Documents Submitted by Judge Amy Davenport on behalf of Superior Court Judges assigned to the Family Division

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WRITTEN RESPONSES FROM SUPERIOR JUDGES TO THE QUESTIONS POSED BY THE LEGISLATIVE COMMITTEE ON CHILD PROTECTION

The bulleted comments below represent the comments of eight superior court judges with extensive experience in juvenile proceedings in response to the thirteen questions from the Legislative Committee on Child Protection. Five of the eight judges will testify to the Committee on September 2. In some instances additional memos to the committee were prepared. They are referenced below but sent as separate documents.

1. What is working well with the current system, and therefore should not be changed?

- Overall—DCF social workers are dedicated, professional, and extremely hard working. They care deeply about the families that they work with, and this is clear in their work with the courts.
- The Juvenile Procedure Act changes from 2010-11 have been positive, and have made the legal framework clearer, and easier to understand. They have generally clarified timelines required for case processing, and have, in my opinion, increased the consistency in practices in family division courts around the state.
- In general, I think that conditional custody orders (CCOs) are a good thing. I am not at all clear who monitors compliance with the CCOs and what monitoring is actually going on, especially when there is no protective supervision order in place. In addition, I sometimes find myself caught between issuing a CCO which may well result in less DCF services being available and granting DCF custody so services can be accessed. On the one hand, placement with a parent or kin on a CCO is a good thing. On the other hand, access to the full array of DCF services may be more beneficial in the long run toward a successful reunification. My experience has been that the more services can be front loaded, the greater chance there is of success.
- Frontloading of services:

  In about 2009, DCF began frontloading of services to families – in cases in which there is no immediate risk of significant harm to the child, they offer the family the opportunity to work with DCF voluntarily. This practice has several very significant benefits.

  *Respect for families and recognition of the importance of the bond between parent and children.

  * Development of positive relationships between families and DCF, and reduction of the view that DCF's only role is to take children away.

  * Strengthening of the relationship between DCF and other community agencies they work with, because referrals to these agencies are a key aspect of the services offered—e.g. parent-education resources, child care providers, community mental health agencies, and the like.

  * Reduces the number of unnecessary removals of children from homes, and reduces court time spent on cases that do not require our services.

The only down side is that the cases that are now filed in court tend to be severe, crisis situations, with significant and oftentimes longstanding needs, but that is the way it should work.
In the last several years, DCF has taken to heart the obligation to seek placements for children who must be removed from their homes with family members whenever possible. They immediately begin a search for family supports, even in their "frontloaded" cases. They encourage families to strengthen and improve their connections with family members for childcare and respite help. When a case is filed and an ECO is sought, unless it is truly an unexpected emergency, DCF often already has connections with family members who may be able to take the children on a temporary foster-care license basis. The benefit of the focus on family placements is huge. Some of the most obvious positive effects include:

- children are placed with people they know and love—this reduces the trauma of separation from parents, and enables them to stay connected to all of their extended family. Often it means they can stay in the same community and school.
- often it is easier for family members to assist with allowing appropriate, safe parent-child contact than it is for a non-family foster parent.
- family placements reduce the number of contested TPRs, because they allow parents to agree to permanent safe placements with people they also know and trust. These family placements are often in effect "open" adoptions, if an adoption ends up taking place.
- at times, including extended family in the process can result in repairing very long-standing family divisions, and in important work to heal multi-generational patterns of trauma and abuse. This can be healing for everyone, including parents, children, and other family members.

2. What does not work well and therefore should be changed? How?

- Having conflict counsel cover multiple counties (as many as five in one case) is a major issue for the court in terms of scheduling. (see map of conflict counsel coverage sent as a separate attachment)
- I am of the belief that at least at it relates to CHINS cases, the AGs office or office other than SAs should be representing the department/state. I have never been able to fathom what role, separate and from DCF, the "People" have in these type of cases. In some counties this presents a bigger challenge than others and creates conflict, when the SA announces that s/he is not in agreement with the Department's position and the AG has to be called in and we have 2 state entities arguing different positions. In my opinion that is a waste of resources and creates further delay to address concerns that are easily raised and handled by the child and/or parents' attorneys who may also be in opposition to the Department's position.
- See also responses to questions #4, 7, 12 and 13.

3. What is the standard you use in deciding custody, placement, and other issues at each stage of the process under Title 33 (including the emergency care hearing, merits hearing, pre-trial hearing, and disposition hearing)?

See Memo from A. Davenport on "The Legal Standards in Child Protection Cases Including Removal of Children, Reunification and Termination of Parental Rights."

4. Are the statutory time periods for each stage of a CHINS proceeding complied with? Why or why not?

- A major factor that causes delay is the difficulty in getting cases scheduled because conflict counsel assigned to represent parents in most cases and occasionally assigned to represent children, cover multiple counties. The delay is particularly true if cases are contested and need a hearing that is longer than half an hour.
- Another reason for not meeting the guidelines is lack of court time. In my experience, the guidelines can be met on the average CHINS case – one that is not contested. However, in contested cases, there is rarely enough court time available, in the short term, to meet the statutory timelines. Our juvenile days are full with the regular docket, exclusive of contested hearings. It is not a matter of simply bumping other cases, because there are many types of cases that are required to be given priority as well as juvenile cases, i.e., RFAs, stalking cases and mental health. We now have a weekly mental health docket which we did not have before Irene. This docket significantly reduces the time available for contested juvenile hearings. Of course, the ideal solution is more judges and more staff (which would produce more court time), but of course that will not happen for the foreseeable future.
- I completely agree that things run smoothly when there are stipulations to merits and disposition. When contested hearing time is needed, we rarely achieve the statutory time frames. I have also found that I am doing more and more contested Temp. Care hearings in a battle between family factions; which, in my opinion, too often hinders reunification particularly in infant cases. When the non-custodial parent is seeking custody it delays the process even more. I have never met the 30 day timeframe to complete that hearing and it is getting more difficult to do so. Even when we have the case set for an hour, the time gets eaten up by other emergency hearings we are setting to comply with the 72 hour time frame. Overall I think it is important to emphasize that the increase in juvenile caseloads, additional statutorily created hearings and time frames in family and other dockets, have greatly increased the need for court time with no increase in resources
- A late filed disposition report filed on the day of the disposition hearing instead of a week before the disposition hearing as required by statute, can cause significant delay. When this happens, the attorneys have a valid reason for requesting that the case be rescheduled so that they have an opportunity to review the report with their client. Rescheduling usually means a month delay.
- In some counties the GALs are overwhelmed. The caseloads have increased dramatically whereas the number of GALs have not. I have that situation in one county and we are organizing an open house in September in an effort to recruit. Also, many of the GALs are employed and only available certain days, which creates difficulties in scheduling lengthier hearings. Others simply don't want to be in court other than one day a week. Summer is particularly challenging with both attorneys and GALs due to vacations. I have had to continue contested cases on a number of occasions due to GAL unavailability. It has happened so frequently of late that I now have the staff emailing all the players to confirm date availability for lengthy contested hearings - not an ideal use of staff time, but in the long run a time saver. The lack of GALs and their lack of availability on certain days also causes delay.
- Another delaying factor is discovery, particularly depositions.

- A problem that I see very often here is the lack of communication between the various parties until the day of the court event. We spend a lot of time waiting as counsel talk with their clients and with other counsel. I have found that many times giving the counsel time to discuss things saves a great deal of time in the long run. But so much of the discussion happens when the Court meter is running - a luxury that is getting harder and harder to afford.
- The large volume of cases here in Windsor has put a strain on available services, be it family time coaching, counseling for children, evaluations, school issues etc. Some of the cases get delayed simply because we can't get answers to the questions, even though everyone agrees what the questions are.
- **See also "Memo re Juvenile Data" from A. Davenport in response to the Committee's specific data requests.**

5. What is the responsibility of each attorney at a hearing? As you well know, there may be multiple attorneys at a hearing, each representing a different party. What is each of these attorney's role, and is having multiple attorneys helpful to you?

6. See Attachment entitled **"Bench Book Juvenile – Ch III - Right to Counsel."** This is an excerpt from a judicial bench book prepared by Judge Walter Morris and currently on line and in use by the judges.

- I do not believe there are too many attorneys, other than the comment above about the participation of the State's Attorney. Each has an important role and is helpful to the process.

7. Should hearings remain closed?

- I would defer to any objective studies on this one, but my feeling is this would be bad for the juveniles whom we are trying to protect and rehabilitate. In 95%+ of the cases, there would be no public interest. However, in the cases where the public/press would be interested, my concern would be "re-traumatizing" the children by having their personal lives printed on the front page of tomorrow's paper. As judges, we are used to having our work open to the public, so it makes no difference to the judge whether a case is open to the public, but is it the right thing for the juvenile? Perhaps it would make poor parents more accountable for their actions, but I doubt it – it doesn't seem to work that way in the Criminal Division.
- I am conflicted about this, for the same reason as others. Working in some of the smaller communities with an aggressive press I worry about the impact on the children. I do believe certain aspects of the process should be more open. In a number of recent contested hearings in which mandated reporters have testified and service providers, all commented at one point or another about their frustration in not receiving any feedback from DCF when their either called in report or reported to their supervisor who did so. In some instances when they learned their report was not accepted for one reason or another they were upset. I think this is an area that should have more transparency.
- The schools belong at the table in many court-filed cases, particularly where there are children with Individual Education Plans (IEPs) or 504 plans (plans to address behavioral issues at school for children who are not learning disabled). It is frustrating to have hearings at which the biggest obstacle to continued progress for a child or family is that the child is unable to attend school or to attend the educational program that is believed to

be best for the child. It is frustrating when children who are struggling with behavioral issues and also have learning disabilities are suspended from school, and therefore are lagging even further. School continuity is a key to long term success for children, and the schools are key partners. I would strongly support allowing much more open sharing about DCF cases with school staff, and voluntary school representation (including early education) in CHINS cases, including at DCF administrative reviews. It may even make sense to mandate that the school send a representative (not necessarily an attorney) to hearings in cases in which the children have IEPs.

- A suggestion for change might be that DCF be permitted to disclose to the public an "open family case" – when there are no family court proceedings pending. Some reasons this might be helpful include:
  - It might help to allay the public concern that DCF is "not doing anything" when in fact there is an ongoing process and plan for assisting a family with chronic needs.
  - It would make it easier for DCF to work with schools and referral agencies, and to include interested people in the treatment/social work team working with a family.
  - It would enable the public to learn about the successes that DCF often has in working with families and keeping children at home without ever having to file a court case.
  - Over time, it may help to remove some of the stigma associated with working with DCF, because families do work with DCF and never have their children removed.

8. Should records remain confidential?

See responses to Question 6 above.

9. What are your thoughts on the custody "hierarchy" in 33 V.S.A. § 5308(b)? Is this a rigid hierarchy that you must follow step by step, or merely a suggested list of whom to consider concerning custody?

- See Memo on Legal Standards
- We are seeing more cases where kids go home on a conditional custody order (CCO). In several of these cases the CCOs have blown up post-disposition and the State has asked for custody on an emergency basis. I take the position that such a request is really a motion to modify the disposition case plan based upon changed circumstances, since no new petition is going to be filed. Therefore, I do not consider these to be temporary care hearings and therefore do not apply the temporary care placement priorities. The statute isn't particularly clear that the custody priorities that apply in a temporary care hearing do not apply in this instance and the argument that they do has been made several times. I take the position that the priorities apply only in a temporary care situation and not in other situations that might look similar to a temporary care hearing (such as the one I described) but aren't actually temporary care hearings. I think more statutory guidance concerning CCOs might be helpful and perhaps clarification on the limitations of the temporary care priorities.

- I am also seeing non-custodial parents arguing that they should be given equal priority in a case plan and we have had several fights over whether the custodial parent should be considered the first option for reunification or whether establishing a priority between custodial and non-custodial parents as far as reunification is even necessary or whether they can simply be made concurrent, at least initially.

10. Are GALs, foster parents, grandparents, medical personnel, educators, and other potential witnesses allowed to attend hearings? Are they allowed to speak, testify, or submit evidence? Why or why not? Should they be?

See Attachment entitled **"Bench Book Juvenile – Ch V Party Status, Right of Presence"** This is an excerpt from a judicial bench book prepared by Judge Walter Morris and currently on line and in use by the judges.

11. Is hearsay admissible (especially hearsay statements by children concerning their abuse or neglect)? Do you customarily allow it? Why or why not?

See Memo from A. Davenport on "The Legal Standards in Child Protection Cases Including Removal of Children, Reunification and Termination of Parental Rights"

12. Would you recommend changing, improving, or streamlining the CHINS proceedings in any manner?

- I think we need to consider ways to streamline the process. I think one way would be to allow reliable hearsay to be admitted at merits hearings. Why admit it at TCH's and TPR's, but not at merits? That should reduce the number of witnesses who would have to testify, and the difficulty of scheduling around them. There is often a long history of DCF involvement in these cases, and it would make for a more streamlined procedure if the earlier reports, case notes, etc. could be introduced as reliable hearsay.
- Should we consider limiting discovery, like we do in misdemeanor cases? Of course the objection will be that we need to fully protect the rights of the parents. That is a valid argument. This, then presents a policy argument over which is more important – moving quickly to disposition for the sake of the child, or having a slower process to fully protect the rights of parents.
- We should allow "open adoptions" in CHINS cases (i.e. permitting enforceable agreements on parent child contact post TPR – even if it is just the right to send a postcard once a year) as they do in other states. In states that allow such agreements, contested TPRs are extremely rare. A reduction in the number of contested TPRs would free up a significant amount of judge which could then be allocated to the incoming cases.
- I agree Open Adoptions would cut down on some of the contested TPRs, particularly with older children. I do think there would have to be an ability to limit the contact to some degree and not create a system such as we have with permanent guardianship where the parents can file any number of modifications.

- It is time to separate the representation of children from the representation of parents. It is a conflict for the Defender General's Office to be in charge of assigning attorneys to both sets of parties particularly since their interests can be quite different. Other states have a separate Office devoted to the legal representation of children. This is a model that Vermont should consider. Such an office would attract attorneys who are specifically interested in specializing in the representation of children. Currently, parents and children in CHINS cases are often represented by attorneys who would prefer to be representing defendants in the criminal division.

13. What training do you receive on Vermont's specific statutory framework, applicable time periods, and standards? What other training do you receive concerning child abuse and neglect cases? Is it sufficient?

- See Memo to A. Davenport from Bonnie Finn on Judicial Education Programs related to juvenile proceedings attended by Vermont Judge between 2008 and 2014

14. Is there anything else you believe the Committee should know?

- See Memo from A. Davenport entitled "Memo to Leg Committee re K.B." This memo is in response to a case scenario that the Attorney General shared with the Committee and discusses some of the issues faced by judges in cases involving opiate addicted parents.

The Legal Standards in Child Protection Cases Including
Removal of Children, Reunification and Termination of Parental Rights

Constitutional Considerations:

Any discussion of the legal standards for custody decisions in child protection cases must always be examined within the framework of the protections imbedded in the U.S. Constitution related to the rights of parents to raise their children without interference from the State. The Unites States Supreme Court recognized the right to raise one's children as an essential constitutional right as far back as 1923. See: Meyer v. Nebraska, 262 U. S. 390, 262 U. S. 399 (1923). As the Supreme Court stated in 1944:

> "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."

Prince v. Massachusetts, 321 U. S. 158, 321 U. S. 166 (1944). See also: Stanley v. Illinois
405 U.S. 645 (1972)

The Vermont Supreme Court has frequently applied this fundamental constitutional protection when deciding appeals in cases involving the removal of a child from a parent's custody or the termination of parental rights. See, for example: In re: N.H. , 135 Vt. 230, 236 (1977) (recognizing that "the freedom of children and parents to related to one another in the context of family, free of governmental interference, is a basic liberty long established in our constitutional law). This fundamental constitutional protection provides a subtext for the legal analysis at every stage of the proceedings.

Stage 1: Initial Emergency Removal under an Emergency Care Order

The initial removal of a child from the custody of a parent usually (but not always) takes place as a result of an emergency *ex parte* request from DCF and the State's Attorney to a judge. The judge's decision at this stage is based on affidavit from the social worker and/or a law enforcement officer. In making the determination as to whether to grant the request, the judge assumes the facts alleged in the affidavit are true and determines whether the facts are sufficient to demonstrate that "remaining in the home is contrary to the child's welfare." 32 V.S.A. §5305(a). As discussed below, this is not simply a matter of finding that removal is in the child's "best interests" because the child would be "better off" in someone else's custody, but

rather whether remaining in the parent's custody places the child at substantial risk of harm. See 33 V.S.A. 5308(a).

Stage 2: Removal under a Temporary Care Order

The temporary care hearing must take place within 72 hours of the removal**.** All parties including both parents receive notice of the hearing and are provided with representation. An attorney for the child and a guardian ad litem are also appointed. The legal standard at this hearing is similar to the standard at the time of the emergency removal: the child must be returned home unless the court finds that a return home would be "contrary to the welfare of the child." 33 V.S.A. §5308(a). §5308(a) defines the term "contrary to the welfare of the child" by listing specific facts that must exist in order for that finding to be made:

(1) A return of legal custody could result in substantial danger to the physical health, mental health, welfare, or safety of the child.

(2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.

(3) The child or another child residing in the same household is at substantial risk of physical or sexual abuse by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.

(4) The custodial parent, guardian, or guardian has abandoned the child.

(5) The child or another child in the same household has been neglected and there is substantial risk of harm to the child who is the subject of the petition.

In addition, the court must find either that DCF has made reasonable efforts to prevent the removal of the child or that such efforts were not possible due to emergency circumstances. The "contrary to the welfare" finding and the reasonable efforts finding are required by the federal government as a condition of federal IV-E funding for Vermont's foster care system.

If the Court finds that returning home is "contrary to the child's welfare," the court must issue a temporary custody order. 33 V.S.A. §5308(b)(2)(C) requires that the Court consider custody options in a preferential order as follows:

1) Return of custody to a custodial parent or parents under a conditional custody order known as a CCO;
2) Transfer of custody to a non-custodial parent;
3) Transfer of custody to close relative;
4) Transfer of custody to a more distant relative or a person with a significant relationship to the child;
5) Transfer of custody to DCF.

Most, if not all, judges apply the preferential order only if the issue of custody is contested. If the parties agree to transfer custody to DCF, for example, most judges would not second guess that agreement by requiring an explanation as to why the other custody options were rejected.

It the temporary care hearing is contested, the standard of proof on the issue of custody is a preponderance of the evidence. Reliable hearsay may be admitted in the discretion of the court.

Stage 3: Merits

The issue at merits is whether the State can meet its burden to establish by a preponderance of the evidence that the child is a child in need of care and supervision or CHINS. The definition of a child who is CHINS is found at 33 V.S.A. §5101(3) and can be summarized as follows:

A. A child who has been abandoned or abused by the child's parent, guardian or custodian.
B. A child who is without proper parental care or subsistence, education, medical or other care necessary for his or her well-being;
C. A child who is without or beyond the control of his or her parent, guardian or custodian.
D. A child who is habitually and without justification truant from compulsory school attendance.

If the Court does not find that the child met one of these definitions at the time the petition was filed, the Court must dismiss the petition and return custody to the custodial parent(s). If, on the other hand, the Court finds that the State has established that the child is CHINS, the Court will then proceed to determine the child's best interests with respect to custody at a disposition hearing. It is possible for the court to address issues that have arisen regarding custody at the merits hearings, but to the degree the court changes the current situation with respect to custody, this would be viewed as a modification of the Temporary Care Order pending the disposition hearing and not part of what the Court is required to adjudicate at merits.

When a case involves substance abuse by the custodial parent(s), the CHINS finding can be particularly challenging where there is evidence that the parent is an addict, but no evidence of neglect or specific harm to the child. Two recent Vermont Supreme Court cases illustrate this point. See In re: L.M., 2014 VT 17 (Feb., 2014) and In re: B.R., 2014 VT 37 (April, 2014).

As mentioned above, the burden of proof at merits is a preponderance of the evidence, a standard which "balances the State's interest in 'ensuring the safety and welfare of the child' with the parents' interest in 'maintaining family integrity.'" In re: B.R., 2014 VT 37, at ¶ 13. Hearsay is not admissible.

Stage 4: Disposition

Assuming the petition has been determined to have merit, the court must again return to the issue of custody at the Disposition hearing. Here the court does get to use a "best interest of the child" standard in determining custody 33 V.S.A. §5318(a). In addition, if the court decides

to transfer custody to someone other than the custodial parent, the Supreme Court has held that there must also be a finding that the custodial parent is "unfit." See: E.J.R. v. Young , 162 Vt. 219, 225 (1994); In re C.A. , 160 Vt. 503, 505 (1993). More recent cases have substituted the phrase "demonstrably incapable of providing care for the child" consistent with the child's needs and the requirements of the case plan. See In re D.C. , 2012 VT 108 (12/21/12). The imposition of a required finding of parental unfitness or demonstrated incapacity to provide care for the child is a direct reflection of the constitutional protections discussed above. See Santosky v. Kramer, 455 U.S. 745, 755 (1982).

As part of disposition, the Court must also set a permanency goal for the case plan if the child is placed with DCF or with a person other than the custodial parent and an estimated date for achieving that goal. The goal can be: reunification with the parent or guardian; adoption; permanent guardianship or other permanent placement. The plan can also identify a second concurrent permanency goal. See 33 V.S.A. §5318(b).

Findings at disposition must be made by a preponderance of the evidence. Reliable hearsay is admissible.

Stage 4: Reunification Decision

If custody is transferred at disposition to someone other than the parent, a decision on whether to reunify the child with the parent can be made in response to a motion to modify the disposition order or at a post-disposition review hearing or at permanency hearing which is usually held at the twelve month mark. There is a two part test for a request to modify a disposition order: First the moving party must show that there has been a change in circumstances since the disposition order; and second, the moving party must show that the change in circumstances requires a change in the "best interests of the child." See 33 V.S.A. §5113(b).

For the purposes of a modification of the disposition order, "best interests of the child" includes the following considerations:

(1) The interaction and interrelationship of the child with his or her parents, siblings, foster parents, if any, and any other person who may significantly affect the child's best interests.

(2) The child's adjustment to his or her home, school, and community.

(3) The likelihood that the parent will be able to resume or assume parental duties within a reasonable period of time.

(4) Whether the parent has played and continues to play a constructive role, including personal contact and demonstrated emotional support and affection, in the child's welfare."

See 33 V.S.A.§5114(a).

When the issue is reunification, the Court must also consider "whether the parent is capable of playing a constructive role, including demonstrating emotional support and affection, in the child's welfare." See 33 V.S.A.§5114(b).

Findings must be made by a preponderance of the evidence. Reliable hearsay is admissible.

Stage 5: Termination of Parental Rights to permit Adoption of the Child

The best interests of the child definition in 33 V.S.A. §5114(a) cited above, is also used when the court is deciding a motion to terminate parental rights because the permanency goal is adoption. Again, there is two part test similar to the test for any modification. First, there must be a change in circumstances since disposition. Failure to follow the requirements of a case plan, failure to make substantial progress, or failure to consistently visit the child are all typical examples of circumstances that could support a change in circumstance.

Second, the court must determine whether termination is in the best interests of the child by considering the four factors in §5114(a) cited above. Numerous Vermont Supreme Court decisions have held that the most critical of these four factors is the third one: the likelihood that the parent will be able to resume or assume parental duties within a reasonable period of time. Stagnation on the part of the parent in improving his/her ability to parent is one of the most frequent reasons for termination.

A significant difference between the termination decision and the court's other decisions in these cases is that the court must make findings of fact to support its decision by clear and convincing evidence as opposed to the usual preponderance of the evidence standard. Reliable hearsay is admissible.

LEGISLATIVE CHILD PROTECTION COMMITTEE

SEPTEMBER 2, 2014

QUESTION # 5: What is the responsibility of each attorney at a hearing? As you well know, there may be multiple attorneys at a hearing each representing a different party. What is each of these attorney's role, and is having multiple attorneys helpful to you?

JUVENILE PROCEEDINGS BENCH BOOK

Chapter 3: The Right to Counsel in Juvenile Proceedings

1. Counsel for Children, CHINS and Delinquency

Appointment of counsel is required for all children in CHINS and Delinquency proceedings. **33 V.S.A. § 5112(a); V.R.F.P. 6(b).**

2. Counsel For Parents

Indigent parents have a statutory right to appointment of counsel in all CHINS proceedings and in Delinquency proceedings as to disposition when the disposition recommendation calls for DCF custody. The statutory right derives from the court's determination that the "interests of justice" so require. **13 V.S.A. § 5232(3)** (Public Defender Act).[1] Parents are not entitled to appointment of counsel in Delinquency cases in normal course. Counsel is assigned after review of the parent's completed financial affidavit, **Form 358J.** A co-payment may be required of the parent, or court-appointed counsel may be denied if income and assets exceed established guidelines. See, **13 V.S.A. § 5236; Administrative Order No. 32, § 4.** In that event, a date should be set for the parent's hiring of counsel or election to self-represent.[2] Denial of a request for assignment of counsel may be appealed to an assigned justice of the Supreme Court.

[1] Parents are routinely assigned counsel in CHINS cases, usually attorneys under contract with the Defender General for that purpose. But see, *In re: G.F., G.F., and J.F.,* 181 Vt. 593, 598-599 (2007), construing the Court's discretion to deny appointment of counsel under the "interest of justice" standard to late-appearing father post-disposition against claim of error after TPR proceedings in which father was represented by counsel.
[2] This is commonly called an "Attorney or Appear" hearing. In the juvenile docket, it may be noticed as one of many events to occur during a preliminary hearing, or status conference.

The importance of the early appointment of counsel cannot be overstated, especially in CHINS cases. The Clerk of Court and juvenile docket staff should have a protocol and established practice for calling upon contract assigned counsel, as well as qualified *ad hoc* counsel in normal course to attend temporary care hearings and preliminary hearings, and provide both client and attorney information to enable them at the earliest possible time, even if that is in anticipation of assignment by the court. The parties and the court will be better served, all around, if counsel is prepared to participate in the temporary care hearing. If counsel has not received adequate initial notice to prepare fully for the temporary care hearing, they may consider reconvening the temporary care hearing in the course of the following week, or sooner if practicable, to enable such informed participation.[3]

3. Advisements and Waivers of Counsel

Both custodial and non-custodial parents must be notified in writing of their right to counsel at time of service of an emergency care order, as a component of the notice of the temporary care hearing. **33 V.S.A. § 5306.** The court has an independent obligation to provide notice to counsel and guardian ad litem for the child, and counsel for each parent, either court-appointed, or retained counsel who has entered an appearance. As a practical matter, the Clerk of Court will notify the Public Defender and counsel under contract with the Defender General of the need for their attendance to provide representation to all parties for whom assignment is anticipated.

In contrast to criminal cases, where there is a specific Sixth Amendment or Article 10 right to assistance of counsel at trial, in CHINS cases, the right to counsel is a function of Due Process, as noted in the statute which authorizes appointment of counsel "as the court deems the interests of justice require." **13 V.S.A. § 5232(3).** Counsel for all parties, especially parents, is highly advisable. Even so, parents do at times decline counsel and insist on self-representation.

There is no constitutionally required formulary for colloquy and finding in the event that a parent wishes to waive counsel and represent themselves in juvenile court. Depending upon the case, it may be that a parent is of the view that counsel for the child and the state can do an adequate job of presenting their point of view; the parent may feel, based upon past experience, that they have a trusting relationship with DCF; the parent may wish to avoid responsibility for co-payment if they are assigned counsel. The parent may see CHINS proceedings as a standard court case, and be unaware of the complexities of case planning and services, timelines, and important consequences of the different stages of the case.

[3] See discussion of The Temporary Care hearing, *infra,* and Edwards, Judge Leonard, "*Representation of Parents and Children in Abuse and Neglect Cases: The Importance of Early Appointment*", 63 Juvenile and Family Court Journal No. 2, p. 21 (Spring 2012).

Apart from the difficulties that a non-lawyer parent will encounter in attempting to negotiate the system, secure discovery and witnesses, and effectively be heard, responding to allegations of abuse, especially sexual or severe physical abuse, presents real issues as to incrimination and immunity that the lay person cannot fully understand and address. In colloquy with a parent seeking to proceed without counsel, the court should impress these difficulties upon the parent, encouraging the parent to make application for and be represented by counsel.

By all means the court should encourage parents to proceed with assistance of counsel. If a parent is determined to proceed without counsel, a meaningful colloquy must be conducted by the court. After colloquy, a finding should be made as to the parent's knowing and voluntary election. Among advisements, a parent should be cautioned that a later change of mind may, or may not permit them to secure counsel, given the critical importance of timely hearings in juvenile cases and reluctance in granting continuances of important hearings.

❖ BEST PRACTICES: Colloquy, Findings for Parents Waiving Counsel in Juvenile Cases

- Parent, please do not take these questions the wrong way; I need to find out that you understand that you have the right to a lawyer, but want to go without one, and that this is your own free choice. I also need to know that this is a choice made by you, with you understand your rights and the consequences of going without a lawyer.

- How far did you go in your education or schooling?

- Can you read and write without any trouble at all?

- Do you have any conditions, mental or physical that would hurt your ability to do the work and represent yourself?

- Do you feel that you have the basic ability to look out for yourself, ask questions, arrange for people to come in as witnesses, and to state your own case here before the court?
- Not being a lawyer yourself, you may miss things in the case that a lawyer might know about or find to help you with, and you may be totally unaware of those things. This might mean that the case could go against you, just because you

don't know these things. Understanding that, do you still want to go without a lawyer?

- Do you understand that the judge can't provide you with legal advice or step in as a lawyer would to help you out?

- If you go without a lawyer and things don't go as you might expect, you can't come back later and have the court take back its decision just because you didn't have a lawyer; do you understand that?

- Do you still want to go without a lawyer, or can I persuade you to have a lawyer be appointed for you?

Court's finding (on record): Parent has made knowing, voluntary waiver of right to counsel.

4. Parents Who Elect Self-Representation

As noted, there may be a number of reasons for a parent's election to proceed without counsel. Among these may be a desire to personally confront their accusers without the intermediation of a lawyer. Contested juvenile proceedings with self representing parents may be extremely difficult for all involved, not least the self representing parent. Or, the process may unfortunately turn out to be simple, due to failure of the adversary process altogether, given a parent's lack of knowledge and inability to present a case at all. In cases with self representing parents, the court must regularly describe the purpose of a given hearing, and explain clearly the next steps or stages in the case, their purpose, and the work that all parties will be expected to do to get ready for each stage. If there are complex issues that may affect a parent's interests, such as protective orders limiting depositions of child victims, or circumstances of child witness cross exam, or the State's Attorney's intention to introduce child hearsay under V.R.E. 804a, or "other acts" evidence under **V.R.E. 404(b)**, the court should make early inquiry about these, and explain the determinations that the court will have to make, so that the self-representing parent (and all parties) will have ample time to prepare, or seek advice.

While the court can accord no favor in consequence of self representation, fair process requires an extra measure of basic explanation of processes in an attempt to assure that there is not outright failure of adversary process because of self representation.

5. The Right to Counsel in Permanency Review Proceedings

Permanency review hearings are held at least each year throughout the minority of a child in custody. In some cases, DCF will no longer be actively involved, and the person(s) with reporting responsibility may be lay individuals who have served as guardians of the child. Or, the child may remain in custody post-TPR because of special care needs or challenges, or an unsuccessful adoption. What participants in permanency review are entitled to appointment of counsel? The Right to Counsel is derived in these cases again from the Public Defender statute. If a participant is such as to be fairly and reasonably recognized as a party, pursuant to **33 V.S.A. § 5102(22)**, they have a right to the appointment of counsel, if indigent. If the party is a lay guardian experiencing issues such as a lack of essential services for the child, or access to necessary physical or mental health care, or problems presenting potential conflicts with the interests of the child, appointment of counsel may be the only means to assure just permanency review.

6. Appointment of Counsel—Forms and Guidelines

- **RESOURCES: Public Defender Services Application and Payment**
  - **Form 358J: Application for Public Defender Services – Juvenile**
  - **Administrative Order No. 4 Rules Governing the Assignment of Counsel and Payment Therefor by the Defender General**
  -

- **BEST PRACTICES: Appointment/Waiver of Counsel: Issues and Practical Solutions Checklist**

  - Clerk provides Form 358J (Request to Assign Counsel) upon parent's arrival at court. It is completed and acted upon before TCH starts.

  - If not already addressed, the court speaks to the assignment of counsel at the outset of TCH. If 358 is not completed, parent is asked to do so before leaving court. Same process applies for a parent who first appears later in the case.

  - If parent seeks to decline counsel, colloquy should stress in practical terms, the difficulties that might be experienced, and that damage can't simply be "undone" by later asking for lawyer.

  - If preliminary hearing or status conference is later held, court returns to subject of assignment of counsel, so that parent may reconsider decision.

  - Where self-representation proceeds, clear explanation of hearings ahead and their purpose; what the parties will be expected to do to prepare; decisions the court will have to make and the legal standards that guide the decisions.

7. Is There a Right to Effective Assistance of Counsel in Juvenile Proceedings?

In CHINS proceedings, there is no Sixth Amendment right to effective assistance of counsel. The Right to Counsel is a function of statute, and not constitution. Even so, are parties entitled to the effective assistance of counsel in juvenile cases? What standards apply, and what recourse lies in the event that counsel has been ineffective? Our Supreme Court has not definitely answered these questions, but a long series of decisions provides indication as to the standards that apply in a judge's consideration of claims for relief where a party asserts that their counsel was ineffective.

In *delinquency* cases, it is clear that a Sixth Amendment right to effective assistance of counsel applies, and the standards for assessment and remedies are as provided in *Strickland v. Washington,* 466 U.S. 668 (1984). See, *In re: J.B.,* 159 Vt. 321, 325-27 (1992).[4] *Strickland* requires a showing that (1) counsel's conduct fell short of the prevailing standard of a reasonably competent attorney; and (2) that counsel's incompetence was sufficiently prejudicial to create a "reasonable probability" of a different case outcome. *Strickland,* at 694.

If the court determines in the first instance that insufficient prejudice in consequence of counsel's shortcomings has been shown, in terms of probability of a different case outcome, it is not necessary to examine whether the conduct fell short of prevailing standards of competency. *Id.,* at 697.

The Court has "…not definitively resolved whether ineffective assistance of counsel may be raised in a civil termination (TPR) proceeding…", see, *In re: M.B.,* No. 2011-347 (Jan. 26, 2012), although it has repeatedly cited the *Strickland* standards in a number of cases holding that since the appellants had failed to establish prejudice, "…the court need not determine whether, and under what circumstances, a party may claim ineffective assistance of counsel in a termination proceeding". See, *In re: S.W.,* 183 Vt. 610, 612 (2008) (citing *In re: A.D.T.,* 174 Vt. 369, 374-75 (2002)**.** Also, *In re: M.B.,* 162 Vt. 229, 236-37 (1994)**;** *In re: A.H.,* No. 2010-093 (6/16/2010)(Unpub.mem.); *In re: B.K.,* Nos. 2008-271, 2008-414 (4/9/2009)(Unpub.mem.); *In re: T.M.,* No. 2005-215 (9/2005) (Unpub.mem.)**;** and *In re: A.L.,* No. 2001-450 (1/2002)(Unpub.mem.)**.**

[4] In *In re: J.B.***,** *supra.*, while acknowledging the applicability of *Strickland,* the Court held that there had been a failure of advocacy altogether, warranting reversal of the adjudication, consistent with *U.S. v. Cronic*, 466 U.S. 648,659 (1984).

Most recently, in *In re: K.F.,* 2013 VT 39 (6/7/13), the Court again deferred decision as to the core issue of whether ineffective assistance of counsel may be raised in a TPR proceeding, holding that even if the appellant father's contentions as to the quality of his representation were cognizable, he had failed to establish the *Strickland* standards (either deficient performance of counsel, or incompetence sufficiently prejudicial to be outcome-determinative in the case). A fundamental consideration for the Court in *K.F.* was what procedures would apply for addressing such claims of ineffective assistance, even if a statutory or constitutional right to challenge effectiveness of counsel were cognizable. The Court noted that many jurisdictions allow or require parents to raise such claims on direct appeal, with possibility of remand to develop an evidentiary record on the issue as necessary, and that in other jurisdictions, the remedy is in the form of post-judgment motions.[5]

Some cases from other jurisdictions: *David S. v. Shute,* 270 P.3d. 767 (Alaska 2012)**;** *In re: R.G.B.,* 229 P.3d 1066 (Haw. 2010)**;** and *Brice v. Denton,* 135 S.W.3d 139 (Tex.App. 2004).

Because in juvenile cases, there is no proceeding analogous to the petition for post conviction relief (PCR) in criminal cases, in the absence of a statute or rule providing otherwise, the issue of ineffectiveness of counsel will likely be presented in the juvenile docket in a motion for new trial, or on a motion for relief from judgment following either the disposition decision, or after a decision terminating parental rights.[6]

- **RESOURCE: Trial Court Decision**
  - **in In re: S.B., C.B., M.B.,** *Docket Nos. 58/59/60-5-10 Wrjv* **(4/16/2012) (Denying Motion for New Trial based upon claim of ineffective assistance of counsel)]**

[5] See, *In re: K.F., supra.* slip op. at 8, fn. 2, citing *N.J. Div. of Youth & Family Servs. V. B.R.,* 929 A.2d 1034, 1040 (N.J. 2007), and *Ex parte E.D.,* 777 So.2d 113, 116 (Ala.2000).

[6] See, 33 V.S.A. § 5113; V.R.C.P. 59 (New Trial) and 60(b) (Relief from Judgment) are both applicable in CHINS proceedings. See V.R.F.P. 2(a). As to motions to discharge counsel for ineffectiveness in a pending proceeding, the Court notes in *K.F.* that ineffectiveness claims cannot ordinarily be addressed without reference to a developed record, *Id. citing State v. Davignon,* 152 Vt. 209, 222 (1989). In *K.F.*, the Court made specific findings as to the claims of ineffective assistance in its TPR decision. *Id., slip op. ¶20.* This may not be possible in all cases, but advisable if it can be done. The Court in *K.F.* referred the question of the procedural means for assertion of ineffective assistance of counsel claims, if one is recognized, to the Advisory Committee on Rules of Family Procedure for consideration of "a rule that best ensures finality and timely resolution of TPR claims consistent with parents' legal rights". *Id,* at 8. In concurrence, Justices Dooley and Burgess express concern as to whether there is a way to determine whether assistance of counsel is ineffective in a timely way that is consistent with the permanency needs of the child should TPR be upheld.

8. Conflicts of Interest of Assigned Counsel in CHINS Cases

Certainly, the rules of Professional Conduct with respect to conflicts of interest are applicable to representation in CHINS proceedings.[7] But can a parent insist on withdrawal of assigned counsel who has served, or is serving as a foster parent, or who is an adoptive parent of a child formerly in DCF custody?

A lawyer who had adopted a child that had been in DCF custody, the adoption being five years before her representation of father in a TPR proceeding, who had no current personal or professional connection to DCF, and had not represented DCF in the past, had no operative conflict that would prohibit her representation of father. See, *In re: K.F.,* supra. ¶¶ 18-20.

Similarly, a judge who was an adoptive parent was not disqualified from deciding whether adoptees were entitled to disclosure of adoption information: "[w]e do not believe that personal and family circumstances are appropriate considerations on which to presume bias or partiality". *Id.* ¶ 19 **(citing** *In re Margaret Susan P.,* 169 Vt. 252, 256-57 (1999).

[7] See, Vermont Rules of Professional Conduct, 1.7-1.10. The lawyer must avoid concurrent conflicts of interest, including not representing a client when there is a "significant risk" that the representation is "materially limited…by a personal interest of the lawyer." See, *In re: K.F.*, ***supra.*** **¶ 18** (citing V.R.Pr.C. 1.7(a)(2)).

Chapter 5: Party Status and Right of Presence in Juvenile Cases

9. Party Status and Presence Generally

Who are "parties"? **33 V.S.A. § 5102(22)** defines "party" as including: the child; custodial parent, guardian, or custodian of the child in all instances except a hearing on the merits of a delinquency petition; the non-custodial parent for purposes of custody, visitation, and such other issues which the court may determine are proper and necessary to the proceedings provided that the non-custodial parent has entered an appearance; State's Attorney; DCF; and "such other persons as appear to the court to be proper and necessary to the proceedings". Thus, the court has considerable discretion to grant party status to persons other than those specified.

A. In exercising this discretion, it is critical to consider the following factors:

1) Is granting party status, as opposed to a right of presence, actually both proper and necessary?
2) Is the proposed party uniquely situated to provide a case perspective, or to engage in advocacy, that is not already available through another party's participation?
3) Can another party be reasonably relied upon to articulate the positions and produce evidence that is the subject of the proposed party's interest?
4) What impact will granting party status have upon the fair and orderly conduct of proceedings?
5) Will granting party status serve to inhibit, or facilitate, another party's just participation in the case?
6) Does the proposed party actually seek to advance a personal interest in the case apart from the best interests of the child and fair implementation of case plan goals?
7) Is the proposed party likely to be a witness for whom sequestration from at least some part of the proceeding would or should be required under V.R.E. 615?
8) Will limited party status (ex., as to disposition only; or upon permanency review) suffice?

9) Remember that granting of party status will mean the rights of the party to discovery and access to records; to cross examine witnesses; to present independent evidence; to assignment of counsel; and to appeal the decision(s) of the court.

10. Who Can Be Present in the Courtroom, Even Though They are Not "Parties"?

The judge certainly has authority and discretion under **33 V.S.A. § 5110(b)** to permit others whose presence would be helpful and appropriate to be present in the courtroom, even though they are not parties, and to exclude all others. Primary examples of such persons would include close family members, such as grandparents, aunt(s), uncle(s), adult siblings, foster parents, therapists, staff of residential programs, and the like. But the judge is not required to permit these others to be present, and certainly, disruptive presence provides immediate cause for exclusion from the courtroom. Issues as to right of presence are best sorted out at the earliest stage of the case, and expectations established then. If a person will be permitted presence at certain stages of the case, and not others (ex. disposition vs. merits), that should be clearly established then. If continued presence will have to be determined from stage to stage of the case, then that should be clarified as well. This practice will avoid misunderstandings later in the case, should the need arise to exclude those who have been permitted presence. And of course, the court should remind all those permitted presence that any disruption, by reason of statements or conduct, may provide cause for exclusion from the courtroom.

In all instances of presence, whether by an expressly designated party, or another permitted in the court's discretion, the proceedings remain confidential. **33 V.S.A. § 5110(a)**. It is helpful, upon discretionary granting either of party status or a right of presence, to remind the individual(s) of this obligation of privacy, and of contempt proceedings if there is any information about the case publicized to another by the person permitted presence. **33 V.S.A. § 5110(c).** The court has long held that there is no public, 1st Amendment right of presence in juvenile cases sufficient to override the compelling interests served by juvenile proceedings, reinforcing the conclusion that a right of presence for persons other than parties is purely committed to the court's discretion. See, *In re: J.S.*, 140 Vt. 458 (1981).

11. Granting Party Status to Persons Other Than Parents, Legal Guardian or Legal Custodian (ex. Proposed Relative Caregiver; or Other Person with Significant Relationship with Child): Other Considerations

While the court certainly has authority to do so at any point in the case, the granting of party status is usually best reserved for purposes of the disposition phase of the case. Even if a temporary care order provides for kinship or other person placement from the outset, the court usually has other means to assure the input of a key temporary care giver without the need for party status (granting a right of presence; inquiry of the caregiver in court as to child's status and needs; advisement to care giver that they may communicate with the GAL and counsel as to key witnesses, needs of the child; and resources that should be pursued). If it does appear as the case evolves that the care giver has a

significant role to play in the interests of the child, the court can always introduce the issue of party status, secure the views of other parties and provide a timely decision. In some instances where kin are providing temporary care, frictions may develop with the parents, and there may be allegations that kin are seeking to sabotage reunification plans. In determining whether to grant party status, consideration should be given to this dynamic, which can better be assessed as the case has progressed, parent child contact, and services are being engaged.

Requests for provision of party status to **step parents** can present particular difficulty, depending upon the nature of the parenting relationship with the child, and whether party status will be constructive or adverse to fair conduct of the proceeding. A father of one or more of the cases remains a matter committed to the Court's discretion. See, *In re: J.M.,* 170 Vt. 611, 611-13 (2000) (rejecting step father's claim that he must be accorded party status in that he was child's de facto parent, standing in loco parentis.)

V.R.F.P. 2(f)(1) provides that when the court determines that a person is a proper and necessary party per **§ 5102(22)(F)**, the court may place limits on that person's participation and may condition participation upon prompt compliance with such discovery as the court specifies.

12. Addressing Difficult Issues with Right of Presence of Person Not a Party

The basis for exclusion of persons requesting presence must be clearly communicated, as with all exercises of discretion. Establish a policy, to be implemented by the court officer, of initial ***exclusion*** of persons requesting presence until the request is decided by the court (excepting those who are clearly parties; and if it is your policy, foster parents, therapists, residential placement staff, etc.).

If there is a request to be present, the court officer should make that known to the judge. Discuss the request on the record with the parties; determine their views. If there is a need to gain further information prior to granting presence, the person may be asked to enter the courtroom to respond.

The decision on granting, denying, or limited presence is then given before any other proceeding in the case. The court may choose to directly address the person requesting presence in the courtroom, or to have the decision be communicated by the court officer, or an attorney for an appropriate party. Some exclusions are quite clear (ex. alleged cohabitant perpetrator in sexual abuse case); others are not

(large numbers of family members/friends who wish to be present in support of one "side" or another; or, an attending neighbor who could perhaps serve as a placement alternative; or, an employer present to provide "moral support"). If some, but not all family members are to be admitted, the particular reasons for this should be stated, in order to avoid an appearance of bias. The numbers of those present should never be permitted to have an "intimidation" factor. Juvenile proceedings are confidential, and not public. For this reason, **§ 5110(b)** excludes the general public and restricts presence to "only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as are found to have a proper interests in the case or the work of the court." The inquiry is not "Is there any reason why this person should be excluded?" But "What are the reasons which would reasonably dictate that this person be present in this confidential proceeding?" The greater the number of persons in the proceeding who are not expressly designated parties, the greater the difficulty in maintaining confidentiality.

- **RESOURCES: Sample Trial Court decisions on party status and presence:**
    - ***In re: K.L.P.*, Docket No. 67-12-08 Osjv (12/8/09)**
    - ***In re: K.V. and D.V.*, *Docket Nos. 50/51-10-08 Osjv* (12/8/08)**

13. Are Parties Required to be Present at All Proceedings?

The statutes and rules are reasonably construed to presume attendance of all parties at all proceedings. Since CHINS proceedings (as opposed to delinquency) are considered civil in nature, a party may seek to waive presence, either for a particular hearing, or part of hearing, or altogether. Apart from scheduling unavailability, a parent (or a child) may find presence in the courtroom during certain testimony or argument to be distressing.

For a child, presence in court during a particular phase of the case may actually be traumatic. And generally, the court has discretion to excuse a child or another party from presence in court for good cause shown.

At the Temporary Care Hearing, the custodial parent, guardian or custodian is required to be present, unless they cannot be located or fail to appear in response to notice. Children under 10 years old need not appear, provided their presence is waived by counsel. Children 10 years old and older may be excused for good cause shown. A non-custodial parent and counsel have a right of presence at the Temporary Care Hearing, but the hearing need not be delayed if the non custodial parent cannot be located. **33 V.S.A. § 5307(c).**

At Pre-Trial Hearing: **V.R.F.P. 2(e)(2)** provides that all parties shall attend each pretrial hearing, unless otherwise ordered by the court. A judicial summons, followed by a pick-up order or warrant, may be issued upon failure of a parent, guardian or custodian's failure to appear at a preliminary hearing. The summons may direct a parent to appear in court with the child. **33 V.S.A. § 5312.** The latter provisions are primarily addressed to those cases in which the child is not in DCF custody, but with parent, guardian or custodian.

The statutes and rules do not make express provision for presence or absence of parties from the merits, disposition, or permanency review phases in CHINS cases.[8]

In all instances in which a party seeks to absent themselves from a proceeding, a detailed record should be made of the circumstances. If a party fails to appear, counsel should be asked what notice has been provided. If a party is present and seeks to leave, record of the reasons for absence, and the party's understanding of the consequences of absence, needs to be made. Waiver cannot be presumed from silence, just as failure to appear after notice cannot serve to delay juvenile proceedings. Clearly, presence is presumed, and waiver of appearance, certainly from key phases of the case, should be the extraordinary, necessary, and a well documented exception. Unexplained absence after due notice from merits or disposition hearings may present real concerns for finality of the decisions given. The DCF social worker may have the most current information as to a parent's whereabouts, and will know the location of the child.

14. "Standing" in CHINS Cases

The issue of standing in CHINS cases is addressed in several subsections of the statutes. The nexus to party status, other than for children, parents or legal custodians and the "official" participants, is whether the person appears to the court in its discretion to be both "proper and necessary" to the proceedings. Party status is thus not accorded simply because the person would be helpful, or contribute in some way to calming or reassuring parties or helping resolve an issue. "Necessary" is the term employed. **33 V.S.A. § 5102(22)(F).**

Apart from discretionary party status, the statutes limit standing of parties depending upon the phase, or the nature of the proceeding. In a delinquency case, the party is the juvenile, not the parent, and parents have no party status as to the hearing on the merits of the delinquency petition. **33 V.S.A. § 5102(22)(B).**

[8] However, former **§ 5523(c)** provided that "If the court finds that it is in the best interests and welfare of the child, his presence may be temporarily excluded, except while a charge of his delinquency is being heard at the hearing on the petition." This provision was apparently deleted upon enactment of **§ 5110**.

In CHINS proceedings, the non-custodial parent does not have party status as to the merits of the petition, although upon appearance in the case, they have party status on issues of custody, visitation, and other issues determined by the court to be proper and necessary to the proceedings. **33 V.S.A. § 5102(22)(C).**[9]

❖ BEST PRACTICES: Party Status and Right of Presence

- Meet with your Court Officer (if you haven't already done so) before the schedule begins to discuss the distinction between those who have a right to be present and those who may be admitted with court permission. The Court Officer should then inform the judge before calling the case if there are people who request permission to be present, so that the parties can be heard about that and the issue decided before the case is subject to general discussion.
- If the judge has a policy as to presence of children in court (other than children subject to the petition) generally, the Court Officer should know that in advance. The judge should explain to the parties that the child will be or has been excluded (or is permitted to remain) and why. The child and parties should be told that the child is not at fault at all in being excluded.
- The presence of non-parties may serve to make the conduct of the case unnecessarily difficult, or may help the parties in conduct of a fair proceeding. The Court Officer and the court should be attentive to these circumstances in addressing the issue of presence in juvenile cases. Fundamentally, there is no right of presence for non-parties; the matter is committed to court discretion.
- If the right of presence granted by the court is conditional (ex., for temporary care or disposition hearing only; or not during certain testimony), then the judge should clearly state that, and indicate the procedure for renewing a request for presence, if the decision as to later case stages is deferred.
- All parties and those present should be reminded of their obligation to keep information as to the proceedings confidential.

[9] The non-custodial parent may feature as a witness as to the merits, but they do not have party status. Among the "other issues" that the Court may consider as proper and necessary for party status may be particularly complex placement or treatment issues; or other case plan implementation issues, which may, or may not fall within a general understanding of custody or visitation issues.

15. Parentage Determination in CHINS Cases: Importance and Issues

In the press of issues that the judge must deal with at a temporary care hearing, establishment of parentage is easily overlooked. Yet it is not only required by statute, but essential to a fair proceeding and finality to the decisions made.

If a child is placed in DCF custody and the identity of a parent is not legally established when a petition is filed, the court may order that mother, child and alleged father(s) submit to genetic testing and may issue an order establishing parentage pursuant to **15 V.S.A. Ch. 11, Subchapter 3A (§§ 650 et.seq.).** The parentage order is not itself a confidential record. **See, 33 V.S.A. § 5111(a).** DCF is required to make "reasonably diligent" efforts to locate a noncustodial parent as early in the process as possible, and notify the court of the noncustodial parent's address. However, a hearing shall not be delayed by reason of the inability of DCF to locate or serve a noncustodial parent. **§ 5111(b).** The court may also order that the custodial parent provide DCF with information regarding the identity of a noncustodial parent. As soon as the noncustodial parent's address is known, they must be served with the Notice of Emergency Care Order and Temporary Care Hearing required by **§ 5306(b)** or the petition and a copy of the summons required by **§5311** (when a temporary care order has not been requested).

If a putative parent is not known, or cannot be located, at time of the Temporary Care Hearing, DCF must provide the court with a summary of efforts made to locate the parent. **§§ 5306(b); 5307(e)(5)(A).** At each subsequent hearing, the court should make inquiry as to current efforts to identify and locate an absent putative parent.

Even if a putative parent is known and appears, there may be contest as to paternity. In these cases, genetic testing should be ordered and a hearing on paternity promptly set. **15 V.S.A. §§ 304-308** govern procedures for genetic testing and admission in evidence of the results; conduct of parentage hearings; effect of voluntary acknowledgments of parentage, including those given at time of birth in the hospital; and presumptions which lie as to parentage.

If a putative parent contests parentage, should they be permitted to participate as a party while their status is being determined? The corollary to challenging paternity is an assertion that the individual has no parental interests with regard to the child. On the other hand, the putative parent is certainly a party with respect to their status, and may well have significant connection to the child, and serve as the child's psychological parent. In the latter case, the individual may well be a person with a proper interest in the proceedings, at least permitted to be present in court in the discretion of the judge. The circumstances of each case would serve to guide the court's discretion as to granting a right of presence, or "contingent" party status, and the extent to which the putative parent is considered appropriate to have parent child contact or other responsibility for the child.

❖ BEST PRACTICES: Parentage Issues in CHINS Cases

- If children are present in the courtroom, discussion of parentage issues will be highly sensitive and potentially traumatic to the child, regardless of age. Without identifying the issue, the judge should ask that the child leave the courtroom during the discussion, to return when it is completed.

- In most instances there is no dispute as to parentage and a stipulation will address the question. But the judge should make it a regular practice to inquire about whether there is a written stipulation, or to ask that one be completed before leaving court if the parties are agreed. Was a voluntary acknowledgment of parentage signed at the hospital at birth of the child, and do the parties agree that they are both the biological parents?

- If a putative parent is reluctant to stipulate to parentage when the issue is first presented, it is reasonable to permit additional time for consideration with advice and help of counsel. However, the court should establish clear timelines and expectations for bringing the issue forward for determination if there is no stipulation in prospect.

- Per 33 V.S.A. § 5307(e)(6), DCF is required to provide information as to child custody history, and if known, any prior judicial proceedings involving the interests of the child. This information should provide indication of prior parentage determinations.

- If a putative parent is not named in the petition, or fails to appear, or there is a question as to parentage, the judge should inquire of the "appearing" parent on the record as to the identity and location of the putative parent.

➢ RESOURCES: Parentage Forms

- **Form 872:** **Stipulation and Finding of Parentage**

- **Form 818F: Father's Affidavit of Parentage**
- **Form 818M: Mother's Affidavit of Parentage**
- **Form 84: Genetic Testing Order**
- **Form 97C: Temporary Care Order, § 4 (Entries establishing parentage, ordering genetic testing, or directing efforts to identify and locate absent/noncustodial parent)**

To: **The Legislative Child Protection Committee**

From: **Amy Davenport, Chief Administrative Judge**

Date: **August 26, 2014**

Re: **Data Request**

The following information from the Court's case management system is submitted in response to the Committee's request for data on juvenile cases involving children in state custody.

1. **CHINS Abuse/Neglect Filings**

   I believe I may have already provided this data to the Committee. I am repeating it here however because it provides an important context to the data on timeliness of dispositions and the testimony that the Committee has heard and will hear with respect to delay and the lack of adequate court time.

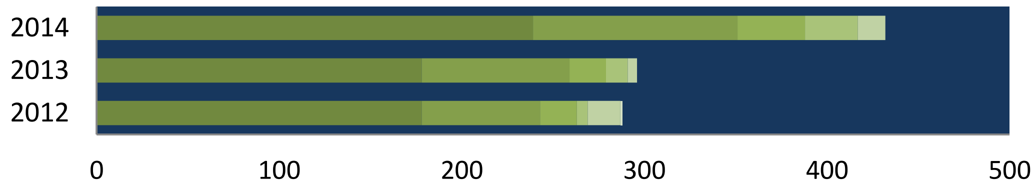
ses Filed	CAL YEAR										
IIT	04	05	06	07	08	09	10	11	12	13	14
dison											
nnington											
ledonia											
ittenden	8	2	4	9	1	3	3	3	5	8	0
sex											
nklin											
and Isle											
noille											
ange											
leans											
tland											
ashington											
ndham											
ndsor											7
otal	**5**	**2**	**6**	**7**	**1**	**2**	**6**	**3**	**0**	**1**	**0**

2. **CHINS Abuse/Neglect Dispositions Statewide**

ses Disposed	CAL YEAR									
	04	05	06	07	08	09	10	11	12	13	14
tal	**5**	**8**	**6**	**1**	**3**	**8**	**5**	**4**	**8**	**4**	**6**

3. Backlog of CHINS Abuse/Neglect Cases FY2012 – 2013

The figures below indicate that since 2012, the backlog in these cases has continued to grow.

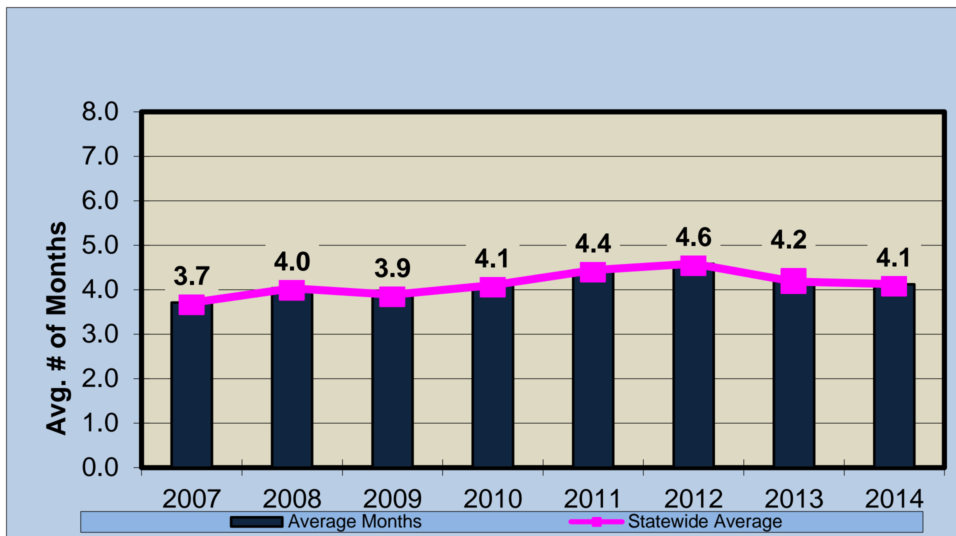


	2012	2013	2014
<= 90	178	178	239
91-180	65	81	112
181-270	20	20	37
271-365	6	12	29
366-730	18	5	15
>730	1	0	0

■ <= 90 ■ 91-180 ■ 181-270 ■ 271-365 ■ 366-730 ■ >730

3. Average Time From Case Filing to Disposition FY07 to FY14[10]

(All children in custody with no TPR filed prior to disposition)

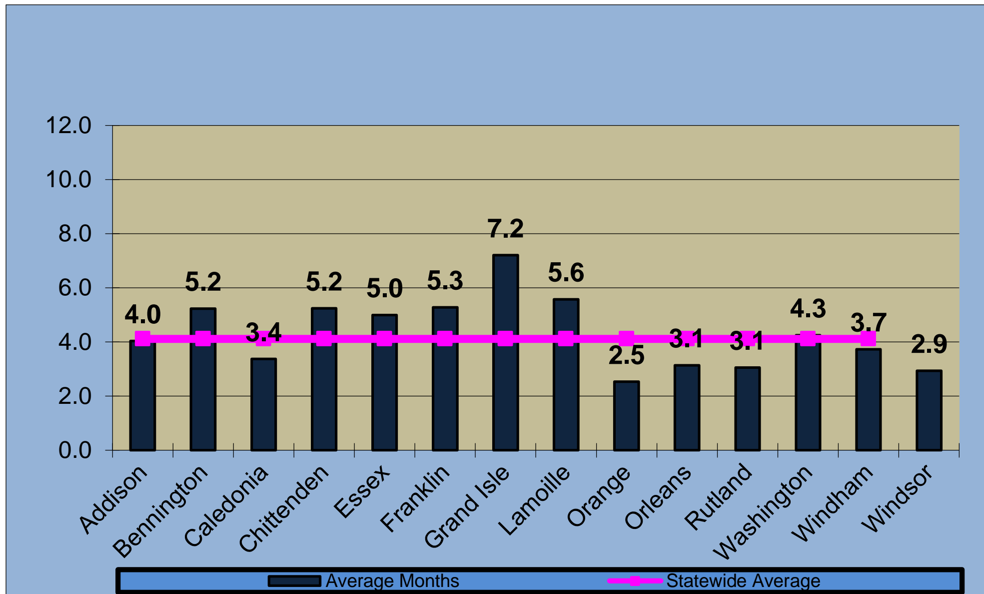


Statewide	
scal Year	ases Disposed
2007	526
2008	506
2009	439
2010	370
2011	385
2012	516
2013	462
2014	450

[10] Includes all cases with children in custody including abuse/neglect, unmanageable children and delinquents. It does not include cases where the State is requesting termination of parental rights at disposition.

4. FY 14 Data on Average Time to Disposition by County[11]

(All children in custody with no TPR filed prior to disposition)



cal Year	14
unty	;ases Disposed
dison	37
nnington	40
ledonia	24
ittenden	60
sex	1
nklin	51
and Isle	3
noille	12
ange	21
eans	16
tland	52
ishington	37
ndham	44
ndsor	52
tal:	**398**

5. Percent of Cases Meeting Merits and Disposition Goals [12]

a. % of Cases with Merits Finding within 60 days of Petition Filing

FY13: 55% of cases decided on the merits in 60 days
FY14: 55% of cases decided on the merits in 60 days

b. % of Cases with Disposition Decision within 95 days of Petition Filing

FY13: 45% of cases were disposed within 95 days of filing
FY14: 44% of cases were disposed within 95 days of filing

6. Interval between Merits and Disposition

We currently keep data on the time frames between decisions, not the time frame between hearings. We know, for example, that the average time between merits finding and disposition order is around 72 days. This does not tell us anything about whether we are scheduling the first disposition hearing in 35 days as required by statute. Relatively few cases these days resolve with only one disposition hearing and it will generally be about a month before a second hearing can be scheduled assuming that all that is required is a half hour hearing.

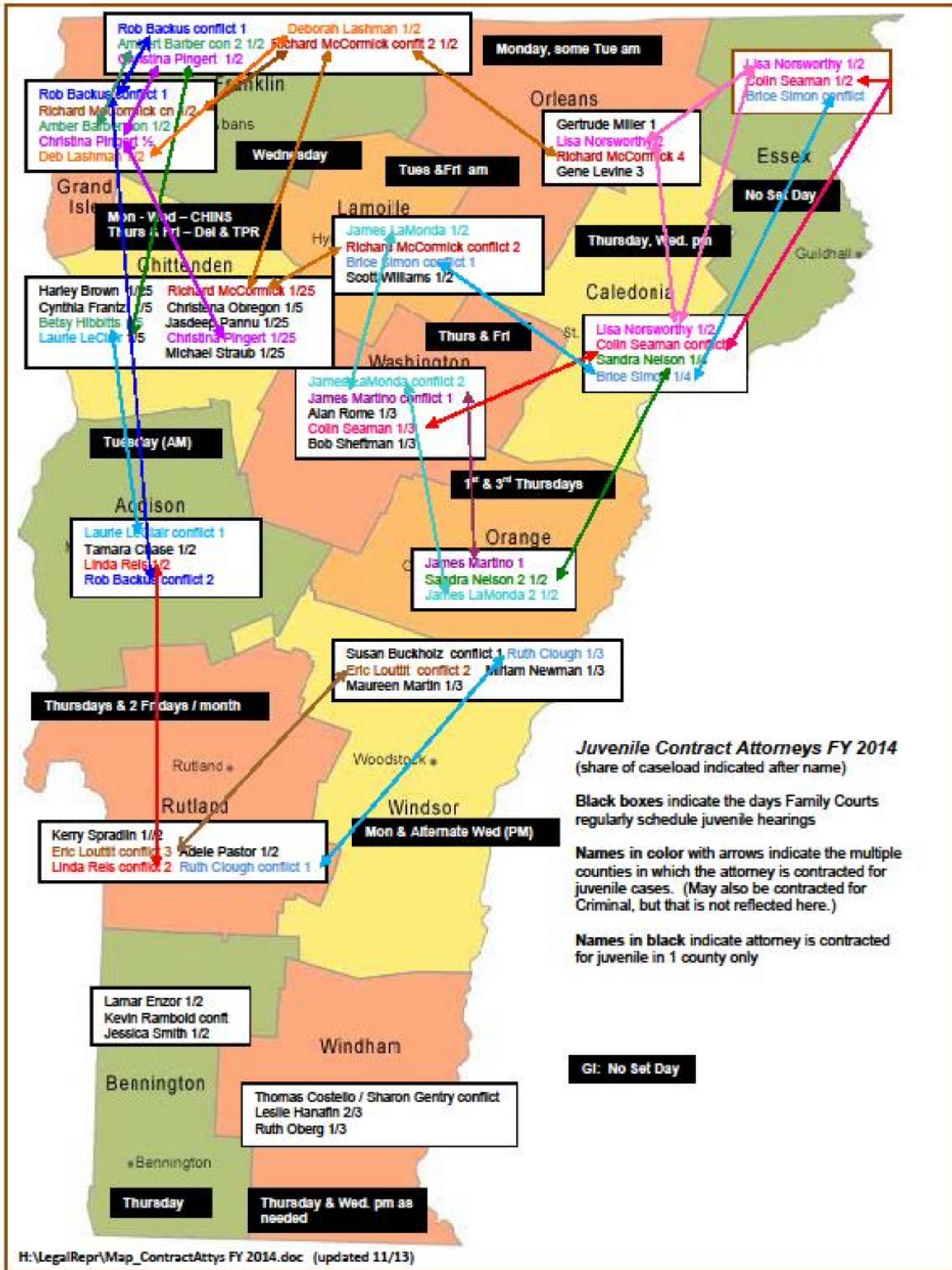
7. How long does it take to schedule a case when a hearing is adjourned or continued?

[11] See FN 1

[12] These figures include all cases involving children in DCF custody including CHINS abuse/neglect, CHINS unmanageable and delinquency cases. They do not include those children who are the subject of CHINS or Delinquency petition who remain in the custody of a parent or guardian.

We do not keep data on this, but the answer would depend on a number of factors such as the following:

- **a.** Is this an emergency? Requests for emergency hearings are often scheduled the same day the motion is filed – particularly if the allegations indicate some kind of risk to the child.
- **b.** How much time are the parties requesting? If the next hearing is a status conference, a pretrial hearing or the initial merits or disposition hearing, they would typically be scheduled for a 15 or 30 minute hearing in which case there is usually room to fit it into the schedule within one to two weeks. On the other hand, if the case needs contested hearing time, finding time to schedule the case will take longer. The more hearing time needed, the further out it will need to be scheduled.
- **c.** Do the contract attorneys involved in the case cover juvenile or criminal cases in other counties? Finding time that works for all of the attorneys can be a nightmare if the cases cannot be scheduled on the county's regular juvenile day.
- **d.** What intervening events need to take place before the next hearing? If the attorneys need to do some discovery or the child or a parent needs an evaluation, the court will try to set the next hearing after that event has occurred.
- **e.** How booked up is the schedule? As indicated above, some counties are experiencing a virtual tsunami of CHINS abuse/neglect cases. Time for even a half hour hearing is going to become harder and harder to find let alone a two or three hour evidentiary hearing. The schedule ends up being crammed with hearings for two to three months into the future. That can mean longer and longer delays especially if hearings need contested hearing time.



Rob Backus conflict 1
Amber Barber con 2 1/2
Christina Pingert 1/2
Deborah Lashman 1/2
Richard McCormick confl 2 1/2
Monday, some Tue am
Franklin
St. Albans
Rob Backus conflict 1
Richard McCormick cn 1/2
Amber Barber con 1/2
Christina Pingert ½
Deb Lashman 1/2
Wednesday
Grand Isle
Mon - Wed – CHINS
Thurs & Fri – Del & TPR
Chittenden
Harley Brown 1/25
Cynthia Frantz 1/5
Betsy Hibbitts 1/5
Laurie LeClair 1/5
Richard McCormick 1/25
Christena Obregon 1/5
Jasdeep Pannu 1/25
Christina Pingert 1/25
Michael Straub 1/25
Orleans
Gertrude Miller 1
Lisa Norsworthy 2
Richard McCormick 4
Gene Levine 3
Tues &Fri am
Lisa Norsworthy 1/2
Colin Seaman 1/2
Brice Simon conflict
Essex
No Set Day
Guildhall
Lamoille
James LaMonda 1/2
Richard McCormick conflict 2
Brice Simon conflict 1
Scott Williams 1/2
Thursday, Wed. pm
Caledonia
Lisa Norsworthy 1/2
Colin Seaman conflict
Sandra Nelson 1/4
Brice Simon 1/4
Thurs & Fri
Washington
James LaMonda conflict 2
James Martino conflict 1
Alan Rome 1/3
Colin Seaman 1/3
Bob Sheftman 1/3
Tuesday (AM)
1st & 3rd Thursdays
Addison
Laurie LeClair conflict 1
Tamara Chase 1/2
Linda Reis 1/2
Rob Backus conflict 2
Orange
James Martino 1
Sandra Nelson 2 1/2
James LaMonda 2 1/2
Susan Buckholz conflict 1
Ruth Clough 1/3
Eric Louttit conflict 2
William Newman 1/3
Maureen Martin 1/3
Thursdays & 2 Fridays / month
Rutland
Woodstock
Rutland
Windsor
Mon & Alternate Wed (PM)
Kerry Spradlin 1/2
Eric Louttit conflict 3
Adele Pastor 1/2
Linda Reis conflict 2
Ruth Clough conflict 1
Juvenile Contract Attorneys FY 2014
(share of caseload indicated after name)
Black boxes indicate the days Family Courts regularly schedule juvenile hearings
Names in color with arrows indicate the multiple counties in which the attorney is contracted for juvenile cases. (May also be contracted for Criminal, but that is not reflected here.)
Names in black indicate attorney is contracted for juvenile in 1 county only
Lamar Enzor 1/2
Kevin Rambold conft
Jessica Smith 1/2
Windham
GI: No Set Day
Bennington
Thomas Costello / Sharon Gentry conflict
Leslie Hanafin 2/3
Ruth Oberg 1/3
Bennington
Thursday
Thursday & Wed. pm as needed
H:\LegalRepr\Map_ContractAttys FY 2014.doc (updated 11/13)

To: **The Legislative Child Protection Committee**

From: **Amy Davenport, Chief Administrative Judge**

Date: **August 22, 2014**

Re: **Response to Written Remarks from the Attorney General to the Child Protection Committee, July 29, 2014**

In written remarks to the Committee dated July 29, Attorney General Bill Sorrell cited several case examples to illustrate his points. Case scenario #3 describes a case where a judge repeatedly issued conditional custody orders allowing the mother to retain custody of her infant son in response to DCF's repeated requests for custody.[13] The mother is described as a homeless opiate addict whose two year old daughter was already in DCF custody as a result of mother's inability to follow a treatment plan. The text of the Attorney General's description of this case is attached to this memo as Exhibit A.

A review of the hearing transcripts in this case including the transcript of a contested evidentiary hearing that the Court held on one of the State's motions to transfer custody, reveals the following additional facts that help explain what happened in this case:

1. At the initial request for emergency custody, mother was still in the hospital after having just given birth to her son. She had a place to stay upon discharge, but she would only be able to stay there for a week or so. She needed to find a stable place to live. Mother was in treatment attending the Day One program in Burlington and had been clean for months.[14]
2. Mother was also the victim of domestic violence. The father of the child was subsequently convicted of aggravated domestic assault.
3. The second emergency request occurred two weeks later. DCF wanted Mother to go to the Lund Program. Mother wanted to go to COTS, but COTS had denied her application. Mother was living with her grandmother and agreed to go to Lund for an assessment.
4. The third emergency request for custody was initiated by the State because Mother did not enter the Lund program in Burlington. Mother completed the assessment

[13] The facts in Case III are based on the facts in a case known as In re K.B., Docket No. 63-2-11 Cnjv. The Supreme Court recently issued a decision in this case affirming the trial court's decision to terminate parental rights.

[14] It is not clear form the transcripts how long Mother had been in treatment with clean urine screens. According to her later testimony, fifteen months before the birth of the child, she started taking suboxone which she initially obtained on the street. She later got into the Day One program and began taking suboxone or its equivalent legally. This is not unusual.

with Lund, but subsequently chose to live at the Women Helping Battered Women shelter which offered many of the same services that Lund did such as parenting classes and assistance with housing. Mother was still in treatment and still clean.

5. A letter from Mother's pediatrician was offered into evidence at the hearing on the State's third emergency request in which the pediatrician stated the following: "*Since (K.B.) was born, his mother has been remarkably responsive (to) (sic) all of his medical needs and other care. She has brought him to medical appointments at our clinic in addition to the usual recommended primary care. She has demonstrated true insight into the symptoms and behaviors K.B. was experiencing. K.B. is exclusively breastfed which we strongly recommend for his health and wellbeing. Currently, K.B. is thriving. His growth has been consistent and appropriate. He is meeting all expected developmental milestones and is clearly bonded well with his mother*."
6. Three months later at the disposition hearing, DCF recommended that Mother retain custody on condition that she remain in treatment and remain clean. All parties were in agreement with DCF's recommendation.
7. Mother had a significant relapse ten months later. On two different occasions she tried unsuccessfully to complete a residential program. At some point during this period, the baby went to live with his great grandmother. When the Court became aware of the relapse, the Court first transferred custody to the great-grandmother with whom the baby had spent a great deal of time. When she indicated that she could not continue to care for the baby, the Court transferred custody to DCF.[15]

The additional facts provide context for the decisions in this case. They also illustrate some of the dilemmas that the Court and the parties currently face in cases that involve parents with a history of opiate addiction. Here are just some of the many questions that can arise in these cases:

1. If a parent has a history of opiate addiction but is in treatment with clean urine screens, is the prior history alone sufficient grounds for removal?
2. In this case, Mother had several slips before she had a complete relapse. We know this is really common during the recovery process, but where is the tipping point?
3. If Mother had been in a treatment court program, would she have had a better shot at a successful recovery? A treatment court program would certainly have meant that the court was aware of her relapse at a much earlier point. We currently do not have substance abuse treatment programs for parents in CHINS cases. Given the extent of the opiate addiction problem in Vermont, is this a direction that we should consider?

[15] A detailed time line based on the docket entries and transcripts is included as Exhibit 2.

Exhibit A

Excerpt from Vermont Attorney General's Remarks to the Legislative Committee on Child Protection, July 29, 2014 Pages 4 – 5

Opiate Addiction and Child Protection

Case III (Case III summarizes a case known as In Re: K.B.)

A mother, an opiate addict with a two year old child, was required by DCF to participate in substance abuse treatment and to obtain adequate housing. The mother did neither and the natural father obtained full rights and responsibilities for the child. While still addicted, mother became pregnant with a second child. At the time of her birth, the mother was homeless. DCF sought custody of the second child through a CHINS petition within three days of the birth. The judge denied DCF's request for custody, instead issuing a Conditional Care Order (CCO) leaving the child with her mother, but requiring the mother to move to a family services agency.

Despite the order, the mother remained homeless. Twice more, DCF unsuccessfully sought custody of the child with the judge again ordering the mother to apply for housing at the family services agency. The mother was accepted for the agency's housing but declined to take up residence. At a subsequent court hearing, the mother admitted, due to her drug addiction and homeless state, that her child was a Child in Need. However, the court issued another CCO requiring her to attend outpatient substance abuse treatment, participate in anger management counseling, complete a psychiatric evaluation and work with DCF to be drug screened.

Three months later, the mother having been convicted of criminal offenses in the interim, the court issued a fourth CCO, again leaving the child with the mother. Two months later at another hearing and despite the mother having recently moved several times to different motel rooms and having tested positive twice for amphetamines, custody remained with the mother.

In the months that followed, in the words of the court, "Mother continued to struggle." She lost her shelter housing, resumed using drugs, entered and was promptly discharged from two residential drug abuse programs for rules violations. Another CCO was issued, temporarily transferring custody to the maternal great-grandmother.

Ultimately, when the child was eighteen months old, custody was transferred to DCF. The mother adhered to her case plan for a period of time but relapsed, resuming drug usage, again experienced unstable housing and was incarcerated for probation violations. DCF petitioned to terminate the parental rights of the mother.

The petition was granted when the child was three years old.

Exhibit 2

Time line of the In Re: K.B. case based on docket sheet entries, exhibits and hearing transcripts

1. 2/18/11: First Request for DCF Custody: Mom and baby were in the hospital about to be discharged. Mom had not obtained permanent housing, but she did have a place to stay for a couple weeks while she tried to get housing for herself and her baby. The person with whom she wanted to stay was acceptable to DCF.
2. 2/28/11: Mom was still living with the same person, but had to move out in a few days and did not yet have housing. DCF wanted Mom to go to Lund. Mom was resistant. She preferred to go to COTS (the homeless shelter in Burlington). She was actively engaged in substance abuse counseling at Day One and her urine screens indicated that she was clean. The baby was doing well.
3. 3/10/11: Second emergency request for DCF Custody: A hearing was held the day the motion was filed. Mom's application to COTS had been denied. A 30 day assessment bed was available at Lund Home. The Court continued the conditional custody order on condition that Mom go to the Lund Assessment program. Mother was going to live with her grandmother (the baby's great grandmother) until she got into the program. Mom was still actively engaged in substance abuse counseling and her urine screens were negative.
4. 3/22/11: Third emergency motion and evidentiary hearing: Mother did go to the interview for the Lund Assessment program and was accepted, but she was subsequently offered a room for herself and her baby at the Women Helping Battered Women (WHBW) shelter in Burlington which also provides temporary housing for young children some of the same family services offered by Lund. Mom accepted the room at the WHBW shelter and had been living there with the child for four days when the hearing was held. The evidence at the hearing was that Mother was still consistently attending treatment and was clean. The hearing did not finish on 3/22/11 and was continued on 3/29.
5. 3/29/11: At this hearing, Mother offered a letter from the baby's pediatrician praising her commitment as a parent and recommending that the baby continue breastfeeding. Mother also offered a letter from WHBH which described the services that the program provided which included parenting classes and support for finding housing.
6. At the same hearing on 3/29/11, Mother admitted to the allegations in the affidavit that accompanied the petition, i.e. that she had previously lost custody of her daughter because of her failure to follow the case plan and that, at the time of K.B.'s birth, she did not have housing. All parties at that hearing, including DCF and the State, agreed to a continuation of the conditional custody order pending disposition.

7. On 6/15/11, DCF filed a disposition report. The report recommended full custody to the mother on a conditional custody order. At the disposition hearing on 6/21/11, the conditional custody order to Mother was continued based on the agreement of all parties.
8. On 8/30/11, a post disposition hearing was held. Mother and baby continued to do well. Mother was still in treatment. She had had one positive UA for Adderall, but otherwise her urine screens were negative. She and the baby were living in a hotel and she was still searching for housing.
9. On 10/4/11, a second post disposition review hearing was held. Mother was still in substance abuse counseling, but she had had one more positive urine screen. Stable housing was still an issue, but baby was still doing well.
10. Between 10/4/11 and 7/27/12, there were multiple hearings involving disputes between the parents over Father's parent child contact. Father had been convicted of aggravated domestic assault of Mother during their earlier relationship.
11. 7/27/12: The State filed a motion to modify the disposition order alleging that Mom was using again, had gone to the Maple Leaf residential program and had been unsuccessfully discharged. The baby was living with his great-grandmother. Although mother had had a serious relapse in early April of 2012, it was not brought to the Court's attention until DCF filled its motion in July. The Court held a hearing the same day the motion was filed. At the hearing, the parties agreed to a conditional custody order to the great-grandmother. Mother was permitted visits supervised by the great-grandmother.
12. 8/20/12: The State filed an emergency motion requesting custody. Mother was in jail on new charges. Great-grandmother was unable to continue to care for the baby. The Court granted the request and transferred custody to DCF.
13. 10/26/12: A hearing was held on DCF's motion to modify the disposition order. DCF filed a revised case plan with a concurrent goal of reunification and adoption. Mother was still in jail. Baby was visiting Mom once a week. The DCF case plan was essentially adopted by the Court.
14. 7/22/13: Post disposition review hearing. DCF requested that the goal be changed to adoption. A Termination of Parental rights petition filed on 7/24.
15. 1/23-24/14: Termination of parental rights hearing held. Findings of fact issued on 3/25/14 granting termination of parental rights.

TO: Judge Davenport

FROM: Bonnie Finn

DATE: Tuesday, September 02, 2014

RE: Juvenile Related Judicial Education Programs

I've attached a list of juvenile related judicial education programs from the years 2008-2014. The instate programs are listed first, with pertinent juvenile related topics under each heading. Following the instate programs are all of the out of state programs and who attended.

To summarize: Over the past 7 years, we have sent judges to 107 juvenile related programs counting both the in state and out of state programs.

2008

Judicial College

- Exercising Discretion in Custody, Property and Alimony Decisions
- New Juvenile Procedures Law – Making it Work
- Family Jurisdictional Meeting

Family Court Law Day

- DCF Initiatives for 2008-2009
- Using GALs in Domestic Cases
- The New Temporary Care Hearing under 33 VSA §5308
- Legal Representation of Children and Parents in Juvenile Cases
- Getting Ready for the Implementation of JJPA
- Domestic/RFA Docket
- Sorting out Family Court Programs and Community Resources
- Legal Representation of Children and Parent in Juvenile Cases
- Statistical Trends in Family Court

JJIFFE Conference

- Leadership and Education for Development
- Teaching and Presentation Strategies
- Life Cycle Introduction
- Theory of Development
- Brain Development
- Mind Development

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 2 judges attended (Davenport, Katz)

Moving Mountains: A Summit on Childhood Development

- 1 judge attended (Corsones)

NCJFCJ Annual Conference

- 4 judges attended (Davenport, Eaton, Howard, Wesley)

2009

Judicial College

- The Prevalence of Adolescent Female Violence
- Judicial Oversight of Parent/Child Contact for Children in Foster Care
- Family Jurisdictional Meeting
- Interstate Compact on the Placement of Children

Justice for Children Conference

- At Risk Children: Where We've Been and Where We're Going
- The Untold Story of Education and Youth in Foster Care
- Engaging in Non-Custodial Fathers in Child Welfare Cases
- Navigating the Impact of Immigration Law on Children and Families
- Differential Response to Reports of Child Abuse and Neglect
- Engaging Families & Communities in Vermont Child Welfare
- Strategies for Successful Youth Participation in the Court Process
- Treating Juvenile Offenders in Juvenile Courts
- Engaging Families and Building Safety through Family Time Coaching
- Motivating Behavior Change and Effective Case Planning
- The Challenges of Kinship Care – How Do We Make It Work?

AFCC – Advanced Issues in Child Custody

- 1 judge attended (Harlow)

AFCC – Intervention for Family Conflict: Stacking the Odds in Favor of Children

- 1 judge attended (Manley)

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 5 judges attended (Corsones, Hayes, Hoyt, Pearson, Suntag, Wesley)

NCJFCJ Annual Conference

- 5 judges attended (Corsones, Davenport, Eaton, Harlow, Howard)

2010

Judicial College

- Neuroscience 101: Brain Basics
- The Teen Brain
- How Does Our Understanding of Adolescence Inform the Law?
- Family Jurisdictional Meeting
- Working with Self Represented Litigants in Family Division

Juvenile Law Educational Program for Judges

- DCF Family Engagement Strategies
- JPA Discussion: Challenges, Impacts, & Benefits
- New and upcoming developments in the juvenile docket
- Workshop: Engaging Youth in Court

Core College: The Role of the Juvenile Court Judge

- 1 judge attended (Zonay)

Handling Child Pornography Cases

- 1 judge attended (Carroll)

NCJFCJ Annual Conference

- 2 judges attended (Cohen, Zonay)

Technology Assisted Crimes Against Children

- 5 judges attended (Cohen, DiMauro, Keller, Zimmerman, Zonay)

2011

Judicial College

- Uniform Child Custody Jurisdiction and Enforcement Act
- Family Forms
- Family Jurisdictional Meeting
- "Ask Us Who We Are" (movie on the state of VT's foster care)

Back to School: Children, Courts, and Education Success

- The Importance of Education for Children and Youth in Foster Care
- Youth Panel: What made a difference

ABA National Conference on Children and the Law

- 1 judge attended (Zonay)

Child Abuse & Neglect Institute: The Role of the Judge

- 1 judge attended (Tomasi)

Core College: Role of the Juvenile Court Judge

- 1 judge attended (Cohen)

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 3 judges attended (Gerety, Mello, Tomasi)

Handling Child Pornography Cases

- 1 judge attended (Bent)

Managing Challenging Family Law Cases

- 2 judges attended (Corsones, Zonay)

National Conference on Child Welfare, Education and the Courts

- 1 judge attended (Devine)

National Conference on Juvenile and Family Law

- 2 judges attended (Carroll, Manley)

National Conference on Substance Abuse, Child Welfare and the Courts

- 1 judge attended (Zonay)

NCJFCJ Annual Conference

- 3 judges attended (Davenport, Eaton, Hoyt)

2012

Judicial College

- Kinship Custody/Guardianship
- Family Jurisdictional – Juvenile
- Family Jurisdictional – Domestic & Relief From Abuse

Family Law Day

- Strategies that Work in Domestic Cases
- Update on Juvenile Issues
- The Use of Pre Removal Conferences
- Strategies that Work in Juvenile Cases

District Law Day

- Power Point was presented on sex offender cases that included those cases involving children

Youth Justice Training Day (in Rutland)

- 3 judges attended (Corsones, Hayes, Cashman)

Annual CIP Conference

- 1 judge attended (Corsones)

Child Abuse & Neglect Institute: The Role of the Judge

- 4 judge attended (Arms, Gerety, Maley, Mello)

Conference on Juvenile and Family Law

- 6 judges attended (Cohen, Corsones, Davenport, Harlow, Levitt, Maley)

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 5 judges attended (Arms, Bruce, Smith, Teachout, VanBenthuysen)

NCJFCJ Annual Conference

- 3 judges attended (Crucitti, Davenport, Hayes)

2013

Judicial College

- Family Jurisdictional – Juvenile
- Family Jurisdictional – Domestic & Relief From Abuse

ABA Conference on Children and the Law

- 1 judge attended (Arms)

American Academy of Adoption Attorneys Conference

- 1 judge attended (Smith)

Computer Searches and Seizures, with Emphasis on Child Pornography Cases

- 2 judges attended (Corsones, Gerety)

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 2 judges attended (Peterson, Teachout)

Judicial Institute on Family Law

- 4 judges attended (Davenport, Maley, Suntag, Toor)

NCJFCJ Annual Conference

- 5 judges attended (Davenport, Eaton, Hayes, Howard, Tomasi)

2014

Judicial College

- Domestic Caseflow Management
- Juvenile Caseflow Management
- Family Jurisdictional Meeting
- Affordable Care Act

Youth Justice Summit

- 11 judges attended (Arms, Corsones, Devine, Eaton, Hayes, Howard, Hoyt, Kalfus, Manley, Morris, Tomasi)

Annual CIP Conference

- 1 judge attended (Arms)

AFCC Annual Conference: Navigating the Waters of Shared Parenting

- 2 judges attended (Davenport, Hayes)

American Academy of Adoption Attorneys

- 1 judge attended (Smith)

Coalition for Juvenile Justice

- 1 judge attended (Corsones)

Enhancing Skills in Domestic Violence Cases Workshop (with juvenile component)

- 1 judge attended April 2014 (Griffin)
- 1 judge will attend Dec. 2014 (Hoar)

Family Law Institute

- 2 judges attended (Davenport, Manley)

Juvenile Justice Reform Summit

- 2 judges attended (Davenport, Hayes)

NCJFCJ Annual Conference

- 5 judges attended (Davenport, Griffin, Howard, Kalfus, Morris)