



BASICS OF REPRESENTING CHILDREN IN ABUSE & NEGLECT CASES





CHILDREN'S ATTORNEYS PROJECT

- Legal Aid Center of Southern Nevada represents children who have been abused and/or neglected and placed in foster care. We ensure they have a voice in court.
- We represent parents whose children have learning disabilities in securing federally required services and accommodations so their children can succeed in school.



Children's Attorneys Project (CAP)

15 Full-Time Staff Attorneys
Nearly 250 Pro Bono Volunteers

Just over half the kids in the system are
represented

The rest have no one to speak for them



The Role of a Children's Attorney

- ❖ Giving Child Victims a Voice
- ❖ Attorney vs. GAL
- ❖ What the Child Wants vs. Best Interest
- ❖ Attorney vs. Big Brother/Sister



First Steps

- File the Notice of Appearance
 - Detailed instructions in the Placement Letter
 - Free e-filing available
- Contact the caseworker
 - What is a caseworker?
 - “Suggested Questions for the Caseworker” included with the file
- Set up an appointment to meet with your client



Meeting Your Client

Choosing a Place

See Their Home

Maintaining Confidentiality

Not Alone Behind Closed Doors

At School?

Where They Can Talk Comfortably



Meeting Your Client

Explaining Your Role

How Are You Different From All
These Other People

“I’m Your Boss”

Age Appropriate Discussion -- “secret”

Preventing Conflicts



Building the Relationship

On-Going Contact

How Often?

They Won't Always Think to Call You

Counselor At Law

Confidentiality vs. Mandatory Reporter



Working With the Caseworker

- Send introduction email
 - Ask for all upcoming court dates and CFT meetings in the case
 - Remind caseworker to contact you for any changes in the case
- Contact the Supervisor if unresponsive
 - Caseworker contact list and supervisor list provided with your file
- Be persistent!



AGENCIES/ATTORNEYS

A. Department of Family Services (DFS)

- ❖ Investigate
- ❖ Submit for petition
- ❖ Case management
- ❖ Represented by District Attorney

B. Children's Attorneys Project (CAP)

- ❖ Represent the wishes of the child

C. District Attorney – Juvenile (DA)

- ❖ File petitions
- ❖ Represents the public and DFS

D. Special Public Defender/Conflict Attorney

- ❖ Represent parents

E. Court Appointed Special Advocates (CASA)

- ❖ Best interest of child



COURT STRUCTURE

Hearing Masters

Issue: findings and recommendations, not orders

1. *Jane Femiano*
2. *David S. Gibson*
3. *Thomas Kurtz*

District Court Judges -

Frank Sullivan

Robert Teuton

Cynthia Giuliani



OBJECTION TO HEARING MASTER'S FINDINGS - EDCR 1.46

1. Inform the hearing master of your intention to object to the findings and request that you are provided with a written copy of the findings/recommendations.
2. 5 days after receiving the written findings/recommendations, you must file a written objection to the district court judge.



Abuse & Neglect Court: Tips for New Volunteers

- Case listed under mother's name on Docket
- Check in with the Marshal
- Welcome to go early and observe other hearings
- Where do CAP attorneys stand?



CHILD PROTECTION ACT (NRS 432B)

- A. Prevention, identification & treatment of abuse/neglect of children
- B. Establish judicial procedures to protect rights of children & parents
- C. Provide system of services to protect welfare & development of children
- D. To preserve and stabilize the family, if appropriate



ABUSE/NEGLECT DEFINED

A. Abuse/Neglect Of Child (NRS 432B.020)

- ❖ Physical or mental injury
- ❖ Sexual abuse or exploitation
- ❖ Negligent treatment/maltreatment

B. Negligent Treatment (NRS 432B.140)

- ❖ Abandonment
- ❖ Without proper care, control, supervision
- ❖ Lacks subsistence, shelter, medical, education



GOALS OF CHILD WELFARE SYSTEM

- A. Safety Of Child
 - ❖ Always primary focus
- B. Well-Being Of Child
 - ❖ Emotional
 - ❖ Medical
 - ❖ Physical
- C. Permanency
 - ❖ Timely manner



RELATIVE PLACEMENTS

A. Relative Preference (NRS 432B.550(5)(b))

- ❖ Broader interest in family unity
- ❖ Supportive of parent-child relationship

B. Related Within 5th Degree of Consanguinity or a Fictive Kin

- ❖ Suitable
- ❖ Able to provide proper care



SIBLING PLACEMENTS

Rebuttable Presumption (NRS 432B.550)

- ❖ Best interests to be placed together
- ❖ Semiannual review (NRS 432B.580(2)(b))
- ❖ Information on siblings placement
- ❖ Whether siblings placed together
- ❖ Efforts to place siblings together
- ❖ Actions to ensure sibling contact
- ❖ If siblings not placed together
- ❖ Reasons siblings not placed together
- ❖ Sibling visitation plan approved by court



MENTAL HEALTH PLACEMENTS

A. Mental Health Petition (432B.6075)

- ❖ Emotionally disturbed
- ❖ Clear & convincing evidence (NRS 432B.6076) that the child is exhibiting observable behavior such that he likely To harm himself or others
- ❖ Must be filed no later than 5 days after Child admitted

B. Second Opinion (NRS 432B.6078)

C. Facilities: *Spring Mountain Treatment Center, Desert Willow, Montevista*



PROTECTIVE CUSTODY HEARINGS:

BEGINNING OF A CASE

- A. Placement of Child into P.C. (NRS 432B.390)
 - ❖ Reasonable cause to believe that immediate action is necessary to protect child
- B. P.C. Hearings (NRS 432B.470)
 - ❖ Within 72 hours of removal
 - ❖ Immediate risk of harm
- C. Findings by Court (NRS 432B.480)
 - ❖ Contrary to welfare to remain home
 - ❖ Best interest of child to be outside of home
- D. Child Could Be:
 - ❖ Released to parents
 - ❖ Remain in P.C. in a shelter or foster home
 - ❖ Placed with relatives or fictive kin



PLEA HEARINGS

A. Abuse/Neglect Petitions (NRS 432B.490)

1. Within 10 days of P.C. Hearing

2. Admit, submit (no contest), deny

- Admit = dispositional within 15 working days
- Deny = adjudicatory hearing within 30 days



PLEA HEARINGS

3. Placement Review

- Return to parents
- Relatives
- Fictive kin
- Foster home
 - A. Regular DFS licensed home
 - B. Private agencies-higher level of care (HLOC)- therapeutic homes
 - 1. SAFY, Olive Crest, Maple Star, Unity Village, Eaglequest
 - 2. Provide intensive services such as:
 - A. Therapist
 - B. Psychosocial rehab (PSR)
 - C. Basic skills (BST)
 - D. Caseworker
 - C. Group homes- St. Judes or private agency



ADJUDICATORY HEARING

- A. Adjudicatory Hearing (NRS 432B.530)
 - ❖ Within 30 days of petition
- B. Preponderance Of Evidence
- C. CAP'S Role
- D. Discovery



DISPOSITIONAL HEARINGS

A. Dispositional Hearing (NRS 432B.530(5))

- ❖ Within 15 working days
- ❖ Recommendations for services/supervision
- ❖ Declared ward of the court

B. Case Plan

C. Placement Of Child (NRS 432B.550)

- ❖ Parents, relatives, fictive kin, public agency
- ❖ Siblings
- ❖ Relative preference

D. Reasonable Efforts (Within 60 Days/Removal)

- ❖ Prevent/eliminate removal from home
- ❖ Make it possible for child to return home



PERMANENCY REVIEW HEARINGS

A. Semi-Annual Reviews (NRS 432B.580)

- ❖ Within 6 months of removal
- ❖ Every 6 months thereafter
- ❖ Evaluate progress of family/child
- ❖ Recommendations

B. Placement With Siblings

- ❖ Rebuttable presumption to be together
- ❖ Efforts to place together
- ❖ Sibling visitation



PERMANENCY (ANNUAL) HEARINGS

A. Permanency Hearings (NRS 432B.590)

- ❖ Every 12 months until case closed

B. Permanency Plan

- ❖ Reunification
- ❖ TPR/adoption
- ❖ If outside of home for 14 of 20 consecutive months, presumption that TPR is in best interest
- ❖ Guardianship

C. OPPLA (Foster Care/Independent Living)

D. Reasonable Efforts

- ❖ Finalize permanent placement of child



Termination of Parental Rights

- ❖ Termination of parents rights (NRS 128)
- ❖ District attorney files petition
- ❖ Prove by clear and convincing evidence that it is in the best interest of the child
- ❖ Enter appearance on new case number (D case)



Role of CAP During TPR

Preparation/Discovery

Which Side to Take

Opening/Closing Statements

Questioning & Cross Examining Witnesses

Presenting Evidence

Preparing & Protecting Your Client as a Witness



ADOPTION

- ❖ Adoption of children/adults (NRS 127)
- ❖ Child must reside in the home for at least 6 months
- ❖ Adoption subsidy
- ❖ 14 years old and older must consent
- ❖ Ensure sibling visitation order incorporated into adoption decree




Beware of Adoption Stalls

Unfortunately

“Referred for Adoption”

Doesn't mean your case is almost over




Post-Adoption Agreements (Open Adoption Agreements)

- ❖ Between natural parents and prospective adoptive parents (NRS 127.187)
- ❖ Incorporated into adoption decree



CHILD WITNESS

1. Motion to testify by alternative method – NRS 50.500
2. Kids Court (UNLV) –
Message Line 702-895-5933
Amy's Cell 201-639-4279
3. Pre-Trial Meeting



What is a Children's Family Team (CFT)?

What's the Purpose?

Who Attends?

Should I Be Invited?

Should My Client Be There?



How A Case Ends

Reunification

Guardianship

Aging Out

Adoption

Question: Should a CAP attorney ever withdraw sooner?



INDEPENDENT LIVING CONTRACTS*

- A. Eligibility
 - 1. 15 ½ years old – youth referred a DFS Independent Living worker and starts taking Independent Living classes.
 - 2. 16 ½ years old – enter into Independent Living contract
- B. School
- C. Work
- D. Part-time school and work
- E. Contract child receives check for \$773 a month

**Used infrequently since AB350 implemented*



AB 350 PROGRAM

- ❖ Remain under court jurisdiction- wardship has been terminated
- ❖ No longer under DFS custody
- ❖ 18-21 years old
- ❖ Provides monthly payment directly to youth (\$773)
- ❖ Young adult must make good faith efforts toward goals on transition plan
- ❖ Goals include diploma or GED, college, working
- ❖ Termination of program-letter, administrative review and court, or reach age 21



STEP UP PROGRAM

- ❖ After care program- wardship has been terminated
- ❖ 18-21 years old
- ❖ Provides rental assistance up to \$773 a month
- ❖ Recent approval to have young adult get difference between \$773 and the amount of rental assistance
- ❖ Move-in costs
- ❖ Emergency funds
- ❖ Graduation stipend
- ❖ Personal needs stipend
- ❖ Eligible for “aged out youth Medicaid” until 21 years of age



Issue Spotting

ICWA

Special Education Needs

Immigration Problems



IMPORTANT THINGS TO REMEMBER:


- ❖ Visit your child and develop a relationship of trust so they can call you if something goes wrong.
- ❖ Show up to every court hearing.
- ❖ Push the system to get the child in a permanent home – depending on what they want – back to their parents, to relatives, adopted, or in independent living...or with someone they love.
- ❖ The case will take ten years unless you push it. If you don't push the case, it won't get pushed.
- ❖ If your child has severe emotional abuse, watch out for overmedication – it runs rampant.
- ❖ If something doesn't sound right or feel right, or if it's not how you would want your own child to be treated, it's probably wrong.
- ❖ Please attend the support luncheon...you can chat about your case, meet other volunteers, get advice, and have a free lunch!



Summary

Abuse/Neglect Proceedings

- Early legal representation is key component
- Safety, well-being & permanency
- Protect welfare & development of child
 - Avoid unnecessary separation of children & families
 - Reunification of families
 - Relative placements
 - Siblings placements
 - Mental health placements
 - Stable permanent families
 - Timely manner



Q & A