



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

WIC § 366.22 - DUE PROCESS RIGHT TO CONTESTED HEARING

David B. v. Superior Court - filed June 20, 2006, Fourth Dist., Div. Seven
Docket No. G036456

Link to case: <<http://www.courtinfo.ca.gov/opinions/documents/G036456.DOC>>

At the Welf. & Inst. Code § 366.22 hearing, the court asked father's counsel for an offer of proof, and on the basis of the offer of proof, denied father's request to cross-examine the social worker, present testimony, and present other evidence on issues of whether the father received reasonable services and of whether the child's placement was suitable. Reversed. Section 366.22 (a) provides that if a child is not returned to his or her parent after the § 366.22 hearing, the court shall set a § 366.26 hearing. Until the § 366.26 hearing is set, the parent's interest in reunification takes precedence over the child's need for permanency and stability. Parents have a due process right to a contested review hearing at this crucial point in a dependency case, without conditioning that right on an offer of proof. (MM)

GUARDIANS AD LITEM

In re Enrique G. - filed June 19, 2006, Fourth Dist., Div. One
Docket No. D047692

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/D047692.DOC?>

Mother appealed termination of parental rights arguing the juvenile court violated her due process rights by appointing a guardian ad litem for her. The appellate court agreed stating mother was not provided notice or given the opportunity to respond to her counsel's request for guardian ad litem appointment; the juvenile court also failed to hold an informal hearing explaining the purpose of a guardian ad litem to the mother, why the appointment was necessary, and what authority the mother will cede to the guardian ad litem. The appellate court also noted that mother did not waive her right to object to the appointment by not raising the issue with the trial court because neither mother's counsel or her guardian ad litem would have sought review of the order on her behalf. However, because the appointment of a guardian ad litem in violation of mother's due process rights was a trial error and not a structural one, the appellate court affirmed the trial court's decision. (JC)

NON-DEPENDENCY CASES OF INTEREST

FAMILY LAW -WELF. & INST. CODE § 302(d)

In re Marriage of David and Martha M. - filed May 15, 2006, Second Dist., Div. Seven Docket No. B177632

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B177632.DOC>

Family court erred when it applied the "best interests of the child" rule in ordering modification of the juvenile court's exit order. Under Welf. & Inst. Code § 302(d), any modification of an exit order requires a finding that there has been a significant change of circumstances since the juvenile court issue the order *and* the modification is in the best interests of the child. (MM)

OTHER LEGAL DEVELOPMENTS

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance -

Procedural Guides:

0070-548.06. Emergency Response Referrals Alleging Abuse Regarding Children Residing in the Home of a Parent Who Are Under DCFS Supervision

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0070/007054806ERInHome.doc>

This procedural guide sets forth procedures for staff to follow when a referral is received regarding a child residing in the home of a legal guardian or parent. (JC)

0100-520.10 (REV.) Evaluating a Prospective Caregiver

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052010EvalCaregiversV0506.doc>

This revised procedural guide includes updated State regulations and provides procedures for evaluating and approving a prospective relative/non-relative caregiver's home by the Kinship Support Division. (JC)

0100-520.70 Exemptions For Relatives, Non-Relative Extended Family Members, and Prospective Guardians with Criminal History Records

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052070Exmptv0506.doc>

This procedural guide informs CSWs that a criminal record exemption may be granted by the department for an individual who is currently on probation and can provide sufficient proof that the probationary period(s) is informal, unsupervised and that there is no probation officer assigned. (JC)

0100-535.40 Continuation of AFDC-FC Payments for Non-Court Dependent Youth Age 18 Or Over Residing in an Unrelated Home

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/01005354Oafdc18YEAROLDS.doc>

This procedural guide sets forth procedures that address the continuation of AFDC-FC for non-court dependent youth over 18 years of age living with unrelated caregivers. (JC)

0100-570.11 (REV.) Runaways

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010057011Runaway.doc>

This revised procedural guide informs CSWs of the change in policy regarding the input of information into the Abducted and Runway Kids System (ARKS) system. (JC)

0300-503.55 (REV.) Protective Custody Warrants: Requesting or Recalling

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050355Warrant.doc>

This revised procedural guide instructs CSWs to use the DCFS 729, CSW's Report Re: Protective Custody Warrant to request, recall and renew protective custody warrants and arrests. (JC)

0400-503.05 (REV.) Standards for Documenting Contacts

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0400/040050305V0506.doc>

This revised procedural guide informs CSWs to document the fact that a private discussion took place with a child as part of the documentation of contacts with a child residing in any type of out-of-home care placement. (JC)

0400-503.10 (REV.) Contact Requirements and Exceptions

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0400/040050310ContactRequirementsandExceptions.doc>

This procedural guide has been revised to eliminate the reference to MacLaren Children's Center and to direct staff to make face-to-face contact with the child in the home/facility they reside rather than outside the home. (JC)

0600-500.00 Utilization of Medical HUBS

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0600/0600500000HUBS.doc>

This procedural guide informs CSWs that state regulations require a medical examination for all children placed in out-of-home care and that the mandatory use of the Medical Hubs does not apply to children placed out of Los Angeles County. (JC)

0600-514.10 (REV.) Administration of Psychotropic Medication to DCFS-
Supervised
Children

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0600/060051410PsychotropicMedV0506.doc>

This revised procedural guide informs CSWs of the new process for physician/psychiatrist submission of authorization request; notice to parent/legal guardian; court determination process; and cross over of cases with Department 95. (JC)

1000-504.10 (REV.) Case Transfer Criteria and Procedures

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/1000/100050410CaseTransferCriteriaRev0506.doc>

This revised procedural guide informs CSWs of new requirements for services to be in place prior to case transfers. (JC)

1200-501.20 (REV.) Child Abduction and the Recovery of an Abducted Child

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/1200/120050120Abduction.doc>

This revised procedural guide has been updated to reflect changes in who is responsible for updating Abducted and Runaway Kids System (ARKS) Web-Site. (JC)

For Your Information (FYIs):

06-31 In re Gina S - Inspection of Juvenile Records

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0631InReGinaSInspectionRecords.doc>

This FYI advises CSWs of an appellate court decision which states that individuals who are permitted to inspect juvenile court files pursuant to WIC 827 are authorized to inspect, but are not entitled to obtain photocopies of the juvenile court files absent a prior court order. (JC)