THE GUARDIAN

NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN

Vol. 30, No. 1 ■ Winter 2008

IN THIS ISSUE

NACC

NACC 31st National Juvenile and Family Law Conference

August 3–6, 2008 ■ Hyatt Regency Savannah Riverfront ■ Savannah, Georgia

National Association of Counsel for Children

www.NACCchildlaw.org

NACC

National Association of Counsel for Children

NACC

Mission

THE MISSION OF THE NACC IS TO:

Strengthen the Delivery of Legal Services for Children

Enhance the Quality of Legal Services Affecting Children

Improve Courts and Agencies Serving Children, and

Advance the Rights and Interests of Children

Table of Contents

***The Guardian* is published quarterly by the National Association of Counsel for Children**

Kempe Children's Center
1825 Marion Street, Suite 242
Denver, Colorado 80218
Tel: 303-864-5320
Fax: 303-864-5351
E-Mail: advocate@NACCchildlaw.org
Website: www.NACCchildlaw.org
Editor: **Marvin Ventrell**
Law Editors: **Audrey Wimmer & Maureen Martin**
Managing Editor: **Camille T. Ventrell**

Subscription Price:
The Guardian is sent to all members of the National Association of Counsel for Children. Membership in the organization is $90 annually. To join, complete and return the application found in this issue.

The Guardian is printed on recycled paper.

THE GUARDIAN
NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN

Vol. 30, No. 1 ▪ Winter 2008

NACC President's Message

A BIGGER AND BETTER NACC

Marvin Ventrell, NACC President / CEO

I hardly know where to begin. I guess it is a little late in the year to wish everyone a happy new year although this is the first *Guardian* of 2008, our 31st year. In any event, Happy New Year and let me tell you about what is happening at the NACC.

2007 was a wonderful year for NACC. We sustained all our programs, produced a great 30th anniversary conference at home here in Colorado, and most importantly, moved our specialization program to the place when we can make a huge impact on the quality of legal services throughout the states beginning this year. The NACC specialization program is the combination of our Children's Law Office Program (CLOP) and our Child Welfare Attorney Certification Program. Together, the Specialization Program trains and recognizes lawyers as specialists in child welfare law while promoting model offices in which they can best deliver these legal services.

Certification is now operational in eight states: California, Michigan, New Mexico, Tennessee, Connecticut, DC, North Carolina, and Iowa. We are close to opening in several other states and we are giving the certification exam in three states this spring. Meanwhile, we are working to promote best office practice as part of certification.

Specialization legitimizes child welfare law as a true, tested legal specialty and validates our work while improving legal services to children's, families and state agencies. Specialization is also having the effect of increasing NACC activity and organizational structure by growing the NACC institutionally. While bigger is not always better, specialization has the effect of increasing membership, staff, and general awareness of our work.

We at the NACC are very optimistic about 2008 and the future of this profession. ***Thank you for being part of the success!*** ■

Cases

Delinquency / Parole Revocation

The United States District Court For The Eastern District Of California Holds That California's Parole Revocation Procedures Violate Juvenile Parolees' Due Process Rights. *L.H., A.Z., D.K., and D.R. v. Schwarzenegger*, 519 F.Supp. 2d 1072 (2007).

In this class action suit brought by juvenile parolees, the Plaintiffs claim that California's parole revocation policies deny them the constitutional rights to due process, equal protection, and assistance of counsel. The United States District Court for the Eastern District of California addressed what process is due in juvenile parole revocation proceedings.

In California, there are approximately 2775 juveniles on parole. Parole may be revoked if the juvenile either commits a new crime or fails to abide by the other terms of his / her parole (technical violations). In technical violation cases, juveniles are provided a single hearing to determine whether the juvenile actually violated his / her parole conditions. The hearing must be held within 60 days of the alleged violation. When parole is revoked due to new criminal charges, the juvenile is provided with a probable cause hearing within 60 days. If the parolee waives his appearance at the probable cause hearing, the hearing does not occur. Instead, a hearing officer determines whether the parolee should be detained pending adjudication of the new crime.

Plaintiffs argue that the State violated their due process rights by failing to conduct both: (1) a preliminary probable cause hearing, and (2) a hearing to determine whether parole was actually

violated, prior to revoking parole. Alternatively, Plaintiffs claim that if a single hearing is sufficient, the State violated Plaintiffs' due process rights by failing to hold the hearing promptly.

The U.S. District Court first discussed the balancing test for resolving procedural due process claims, set forth by the U.S. Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under the *Mathews* analysis, the first factor in determining the process due is the value of the liberty interest and the extent of potential deprivation. Next, the court must determine "the fairness and reliability of the existing pretermination procedures, and the probable value, if any, of additional procedural safeguards." Lastly, the court must assess the administrative burden and other costs, or benefits, related to requiring more process. Here, the Court noted that the liberty interest at stake — the juvenile's interest in maintaining a normal life and avoiding disruption in relationships, school, and jobs — is quite significant. The "fairness and reliability" of the existing systems should be evaluated by assessing how effective the procedures are in accurately determining (1) whether probable cause exists to believe that the parolee violated parole and (2) whether the parole was, in fact, violated. "Fundamentally, the process due must include procedures which will prevent parole from being revoked because of erroneous information or because of erroneous evaluation."

Next, the Court evaluated precedent addressing the process required in the parole revocation process. In *Morissey v. Brewer*, 408 U.S. 471 (1972), an adult parole revocation case, the U.S. Supreme Court held that the parole revocation process includes two important stages — the "arrest and preliminary hearing" and the stage "when parole is formally revoked." In *Morissey*, the Court suggested that the preliminary stage should be a hearing, rather than an ex parte process. The Court indicated that the parolee should be given notice of the hearing, the opportunity to appear and speak on his own behalf, and the opportunity to present relevant information. In addition, the parolee may request that the adverse party be made available for questioning. One year later in *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), the Court clarified the *Morissey* holding and stated, "We held that a parolee is entitled to two hearings, a preliminary hearing at the time of his arrest and detention to determine whether there is probable cause to believe that he has committed a violation of his parole, and the other a somewhat more comprehensive hearing prior to the making of the final revocation decision."

The District Court also considered the Ninth Circuit's interpretation of the relevant Supreme Court cases. In *Pierre v. Washington State Board of Prison Terms and Paroles*, 699 F.2d 471 (1983), the Ninth Circuit held that, "The Supreme Court did not intend to require two hearings in every case, but only in cases with a fact pattern similar to the one before it in *Morissey*… The two-hearing system requirement was just one way to satisfy the minimum due process; it is not the only way in every case." In interpreting this case, the District Court concluded that *Pierre* did not abandon the requirement to provide a preliminary probable cause hearing, but instead, suggested that a final revocation hearing occurring within twenty-one days of the parolee's arrest was "prompt enough to *qualify* as the preliminary probable cause determination required by *Morissey*."

In conclusion, the U.S. District Court held that "even if a prompt unitary hearing would meet constitutional muster… California's system allowing a delay of up to sixty days or more before providing the parolee an opportunity to be heard regarding the reliability of the probable cause determination does not." In addition, even if *Morrisey* and *Gagnon* do not require a timely, separate probable cause hearing, the Court concluded that California's current procedures fail to provide adequate procedural due process under the *Mathews* analysis. Therefore, the Court found that the current California juvenile parole revocation system violates the juvenile parolee's due process rights.

Note: In a subsequent ruling on January 29, 2008, the U.S. District Court held that California Division of Juvenile Justice must appoint attorneys to represent all juvenile parolees in parole revocation proceedings. The Court concluded that "juvenile parolees are a special class of parolees for whom appointment of counsel is always appropriate." In addition, the Court ordered the State to develop policies and procedures to guarantee compliance with the requirements of the Americans with Disabilities Act in all juvenile parole revocation proceedings.

Dependency / Conflict of Interest

The Court of Appeals Of Iowa Holds That When A Guardian Ad Litem Recommends A Disposition That Conflicts With The Juvenile's Wishes, The Juvenile Court May Appoint Independent Counsel To Represent The Child, In the Interest of A.T. and T.P., 2007 Iowa App. LEXIS 1329.

The Iowa Court of Appeals considered whether the role of guardian *ad litem* and child's attorney should have been assumed by the same person where the guardian *ad litem* recommended termination, contrary to the child's wishes.

This case involves Taylar, aged 12. In May, 2007, due to the mother's drug and alcohol abuse, the juvenile court terminated mother's parental rights. The mother appealed. Mother argued that Taylar's desire not to have her mother's parental rights terminated was not properly represented, and that the attorney who represented both children as their GAL and attorney, should not have been allowed to serve Taylar in both roles. In particular, Mother argued that the attorney actively sought termination, despite the fact that Taylar did not want her mother's parental rights terminated.

The Iowa Court of Appeals began by emphasizing Taylar's stake in the outcome and quoted *Santosky v. Kramer*, 455 U.S. 745, 760 (1982): "Until the State proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship." The Court also noted that under Iowa statute, the court may appoint a separate attorney and GAL in cases where the same person cannot properly represent both the legal interests and the best interests of the child.

The Court then discussed the statutory responsibilities of a GAL versus the responsibilities of the child's attorney. The Court pointed out that when representing child clients in Iowa, an attorney's responsibilities are governed by the rules addressing clients with diminished capacity. Under the Rules of Professional Conduct, in this situation "the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client" and take protective action if necessary, including seeking the appointment of a GAL.

The attorney argued that his statutory duties as GAL were consistent with his obligation as a lawyer to abide by the objectives of his client. In addressing this issue, the Court of Appeals looked to a previous Iowa case on the subject, *In re J.P.B.*, 419 N.W. 2d 387 (1988). In that case, the court addressed ineffective assistance of counsel claims against an attorney who represented a brother and sister in a termination of parental rights case. The brother wanted termination, while the sister did not. The sister claimed she was denied effective assistance of counsel because the attorney represented both siblings. In rejecting the sister's claim, the court found, "[I]t is the best interests of the minor children, not their wishes, which determine the outcome of the case. Consequently, their real interests are not inconsistent or mutually exclusive." The court acknowledged that the child's wishes should be considered and made known to the court, along with the basis for the attorney's contrary recommendation. The *J.P.B.* court determined that this approach avoids the "expensive and burdensome practice of appointing both a guardian *ad litem* and attorney for each child in a family to ensure that each child's expressed wishes as well as best interest are advocated."

The Iowa Court of Appeals held that "the older, more intelligent, and mature the child is, the more impact the child's wishes should have, and a child of sufficient maturity should be entitled to have the attorney advocate for the result the child desires." In this case, Taylar consistently vocalized her desire not to have her mother's rights

terminated. Taylar attended the termination hearing and testified regarding her mother's progress and her desire for reunification. Despite this, the children's attorney advocated for termination throughout the case. The Court of Appeals found that *In re J.P.B.* was factually and procedurally distinguishable from this case and should only be considered in conjunction with another Iowa case which held that in a juvenile proceeding, "when conflicts threaten, so that separate counsel becomes appropriate, the court can appoint them." *In re G.Y.*, 486 N.W. 2d 288 (Iowa 1992).

Therefore, the Court held that the juvenile court abused its discretion in refusing to appoint separate counsel for Taylar. The court held that, "the potential conflicts between a guardian *ad litem*'s statutory duty to the court and a lawyer's duty to his client are blurred. The fundamental duty of the guardian *ad litem* conflicts with the traditional role of the lawyer." The Court emphasized that appointment of a separate attorney is not required in all termination cases. In some situations a guardian *ad litem* can serve the dual role as GAL and attorney. However, when the juvenile client is of sufficient maturity to make informed decisions, and when the GAL advocates for a disposition that conflicts with the juvenile's wishes, the court may appoint independent counsel to represent the child. In this case, a separate attorney was required. Therefore, the Court of Appeals remanded the case to the juvenile court.

Parental Rights / Grandparent Visitation

The Hawaii Supreme Court Holds That Hawaii Grandparent Visitation Does Not Survive Strict Scrutiny And Is Therefore Unconstitutional. Doe v. Doe, 172 P.3d 1067 (2007).

The Hawaii Supreme Court addressed whether Hawaii's grandparent visitation statute is unconstitutional under the United State Supreme Court's decision in *Troxel v. Granville*, 530 U.S. 57 (2000).

Mother and Father divorced in 2002. The child, age 5, resided with Mother in Hawaii. Grandparents filed a petition for visitation in September 2003. Under Hawaii's grandparent visitation statute a court may award visitation to grandparents if it is in the child's best interest. Mother filed a motion to dismiss grandparent's petition, claiming that Hawaii's grandparent visitation statute is unconstitutional pursuant to *Troxel*. The family court agreed and dismissed Grandparents' petition for visitation. Grandparents appealed.

The Hawaii Supreme Court began by reviewing *Troxel* where the Court evaluated Washington's grandparent visitation statute. The Washington

statute permitted "any third party seeking visitation to subject any decision by a parent concerning visitation of the parent's children to state court review." The effect of the statute was to allow a court to overturn any decision by a fit parent regarding third-party visitation, based solely on the court's determination of the child's best interest. The U.S. Supreme Court held the statute unconstitutional, stressing the presumption that fit parents act in the best interests of their children. The Court stated, "[T]he Due Process Clause does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a judge believes a 'better' decision could be made. Neither the Washington nonparental visitation statute generally… nor the trial court in this specific case required anything more."

In this case, the Hawaii Supreme Court noted that "every enactment of the legislature is presumptively constitutional, and a party challenging the statute has the burden of showing unconstitutionality beyond a reasonable doubt." In addition, courts will interpret statutes as to preserve constitutionality where possible. In interpreting this statute, the Court held that the best interest of the child standard was intended to protect the rights of parents. In addition, the Court found that this standard requires the family court to give "special weight" to the visitation decisions of a fit custodial parent. Under this interpretation, the Hawaii statute comports with the U.S. Supreme Court requirements, and thus the family court erred in relying on *Troxel* to invalidate the statute.

Mother next argued that the statute infringed upon her fundamental right to direct the upbringing of her child, and therefore must be evaluated under a strict scrutiny analysis. Strict scrutiny requires that the statute be narrowly tailored to further a compelling government interest. Mother claimed that only a showing of harm would satisfy the requirement of a compelling government interest.

Although this issue was not addressed by the *Troxel* court, the U.S. Supreme Court did address the protection of parents' fundamental rights under the Due Process Clause and recognized that parental rights are implicated where a third party asks for visitation. Hawaii courts have also recognized parents' fundamental liberty interest in rearing their children. The Hawaii Supreme Court agreed with Mother and held that strict scrutiny is satisfied only upon a showing of harm to the child. The Court stated, "proper recognition of parental autonomy in child rearing decisions requires that the party petitioning for visitation demonstrate that the child will suffer significant harm in the absence of visitation before the family court may consider what degree of visitation is in the child's best interests."

Therefore, although the Hawaii statute affords "special weight" to a fit parent's visitation decision (in accordance with *Troxel*), the statute does not include a "harm to the child" standard. The Court held that this second standard was also required and held the Hawaii grandparent visitation statute unconstitutional.

Status Offenders / Contempt

The Washington Supreme Court Holds That In Sentencing Foster Youth Runaways, A Court Must Use All Available Statutory Remedies Before Resorting To The Court's Inherent Contempt Power. In the Matter of the Dependency of A.K., et al., 2007 Wash. LEXIS 954.

The Washington Supreme Court addressed the authority of the juvenile court to use its inherent contempt power to sentence foster youth runaways to detention for violating the court's placement orders.

In 2003 and 2004, Y.H. ran away from her foster placement at least six times. After the first incident, the court warned her of the consequences of running away. After subsequent incidents, Y.H. was held in contempt and sentenced to three to seven days in detention, with the opportunity to purge her contempt by writing an essay and promising not to run again. After Y.H.'s sixth disappearance, the Department of Social and Health Services (DSHS) asked the juvenile court to utilize its inherent contempt power and impose a lengthier sentence. The court conducted a hearing on the request and sentenced Y.H. to 30 days in detention, without the ability to purge the contempt. Y.H. appealed.

M.H.-O. also ran away from foster care on multiple occasions. After the fifth incident, DSHS moved the court to use its inherent contempt power in sentencing. The court set a hearing date, and M.H.-O was advised of the possible sanctions under the court's inherent contempt power. M.H.-O. then agreed to admit the contempt, in exchange for a sentence of 30 days. One week after completing this sentence, M.H.-O. ran away for the sixth time. She again admitted to violating the court's order. The court sentenced M.H.-O. to 60 days in detention using its inherent power, and M.H.-O. appealed.

The Court of Appeals acknowledged that the juvenile court had inherent power to impose punitive sanctions for contempt. However, this power can only be utilized when, "(1) the statutory remedy is inadequate to meet the juvenile's needs, and (2) a different period of detention is necessary." The Court of Appeals also noted that criminal due process protections must be provided in punitive contempt proceedings. The Court of Appeals found that the juvenile court adhered to these standards and upheld the contempt orders. Y.H. and M.H.-O. petitioned the Supreme Court of Washington for review.

Under Washington statute, contempt of court is intentional and includes actions such as insolent behavior toward the judge, disobedience of a court order, refusal to appear as a witness or answer a question, and refusal to produce records or documents. Contempt may occur in the court's presence (direct) or outside of court (indirect). The Washington Supreme Court noted that "because contempt of court is disruptive of court proceedings and / or undermines the court's authority, courts are vested with an 'inherent contempt authority, as a power necessary to the exercise of all others.'"

Petitioners argued that the juvenile court's imposition of punitive sanctions for indirect contempt violated due process. The Washington Supreme Court first noted that the U.S. Supreme Court has distinguished the ways in which the inherent contempt power may be exercised: "(1) imposition of

remedial sanctions for direct contempt, (2) imposition of remedial sanctions for indirect contempt, and (3) imposition of punitive sanctions for direct or indirect contempt." Each situation requires a different level of procedural protections. Therefore, the Supreme Court of Washington found that "due process requirements do not prevent the use of inherent contempt power; they merely limit its exercise."

The Court then discussed the limitations on use of the inherent contempt power and held that inherent contempt authority should not be utilized unless alternative measures have been found insufficient. More specifically, the court found that "only under the most egregious circumstances should the juvenile court exercise its contempt power to incarcerate a status offender in a secure facility. If such action is necessary, the record should demonstrate that all less restrictive alternatives have failed."

In this case, the Court found that the juvenile court did not make specific findings that the available statutory remedies were inadequate. In particular, the Court held that under Washington statute, the juvenile court could have sentenced petitioners to 30 days in detention under the criminal contempt of court statute, without resorting to the inherent contempt power.

The Court acknowledged the legislative goal of discouraging criminal filings against status offenders and cautioned that its holding was not intended to promote the use of criminal sanctions rather than civil statutory sanctions. However, the Court held that a court should use all available statutory remedies, both civil and criminal, before resorting to the broader inherent powers. Therefore, the Court reversed the Court of Appeals decision and vacated the two inherent contempt orders.

Dependency / ICWA

The Florida Court of Appeals Holds That Sufficient Evidence Existed To Overcome Presumption In Favor Of The Tribe And To Deviate From The ICWA Placement Preferences. Seminole Tribe of Florida v. Department of Children and Families, et al., 959 So. 2d 761 (2007).

In 2002, K.D. was born prematurely and tested positive for cocaine. His mother was a registered member of the Sioux tribe. Due to his premature birth, K.D. had numerous special medical conditions, including chronic lung disease, respiratory distress syndrome, and vocal cord paralysis. After his birth K.D. was adjudicated dependent and placed in a foster home with the permanency goals of long-term care with a relative and reunification with his mother. In 2004, K.D.'s father was confirmed to be a registered member of the Seminole Tribe, and notice was provided under ICWA. The Tribe elected to intervene.

In 2005, the mother again began abusing drugs, and the department moved to change the permanency goal to allow K.D. to remain with his foster parents who had cared for him since birth. Subsequently, the Seminole Tribe filed a motion to place K.D. with a tribal family, pursuant to ICWA. In its motion, the Tribe explained that it had originally supported reunification with the mother. However, after her relapse, the Tribe felt that K.D. should be placed with another tribal family. The motion also argued that a permanent decision at this stage was premature and contrary to ICWA. Instead, the Tribe suggested that permanency should be revisited after K.D. had spent six months with his tribal family.

The trial court denied the Tribe's motion and held that the Guardian *ad Litem* program and the Department had met their burden to overcome the presumption in favor of the tribe. In particular, the court found that the Department and the GAL program had shown by clear and convincing evidence that good cause existed under the BIA Guidelines to deviate from the ICWA placement preferences. The trial court found that K.D. had unique medial needs and that a suitable tribal family meeting the placement criteria was unavailable. Specifically, the court found that the proposed tribal family was not a medically licensed foster home and was not fully aware of the extent of K.D.'s medical needs. In contrast, the current foster parents had full knowledge of K.D.'s medical conditions and how to care for him. The Tribe appealed, arguing that the court's order "disregards or misunderstands the mandates of ICWA by failing to begin with a presumption in favor of the tribe's preference."

The Florida Court of Appeals first noted that no Florida court has addressed the application of ICWA under these circumstances, and that other states vary as to the standard of review when evaluating whether good cause exists to deviate from ICWA. The Court chose to utilize a hybrid of the various state approaches, adopted by the Alaska Supreme Court in *Adoption of Sara J.*, 123 P.3d 1017 (2005). In that case, the Alaska court found that decisions to deviate from the placement preferences should be reviewed under an abuse of discretion standard and that it is "an abuse of discretion for a superior court to consider improper factors or improperly weigh certain factors in making its determination."

In applying ICWA, placement should comply with the statute's stated preferences, set forth in Section 1915(b). ICWA "mandates preference be given, absent good cause to the contrary, to a member of the Indian child's extended family; a foster home licensed, approved, or specified by the Indian child's tribe; an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs." Good cause is not defined within the statute. The Court noted that this omission "has been interpreted to mean that Congress explicitly intended to provide state courts with flexibility in determining the placement of an Indian child." However, the BIA has set forth guidelines to assist states in applying ICWA. The guidelines state that good cause shall be based on one or more of the following considerations: (1) the request of the biological parents or the child; (2) the extraordinary physical or emotional needs of the child as established by expert testimony; or (3) the unavailability of suitable families for placement after a diligent search has

been completed for families meeting the preference criteria.

The Court of Appeals held that there was adequate evidence of good cause to deviate from ICWA, and noted that the trial court's order demonstrated an understanding of ICWA placement preferences. Implicit in the order was the trial court's conclusion that the tribal family could not meet K.D.'s extraordinary medical needs. The Court thus concluded that the trial court correctly utilized the BIA guidelines, and did not abuse its discretion in denying the Tribe's motion.

Guardianship / Jurisdiction

The Colorado Supreme Court Finds Probate Court Did Not Exceed Its Jurisdiction In Ordering The GAL To Find A Permanent Guardian For Child. In Addition, Appointing A GAL As Temporary Guardian For The Child Was Proper. In re the Matter of J.C.T., 2007 Colo. LEXIS 1101.

J.C.T. was born on February 25, 1997. When he was 10 months old, his mother placed him in the care of a friend, Guardian 1. With J.C.T.'s mother's consent, the probate court granted guardianship of J.C.T. to Guardian 1 and appointed a GAL to investigate the fitness of Guardian 1. The GAL found Guardian 1 to be fit. J.C.T lived with Guardian 1 for the next four years. In 2002, allegations of physical and sexual abuse against Guardian 1 were raised. The GAL was reappointed, and J.C.T. was temporarily placed with Guardian 1's mother, A.S. (Guardian 2). J.C.T. lived with Guardian 2 for the next two years; however, her ability to care for J.C.T. eventually came into question due to her advanced age.

In August 2004, the probate court issued an order regarding the inability of any of the parties to permanently care for J.C.T. and directing the GAL to find a permanent successor guardian. Subsequently, the probate court suspended Guardian 2's temporary guardianship and appointed yet another temporary Guardian (Guardian 3) for J.C.T. During this time, the GAL began working with adoption agencies to find J.C.T. a permanent guardian or adoptive family.

In 2005, Guardian 1 filed a petition for permanent guardianship of J.C.T. At a subsequent hearing, the court heard evidence from the GAL regarding a new potential long-term or adoptive family for J.C.T. The court removed Guardian 3, declared J.C.T. to be a ward of the court, and ordered that J.C.T. be placed with the GAL until a decision could be made regarding permanent guardianship with the new family. In its order, the court referred to the GAL as the "guardian designee." Guardian 1's peti-

tion for guardianship was denied, and Guardian 1 appealed.

The Court of Appeals vacated the order, holding that the probate court exceeded its jurisdiction by engaging in *de facto* adoption proceedings, an area within the exclusive jurisdiction of the juvenile court. In addition, the Court of Appeals held that the probate court had improperly declared J.C.T. a ward of the court and appointed the GAL as "guardian designee." The Court of Appeals found that this improper appointment left J.C.T. within the definition of a neglected or dependent child, thus vesting exclusive jurisdiction with the juvenile court.

Under Colorado statute, the probate court may appoint a guardian for a minor if the court finds the appointment is in the minor's best interest and either: (1) the parents have consented; (2) parental rights have been terminated; (3) the parents are incapable or unwilling to exercise their parental rights; or (4) a previously appointed third-party guardian has subsequently died or become incapacitated. In this case, J.C.T.'s mother initially consented to the guardianship. Since that time, J.C.T.'s parents had not asserted their parental rights, and thus, the probate court appointed subsequent guardians in furtherance of J.C.T.'s best interests. The Court held that in denying Guardian 1's petition, the probate court conducted an appropriate best interests analysis, by considering the fitness of Guardian 1, the potential placement recommended by the GAL, J.C.T.'s mental health, and his need for stability.

The Colorado Supreme Court found that these actions did not amount to an adoption proceeding. An adoption does not occur simply because the probate court addresses permanency or considers a child's future. The Supreme Court acknowledged, "it is true that the probate court wanted to avoid placing J.C.T. in another stranger's home for some temporary time period, and thus strived to find a family that could provide some stability for J.C.T. in the long term. This does not, however, constitute an adoption." Moreover, the Court noted that under Colorado statute J.C.T. was not currently available for adoption as there was no parental consent, termination of parental rights, or evidence regarding parental abandonment. If future guardians wished to adopt J.C.T., they would be required to petition the juvenile court. Therefore, the Court found that the probate court acted within its jurisdiction.

The Court next addressed the probate court's appointment of itself as guardian and the GAL as guardian designee. Under Colorado statute, a guardian is defined as "an individual… who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or by the court." Based on this provision, Guardian 1 argued that the probate court could not appoint itself as guardian, because the court is not an individual. The Colorado Supreme Court rejected this argument, noting that the statute lists various categories

Give to the NACC

Make Check Payable to: **NACC**

Mail to: **National Association of Counsel for Children**
1825 Marion St, Suite 242
Denver, CO 80218

Telephone: Office: 303-864-5320
Fax: 303-864-5351

Federal Tax ID#: 84-0743810

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: $ _____

NAME _____

FIRM OR AGENCY _____

ADDRESS _____

CITY / STATE / ZIP _____

PHONE _____ FAX _____

E-MAIL _____

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

NAME ON CARD (PLEASE PRINT) _____

CARD NUMBER _____

SIGNATURE _____ EXP. DATE _____

of "persons," including governmental agencies and other legal entities, who may be appointed as guardians. Therefore, the probate court constitutes a "person" under the statute and could be appointed as guardian.

The Court also upheld the appointment of the GAL as "guardian designee." The statutory definition of a guardian includes "a limited, emergency, and temporary substitute guardian, but not a guardian *ad litem*." The Colorado Supreme Court held that this language was intended simply to distinguish the roles of "guardian" and "guardian *ad litem*," not to prohibit a dual appointment. The Court rejected the argument that an inherent conflict existed between the role of guardian and GAL. In reaching its conclusion, the Court noted that nothing in the Chief Justice Directive governing child representation suggests that it would be a conflict of interest for an appointed GAL to serve as the child's legal guardian. In addition, the notes to Rule of Professional Conduct 1.14 (addressing a lawyer's ethical duties to clients with diminished capacity) state, "if the person [under a disability] has no guardian or legal representative, the lawyer must often act as a *de facto* guardian." By recognizing this situation, the rules actually suggest a lack of inherent conflict.

The Court acknowledged that ABA Formal Ethics Opinion 96-404 states, "a lawyer should not act or seek to have himself appointed guardian except in the most exigent of circumstances, that is, where immediate and irreparable harm will result from the slightest delay." The Court held that this case presented exigent circumstances and stated, "after seven years of probate court supervision with three different guardianship placements, the court recognized that J.C.T. would be irreparable harmed, mentally and emotionally, by being placed with yet another stranger." Throughout the case, J.C.T. had stayed with the GAL for short periods of time when necessary, and thus, the Court intended the GAL's appointment as "guardian designee" only as a "part of the natural transition in this case."

In conclusion, the Colorado Supreme Court held that the probate court did not exceed its jurisdiction by directing the GAL to find a permanent guardian for J.C.T. and considering the potential for an eventual adoption. In addition, appointment of the GAL as J.C.T.'s temporary guardian was proper and did not divest the probate court of jurisdiction. The Court of Appeals decision was reversed.

Amicus Curiae Update

Pittman v. South Carolina, U.S. Supreme Court. The NACC joined with the Juvenile Law Center (Philadelphia) in filing an *amicus curiae* brief urging the U.S. Supreme Court to grant review in this case involving a mandatory 30-year sentence without the possibility of parole for a 12-year-old child. The NACC was one of fourteen *amici*.

At the age of 12, Christopher Pittman was certified as an adult and sentenced to a mandatory minimum term of 30 years in prison for killing his grandparents. The *amicus* brief argues that Pittman's sentence is inconsistent with evolving standards of decency and constitutes cruel and unusual punishment under the Eighth Amendment. *Amici* argued that imposing a lengthy mandatory adult sentence on a 12-year-old child serves no valid retributive or deterrent purpose and runs the risk of incapacitating the child longer than necessary to promote public safety. The *amicus* brief further argued that U.S. Supreme Court precedent and state laws consistently differentiate between adolescents and adults. In addition, developmental and neurobiological research confirms the existence of legally relevant distinctions between adults and juveniles.

Miller-Jenkins v. Miller-Jenkins, Supreme Court of Virginia. The NACC signed on to an amicus brief in a case before the Supreme Court of Virginia involving an interstate child custody dispute. The case began in 2003 when Lisa Miller-Jenkins (Lisa), filed a complaint in Vermont to dissolve her civil union with Janet Miller-Jenkins (Janet). The Vermont court issued an order dissolving the union and granting Lisa primary physical custody of the parties' child. Janet was awarded visitation.

Rather than comply with the order, Lisa filed a new action in Virginia, asking the court to award her sole custody and parental rights over the child. The Virginia court exercised jurisdiction and held that the Vermont custody proceedings and order violated Virginia public policy and were void under Virginia law. The Virginia Court of Appeals reversed and held that the Parental Kidnapping Prevention Act (PKPA) required Virginia courts to enforce the Vermont order and allow its registration within the state of Virginia. Lisa appealed.

Amici argued that there is no relevant policy exception to full faith and credit, making this case exclusively about jurisdiction to enter and modify a child custody order. The Virginia circuit court's decision sends the message that it is acceptable for state courts to disregard the mandates of the PKPA and the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), and instead substitute the court's own beliefs in making a custody jurisdiction determination. Such a message would undermine the effectiveness of the PKPA and the UCCJEA in shielding children from needless stress and harm resulting from interstate custody disputes. ■

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.

The Child Welfare Law Specialist – Winter 2008

Certification Update — Open in 8 States

by Camille Ventrell – Certification Director, and Maureen Martin – Staff Attorney for Certification

Child Welfare Attorney Specialization is a program of the NACC whereby the NACC certifies qualified attorneys as Child Welfare Law Specialists (CWLS). Attorneys receive the CWLS credential from the NACC by showing their proficiency in child welfare law through a comprehensive child welfare law competency process. For more information, please visit the NACC Certification Web Page at: *www.naccchildlaw.org/training/certification.html* or contact NACC Certification Director, Camille Ventrell at ventrell.camille@tchden.org, 888.828.NACC ext. 3.

The NACC is pleased to announce that the NACC Child Welfare Law Certification Program recently opened in four new jurisdictions: North Carolina, Iowa, Connecticut, and District of Columbia. This means that the NACC is currently accepting applications in 8 states: California, Connecticut, District of Columbia, Iowa, Michigan, New Mexico, North Carolina, and Tennessee.

North Carolina
In December, 2007, the NACC officially opened the Child Welfare Law Certification program in North Carolina. Additionally, the NACC is working with the North Carolina Court Improvement Program to set up Red Book trainings across the state in the fall.

District of Columbia
In January, the NACC officially opened in Washington, D.C. As part of this process the NACC has signed a contract with the District of Columbia Courts to process 40 attorney applications, conduct the Red Book training, and provide copies of the Red Book.

Connecticut
In January, the Connecticut Superior Court Rules Committee accredited the NACC to certify Connecticut attorneys in Child Welfare Law. Additionally, the NACC has contracted with the Connecticut Commission on Child Protection to process 75 attorney applications and provide the Red Book training. The NACC is also working with another state agency to access funding for an additional 25 attorneys.

Iowa
In January, the Iowa Supreme Court Attorney Disciplinary Board approved the NACC Certification program to offer NACC Child Welfare Law Certification to qualified Iowa attorneys. The NACC would like to say a special thank you to Michael Sorci, Executive Director of the Youth Law Center for the work he did to bring this Certification program to Iowa.

In other exciting new, the State Status Chart has been updated for this quarter. Please visit the NACC Certification website to see the updates and for general information about NACC Certification: *www.naccchildlaw.org/training/certification.html* . ■

NACC Child Welfare Law Attorney Specialty Certification

Child Welfare Attorney Specialization is a program of the National Association of Counsel for Children (NACC) whereby the NACC certifies qualified attorneys as Child Welfare Law Specialists (CWLS). Attorneys receive the CWLS credential from the NACC by showing their proficiency in child welfare law through a comprehensive child welfare law competency process.

For more information on Child Welfare Law Attorney Specialty Certification, contact the NACC.
Call toll-free: **1-888-828-NACC**
Visit our website: **www.NACCchildlaw.org**
Or email: **advocate@NACCchildlaw.org**

Federal Policy Update

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

Since the previous *Guardian* update, Congress failed to override Presidential vetoes of both FY08 appropriations bills and a children's health insurance bill, all of which have a significant impact on children around the country, including court-affected children. As a result of the failure to override the vetoes, Congress had to reduce funding levels in the appropriations bills to fit within the President's proposed budget levels, and settle for a State Children's Health Insurance Program bill that merely extended the program to maintain current caseloads through March 2009 (rather than the expansion to cover millions more children, as was passed with strong bipartisan votes in both the House and the Senate).

In happier news, Congress completed action on — and the President signed into law — a strong Head Start Reauthorization bill. The House and Senate draft bills to reauthorize the No Child Left Behind elementary and secondary education law, however, have not been able to move forward, even in Committee.

Federal Budget/ Appropriations for FY 2008, 2009

The post-veto final FY08 Appropriations bill for Labor/Health and Human Services/Education (enacted as part of an omnibus appropriations bill in late December 2007) rejected the President's proposed cut in SSBG, and included a $10 million increase in the Child Abuse Prevention and Treatment Act discretionary grants funding, to support new funding for evidence-based home visitation, shown by research to be effective at cutting child abuse and neglect among at risk families, and reducing later crime. For most other child welfare programs, the bill largely keeps FY08 funding close to the FY07 levels, except for a $26 million cut in Promoting Safe and Stable Families. One bright spot in the bill for investments in kids: the 21st Century Community Learning Centers (after-school) program got a $100 million increase. The final FY08 appropriations bill held most juvenile justice programs at or a few million below FY07 levels, with one significant exception: the juvenile mentoring program was increased from $10 million in FY07 to $70 million in FY08.

On February 4, 2008, President Bush submitted his proposed FY 2009 Budget to Congress. It included another proposal for a "state option" block grant for foster care that would result in a foster care funding cap for states (similar to prior years' budget proposals). The budget included stagnant or slightly declining funding for most programs relevant to court-involved children and families, except for a deep cut in the Social Services Block Grant (cutting $500 million, to take the program from $1.7 billion to $1.2 billion). The proposed budget did maintain the $10 million (first proposed in the FY08 budget, and passed in the FY08 appropriations bill) for CAPTA discretionary grants for quality home visiting.

Once again, this year, the Administration proposed the elimination of all of the current juvenile justice and delinquency prevention and juvenile accountability program funding, and replacement of those programs with a proposed new "Child Safety and Juvenile Justice" block grant, although the cut this year was more than twice the cut from last year — for FY09, funding is proposed to be cut by 57% from last year's juvenile justice funding levels.

State Child Health Insurance Program Reauthorization Legislation

Legislation to reauthorize, expand and improve the State Child Health Insurance Program (to cover children from families who cannot afford health insurance coverage on their own, but whose incomes are just over the Medicaid eligibility limit) passed the House on 8/1/07 and passed the Senate on 8/2/07. A compromise that was very similar to the bi-partisan Senate bill, which included $35 billion in additional funding over the next five years for SCHIP (paid for by a tobacco tax), was passed by the House on 9/25/07 and by the Senate on 9/27/07, but vetoed by the President. A House attempt to override the veto on 10/18/07 fell 13 votes short of the 2/3 vote required. Further negotiations to make modifications to the legislation to garner the additional House support needed for veto override were unsuccessful (resulting in further unsuccessful House veto override efforts). An extension of SCHIP through March 2009 (with funding to cover current caseloads) was enacted in late December 2007.

Head Start Reauthorization

On June 19, 2007, the Senate passed S. 556, the "Head Start for School Readiness Act", a bill to reauthorize the Head Start early education program for disadvantaged kids. The House passed their Head Start reauthorization bill — H.R. 1429 — by a vote of 365–48 on May 2nd. The House- and Senate-passed legislation includes a variety of program improvements, including some language to improve Head Start access for foster children. Thankfully, the bill does not include state block grants with inadequate quality standards,

which had been in a previous House-passed bill (that bill never got enacted). The final House/Senate Conference Report version of H.R. 1429 was passed by the House and Senate in November, and signed into law by the President in December 2007.

Offender Reentry Legislation

On March 28, 2007, the House Judiciary Committee marked up the bi-partisan Second Chance Act of 2007, H.R. 1593, a bill to provide comprehensive reentry services for youth and adults returning to their communities after placement in lock-up. S. 1060, the bi-partisan Senate version of the Second Chance Act of 2007, was approved by the Senate Judiciary Committee on 8/2/07. On 11/13/07, H.R. 1593 was agreed to in the House "under suspension of the rules" (2/3 vote was required), with a final vote of 347-62. The bill is expected to be considered on the floor of the Senate in the near future.

Mentally Ill Offender Legislation

H.R. 3992, a bill to reauthorize grants for the improved mental health treatment and services provided to adult and juvenile offenders with mental illnesses, was introduced by Rep. Bobby Scott on 10/30/07. The bill was marked up in the House Judiciary Committee in November, and passed by voice vote on the floor of the House on January 23, 2008. The Senate companion bill, S. 2304, is scheduled for Senate Judiciary Committee markup on February 14, 2008.

Gangs Legislation

On June 14, 2007, the Senate Judiciary Committee approved Senators Feinstein and Hatch's S. 456, the latest version of their "gangs bill". This bill includes mandatory minimums and other enhanced penalties, and increased federalization of gang crime, although the bill now also includes some prevention resources, and no longer has the previously-included section providing for expanded prosecution of juveniles as adults in federal court. S. 456 passed on the Senate floor by unanimous consent on 9/21/07. Companion legislation in the House, H.R. 3547, was introduced on 9/17/07 by Rep. Schiff et al. On 10/16/07, the Chairman of the House Judiciary Chairman, Rep. Bobby Scott, introduced the Youth PROMISE Act, H.R. 3846. The bill would support a variety of proven-effective prevention and intervention approaches to reduce youth involvement in gangs and violent crime. No House Judiciary Committee markup of the Schiff or Scott bill is scheduled at this time.

Indian Child Protection and Tribal Foster Care

On January 25, 2007, S. 398, a bill to amend the Indian Child Protection and Family Violence Prevention Act, was introduced. Among other things, this legislation requires that reports on tribal-related child abuse allegations include information on any federal, state or tribal final conviction, and that these reports be transmitted to and kept by the FBI. The full Senate passed this bill on May 25, 2007. No House action has occurred yet.

Further, on August 2, 2007, Sen. Baucus introduced S. 1956, the Tribal Foster Care and Adoption Access Act of 2007, a bill to amend Soc. Sec. Act Title IV-E (relating to foster care and adoption assistance) to enable tribes to receive IV-E payments. A House companion bill (H.R. 4688) was introduced in mid-December. There has been no action on this legislation yet.

Safe Babies Act

On March 15, 2007, the Senate Judiciary Committee marked up S. 627, the Safe Babies Act. The bill would amend the federal Juvenile Justice and Delinquency Prevention Act to create a National Court Teams Resource Center and to assist local court teams to more effectively address the needs of maltreated infants and toddlers. No Senate floor action has occurred yet. H.R. 1082, the House version, was introduced 2/15/07, but no action on the bill has been scheduled.

Public Service Student Loan Forgiveness

Provisions for public service student loan forgiveness were enacted on 9/27/07 as part of P.L. 110-84, the College Cost Reduction and Access Act. Under Title IV of that Act, a person employed in public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization), or public child care may be eligible for forgiveness of any remaining interest and principle payments owed after 120 monthly payments made while so employed with regard to federal student loans, such as a Federal Direct Stafford Loan, a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

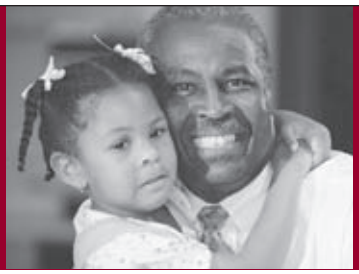
Perkins loan forgiveness provisions were also included in the Higher Education Act reauthorization legislation (H.R. 4137), passed by the House on 2/7/08, by a vote of 354-58. The bill includes loan forgiveness for, *inter alia*: (1) CHILD WELFARE WORKERS — An individual who (A) has obtained a degree in social work or a related field with a focus on serving children and families; and (B) is employed in public or private child welfare services. (2) PUBLIC SECTOR EMPLOYEES — An individual who is employed in public safety (including as a first responder, firefighter, police officer, or other law enforcement or public safety officer), emergency management (including as an emergency medical technician), public health (including full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), or public interest legal services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization). (3) MENTAL HEALTH PROFESSIONALS — Individuals who have at least a master's degree in social work, psychology, or psychiatry and who are providing mental health

services to children, adolescents, or veterans. The Senate legislation to reauthorize the Higher Education Act (S. 1642) passed the Senate with a vote of 95-0 on 7/24/07. House/Senate conference to resolve the differences between the bills has not yet been scheduled.

Other Relevant Bills Introduced, But No Further Action Yet

- On 1/24/07, H.R. 687 (Rep. Ramstad) and S. 382 (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 2/16/07, Sen. Clinton and Sen. Snowe introduced the Kinship Caregiver Support Act (S. 661), 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 5/7/07, Rep. Danny Davis introduced H.R. 2188, the House version of the legislation, but no further action has occurred.
- On 2/16/07, Sen. Bond and Sen. Clinton introduced S. 667, 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). The House Education Reform Subcommittee held an excellent hearing on this legislation in the last Congress (on 9/27/06). On 5/16/07, Rep. Danny Davis and Rep. Todd Platts introduced the House version of the legislation, H.R. 2343. No action on this legislation has yet been scheduled in this Congress. ■

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



2008 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 June 1st, 2008.

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

Children's Law News

News

NACC Child Welfare Law Attorney Certification is now open in 8 States: California, Connecticut, District of Columbia, Iowa, Michigan, New Mexico, North Carolina, and Tennessee. For more information on applying in one of these states or the development of the program in other states, contact the NACC or visit: *www.naccchildlaw.org/training/certification.html*.

NACC 2008 Outstanding Legal Advocacy Award. Nominations for the 2008 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 June 1, 2008.

NACC 2008 Law Student Essay Competition. The NACC is accepting essays for the 2008 Law Student Essay Competition. The winning essay will be published in the 2008 Children's Law Manual, and the winner will be given $1,000, a one-year NACC membership, and a scholarship to the 2008 conference in Savannah, GA. Essays will be evaluated on the importance of the topic to advancing the legal interests of children, persuasiveness, and quality of research and writing. Essays should be submitted electronically to: *advocate@NACCchildlaw.org* by June 1, 2008.

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. To join, simply send an e-mail to *advocate@NACCchildlaw.org* and say "Please add me to the NACC Listserv."

Conferences & Training

May 19–23, 2008

NACC 13th Annual Rocky Mountain Child Advocacy Training Institute, Louisville, CO. A hands-on trial skills training course for lawyers who represent the interests of children. Presented in conjunction with NITA and the Rocky Mountain Children's Law Center. Brochures were mailed to all NACC members in Spring 2008. For more information, please visit *www.naccchildlaw.org/training/RMCATI.html*.

May 28–31, 2008

AFCC 45th Annual Conference: *Fitting the Forum to the Family: Emerging Challenges for Family Courts*, Vancouver, BC, Canada. Register online at *www.afccnet.org*.

August 3–6, 2008

NACC 31st National Juvenile and Family Law Conference, Savannah, GA. For more information, contact the NACC or visit *www.NACCchildlaw.org/training/conference.html*. Conference Brochures will be available in Spring 2008.

Publications

A Good Knight for Children: C. Henry Kempe's Quest to Protect the Abused Child, by Annie Kempe (2007).

Hope's Boy: A Memoir, by Andrew Bridge, Hyperion (2008).

Hidden in Plain Sight: The Tragedy of Children's Rights From Ben Franklin to Lionel Tate, by Barbara Bennett Woodhouse (2008).

Looking Ahead to the Next 30 Years of Child Advocacy Symposium, 41 U. Mich. J. L. Reform 1 (2007).

The Dependency Quick Guide (Dogbook), The California Administrative Office of the Courts Center for Families, Children, and the Courts has recently developed a new reference manual for attorneys representing parents and children in juvenile dependency proceedings. The guide is divided into three major parts: Hearings, Fact Sheets, and Summaries of Seminal Cases. It is designed to provide guidance and short answers to common problems that attorneys face. Available online at *www.courtinfo.ca.gov/programs/cfcc/programs/description/DRAFT.htm*.

Gay, Lesbian and Transgender Clients: A Lawyer's Guide, by Joan Burda. This December 2007 release from the ABA provides an introduction for lawyers to the legal landscape as it relates to lesbian, gay, and transgender persons today. Topics include: children, adoption, parenting rights, and education. Available online at *www.abanet.org/abastore*.

Prevent Child Abuse America and the Pew Charitable Trusts' Kids Are Waiting Campaign have recently released two reports addressing the importance of prevention — preventing child abuse and neglect, preventing the recurrence of child maltreatment, and preventing children from unnecessarily entering foster care. Both reports from are available online at *www.preventchildabuse.org* and *www.kidsarewaiting.org*.

***Achieving Quality Legal Representation for Children, Families, and the State*, the 2007 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/training/manuals.html*.

***NACC Child Welfare Law Office Guidebook: Best Practice Guidelines for Organizational Legal Representation of Children in Abuse, Neglect, and Dependency Cases* (The Blue Book)**. Created as part of the NACC Children's Law Office Project (CLOP), the Blue Book is a collection of 33 best practice guidelines intended to move child welfare law offices toward model practice. It is organized by three areas of operation: administration, development, and program. Within these categories are guidelines and commentary developed by the CLOP staff and advisory board to promote best practices in the delivery of legal services to children. Limited numbers of hard copies are available for $20 each by contacting the NACC. The searchable electronic version is available at no charge at *www.naccchildlaw.org/about/nclop.html*.

***Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect and Dependency Cases* (The Red Book)**. Please see the ad in this issue or contact Bradford Publishing at 800-446-2831; *www.bradfordpublishing.com*. NACC members receive a 20% discount.

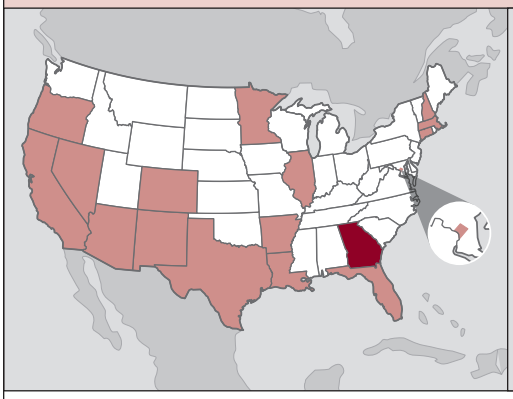
Jobs

Staff Attorney, ABA Center on Children & the Law, Washington, D.C. The American Bar Association Center on Children and the Law currently has multiple openings for Staff Attorneys. For more information, and to apply online, please visit *www.abanet.org/hr*.

Assistant Director, Kempe Center for the Prevention and Treatment of Child Abuse and Neglect, Denver, CO. The Kempe Center, a section of the Department of Pediatrics at the University of Colorado School of Medicine, has an opening for an Assistant Director. The Assistant Director works closely with the Director to plan, develop and manage strategic projects and initiatives. The Assistant Director is responsible for community relationships, serves as primary liaison to the Denver Department of Human Services (DDHS), plays important roles in the management of the internal operations of the Center, and is involved in policy, advocacy and fundraising. The Assistant Director also directs the Kempe Under Sixes Program (KUSP), a home-based mental health service and intervention program for children from birth to five years and their families conducted through a close partnership with DDHS. Responsibilities include working collaboratively and in partnership with multiple agencies who work with abused and neglected children and their families including county and state child welfare agencies.

Minimum requirements include a Master's or doctorate degree in mental health, social work, or related field; ten years of senior management and program development experience; five years of clinical work with families and young children, with emphasis in infant mental health; Colorado licensure eligibility; and demonstrated knowledge and experience in the field of child abuse and neglect. To apply, please visit *www.jobsatcu.com* and search for position #803223. Position opened until filled. ■

Please send children's law news and advocacy job openings to: *The Guardian*, 1825 Marion Street, Suite 242, Denver, CO 80218
Fax: 303-864-5351 • E-mail: *advocate@NACCchildlaw.org*



Affiliate News

NACC affiliates help fulfill the mission of the national association while providing members the opportunity to be more directly and effectively involved on the local level. If you are interested in participating in NACC activities on the local level, or simply want contact with other child advocates, please contact the NACC and we will put you in touch with an affiliate in your area or work with you to form one. Affiliate development materials and a current list of affiliates with contact information are available on our website at *www.NACCchildlaw.org/about/affiliates.html*.

Georgia (GACC)

The NACC is coming to Georgia! The NACC 2008 National Conference will be held at the Hyatt Riverfront in Savannah, GA, August 3–6, 2008. For more information on local planning and coordination efforts, contact GACC Executive Director, Jane Okrasinski at *jane.okrasinski@gmail.com*. ■

Thank You

The National Association of Counsel for Children thanks the following donors and members for their generosity.

$5,000 +

Anonymous
Anschutz Foundation
Candace Barr
Megan Louise Furth Fund
Donna Wickham Furth
Lea for Justice Fund
Lexis Nexis

$1,000 – $4,999

James L. Brand
Child Abuse & Neglect The International Journal
John Ciccolella
Colorado Bar Association Juvenile Law Section
Donald Duquette
Robert C. Fellmeth
Charles Gill
Gerard Glynn
Katherine Holliday
David Katner
Kempe Children's Center
Kempe Children's Foundation
H.D. Kirkpatrick
Kathleen McCaffrey
B.J. Morgan
Northern California Association of Counsel for Children
Henry J. Plum
Janet Sherwood, CWLS
Theresa Spahn
John Stuemky
University of Oklahoma Section of General and Emergency Pediatrics and EMS

$250 – $999

Amy Laura Cahn
Michelle Hannigan
The Harris Law Firm, P.C.
Leslie Heimov, CWLS
Dawn Marie Rubio
Sampson Family Foundation
Shannan Wilber
Christopher Wu

Lifetime Members

Candace Barr
Donald Bross
Donna Wickham Furth
Gerard Glynn
Janet Sherwood, CWLS

Patron Members

Linda Campbell
John Ciccolella
Susan Dillard
Robert Fellmeth
Richard FitzGerald
Damon Gannett
Leslie Heimov, CWLS
Katherine Holliday
John Jerabek
Karen Jones-Mason
David Katner
H.D. Kirkpatrick
Philip (Jay) McCarthy, Jr.
Alan Mishael
Douglas Monaghan
Cindy Morris
Wayne Morrow, CWLS
Hansa Patel
Henry Plum
Douglas Robison
Norton Roitman
Gary Seiser, CWLS
Robert Shepherd, Jr.
John Stuemky
Arthur Webster
Christopher Wu

Sustaining Members

Robert Ackley
Ross Beckley
Sheila Brogna, CWLS
Martin Brown
Cecilia Buck-Taylor
Alice Bussiere
Erlinda Castro
L. Michael Clark
Suzanne Conger
Howard Davidson
Leonard Edwards
Neal Eisenbraun
Kathryn Fehrman
William Furtick
Edward Goldson
Julia Hagan
Tisha Harman
Joan Hollinger
Charles Kim, Jr.
Lisa Kirsch Satawa
Richard Krugman
Gerry La Londe-Berg
Anita Levin
Randall Lococo
James Louis
Polly McIntyre
Michael Nash
Susan O'Brien
James Ottesen
Dianne Peterson
Sherrill Rosen
Mary Roth
Katherine Santelli
Mary Ann Shaening
Caren Shapiro
Leslie Shear
Suzanne Stephan
Sonia Wagner
Yvette Weinstein

Supporting Members

Patricia Anderson, CWLS
Christine Bailey
Elisa Barnes
Lance Beizer
Diane Belinkie
Billie Bell
Sarah Bennett
Patricia Black
Patricia Block
Bradley Bristow
Catherine Brooks
Julia Ann Brungess
Theresa Buchanan
Angela Burton
Michael Bury
Shiela Carrigan
Laura Cohen
Timothy Conlon
Sarah Corbally
Richard Cozzola
Edith Croxen
Paul DeQuattro, CWLS
Sharon Dornfeld
Ana Espana, CWLS
David Estep, CWLS
Martin Feinman
Mark Fiddler
Judy Flynn-O'Brien
Vikki Ford
Lori Fulton
Fritzie Galliani
Michelle Gantt
William Garrett
Charles Gill
Christine Gille
Genie Gillespie
Sherry Goodwin
Lindsey Grady
Kathi Grasso
Albert Grudzinskas, Jr.
Ann Haralambie
Celia Harned
Rich Harris
Georgia & Walt Imhoff
Thom Janidlo
Christopher Jeffers
Allen Johncox
Paula Kaldis
Jeffrey Kauffman
William Keene
Darren Kessler
Celeste Kling
Lenore Knudtson
Renee Kreisa
Michael Lajoie
Cora Lancelle
Richard Landis
Lisa Landsman
Lee Lawless
Joy Lazo, CWLS
Alan Lerner
David Littman
Jack Love, CWLS
Tom Lynaugh
Kathleen Mallinger
James Marsh
Susan McConnell
Jay McEwen
Ronald McMullen
Ann Meinster
Octavia Melendez
Thalia Meltz
Thomas Miller
Jenny Miller
Miki Minzer
Marybeth Mitchell
Claire Mootz
Michael Morey
Mark Murray, CWLS
Catherine O'Leary
Jacqueline Parker
William Patton
Amanda Pearson
Erik Pitchal
Nancy Qualls
Karen Reid
Louis Reidenberg
Shannon Richards
Kathy Richards
Robin Robb
Gary Robbins
Cordelia Robinson-Rosenberg
Lisa Romo
Scott Rose
Anne Schneiders
Tamatha Schreinert, CWLS
Margaret Semple
Robert Sewell
Shari Shink
Sara Silverman
Gloria Smith
Robert Smith
Neal Snyder
Michael Somma, Jr.
Cynthia Spencer
Stephanie St. John
Jomo Stewart
Janet Story
Lon Taubman
Sharon Taylor-Smith
Justin Teitle
Evelyn Tombers
Kathryn Untiedt
Gretchen Viney
Kelly Waterfall
John Watson
Deanna Weiss
Janet Wiig
Robert Wiley
Nancy Wong

NACC – Membership Application

I wish to become a member.

INDIVIDUAL MEMBERSHIPS:

- ☐ Student $45
- ☐ Regular $90
- ☐ Supporting $125*
- ☐ Sustaining $150*
- ☐ Patron $250*
- ☐ Lifetime $2500*

*Includes special thank you listing in *The Guardian*.

☐ I would like $10 of my membership dues to support my local NACC affiliate.

GROUP MEMBERSHIPS:

Group memberships are available at a significant discount. Please contact the NACC for more information.

☐ **Please send information on establishing an affiliate.**

Make Check Payable to: NACC

Mail to: National Association of Counsel for Children, 1825 Marion Street, Suite 242, Denver, CO 80218

Telephone: Office: 303-864-5320 • Fax: 303-864-5351

Federal Tax ID#: 84-0743810

All but $90 of your membership fee is tax-deductible.

Join Online at: www.NACCchildlaw.org

NAME _____

FIRM OR AGENCY _____

ADDRESS _____

CITY / STATE / ZIP _____

PHONE _____ FAX _____

E-MAIL _____

OCCUPATION _____

ETHNICITY (OPT.) _____

☐ **Enclosed is my check in the amount of $** _____

☐ **Please charge my** ☐ ☐

NAME ON CARD (PLEASE PRINT) _____

CARD NUMBER _____

SIGNATURE _____ EXP. DATE _____

NACC
National Association of Counsel for Children

1825 Marion Street, Suite 242
Denver, Colorado 80218

RETURN SERVICE REQUESTED

Nonprofit Org.
U.S. Postage
PAID
Denver, CO
Permit No. 5193