be speculative to award services directly to J.P. The Court held that the Hearing Officer did not abuse his discretion by awarding compensatory education services to J.P. in the form of individualized instruction for J.P.'s teachers that addressed the implementation of the individualized education plan's self-held goals and objectives.

Thus, the Court held that there were no procedural violations of IDEA. An IEP had been developed for J.P. as a result of participation by his parents, his records, observations, and assessments. A qualified Hearing Officer conducted a thorough hearing, reviewed the individual education plan, heard testimony and evidence, and approved of the School District's proposal. The 9th Circuit Court of Appeals concluded that although the district court could have awarded attorney's fees to the parents in this situation, it was not an abuse of discretion not to award attorney's fees, because the School District prevailed on all significant issues.

Dependency / Adoption Subsidies

Federal Judge Blocks Missouri Law Designed To Cut Adoption Assistance Subsidies. E.C. v. Blunt, 2006 U.S. Dist. LEXIS 1897, Federal District Court Western District of Missouri (2006).

A federal judge ruled that the proposed amendments in 2005 Missouri Senate Bill 539, designed to cut adoption assistance subsidies for thousands of abused and neglected children, violated the federal rights of these children. The judge issued an order permanently banning the law from taking effect.

The plaintiffs prevailed on three counts. First, the court found that the proposed amendment violated the Adoption Assistance Act by giving the Director of the Missouri Department of Social Services unilateral authority to renew adoption subsidy agreements. Next, the Court found that the amended section violated the Equal Protection Clause because it treated similarly situated special needs foster children differently without adequate justification. The amended section would result in non-Title IV-E foster children staying in foster care longer, which would be a violation of their fundamental rights to be free from unnecessarily prolonged confinement. Lastly, the Court found that the amended sections were unconstitutional because the sections on their face impaired the obligation of the state to subsidize the expenses of adoptive parents through maintenance payments and to provide authorization for adopted children to participate in the Missouri Medicaid Plan.

The Court concluded that the state failed to establish a sufficient governmental purpose to justify the impairments and that public interest is served by the entry of permanent injunctive relief. ■

GUARDIAN CASES — NOTICE TO READERS

Decisions reported in *The Guardian* may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice.

Cases reported in *The Guardian* are identified by NACC staff and our members. We encourage all readers to submit cases.

If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.

Practice Tips

PRACTICAL IMPLICATIONS OF *CRAWFORD V. WASHINGTON*: PREPARING YOUR CHILD CLIENT TO TESTIFY IN CRIMINAL COURT

*by Randall Lococo, JD**

In 2004, the U.S. Supreme Court decided that the Confrontation Clause of the Constitution means just that, "confrontation." Justice Scalia's opinion in *Crawford v. Washington* reaches back to the 16th Century for the history of confrontation law. Essentially, the Court held that where testimonial evidence is at issue, the Sixth Amendment demands what the common law required: unavailability of the witness and a prior opportunity for cross-examination. The outworking of *Crawford* is that our very young clients will take the stand. Although this may be harsh for our child clients, it is a reality of a system that balances victim rights with criminal due process.

I served as a GAL for a 13-year-old girl who had to testify against her male non-relative-sexual-abuser. She waited and waited for the trial while he was hiding out (in violation of bond) in Costa Rica. Once he returned, and the trial finally approached, I visited with her several times and gave her a "civics lesson" of sorts; I explained a criminal trial and the defendant's rights. My intent was to reinforce the idea that she did not have to solve the case; she just needs to tell what happened and her testimony is only a part of the puzzle that the DA will put together — many other people will testify.

I was fortunate to have a good and compassionate DA whose investigator is a former DSS case worker. Those two ladies met with my client to prepare and put her mind at ease. One of those meetings was also with the therapist. That therapist was equally beside herself that my client would have to testify in front of her accused sexual-abuser, but she understood the rules of the game once I explained them to her. The therapist worked the issue into sessions in the weeks leading up to trial. When it was time for her to testify, we found that my client was just simply ready to do it and wanted to; my adult GAL bias that this was going to be horrible was put to rest. When I stepped back and looked at it, it really didn't change anything. My client is still in foster care and will be until she emancipates. Her mother is in prison (for arranging for and being part of the abuse). Dad has never been, and never will be, involved. And, due to other circumstances, she is separated from her only known-relative, her brother. This will remain the case whether this abuser is convicted or not; nothing changes.

The key is that you simply talk to your clients. And do it with the therapist. Get the DA and the investigator involved. Involve the case worker as needed. Give your client a tour of the courtroom. Maybe even go to a short criminal hearing (like a preliminary hearing). Show the child that the courtroom is not a torture chamber. Don't sugar-coat it. Just be real.

You must also tell your clients that bad guys don't always go to jail. In my case, the first trial ended in a mistrial and my client will have to testify all over again.

Finally, think carefully about what you say and put in writing (e-mails, etc.); especially to your client and the DA. Everything in the GAL's file is probably discoverable by the defendant's counsel. Let the DA and investigator do the trial preparation; that's not your job. Your job is to prepare and support your client.

Preparing Kids for Court

The goal of court preparation is to reduce the stress level of the child witness and to improve the child's ability to answer questions accurately and completely. Ultimately, good court preparation can increase the likelihood that the child will be perceived as a credible witness. The following is a list of tips and resources to assist the child advocate in preparing children to testify.

Preparation Checklist

✔ *Kids Court* – Some jurisdictions hold a Kids Court or court school program throughout the year to help familiarize children with the court process and prepare them for testifying. Find out if your jurisdiction has a Kids Court program and help your client get enrolled. For more information contact the American Prosecutor's Research Institute, National Center for Prosecution of Child Abuse at 703-739-0321 at or visit: *http://www.ndaa.org/publications/newsletters/update_volume_13_number_5_2000.html*.

✔ Explain the importance of telling the truth — this is your client's "job" in court.

✔ Include the child's therapist in court preparation.

✔ Help your client know what to expect: visit the courtroom — let your client explore the area; explain who the different parties are, what their roles are, and where everyone will be seated; have your client sit in the witness chair and practice answering simple non-threatening questions.

✔ Remind the child's caretakers that their role is to provide comfort, support and reassurance. They should avoid discussing the case extensively or frequently in the child's presence and they should not review the child's testimony with the child before court.

Resources

- *Preparing Children for Court: A Practitioner's Guide*, by Lynn M. Copen, Sage Publications 800-818-7243
- *Getting Ready for Court: Criminal Court Edition*, by Lynn M. Copen and Linda M. Pucci, Sage Publications 800-818-7243
- *Guardians ad Litem in the Criminal Courts*, U.S. Dept. of Justice, National Institute of Justice
- *Preparing Kids for Court*, Children's Bureau Express, *http://cbexpress.acf.hhs.gov/nonissart.cfm?issue_id=2001-09&disp_art=322*
- *Going to Court: An Activity Book for Children*, Virginia Department of Criminal Justice Services. Available by contacting Victim's Services at 804-371-6507 or on-line *http://www.dcjs.virginia.gov/victims/documents/GoingToCourt.cfm*
- *Kids Go to Court*, State of Alaska District Attorney's Office. Available at *http://www.law.state.ak.us/pdf/criminal/ColorBook.pdf*

** Randall Lococo is an NACC member in private practice in Fort Collins, Colorado.*

Give to the NACC

NACC member dues cover only a fraction of operating expenses and we must continually seek support to bring you the high quality programs and services you currently enjoy. Your generous contributions support not only our publications and infrastructure, but also provide training scholarships to new children's law attorneys, and staff our resource center to respond to crisis calls from children and families.

Enclosed is my 100% tax-deductible charitable contribution to the NACC in the amount of: ☐ $50 ☐ $75 ☐ $100 ☐ Other: $ ________

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☐ **Check enclosed.** ☐ **Please charge my** ☐ VISA ☐ MasterCard

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Make Check Payable to: **NACC**

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Denver, CO 80218

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Federal Policy Update

by Miriam A. Rollin, Esq.
NACC Policy Representative, Washington, DC

Budget Reconciliation

Congress has now completed action on its two "budget reconciliation" bills for FY06.

Mandatory spending cuts

On December 21, 2005, the Senate passed the House/Senate Conference report on S. 1932, the "budget reconciliation" bill, by a vote of 51-50 (with the Vice President breaking the tie); on February 1, 2006, the House took final action on the S. 1932 Conference Report by a vote of 216-214. The President signed the bill February 8.

This legislation includes net cuts of approximately $40 billion from 2006–2010 mandatory spending. This bill slashes deeply into several critical supports for vulnerable families, potentially causing severe harm to court-involved children and their families:

- The bill weakens the current guarantee of full Early and Periodic Screening, Diagnosis and Treatment (EPSDT) benefits for millions of Medicaid children, and — for the first time — allows cost-sharing for these children, such as copays, etc.
- The bill cuts nearly $600 million from federal foster care assistance over the next five years, the majority of that "savings" coming from the elimination of foster care payments for certain relative care-givers provided through the Rosales (9th Circuit) decision.
- The bill would cut more than $1 billion from child support enforcement, which would mean an even greater loss of funds collected to support vulnerable children.
- The bill would impose more stringent work requirements on TANF recipients, while providing child care funding levels (a $200 million increase for each of the next 5 years) that are inadequate to even compensate for inflation erosion, no less to compensate for additional work participation requirements, to improve child care quality or to meet the vast unmet child care need.
- The bill would cut more than $12 billion from federal college student loans.
- The "silver lining" to this very dark bill is that it includes Family Opportunity Act language (allowing states to offer middle-income families with a disabled child the option to buy into Medicaid) and a modest increase for FY2006 of $40 million in Promoting Safe and Stable Families funding and $20 million for strengthening abuse/neglect courts.

When the President signed the bill (February 8), it became known that some official on Capitol Hill had changed one provision in the bill, so that the version signed by the President appears to be different from the one the House had passed — a fairly obvious violation of the Constitution of the United States. Next steps on this are not yet clear, though legal challenges to the constitutionality of this reconciliation "law" have already been filed.

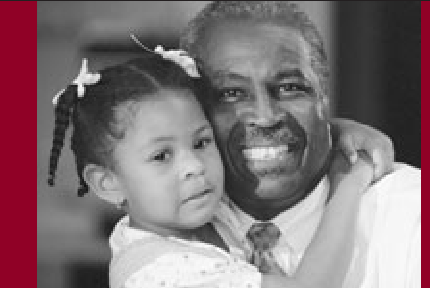
Tax Cuts

A separate reconciliation bill (H.R. 4297) providing for tax cuts that total about $70 billion over five years was signed into law as P.L. 109-222 by President Bush on May 17th.

Federal Budget / Appropriations for FY 2007

On February 6, 2006, President Bush submitted his proposed FY 2007 Budget to Congress. It includes another proposal for a foster care funding cap (similar to prior years' budget proposals), and includes stagnant or slightly declining funding for most programs relevant to court-involved children and families, with a deep cut in the Social Services Block Grant (cutting $500 million, to take the program from $1.7 billion to $1.2 billion). Once again, the largest percentage cuts are in the area of juvenile justice and delinquency prevention (a 43% cut from last year's juvenile justice funding levels).

On March 10, the Senate Budget Committee adopted a budget that was very similar to the President's proposal, but on March 16 Senators Specter and Harkin offered a floor amendment to increase "advance appropriations" in order to increase funding by $7 billion for health, education, and social services within the Labor/HHS/Education Appropriations Subcommittee that they lead. That amendment (which actually just restores funding to the FY05 levels) passed with an overwhelming bi-partisan majority of 73-27. The Senate also approved, by unanimous consent, a more modest Kohl/Biden amendment to restore $380 million in proposed cuts to juvenile justice funding. Then, later on March 16, the Senate passed the budget resolution. The Senate has not yet officially made its appropriations allocations to Subcommittees, and no FY07 appropriations markups have yet occurred.



2006 Outstanding Legal Advocacy Award

NOMINATION APPLICATION

PURPOSE: The NACC is looking for people who have tipped the scales in favor of children. Many children cannot rise above their circumstances without the help of real-life heroes. Our nation's courts, clinics, schools, homes, law enforcement agencies and social service organizations are filled with people who have made a difference. The NACC created the Outstanding Legal Advocacy Award to honor excellence in the field of children's law, advocacy, and protection. The NACC presents its Outstanding Legal Advocacy Award annually to individuals and organizations making significant contributions to the well being of children through legal representation and other advocacy efforts. Nominees' accomplishments may include work in child welfare, juvenile justice, private custody and adoption and policy advocacy. All child advocates are eligible.

The Nomination Letter should highlight:

- The nominee's activities on behalf of children that have significantly promoted the protection and welfare of children.
- The history of the nominee's involvement in child advocacy work.
- The nominee's affiliation with children and youth service organizations.
- Any other relevant personal background information.

Nominations Must Include:

- The nomination letter
- A completed application form
- Nominee's Curriculum Vitae / Resume
- A list of nominee's affiliations with other children and youth service organizations

Nominations May Also Include:

- Supporting materials such as: Letters of Support, Photographs, Newspaper clippings, narratives, or other items describing the candidate's efforts.

NOMINEE:

NAME ____________________

DEGREE ____________________

TITLE / POSITION ____________________

FIRM / ORGANIZATION ____________________

ADDRESS ____________________

CITY / STATE / ZIP ____________________

PHONE ____________________ FAX ____________________

E-MAIL ____________________

NUMBER OF YEARS INVOLVED IN CHILD ADVOCACY ____________________

NOMINATOR:

NAME ____________________

TITLE / POSITION ____________________

FIRM / ORGANIZATION ____________________

ADDRESS ____________________

CITY / STATE / ZIP ____________________

PHONE ____________________ FAX ____________________

E-MAIL ____________________

Nominations Must Be Received By August 1, 2006.

Send Nominations to: Awards Committee
National Association of Counsel for Children
1825 Marion Street, Suite 242, Denver, Colorado 80218

The House, after a few false starts (during which appropriators were rebelling against attempts in the budget to rein in their authority, and some moderate Republicans were trying to increase funding for areas affected by the Specter/Harkin Senate amendment), adopted on May 18 (by a vote of 218-210) a budget that includes some increases in discretionary spending above the President's budget, but falls far short of the Specter/Harkin funding levels. It is very unlikely that there will be a final House/Senate negotiated agreement on the FY07 Budget Resolution, and the House has already moved forward on appropriations subcommittee allocations and several appropriations bills (though not yet the bills for Labor/HHS/Education or Justice).

Reauthorization of "Promoting Safe and Stable Families"

By October 1, 2006, Congress is supposed to renew ("reauthorize") the federal "Promoting Safe and Stable Families" program (PSSF). Through this federal funding stream, states must spend a "significant portion" (which has been interpreted as at least 20%) of their funds on each of four service categories:

- *Family preservation services.* Services designed to help families at risk or in crisis, including services to (1) help reunify children with their families when safe and appropriate; (2) place children in permanent homes through adoption, guardianship, or some other permanent living arrangement; (3) help children at risk of foster care placement remain safely with their families; (4) provide follow-up assistance to families when a child has been returned after a foster care placement; (5) provide temporary respite care; and (6) improve parenting skills.
- *Family support services.* Community-based services to promote the safety and well-being of children and families designed to increase the strength and stability of families, to increase parental competence, to provide children a safe and supportive family environment, to strengthen parental relationships, and to enhance child development. Examples of such services include parenting skills training and home visiting programs for first time parents of newborns.
- *Time-limited family reunification services.* Services provided to a child placed in foster care and to the parents of the child in order to facilitate the safe reunification of the child within 15 months of placement. These services include counseling, substance abuse treatment services, mental health services, and assistance to address domestic violence.
- *Adoption promotion and support services:* Services designed to encourage more adoptions of children in foster care when adoption is in the best interest of the child, including services to expedite the adoption process and support adoptive families.

In June, the Senate Finance Committee and the House Ways and Means Subcommittee on Human Resources are expected to mark up their respective versions of bipartisan five-year PSSF reauthorization legislation. The bills seem to mostly follow the recommendations of the Administration (when a representative of the U.S. Department of Health and Human Services testified before the Senate Finance Committee recently): there will be no major changes to the basic Promoting Safe & Stable Families program, and there will be a continuation of the $40 million per year mandatory funding increase that was initiated as a small "silver lining" in the winter's spending cuts reconciliation bill.

However, the Senate Finance Committee members (unlike the Administration) want to designate the new $40 million in mandatory funds for a child protection national-competition grants program targeted towards children affected by parent/guardian methamphetamine abuse. The draft bill will also include provisions for increased accountability for fund expenditures, increased tribal access, and a voucher approach to the Mentoring Children of Prisoners program (similar to an HHS proposal).

And the House Ways and Means Subcommittee on Human Resources members want to designate the new $40 million in mandatory funds for jurisdictions that ensure monthly caseworker visits with children in foster care, and to utilize the funds for caseworker training and other workforce strengthening efforts. The House members are also considering some modifications to "Child Welfare Services" (IV-B, Subpart I), including limiting administrative uses of funds (but excluding caseworkers doing work on their cases from the definition of administrative uses of funds).

Timely Interstate Placement of Children

On May 24, the House passed Rep. DeLay's legislation to hold states accountable for the safe and timely placement of children across state lines, H.R. 5403 (introduced May 17, 2006). The bill requires states to "have in effect procedures for the orderly and timely interstate placement of children", and provides that states must, under most circumstances, complete home studies requested by another state within 60 days of the request. The bill also authorizes $10 million in funding per year for four years, for incentives to complete home studies within the specified time frames.

Gangs Legislation

On May 11, 2005, the House adopted H.R. 1279, the "gangs bill". This bill includes mandatory minimums and other enhanced penalties, increased federalization of gang crime, and (in Section 115) an expanded provision

regarding prosecuting juveniles as adults in federal court - despite the evidence indicating higher recidivism rates for juveniles tried as adults. Similar legislation in the Senate (S. 155, introduced by Senators Feinstein, Hatch, et al.) has not yet been considered by the Senate Judiciary Committee in this session of Congress, and no markup is scheduled at this time. There is a draft Senate bill circulating that combines several crime-related bills (including Gangs legislation, a sex offender registry bill, etc.) into one larger crime-bill; any timeframe for further action on it is not yet known.

Unaccompanied Alien Children Protection Legislation

On December 22, 2005, the Senate adopted S. 119, Senator Feinstein's Unaccompanied Alien Child Protection Act. The bill specifies a number of procedural protections for unaccompanied alien children, including court-appointed guardians ad litem. The House bill (H.R. 1172) has not yet moved forward in the House Judiciary Committee.

Head Start Reauthorization

In May 2005, the House Education and Workforce Committee marked up H.R. 2123, and a week later, the Senate Committee on Health, Education, Labor and Pensions marked up S. 1107, both of which are bills to reauthorize the Head Start early education program for disadvantaged kids. The legislation includes some language to improve Head Start access for foster children. Thankfully, neither bill includes state block grants that had been in the House-passed bill in the last Congress (that bill never got enacted). On September 22, the House passed H.R. 2123; however, S. 1107 is still awaiting Senate floor action. Prospects for Senate action are dim, because of controversy over a likely amendment relating to funding for faith-based organizations.

Second Chance Act (Juvenile and Adult Offender Reentry) Bill

H.R. 1704, introduced by Rep. Portman et al. on April 19, 2005, would provide modest funding for efforts to successfully reintegrate adult and juvenile offenders into their communities, and to reduce their recidivism rates through reentry planning and services including educational, mental health, substance abuse, family reunification, etc. Rep. Portman has since left Congress (to be U.S. Trade Representative), so Rep. Cannon has taken over as the lead House sponsor. A Senate companion bill, S. 1934, was introduced on October 27 by Senators Brownback, Biden, Specter, DeWine, et al. The House Judiciary Subcommittee on Crime marked-up H.R. 1704 on February 15, and a full Judiciary Committee markup of a slightly revised/improved bill is expected in June. Senate timing for action is unknown.

Other Relevant Bills Introduced, But No Further Action Yet

- On February 15, 2005, H.R. 823 (Rep. Ramstad) and S. 380 (Sen. Collins) were introduced as the Keeping Families Together Act — legislation to provide modest funding to support efforts to end the practice of parents giving legal custody of their seriously emotionally disturbed children to state agencies (child welfare or juvenile justice), for the purposes of obtaining mental health services for those children. No further action has been scheduled.
- On May 10, 2005, Sen. Clinton and Sen. Snowe introduced the Kinship Caregiver Support Act (S. 985), which provides funding for kinship navigator programs, provides a IV-E support option for kinship care, and provides notice to relatives of children entering foster care. No Finance Committee action has yet been scheduled.
- On July 20, 2005, Sen. DeWine introduced S. 1429 (with Sen. Murray), as well as S. 1430, S. 1431 and S. 1432; these bills provide for improved post-secondary education opportunities for homeless and foster youth, as well as post-secondary education loan forgiveness for: child protection social workers; attorneys who represent low-income clients in family/domestic relations courts; and child care providers and preschool teachers. No action on this legislation has been scheduled in the Senate Health, Education, Labor and Pensions Committee.
- On July 29, 2005, Rep. Platts, Rep. Davis (IL) and Rep. Osborne introduced H.R. 3628, the Education Begins at Home Act, which would authorize $500 million in new federal funding for early childhood home visiting (some models of such parent coaching have demonstrated significant impact on the prevention of child abuse and neglect, and later delinquency). This legislation is the House companion to Sen. Bond's S. 503, a bill of the same name introduced in early March 2005. No action on this legislation has yet been scheduled.
- S. 1679, introduced on September 12, 2005 by Senators DeWine and Rockefeller, is the "Working to Enhance Courts for At-Risk and Endangered Kids Act". The bill would provide for, inter alia, collaboration between child welfare agencies and courts, practice standards for child welfare state agency attorneys, loan forgiveness for child welfare attorneys and social workers, permission for states to allow public access to child welfare court proceedings (as long as state policies ensure the safety and well-being of the child, parents, and family), and improvements in the safe and timely interstate placement of foster children. No action has yet been scheduled in the Senate Finance Committee, though provisions similar to some of those in this bill were included in budget reconciliation legislation (see above).

For further information on any federal legislation (including copies of bills, copies of committee reports, floor votes, etc.), visit Thomas.loc.gov. ■

Children's Law News

News

NACC Launches New Lifetime Membership. The NACC Board approved a new category of NACC membership at the 2005 Annual Meeting. NACC members may now become Lifetime Members for a one-time fee of $2,500. Please contact the NACC if you are interested. A special Lifetime Member listing will appear in *The Guardian*.

NACC 2006 Outstanding Legal Advocacy Award. Nominations for the 2006 Outstanding Legal Advocacy Award are now being accepted. The award is given annually to individuals and organizations making significant contributions to the well-being of children through legal representation and other advocacy efforts. Send nomination letter and supporting documentation to NACC Awards, 1825 Marion Street, Suite 242, Denver, CO 80218. Contact the NACC for more information. The deadline is August 1, 2006.

NACC 2006 Law Student Essay Competition. The NACC is accepting essays for the 2006 Law Student Essay Competition. The winning essay will be published in the 2006 Children's Law Manual, and the winner will be given $1,000, a one-year NACC membership, and a scholarship to the 2006 conference in Louisville, KY. Essays will be evaluated on the importance of the topic to advancing the legal interests of children, persuasiveness, and quality of research and writing. The deadline is August 1, 2006. Essays should be submitted electronically to advocate@NACCchildlaw.org.

Join the NACC Children's Law Listserv Information Exchange. All NACC members are encouraged to become part of the NACC Listserv which provides a question, answer and discussion format for a variety of children's law issues. It is an excellent way to improve your advocacy skills and share your expertise with your NACC colleagues. To join, simply send an e-mail to advocate@NACCchildlaw.org and say "Please add me to the NACC Listserv."

Conferences & Training

June 20–22, 2006
USDHHS Children's Bureau 2006 Meeting of States and Tribes: Many Paths, One Direction — Strategies for Achieving Lasting Reform in Child Welfare, Marriott Crystal Gateway Hotel, Arlington, VA www.statetribemeeting.com

June 21–24, 2006
The APSAC 14th Annual Colloquium, Gaylord Opryland Resort, Nashville, TN www.apsac.org

September 3-6, 2006
ISPCAN 16th International Congress, York, UK www.ispcan.org

September 13–16, 2006
National Center on Shaken Baby Syndrome *Sixth North American Conference on Shaken Baby Syndrome,* Park City, UT www.dontshake.com

October 12-15, 2006
NACC 29th National Children's Law Conference, *The Specialized Practice of Juvenile Law: Model Practice in Model Offices,* Louisville, KY. Brochures are mailing in June and are available online and you may register online at NACCchildlaw.org/training/conference.html.

Publications

Psychological Testing in Child Custody Evaluations, James R. Flens and Leslie Drozd, eds., Haworth Press, www.HaworthPress.com and Journal of Child Custody, Vol. 2, Nos. 1/2 2005.

Children's Rights Policy and Practice, John T. Pardeck, Ph.D., LCSW, Haworth Press, www.HaworthPress.com.

Judicial Leadership to Ensure Sound Permanency Decisions for Children in Foster Care: Practical Guidelines for Juvenile and Family Courts, *Adoption Advocate*, National Counsel for Adoption (February 2006). Available at: www.adoptioncouncil.org.

Mythbusting: Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care, by: Kathleen McNaught, American Bar Association Center on Children and the Law through support from Casey Family Programs (February 2006). Available at: http://www.abanet.org/child/rclji/education/caseyeducationproject.pdf.

***Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect and Dependency Cases* (The Red Book).** This new NACC publication is a comprehensive practice guide for all attorneys working in abuse, neglect, and dependency cases. Please see the full page ad in this issue or contact Bradford Publishing at 800-446-2831; www.bradfordpublishing.com. NACC members receive a 20% discount.

***State of the Art Advocacy for Children, Youth, and Families,* the 2005 Edition of the NACC Children's Law Manual Series** is now available for purchase. Copies may be ordered from the NACC by calling toll free 1-888-828-NACC, using the Publications Order Form in this issue, or online at www.naccchildlaw.org/trainings/manuals.html.

Jobs

Managing Attorney – Juvenile Delinquency Team, Council for Children, Charlotte, NC. The managing attorney will be responsible for supervising a team of three attorneys, one paralegal, and one investigator for all delinquency defense representation and mental health commitment representation. Closing date: June 30, 2006. To submit or for more information contact Brett Loftis at 704-372-7961 or *brett.loftis@councilforchildreninc.org*. ■

Please send children's law news and advocacy job openings to: *The Guardian*, 1825 Marion Street, Suite 242, Denver, CO 80218
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NACC – Publications

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☐ Representing Children, Families, & Agencies (2004)	$25.00	x ____ =	$ ______
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☐ NACC Recommendations for Representation of Children in Abuse & Neglect Cases	$10.00	x ____ =	$ ______
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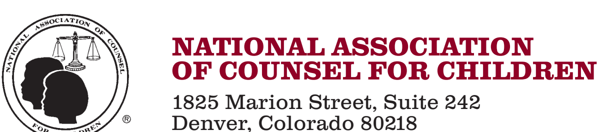

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