

The Guardian

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Lawyers Can Change Systems by Enforcing the Law

by Vivek Sankaran, JD, CWLS

Imagine an anonymous person calls Child Protective Services and says that three weeks ago, you and your children were sleeping outside. The person also claims that the day before that, you were protesting for eight hours and it was unknown whether you fed your children during the protest. You never learn who made the allegations. Imagine further that based on these claims alone — without any evidence to actually support them — a trial court permitted a social worker to search your entire residence.

The Pennsylvania Supreme Court, confronting these facts, ruled this past December that the Fourth Amendment prevents social workers from entering a parent's home without first establishing probable cause.¹ The Court held that when determining probable cause, trial courts must assess the nexus between the alleged neglect and the area to be searched, as well as the reliability of information from anonymous reporters, and the timeliness of the facts in the petition.² In this case, the justices said, the trial court had violated the mother's constitutional rights by allowing the search to occur.³

In many ways, the decision was unexceptional. The Court simply applied decades of Fourth Amendment law to the facts of the case and ruled that the government had no basis to enter

1 In the Interest of: Y.W.-B., 265 A.3d 602 (2021). Available at: <https://clsphila.org/wp-content/uploads/2022/01/Majority-Opinion.pdf>.

For more information on this case, please see the Case Digests, *infra*.

2 In the Interest of: Y.W.-B., 264 A.3d at 631-635.

3 *Id.* at 635.

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But this decision is a significant win because all too often, well-established legal rules and principles are discarded by family court judges in the name of protecting children.

the parents' home. No probable cause existed. No exigent circumstances were present. And the parents certainly did not consent to the search. None of us would want a social worker to be able to search our home based on such flimsy evidence provided by an anonymous report. But this decision is a significant win because all too often, well-established legal rules and principles are discarded by family court judges in the name of protecting children. We allow junk opinion testimony by non-experts to justify the separation of children from their parents. We don't give lawyers full access to information in the agency's possession — or readily permit

discovery — so that they can ensure that a judge hears all the relevant facts. We permit the rights of parents to their children to be terminated based on unreliable hearsay evidence.

In any proceeding involving litigants with power, we would never tolerate this. Think about a medical malpractice claim involving a rich doctor, a criminal case involving a high-profile defendant, or fraud

allegations against a Fortune 500 company. We wouldn't even allow a slight deviation from the rules. Lawyers would scream. Appellate courts would intervene. The system would move quickly to protect the powerful.

In child welfare, not only do we tolerate this, but also attorneys are often chastised when they demand that well-established processes be followed. When a student in my clinic objected to hearsay testimony at a trial and cited an actual evidentiary rule, the judge mocked her. He said he'd have to "dust off" his rules of evidence book to look up the rule; then he denied her objection. When a former colleague cited a statute requiring more visits between his client and her children, the judge angrily accused him of "going down the statutory road" again. She denied his request. When another student cited the seminal United States Supreme Court case of *Stanley v. Illinois* in court, the judge admonished her supervisor to tell the student that "those Illinois cases" don't apply in Michigan courts. Apparently, neither did pronouncements from the United States Supreme Court.

Child welfare cases involve the adjudication of fundamental rights. Those rights are protected by well-established rules and processes. Following settled law and procedure ensure that judges only infringe on those rights based on actual, high-quality evidence. When we discard these rules, we risk making bad decisions, that can permanently alter the trajectory of the lives of families.

Lawyers can stop this from happening:

File motions and force courts to safeguard constitutional and statutory rights.

Cite those provisions as a matter of practice in court.

Appeal decisions made by trial courts that violate the law.

Take cases to your highest courts when issues are jurisprudentially significant.

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When you know that injustice is happening, combine your passion and persistence to change unlawful practices.

Kudos to the Pennsylvania Supreme Court for resisting the temptation to overlook the law and for recognizing that the same constitutional rights that the powerful enjoy also apply to those on the margins, regardless of whatever the alleged benevolent intent of the government might be. As Justice Louis Brandeis famously wrote, “Experience should teach us to be most on our guard to protect liberty when the government’s purposes are beneficent.”

The child welfare system would better serve families if it consistently applied his wisdom. ■

When you know that injustice is happening, combine your passion and persistence to change unlawful practices.

ABOUT THE AUTHOR:



Vivek Sankaran directs the Child Advocacy Law Clinic and Child Welfare Appellate Clinic at the University of Michigan Law School through which law students represent children and parents in trial and appellate proceedings. Professor Sankaran has written numerous articles focused on improving the child welfare system and has litigated cases before the Michigan Supreme Court. In addition, he conducts state and national trainings, and works on child welfare initiatives with various national groups, including the American Bar Association, Casey Family Programs, and the National Center for State Courts.



NACC LAUNCHES RACE EQUITY HUB

NACC announces a new Hub on its website with resources that support race equity, one of NACC’s core values. NACC encourages advocates and practitioners to resist racism, bias, poverty, and the trauma of family separation by demonstrating cultural humility, pursuing anti-racist practices, confronting personal privilege and bias, utilizing a race equity lens when making decisions, and promoting diversity and inclusion.

EXECUTIVE DIRECTOR'S MESSAGE

Spring 2022



Kim Dvorchak
Executive Director

Building a Community Committed to Equity

This year marks the 45th Anniversary of the founding of the National Association of Counsel for Children. A nonprofit anniversary offers a time for celebration, and a perch from which to reflect on the past, assess the present, and set a course for the future.

NACC's founders didn't seek to build an office or an institution, but instead a profession and a network of colleagues that would serve children and advance the development of children's law. Our profession has come a long way since the 1970s. NACC's programs and influence have grown, as has our support for access to well-trained counsel for all parties in the child welfare system. NACC will recognize advances in access to justice and in the development of our field throughout this anniversary year.

But NACC will also recognize the many ways our profession, policies, and systems have yet to actualize access to justice for all whom we serve. A recent study of foster care data from 1961 to 2018 shows long-term inequities among children of different races and ethnicities, particular by region and state.¹ Inequity does not begin in the child welfare system,² but it is routinely exacerbated by it:

...children's experience of living without parents under state supervision remains deeply divided by race, ethnicity, and geography. Because foster care has negative long-term causal effects at the margin of placement, and because state actors intervene disproportionately in marginalized families, inequality in this childhood experience is likely to contribute to stratification throughout the life course.³

As child welfare attorneys, we are placed at this precipice, positioned with power and responsibility. We cannot come into this profession to "help" and ignore the reality that many children and youth will face lifelong societal inequity from their foster care experience. Anti-racism strategies must be integrated into our daily practice to disrupt these negative outcomes. [NACC's Race Equity Hub](#) is a great place to begin this work.

NACC is engaged in a refresh of our 2019-2023 Strategic Plan, to center our commitment to equity and constituent voice. Thank you to many of you who participated in our community survey to identify opportunities to help us identify concrete strategies to operationalize this commitment through practice and policy. We look forward to sharing more with you about this work in the coming months and year.

Thank you for your partnership in building a community committed to equity. ■

1 Alexander F. Roehrkasse; Long-Term Trends and Ethnoracial Inequality in U.S. Foster Care: A Research Note. *Demography* 1 October 2021; 58 (5): 2009–2017. Available at: <https://doi.org/10.1215/00703370-9411316>.

2 Minoff, Elisa and Alexandra Citrin. "Systemically Neglected: How Racism Structures Public Systems to Produce Child Neglect." Center for the Study of Social Policy, March 2022. Available at: <https://cssp.org/resource/systemically-neglected/>.

3 Roehrkasse, *supra* (internal references omitted).



Congregate Care and Placement Issues in Juvenile Court Proceedings

by Judge Leonard Edwards (ret.)

Overview

Congregate care for children refers to out-of-home placement in a group or institutional setting. It includes group homes, orphanages, and institutions.¹ Congregate care has a long history in the United States. Over 100 years ago most children in out-of-home care lived in congregate care. After the White House Conference on the Care of Dependent Children in 1909, child welfare policy leaders concluded that a preferable placement for these children would be with a family, and the idea of foster care was born. Nevertheless, it took almost the entire twentieth century before the number of children placed in foster care reached the numbers placed in congregate care.² With the passage of the Fostering Connections Act of 2009, relatives became a placement preferred to foster care.³ This legislation identified four placements considered to be permanent: parental care, adoption, guardianship, and relative care. Today, congregate care and foster care are not considered permanent placements.

The number of children in congregate care has declined dramatically since the White House Conference. Nevertheless, social service agencies and courts continue to place children in congregate care, both immediately after removal from parental care and in the long term. Approximately 43,823 children currently reside in group homes, residential treatment facilities, psychiatric institutions, and emergency shelters.⁴ This article will address the responsibilities of juvenile courts to use their influence and powers to reduce the numbers of children placed in congregate care and increase the placement in relative care. First, it will discuss the negative impact that congregate care has on children. Second, it will review the

- 1 The federal analysis of Adoption and Foster Care Analysis (AFCARS) data defines congregate care as "a licensed or approved setting that provides 24-hour care for children in a group home (7-12 children) or an institution (12 or more children). The settings may include a childcare institution, a residential treatment facility or a maternity home." See National Conference of State Legislatures (NCSL). "Congregate Care, Residential Treatment and Group Home State Legislative Enactments, 2014-2019." 10/30/20. Available at: <https://www.ncsl.org/research/human-services/congregate-care-and-group-home-state-legislative-enactments.aspx>.
- 2 Myers, J.E.B. *A History of Child Protection in America*. Xlibris Corporation. (2004).
- 3 The Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351.
- 4 U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. "Adoption and Foster Care Analysis and Reporting System (AFCARS) FY2020 data." No. 28, 10/4/21. Available at: <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport28.pdf>; Williams, C. "Kids in Foster Care Belong in Families, Not Modern-Day Orphanages." *The Imprint*. 1/12/2022. Available at: <https://imprintnews.org/foster-care/kids-in-foster-care-belong-families-not-modern-day-orphanages/61937>; National Conference of State Legislatures (NCSL). "Congregate Care, Residential Treatment and Group Home State Legislative Enactments, 2014-2019." 10/30/2020. Available at: <https://www.ncsl.org/research/human-services/congregate-care-and-group-home-state-legislative-enactments.aspx>.



ABOUT THE AUTHOR:

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federal legislation that has addressed placement preferences for children removed from their homes. Finally, it will identify several ways that judges and attorneys can encourage permanent placements in both the child welfare and juvenile justice systems.

Congregate Care

Numerous studies conclude that children placed in congregate care have poorer outcomes in their lives than in any other placement. Children placed in congregate care are more likely to have access to drugs, be subject to physical and sexual abuse, be involved in sexual trafficking, be administered psychotropic medications inappropriately, fall behind in their education, age out of care without appropriate supports in place, run away from their placements, and have lifelong medical and mental health challenges.⁵ Over their lifetime these children are more likely to have poorer physical and mental health outcomes and die sooner than children at home or with relatives.⁶

One study followed, for thirty years, over 160,000 children who were placed in non-parental care for a period during their childhood. It concluded that children who were placed out-of-home in residential care reported worse health than children who grew up in a family environment. The authors recommended that “...when non-parental care is required, priority be given to non-residential care, especially the child’s extended relatives and friends.”⁷ A more recent study of over 500,000 people concluded that the type of child placement matters:

[t]here are highly consistent impacts on health, socioeconomic circumstances, family life and living arrangements depending on care arrangements with kinship care having the best outcomes, residential care the least, and foster care lying midway between the two extremes.⁸

The Federal Government Response

It took a long time for the federal government to absorb this data and make changes in the law. Apparently, many still believed the old adage that “the apple doesn’t fall far from the tree” and resisted placing children with their relatives. This is surprising because while there are between 400,000 and 500,000 children now in the nation’s child welfare systems, families have been turning to relatives to place their children for decades. The current number of children placed by families without state involvement is over 2.5 million,⁹ and that number does

5 Casey Family Programs. “What are the outcomes for youth placed in congregate care settings?” 2/5/18. Available at: <https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/>; Think of Us. “Away From Home: Youth Experiences of Institutional Placements in Foster Care.” 2021. Available at: https://assets.website-files.com/60a6942819ce8053cefd0947/60f6b1eba474362514093f96_Away%20From%20Home%20-%20Report.pdf; Behar, L. et al. “Protecting Youth Placed in Unlicensed, Unregulated Residential ‘Treatment’ Facilities.” *Family Court Review*, 45(3) 399-413, July 2007. Available at: <https://lenorebehar.com/assets/images/pdf/32.%20%20PROTECTING%20YOUTH%20PLACED%20IN%20UNLICENSED,%20UNREGULATED%20RESIDENTIAL%20TREATMENT%20FACILITIES.pdf>; Li, D., Chng, G., & Chu, C., “Comparing Long-Term Placement Outcomes of Residential and Family Foster Care: A Meta-Analysis,” *Trauma Violence Abuse*, 2019 Dec. 20(5): 653-664. Available at: <https://journals.sagepub.com/doi/full/10.1177/1524838017726427>.

6 For a review and discussion of these studies see Edwards, L. “The Urgency of Placing Children with Relatives.” *The Guardian*, NACC, Vol. 42, No. 4, 2020.

7 Murray, E., Lacey, R., Maughan, B., & Sacker, A. “Association of childhood out-of-home care status with all-cause mortality up to 43-years later: Office of National Statistics Longitudinal Study.” *BMC Public Health*, 2020, 20-735. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7238620/>.

8 Sacker, A. et al. “The lifelong health and wellbeing trajectories of people who have been in care: Findings from the Looked-after Children Grown Up Project.” *Nuffield Foundation*, London, July 2021. See also “The lifelong health and well-being of care leavers.” *Nuffield Foundation*, Policy Briefing, London, October 2021. Available at: <https://www.nuffieldfoundation.org/wp-content/uploads/2021/10/The-lifelong-health-and-well-being-of-care-leavers.-Nuffield-Foundation-and-UCL-policy-briefing.-Oct-2021.pdf>.

9 Annie E. Casey Foundation Kids Count Data Center. “Children in kinship care in the United States.” Available at: <https://datacenter.kidscount.org/data/tables/10455-children-in-kinship-care?loc=1&loc=1#detailed/1/any/false/2097,1985,1757/any/20160,20161>.

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not include family transfers to fictive kin and informal adoptions.¹⁰ The federal government did not encourage placement with relatives until the twenty-first century when Congress passed the Fostering Connections Act in 2009.¹¹ That Act identified placing with family as a permanent placement and declared family placement was preferable to both foster care and congregate care. It also identified and supported three best practices for social service agencies: Family Finding, Guardian Navigators, and Family Group Conferencing.¹²

The federal government next passed the Preventing Sex Trafficking and Strengthening Families Act of 2014.¹³ The intent of that law was to discourage placing children in stranger care. Social workers and probation officers were required to report to the court their “intensive, ongoing, unsuccessful efforts” to place the child in a permanent placement.¹⁴ Federal funding for placements in congregate care was severely limited, and congregate care facilities had to provide special services for any child placed there by the court or social service agency.¹⁵ That same legislation mandated juvenile court judges to make findings why the child before the court could not be placed in a permanent placement instead of in foster or congregate care.¹⁶ Finally, the law stated that if the plan is Another Planned Permanency Living Arrangement (APPLA), it must contain: (1) documentation of intensive, ongoing, unsuccessful efforts for family placement, and (2) redetermination of appropriateness of placement at each permanency hearing.¹⁷

In 2018 Congress continued to restrict placement in congregate care with the passage of the Family First Prevention and Services Act, a part of the Bipartisan Budget Act.¹⁸ That Act seeks to curtail the use of congregate or group home care for children and instead places a new emphasis on family foster homes. With limited exceptions, the federal government will not reimburse states for children placed in group care settings for more than two weeks.¹⁹

Implementation

Increasing relative care and decreasing congregate care placements will occur only if the social service and probation agencies take bold steps to change practice, attorneys are alert to these requirements, and judges exercise their powers to ensure that changes are made in social service practice.

The first step is to persuade social workers that finding and engaging relatives is a best practice and that congregate care is detrimental to children. Marc Cherna, the director of the Allegheny County Department of Human Services (now retired), emphasized relative place-

¹⁰ Ahebee, S. “How informal adoptions became a mainstay of African American family life.” *The Pulse*, 1/14/22. Available at: <https://why.org/segments/how-informal-adoptions-became-a-mainstay-of-african-american-family-life/>. Fictive kin are non-family members who become accepted as kin by the family. They are not related by blood or by marriage.

¹¹ See, *supra*, footnote 3.

¹² *Id.*, section 3.

¹³ P.L. 113-183.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Family First Prevention Services Act of 2018, Pub. L. 115-123.

¹⁹ *Id.*

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ment as a goal. He said he started by “winning over the hearts and minds of the caseworkers.”²⁰ Thereafter, he had to convince the juvenile court judges as they were concerned about permanency, and most relatives did not want to adopt. He reported that skeptical judges found that kinship placements were better than stranger foster care or adoption.²¹ By implementing his recommended changes, the county human services department reduced the number of children in congregate care from 650 to 120, and relative placements increased from 20% to 65% of all children removed from parental care.²²

Since Director Cherna’s groundbreaking work, several other jurisdictions have changed practice by emphasizing relative placement and reducing congregate care. In Los Angeles County, over half of the county districts implemented a family finding protocol, which resulted in relative placement in over 80% of dependency cases after the court removed children from parental care.²³ Several counties in Pennsylvania and Omaha, Nebraska, reported similar results after their human services departments implemented family finding and engagement protocols.²⁴ Under the leadership of Judge Michael Sholley, Snyder County in Pennsylvania, a county with less than 40,000 residents, reduced foster care dramatically through the use of these practices. These model jurisdictions place children with relatives at more than twice the national rate of 32% of cases where the agency removes children from parental care.²⁵

Judges and attorneys can play an important role in this process by working with the local director of social services and providing the director with materials about the dangers of congregate care and the importance of relative placement. They can inform the local social services director about jurisdictions that have successfully increased the numbers of children placed with their relatives. As a retired judge, I met with our local agency director who then invited representatives from the Los Angeles Department of Children and Family Services to give an all-day seminar on how they increased relative placement in that county. Our director invited all the local social workers to the seminar as well as other key persons in the juvenile dependency system. Our local social workers were enthusiastic about the family finding project. Social workers teaching social workers made the presentation much more persuasive than hearing about the program from judges and community leaders. Our current director has a contract to implement a family finding and engagement protocol in the county.

For social workers, the process of kinship placement starts with finding and engaging relatives. This family finding is recommended as a best practice by the Fostering Connections Act and must be completed within thirty days from the date of the removal from parental care.²⁶ Best practices include asking the parents, children, and relatives and using social media and search

20 Casey Family Programs. “How did Allegheny County advance a kin-first approach?” 4/9/19. Available at: <https://www.casey.org/kin-first-allegheny/>.

21 *Id.*

22 *Id.*

23 See, *supra*, footnote 6.

24 *Id.*

25 Edwards, L. “Relative Placement: The Best Answer for Our Foster Care System.” *Juvenile & Family Court Journal*, Vol. 69, No. 3 (2018) at pp 55-64, at p. 60. Available at: <http://judgeleonardedwards.com/docs/Relative-Placement-JFCJ-69-3-2018.pdf>.

26 See, *supra*, footnote 3, at section 103.

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engines to locate additional relatives.²⁷ One local agency in New Jersey produced excellent results by hiring a private investigator to find relatives.

The timing of placement is important. Children cannot wait for the long bureaucratic delays that many social services systems experience.²⁸ Delays in placement result in increased trauma for the child placed in out-of-home stranger care. Social workers should locate and engage relatives and complete the necessary steps for kinship placement immediately after or even before removal of the child.²⁹ Model counties have learned how to do background checks, house clearance, and waivers of minor crimes committed by household members in less than 24 hours,³⁰ making it possible to move the child from parental to relative care very quickly, sometimes in the same day.³¹ California recently passed a law permitting judges to place with a relative “regardless of the status of any criminal record exemption or resource family approval, if the court has found that the placement does not pose a risk to the health and safety of the child.”³² Statistics in Los Angeles County reveal that non-custodial parents (usually fathers) are the placement in approximately 19% of all cases. This placement increases the number of relatives known to the child.³³

Social workers must explain the emergency nature of the family crisis to the relatives. Removing a child from parental care is traumatic for everyone involved, and relative participation may be more likely if they are engaged immediately and asked to participate in the family crisis. To contact them weeks after the removal may not persuade them of the necessity of their involvement since the child by that time is likely in foster care. Without explanation, relatives may not understand the long-term impact on the child when placed in stranger care, or their role in assisting the child. They may believe that foster care is an adequate placement during the reunification period.

Federal legislation recommends that the social worker or probation officer bring family members together to discuss the family crisis.³⁴ These meetings give the extended family the opportunity to problem-solve about the child. There are several models that the agency can employ, including family group conferences, family team meetings, and family group decision-making. When these models are most effective, they give the family members an opportunity to discuss the situation privately without a social worker or other state representative in the room with them, which may lead to greater transparency and more open discussions amongst the family.

Social workers also must inform the relatives about the visitation that will be available for the parents and other relatives should there be placement with a relative. Inadequate family time

27 The family finding and engagement model was developed by Kevin Campbell to address the needs of children and youth who lacked important connections and who were languishing in foster care. Using a search engine, family finding can locate relatives and kin quickly.

28 See Goldstein, J., Freud, A., & Solnit, A., *Beyond the Best Interests of the Child*, The Free Press, N.Y. 1973, 1979.

29 This can happen when the agency knows a warrant for the removal of a child has been issued by a judicial officer. See *supra*, footnote 3 at section 102.

30 Rejecting relatives because of old convictions has been an enduring problem in some states. See Newman, A., “They Wanted to Foster Their Great-Grandson. Why Did New York Say No?,” *New York Times*, 11/11/21. National, p.A12. Available at: <https://www.nytimes.com/2021/11/10/nyregion/foster-care-lawsuit-nyc.html>.

31 See, *supra*, footnote 6.

32 California Welfare and Institutions Code section 361.2. (West, 2022).

33 These statistics come from Los Angeles County.

34 See, *supra*, footnote 3 at section 3.

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is one of the failures in our foster care system. Parents and relatives too often have minimal contact with the child placed in foster care.³⁵ Relative placement enables the parents and other relatives to see the child in a more relaxed atmosphere.³⁶

The role of the judge and attorneys starts at or before the first court hearing. The judge should make it clear that any interested relative should be invited to attend the hearing. In the hearing, the judge should question the social worker or probation officer about the steps they have taken to locate relatives and engage them in the placement decision-making. In every hearing the judge should ask what intensive and ongoing steps the agency has been making to identify a permanent placement for the child. By questioning about the search for relatives, the court and attorneys set the bar for future cases by letting the social workers know the court's expectations. The court and attorneys should also question the parents about available relatives and emphasize the importance of placing the child with relatives and avoiding placement with strangers.

The federal mandate for “intensive, ongoing, unsuccessful efforts” includes children already placed in congregate care.³⁷ Social workers must work with children placed in congregate care by using family finding and other search techniques to move them to a permanent placement, preferably relative care. Reconnecting these children with family may strengthen their family relationships and lead to a kinship placement. The New Jersey court system used this strategy to place many of their children in the dependency and delinquency systems living in congregate and foster care.³⁸

Conclusion

Congregate care is harmful for children and should be avoided in child welfare and juvenile justice cases. Studies reveal that relative care has the best long-term results for children removed from parental care. Social service agencies in several jurisdictions have implemented best practice protocols that place children with relatives over twice as frequently as the national average. Judges and attorneys can work with social service agencies to implement these protocols locally. Judges have a legal mandate to hold the agency accountable for their efforts to find a permanent placement for a child in congregate care. Our most at-risk children deserve the best placements we can identify, and the sooner these protocols are introduced, the better for those children and their families. ■

35 Edwards, *Reasonable Efforts: A Judicial Response*, 2nd Edition, NCJFCJ, Reno, NV, 2022, at pp. 62-71. (Family Time – Visitation).

36 See, *supra*, footnote 6.

37 See, *supra*, footnote 13.

38 The Orphans Project resulted in thousands of children finding permanent homes. Casey Family Programs. “Promising Court Practices: Strategies to Achieve Timely Permanency.” November 2009, at p. 10. Available at: https://ocfcpcourts.us/wp-content/uploads/2020/06/Promising_Court_Practices_000408.pdf.



RESOURCE SPOTLIGHT

New NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings

Landmark re-envisioning of 2001 Recommendations emphasizes youth voice, equity, and high-quality legal representation.

WHAT ARE THE NACC RECOMMENDATIONS?

The NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings detail the 10 primary duties of attorneys for children in neglect and abuse proceedings. They call upon attorneys and legal service delivery systems to anchor legal representation around the voice and interests of the children and youth they represent. These recommendations replace NACC's 2001 Recommendations, which are widely recognized by attorneys, judges, and policymakers as best practice standards.

WHY DO THEY MATTER?

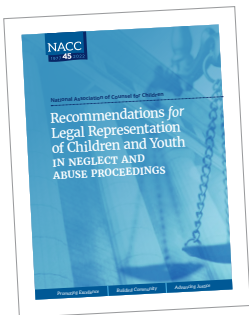
From the moment the child welfare system intervenes in a child's life, everything is at stake—their home, bonds with parents and siblings, education, community, belongings, and their future. Given the injustices of poverty and structural racism, the harm of negative foster care experiences, and the trauma of family separation, zealous legal representation is essential. Effective attorneys help youth navigate complex proceedings, advance their legal rights, ensure their voices are heard, and reach better outcomes. To do that, attorneys need specific guidance and training. To improve the child welfare system, courts, agencies, partner organizations, advocates, and policymakers can refer to these standards of best practice.

WHO DESIGNED THEM?

The National Association of Counsel for Children and members of its National Advisory Council on Children's Legal Representation (NACCLR) co-designed the recommendations. The Advisory Council is comprised of young professionals with lived expertise in the child welfare system. Rather than simply re-writing the 2001 Recommendations and asking people with lived experience to comment, NACC centered the priorities and input of the NACCLR from the beginning to end of the process. NACC also incorporated input from interdisciplinary experts, NACC staff and board members, two comment periods, attorneys practicing in the child welfare law field, and key resources and publications.

WHAT'S NEW?

The recommendations mark a milestone in NACC's journey to develop a youth-centered legal profession, advance the highest-quality legal representation, and assist jurisdictions seeking to establish and improve representation. They emphasize client-centered attorney practice with more time invested in communication and zealous advocacy, and explicitly endorse client-directed representation. They also reduce the recommended caseload cap per attorney from 100 down to a range of 40–60 clients to allow for robust engagement. Finally, they recommend attorneys be educated in several topics related to trauma, equity, and cultural competency, among others. These are just some highlights! ■



How do I read them?

Click the image above, or visit [NACCchildlaw.org](https://www.naccchildlaw.org).

Click to learn more about the [National Advisory Council on Children's Legal Representation](https://www.naccchildlaw.org).

FOR MORE INFORMATION CONTACT:

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Case Digests

*In response to member feedback, select issues of The Guardian will feature summaries of key federal and state appellate cases, pertinent to child welfare, that were issued in the last year. These digests are **not** a substitute for a practitioner's responsibility to conduct independent case research and analysis; where possible, we have provided links to the cases to assist you in doing so. If you have a case from your jurisdiction you think would be a relevant addition to the Guardian Case Digest, please email the case cite and details to Christina.Lewis@NACCchildlaw.org.*



Christina Lewis, JD
Staff Attorney
Christina.Lewis@NACCchildlaw.org

[In re the Termination of Parental Rights to M.A.S.C., 197 Wash.2d 685, 486 P.3d 886 \(Wash. 2021\) \(Department's duty to provide services to parent with intellectual disability\)](#)

The Department of Children, Youth, and Families (DCYF) placed the child in protective custody due to concerns about the mother's cognitive skills to parent the child and address his specific medical needs. A dependency order required that the mother complete 22 "services", and when she failed to do so, DCYF filed a termination petition, which the trial court granted. The appellate court affirmed, and the Washington State Supreme Court (WA Supreme Court) granted the mother's motion for discretionary review.

The WA Supreme Court noted that in a termination proceeding, DCYF must, pursuant to statute, "prove that all court-ordered and necessary services were 'expressly and understandably offered or provided' to the parent... This statutory requirement must be interpreted consistently with constitutional principles[.]" The WA Supreme Court explained that "where DCYF has reason to believe that a parent may have an intellectual disability, it must make reasonable efforts to ascertain the extent of the disability and how it could interfere with the parent's ability to understand and benefit from DCYF's offer of services." DCYF's offer of services must be tailored so that it is "reasonably understandable to the parent", "informed by current professional guidelines," and "accommodate[s] the individual parent's needs[.]"

The WA Supreme Court found that DCYF had reason to believe that the mother had an intellectual disability based on the assertions of service providers. Thus, DCYF had a duty to ascertain the mother's needs and accommodate them, which it failed to do. Although DCYF recommended that the mother participate in an intellectual disability evaluation, the WA Supreme Court emphasized that DCYF did not state how the evaluation was offered to the mother, the efforts it made to obtain the evaluation for the mother, or if the importance of the evaluation was explained to the mother. Accordingly, the WA Supreme Court ruled that DCYF did not make "reasonable efforts to fulfill its duty to expressly and understandably offer all necessary and court-ordered services." Order of termination was **reversed**.

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[New Jersey Division of Child Protection and Permanency v. J.R.-R, et al., 248 N.J. 353, 258 A.3d 1094 \(2021\) \(parents do not bear burden of proving that they did not abuse or neglect child\)](#)

The family court found that the Division of Child Protection and Permanency (DCPP) proved by a preponderance of the evidence that the child was an abused and neglected child. Relying on *In re D.T.*, 229 N.J. Super. 509, 517 (App. Div. 1988), and the doctrine of conditional *res ipsa loquitur*, the family court then shifted the burden to the parents to rebut, by a preponderance of the evidence, that they were not responsible for the child's injuries. The family court found that the parents did not meet their burden and declared that they were responsible for the abuse and neglect of the child. The parents appealed, arguing that failure to give notice of the burden-shifting paradigm violated their due process rights; the child welfare laws in Title Nine of the New Jersey Statutes Annotated (Title Nine) did not require that the parents prove their lack of culpability; and the evidence presented by DCPP did not support a finding of abuse and neglect. The Appellate Division affirmed, and the Supreme Court of New Jersey (NJ Supreme Court) granted the parents' petitions for certification.

The NJ Supreme Court first explained that Title Nine requires that DCPP prove by a preponderance of the evidence that the parents abused or neglected the child. Furthermore, the statute allows inferences to be made, i.e., "proof of injuries sustained by a child or of the condition of a child of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or guardian shall be prima facie evidence that a child... is an abused or neglected child." The NJ Supreme Court held that the plain language of the statute did not shift the burden of proof to the parents. Thus, it rejected the burden-shifting paradigm enunciated in *D.T.* and declared that it lacked legal authority to apply conditional *res ipsa loquitur* to abuse and neglect cases. The NJ Supreme Court concluded that the "family court's mistaken conception that the burden of proof shifted to [the parents] rendered its factfindings fatally flawed and denied the parents a fundamentally fair hearing." Judgment of the Appellate Division was **reversed**, and the case was **remanded** to the family court for a new hearing to determine whether DCPP proved by a preponderance of the evidence that either or both parents abused or neglected the child.

[IN THE INTEREST OF: Y.W.-B., 265 A.3d 602 \(2021\) \(probable cause is required for the department to enter home without consent\)](#)

After receiving an anonymous general protective services report (GPS report), a Philadelphia Department of Human Services (DHS) caseworker went to the family home to investigate, but the family denied her entry twice that day, citing the lack of a court order. DHS subsequently filed Petitions to Compel the parents' cooperation with an in-home visit, which the trial court granted after a hearing. The trial court also prohib-



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ited the mother from recording, filming, and posting the visit on social media. Upon DHS finding that the home was safe and appropriate, the trial court dismissed the Petitions to Compel. The mother subsequently appealed the trial court's ruling that DHS had established probable cause to allow the home inspection; she argued that her rights under the U.S. and Pennsylvania Constitutions had been violated. The Superior Court affirmed. The Supreme Court of Pennsylvania (PA Supreme Court) granted the mother's petition seeking allowance of appeal.

The PA Supreme Court cited Pennsylvania's Child Protective Services Law (CPSL) and its regulations which state that when a GPS report is made that the child is not receiving proper care, DHS must conduct an assessment, within sixty days, which includes at least one home visit. Additionally, DHS has authority, pursuant to CPSL and its regulations, to begin court proceedings if a parent refuses a home visit. The PA Supreme Court noted that it had previously held that trial courts may compel parents' cooperation with a home visit only if the requirement of probable cause has been met under the Fourth Amendment of the U.S. Constitution and Article I, Section 8 of the Pennsylvania Constitution. The PA Supreme Court found that "probable cause to conduct a home visit depends upon whether probable cause exists to justify the entry into a particular home based upon credible evidence that child neglect may be occurring in that particular home." Moreover, it explained that "while home visits in the child neglect context are conducted by civil government officials rather than members of law enforcement, they do not fit within the two categories of 'administrative searches' [i.e., home inspections for public benefits and inspections for housing code violations] entitled to reduced Fourth Amendment and Article 1, Section 8 protections."

The PA Supreme Court also rejected DHS' argument that the home visit was a "minimally intrusive spot check"; in fact, the trial court placed no limits on the scope of the search in its order granting the home visit, giving DHS the discretion to search the entire home and all of the family's belongings. While the PA Supreme Court agreed that "the evidence necessary to establish probable cause in the child neglect context will sometimes be 'different' than is typically presented in a criminal case[,] it held that:

"the evidence necessary to establish probable cause in both settings must be evaluated pursuant to certain basic principles developed primarily in search and seizure jurisprudence . . . including the existence of a nexus between the areas to be searched and the suspected wrongdoing at issue, an assessment of the veracity and reliability of anonymous sources of evidence, and consideration of the age of the facts in relation to the facts presented to establish probable cause."

The PA Supreme Court concluded that the Fourth Amendment of the U.S. Constitution and Article 1, Section 8 of the Pennsylvania Constitution applies to searches in civil child neglect proceedings.



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The PA Supreme Court next turned its attention to whether probable cause existed for the trial court's ordering of a home inspection. It first noted that the mother's due process rights to adequate notice were violated when the trial court heard testimony regarding the mother's alleged homelessness even though this allegation was not specifically in the Petitions to Compel. The PA Supreme Court found that DHS' own investigation disproved that the family was homeless in that DHS went to the family's home on two occasions and encountered the family there; thus, the homelessness allegation was moot. Next, the PA Supreme Court addressed the allegation that the mother did not feed her children during an eight-hour period which DHS contended was "inadequate basic care." Noting that DHS did not provide any evidence to support this claim and that the mother denied any general neglect, the PA Supreme Court found that the trial court erred in finding that probable cause existed for DHS to perform a home visit. The trial court could not consider the family's prior case involving home-related issues, without any evidence of a reoccurrence, to order a home visit.

Finally, the PA Supreme Court thoroughly analyzed the Superior Court's failure to address the reliability of the information provided by an unidentified source, who was never identified and called to testify. The PA Supreme Court held that DHS could have called the "source of the GPS report in this case to provide testimony to corroborate the claims against Mother, it chose not to do so and, accordingly, the allegations set forth in the Petitions to Compel, based solely on this single uncorroborated anonymous source, were insufficient to establish probable cause to justify entry into Mother's home." Ultimately, the PA Supreme Court found that the mother's constitutional rights were violated in that the "order compelling her cooperation with a governmental intrusion into her home was deficient for want of probable cause." Order of the Superior Court was **reversed**. ■



Visit NACC's COVID-19 Resource Hub

During this pandemic, NACC is collecting and sharing resources to keep our community informed and prepared to safeguard the rights and well-being of young people.



REFLECTIONS

REFLECTIONS ON NACC'S 45TH ANNIVERSARY

Members celebrate this milestone with reflections on NACC's impact—past, present, and future.



STEPHANIE S. FRANKLIN, ESQ.,

President & CEO of the Franklin Law Group, P.C.,

has advocated for children and families in the child welfare system for 23 years and is a leading voice and trainer on race equity in child welfare spaces. She raised, at the United Nations in Switzerland, the over-use of psychotropic medications on Black girls in foster care, which led to the monitoring of psychotropic medication use in Black children.

Ms. Franklin is also co-counsel in *L.J. v. Massinga*, a federal class-action lawsuit that protects the civil rights of approximately 2,000 foster care children in Baltimore City, Maryland.

As a children's attorney for 23 years, I have watched child welfare practice expand and grow, and NACC has been a pivotal player in this development. This year is NACC's 45th anniversary and its accomplishments, particularly in the last few years, are noteworthy and deserve some recognition. So, I wanted to take this opportunity to share my thoughts and feelings with my colleagues across the nation as I reflected on the three questions below.

How has NACC benefited me and child welfare law?

NACC has undoubtedly been a leading voice in child welfare law, particularly in recent years. As a member of NACC since 2013, I have watched and benefited from its growth. Its webinars, conferences, publications, and campaigns have been instrumental in my growth as a children's attorney. Attending multidisciplinary presentations and learning from my colleagues across the country, has introduced me to different ideas that I have used to elevate my practice and better serve my clients. I have also found the Red Book to be extremely helpful. It is a staple in my law library and a necessary reference book that I go to often, particularly as I raise constitutional protections for children and families.

Moreover, NACC has been intentional in ensuring that the child welfare community receives very practical information. This is especially important for practitioners. Theoreticians are great, and we most certainly need them. However, bridging theory to practice is necessary for child welfare practitioners, and NACC expressly focuses on this point.

Additionally, NACC publications (e.g., *The Guardian*) are informative. The information shared adds to the arsenal for child welfare practitioners and is a valuable resource.

Why I choose to be a member of NACC?

Being a member of NACC is a no-brainer. NACC provides critical resources and education to expand and grow your practice, and it keeps you up to date on the latest issues in child welfare law. For example, I think NACC's "Right to Counsel" Campaign is awesome! I have learned so much from the campaign! As a children's attorney in Maryland, it was mind-boggling to learn that so many states across the country do not statutorily mandate representation of children or parents in every stage of the child welfare process. As a practitioner, being a member of NACC is necessary!

What am I looking forward to seeing from NACC next?

I am looking forward to how NACC will deepen and elevate the national conversation on race equity in child welfare, what its next campaign will be, and how it will expand child welfare practice to include systemic advocacy and impact litigation. ■



READER PANEL

Self-Care and Avoiding Pandemic Burnout

This March marks two years since the COVID-19 pandemic began. Practitioners had to manage caseloads and zealously represent their clients while being “socially distant.” They had to become technologically savvy so they could sufficiently participate in Zoom hearings. On top of that, practitioners had to take measures to ensure that they and their families were safe and healthy. Sometimes it may have seemed like too much to handle!

What are some ways you have avoided burnout over the last two years? How have you prioritized your mental health and well-being?

Lynda D. McGhee, JD, CWLS

**Co-Executive Director | Michigan Children’s Law Center
NACC State Coordinator for Michigan**

I decided to write a journal/devotional that is designed to assist and encourage others who work in child welfare with going through this journey. This has been a difficult journey for us in our individual lives. Being an advocate for children has added to the weight. Not only are our families affected but our career, job, passion is affected as well. After all, we as ‘the system’ placed ourselves into the families’ lives and said that we could improve it. (Didn’t see COVID coming when we signed up for that, did we?)

The journal helped a lot. Writing is a form of therapy. Writing to help others is a bonus, even if it’s just on social media. I did a lot of writing and it turns out that I will be able to publish a book as a result. My hope is that others will be able to find an outlet because this is hard work. It’s emotional work. It’s mentally draining work. It’s not easy work. Our organization, Michigan Children’s Law Center, lost two children who were in foster care in the past two years and have represented others who are either hospitalized, in therapy, or working on their issues because of trauma, neglect and abuse that was not always because of their parents. A broken system shares the blame. Those of us who are involved must take care of ourselves in order to advocate ferociously for the children and families. Routine massages, travel, therapy, artistic expressions and turning off the news are good coping mechanisms. For me, it will always be writing.

Buffy Jo Okuma, JD

Chief Deputy District Attorney | Washoe County, Nevada

As an agency attorney, I faced all of those things, along with trying to assist the agency in overcoming more COVID-related issues than anyone could have imagined. My main staple for

JOIN THE PANEL!

Guardian readers are invited to join our Reader Panel. You’ll receive an email asking for your responses to questions about child welfare legal practice. Selected responses will be featured in The Guardian. Please send an email to Kristen.Pisani-Jacques@NACCchildlaw.org letting us know you are interested in joining the panel.

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maintaining mental health and well-being was taking advantage of less commute to take longer walks and hikes and taking advantage of remote work to work outside whenever possible. Sun, trees, flowers, butterflies, birds, and exercise...

David J. Lansner, JD
Lansner & Kubitschek | New York, New York

The way that I retain my sanity, and my passion, is simple. I SUE. You should do the same. State and local governments, foster care agencies, and their employees neglect and abuse thousands of children and parents. Make them pay for it. Get money for your clients. Get money for yourself.

Leisa Pulliam, J.D., LLM, CWLS, CPA
Attorney ad Litem - Administrative Office of the Courts | Little Rock, Arkansas

Something my pastor said Sunday resonates when I read this question. He stated that we often do not just fall away from our faith. He believes it starts by falling away from our community. Isolation leads to countless issues for us.

To that end, our boss came up with a creative way for attorney ad litem to “meet” and to “vent.” We have a weekly Coffee Talk by Zoom. We can discuss or “complain” about anything. Realizing that I am not the only one that wants to pinch someone’s ear for being a pill and not tending to the case helps. Others give their creative ways of how to handle issues. That hour plus together really makes a difference for me.

We also have tried to have Zoom outings. We had a game night on New Year’s Eve which consisted of “Guess Who the Ad Litem Was” after we posted fun facts that people often did not know about each other – we learned that some of our colleagues have acted in movies, play pickle ball, and make pageant costumes! We also played Family Feud about different types of “New Year’s Eve” traditions around the world. We gave prizes for the best background. We laughed and enjoyed some time together.

I think it also was a serious reminder of what our parents and our children are often going through. They don’t have support and often don’t have family, which is what leads to some of the issues that bring them into care. We need to help get the message out that it is important to stay connected. We lose sight of priorities and responsibilities and support systems when we are not connected. Problems become more severe and more intense because we often feel we are the only one experiencing those problems. Isolation does not help anyone.

Matthew R. Muenzen, JD, CWLS
Muenzen Law, PLLC | Franklin, Tennessee

I was working from home before the COVID-19 pandemic began. Most of the courts in my area worked through it through video and telephone court hearings. After working at home with a wife and young children, I decided to lease office space in June 2021. My mental health and well-being greatly improved, which is ironic because many people made changes to work from home because of the pandemic. Working outside of the home helps me disconnect from the nature of the work that I do. It allows me to work at work and not work at home. It has helped me to establish stricter boundaries with clients and allowed me to disconnect from work to spend better quality time with my family. ■

NACC Policy News and Amicus Updates



POLICY NEWS

NACC Strongly Opposes Efforts to Mischaracterize Gender-Affirming Care as Child Abuse

In February, Texas Governor Gregg Abbott instructed state agencies to investigate gender-affirming care of transgender Texas children as child abuse. NACC strongly opposes any efforts to mischaracterize gender-affirming care. Families belong together and NACC stands with families who seek gender-affirming care for their children. NACC [released a statement](#) and [shared resources for advocates and families in Texas](#).



Allison Green, JD, CWLS
Legal Director

Allison.Green@NACCchildlaw.org

NACC's Letter Published in the Washington Post: The Indian Child Welfare Act is the Gold Standard

"The question before the court is one of tribal sovereignty and cultural identity in healthy child development. The child welfare system disproportionately impacts Native American children, placing them in foster care at rates more than two times higher than their proportion of the population." Read NACC's recent [Letter to the Editor](#) and find more about NACC's amicus work in the *Brackeen* case [here](#).

NACC Signs Letter Asking President Biden to Address Systemic Racism in FY23 Budget

In December, [NACC and hundreds of organizations and individuals](#) asked President Biden to use the FY23 federal budget to address systemic racism and policies and practices that harm students of color.

NACC Supports Helping Foster and Homeless Youth Achieve Act

NACC Legal Director Allison Green was [quoted in support](#) of Senator Jacky Rosen's (D-NV) proposed legislation to waive college application fees for youth experiencing foster care or homelessness: "Youth who have experienced foster care deserve to have every door open to them as they begin their college journey."

NACC Urges Gov. DeSantis to Maintain Well-Being of Immigrant Children

NACC joined dozens of organizations in [expressing alarm](#) at Florida Governor Ron DeSantis' decision to restrict state licensing from facilities that house unaccompanied immigrant children in Florida.



Cristal Ramirez, MS
Youth Engagement Manager

Cristal.Ramirez@NACCchildlaw.org

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NACC Supports Colorado Efforts to Establish Age-Appropriate Law Enforcement for Children

NACC and a [coalition of Colorado organizations](#) support efforts to raise the minimum age juvenile court has jurisdiction over children and to establish age-appropriate alternatives for children who face interaction with law enforcement.

NACC Supports Prioritization of Police-Free Youth Mobile Response Services

NACC [signed on to a letter](#) asking the Centers for Medicare and Medicaid Services to prioritize mobile response services for youth that are free of interactions with law enforcement officers so that youth can safely access care.

NACC Supports Expanded Child Tax Credit

In January, NACC [signed on to a letter](#) to President Biden and members of Congress urging them to permanently expand the Child Tax Credit as part of the Build Back Better Act to address the needs of children and families.

NACC Backs Bills Addressing Education Inequities

NACC signed on in support of two bills that aim to reduce barriers to higher education for youth experiencing homelessness and for youth who have experienced foster care: The [Fostering Success in Higher Education Act](#), and the [Higher Education Access and Success for Homeless and Foster Youth Act](#). You can [add your support](#).

NACC Supports Federal Advocacy on Early Education, Child Poverty

NACC signed on to several letters urging congressional leaders to [support automatic eligibility for Head Start](#) for families receiving preservation services, pass the [Child Poverty Reduction Act](#), consider the [harm a continuing resolution would have on children and increase funding to meet human needs](#) including child welfare, health, education, nutrition, and housing.

NACC Testifies in Colorado on Counsel for Kids, Raise the Floor Efforts

NACC Executive Director Kim Dvorchak [testified](#) before the Colorado House Judiciary Committee on February 16 in support of legislation that would ensure children 12 and older experiencing the child welfare system receive client-directed legal representation (Kim's testimony begins near 12:15 mark). Separately, she also testified in support of [efforts to raise the minimum age of prosecution in Colorado from 10 years old to 13 years old](#).

► **Policy News and Amicus Updates** from previous page



Natalece Washington,
JD, CWLS
Policy Counsel
Natalece.Washington@NACCchildlaw.org

COUNSEL FOR KIDS

Legislative Activity in Florida, Indiana, Colorado, and Connecticut

NACC's Counsel for Kids Campaign supported proposals in Florida, Indiana, Colorado, and Connecticut this legislative session.

Check Out New Campaign Resources!

A one-pager comparing the roles of attorneys for children and court-appointed special advocates (CASAs), and Professor Donald N. Duquette's article, *How to Improve Legal Representation of Children in America's Child Welfare System* are both now available!

AMICUS UPDATES

Supreme Court Accepts Cert in *Brackeen v. Haaland*

On October 8, 2021, NACC joined with partners in an amicus brief supporting the Indian Child Welfare Act and urging the Supreme Court to accept the petition for cert in this case. In late February 2022, the petition was accepted; oral argument in this case is anticipated for October 2022.

NACC & Partners File Amicus Brief in Ohio

On January 11, 2022, NACC joined partners in an amicus brief to the Ohio Supreme Court, arguing for the appointment of independent counsel when the child's expressed wishes differ from their GAL's position. Oral argument in this case is set for April 26, 2022.

Supreme Court Denies Petition for Cert in *Nicole K.*

On January 10, 2022, the United States Supreme Court denied the petition for a writ of certiorari in the matter of *Nicole K.*

NACC Joins New Amicus Matter

NACC signed on to a new amicus brief in an Indiana matter concerning improper application of the abstention doctrine in federal child welfare impact litigation. ■



Amicus Request: The NACC Amicus Curiae Program promotes the legal interests of children through the filing of amicus curiae (friend of the court) briefs in state and federal appellate courts. We submit our own briefs and participate as co-amici in cases of particular importance to the development of law for children. To submit a request for NACC to participate as amicus curiae in a case you are working on, please download and complete NACC's Amicus Curiae Request Form.



Emily Dufour
Membership Coordinator
Emily.Dufour@NACCchildlaw.org

Update Your Member Profile

Would you like to share something with the NACC Membership? [Send it to us!](#)

Forgot your username or password? It happens! Contact Membership@NACCchildlaw.org for a reset.

Membership Matters

Profile Update

Personal and Professional Information: In conjunction with our [2019–2023 strategic plan](#), one of NACC’s goals is to support our growing membership, with a specific focus on increasing diversity. As a member, you can help us by simply completing your member profile with your personal and professional information. [Log in to the website and edit your member profile](#) to give us a better picture of our current membership demographics and how we can improve diversity and inclusion through member benefits, trainings, and more. Additionally, make sure your mailing address is updated — you never know when NACC will send you something!

Monthly Member Webinars: Did you know you can auto-enroll in all of NACC’s monthly webinars? To auto-enroll, login at www.naccchildlaw.org and go to Edit Profile [here](#). Under Additional Information, select Yes or No under Auto Enroll in Monthly Webinars and click Save Changes. NACC will then automatically enroll you in all member webinars. For those who do not indicate Yes or No, we will enroll you in monthly programs automatically. Please edit your profile and select No if you do not want this enabled.

NACC National and State Listservs: Your Gateway to our Child Welfare Community

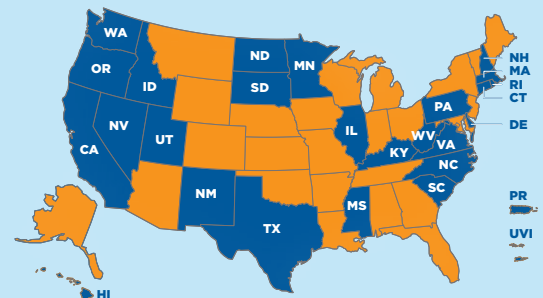
The NACC Member Listserv is a forum to seek advice from other members, share important child welfare news, promote current reform efforts, and engage in meaningful dialogue. Join the discussion! Subscribe to NACC’s national listserv by emailing nacc+subscribe@groups.io. If you are a child welfare practitioner who would like to join your respective state listserv, please email Membership@NACCchildlaw.org.

NACC Member Resource Page

To better serve your practice, NACC is continuously updating our Member Resources webpages. When was the last time you took a look? Check out the monthly member webinar page for all of NACC’s recorded webinars, our Race Equity and COVID-19 hubs (updated regularly), member badges and certificates, prior issues of *The Advocate* and *The Guardian*, and Amicus Request forms.

Call for NACC State Coordinators 2022–2024 Term: Open March 18–April 15, 2022

[NACC State Coordinators](#) help lead outreach efforts and provide localized support to growing networks of practitioners in their respective states and jurisdictions. Learn more about what states/jurisdictions have open seats, the position requirements, and apply to be a state coordinator on our [website](#). Please reach out to Membership@NACCchildlaw.org with questions!





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Thank you to our Platinum Lifetime and Sapphire Members!

PLATINUM LIFETIME

Candace Barr	Idalis Edgren	Seth Goldstein	Janet Sherwood
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Consider Elevating Your Support with a Platinum Lifetime Membership

When you [join or renew](#) your membership at the Platinum level, you receive all NACC member benefits for life! No notices, no renewals, just continued uninterrupted benefits. Lifetime Platinum Memberships cost \$2,500 and may qualify in whole or in part as a business deduction or charitable contribution (please see your tax advisor for more information). Help build NACC's platform with a [Platinum Membership](#).

SAPPHIRE

Lorne Hobbs

Honor NACC's 45th Anniversary with a Sapphire Membership

For \$450 you'll receive a Gold Membership and make a \$150 donation to [Counsel for Kids](#). Membership includes a [Red Book](#), six-month membership gift, and we'll also send you [Children's Justice](#).



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Thank you to our Gold and Silver Members!

GOLD

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| James Cargill | Audrey Huffman | Angela Orkin | Kristen Tarrin |
| Meredith Carpenter | Matthew Jarvis | James Ottesen | Judy Waksberg |
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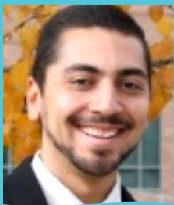
SILVER

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Child Welfare Law Specialist Certification

Congratulations to our newest child welfare law specialists!



Daniel Trujillo
Director of Certification,
Sales, and Technology
Daniel.Trujillo@NACCchildlaw.org



Ginger Burton
Certification Administrator
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Remember, Child Welfare Law Specialists get special benefits including complimentary NACC membership. Take advantage of these CWLS and NACC member benefits:

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Looking to brush up on the fundamentals? CWLS pay \$100 for the 7-session online Red Book Training Course (over 60% off the non-member rate).

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Monthly Member Webinars

CWLS and NACC members can join NACC's monthly child welfare law webinars for free and have access to recordings of past webinars for on-demand viewing (non-members pay \$45 per webinar). Register for this month's session on March 22nd: [Racial Disparities in the Child Welfare-to-Prison Pipeline.](#) ■



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NACC Individual or Organizational Member	\$ 200
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PRE-CONFERENCE CHILDREN'S LAW OFFICE CONVENING | SUNDAY, AUGUST 21 | 12:00PM – 5:00PM [↗](#)

Child Welfare Law Specialists	\$ 75
NACC Individual or Organizational Member	\$ 75
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LUNCH AND LEARN | MONDAY, AUGUST 22 | 12:30PM – 1:45PM [↗](#)

All Attendees	\$ 50
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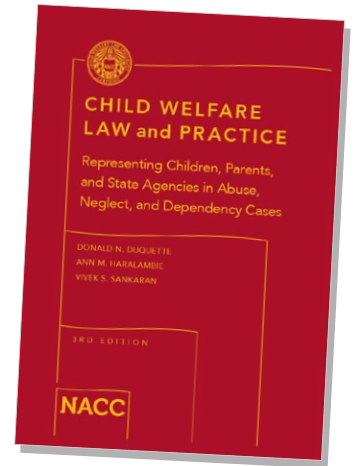
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Training

Join NACC's Spring Red Book Training Course!

In 2022, you have three chances to attend NACC's signature online, seven-week Red Book Training Course! The Red Book Training Course is an exciting opportunity for practitioners to brush up on their knowledge of federal child welfare law and learn tips to enhance their representation of children, parents, or the agency. The course covers major dependency practice competency areas and includes exam preparation strategies and tools for those intending to become certified Child Welfare Law Specialists. The material covered in the course is drawn from *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases* (3rd Edition).



Kristen Pisani-Jacques,
JD, CWLS
Training Director
Kristen.Pisani-Jacques@NACCchildlaw.org

All sessions are on Thursdays and start at 3:00PM MT

Spring: March 3 – April 14

Summer: May 19 – June 30

Fall: September 8 – October 27 (no session on September 22)

Presenter: Betsy Fordyce, JD, CWLS,

Executive Director, Rocky Mountain Children's Law Center

The registration fee is \$200 per person for groups and NACC members (\$100 for CWLS; \$275 for nonmembers) and includes access to live sessions, recordings, the electronic *Red Book*, and the RBTC workbook! Registration will be opened soon.

[Click for more information and to view the course syllabus!](#)

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Interested in Presenting at an NACC Member Webinar?

NACC is accepting submissions for its 2022 monthly member webinars. NACC's monthly member webinars help us to Promote Excellence in the child welfare field by providing quality and comprehensive trainings to attorneys, judges, and other stakeholders who work with children and families. Such ongoing training enables NACC to support our members and ensure that all children, parents, and families in the child welfare system receive high-quality legal representation.

Throughout its training offerings, NACC seeks to increase the diversity of presenters and presentation topics. NACC is committed to highlighting and elevating the voices of those individuals most impacted by the child welfare and delinquency systems, including youth, parents, and kin with lived expertise and those disproportionately impacted by systems involvement, particularly Black and Indigenous families. Webinar submissions will be reviewed on a rolling basis. If your webinar is selected, NACC staff will contact you to discuss your submission further. If you have any questions, please contact Kristen Pisani-Jacques, NACC's Training Director: Kristen.Pisani-Jacques@NACCchildlaw.org. [Click to view a list of preferred topics, requirements, and submit your proposal.](#)

▶ [Training](#) from previous page

NACC MARCH MEMBER WEBINAR



Racial Disparities in the Child Welfare-to-Prison Pipeline

[REGISTER HERE](#) 

Tuesday, March 22, 2022 | 1:00–2:30PM ET / 11:00AM–12:30PM MT

The child welfare-to-prison pipeline describes the systems that funnel youth from the child welfare system into the juvenile justice system. The child welfare system often targets and disproportionately surveils black and brown families – largely those living in poverty and dealing with the challenges of mental health, substance use, and over-policing by the criminal legal system. Often, rather than supporting these families, the focus is on simply removing children from their homes, where they can be exposed to even greater trauma, neglect, and instability than they faced while living with their families. This webinar will stress the importance of strengthening community resources and preventing family disintegration as a tool to end the child welfare-to-prison pipeline.

Presenters:

Professor **Julie McConnell** directs the Children’s Defense Clinic at the University of Richmond School of Law. For 25 years, she has advocated in the legislature and in court for client-centered, evidence-based holistic child representation. She and her students represent indigent youth at trial and in post-conviction challenges, including parole hearings, and advocate for citizenship for Central American unaccompanied minors, through Special Immigrant Juvenile Status predicate orders.

Professor **Fallon Speaker** is a social justice leader and movement lawyer who directs The Jeanette Lipman Family Law Clinic at The University of Richmond School of Law. Prior to joining the law school faculty, Professor Speaker worked in the Family Defense Practice at The Bronx Defenders where she represented parents in child protective proceedings and lobbied and organized to reform the child welfare system.

Accredited for 2 hours of CLE in Colorado (50-minute hour). CLE approval in at least one state can streamline an attorney’s CLE application in another state. Check with your jurisdiction for details on simplified CLE applications and online/on-demand learning requirements.

NACC member webinars are FREE for NACC Members when logged in with your member ID to register. Each webinar is \$45 for non-members. Non-member webinar registrants will receive access to a 90-day trial NACC membership. ■

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Past Webinars Available to NACC Members

* THESE WEBINARS ARE OPEN TO MEMBERS AND NON-MEMBERS

Accredited for
CLE in Colorado

[Click here to access all webinars and CLE documents](#)

<p>Congregate Care and Civil Rights Presenters: Richard Goemann, JD, LLM • Beth Kurtz, JD</p>	
<p>Child Welfare Law Year in Review Presenters: Allison Green, JD, CWLS • Christina Lewis, JD • Kristen Pisani-Jacques, JD, CWLS</p>	
<p>Drug Testing in Child Welfare Cases: Understanding the Chemistry, Methodology, and Legal Implications Presenters: Jerry Bruce, JD • Darice Good, JD, CWLS • Diana Rugh Johnson, JD, CWLS</p>	
<p>COVID-19-Related Challenges & Barriers to Reunification in Dependency Court Presenters: Ashley Chase, JD, CWLS • Hon. Aurora Martinez Jones, CWLS • Ellen Ramsey-Kacena, JD, CWLS</p>	
<p>The Interstate Compact on the Placement of Children (ICPC): An Essential Tool to Providing Permanency Presenters: Robyn Kane, JD, MSW • Lynn Pavalon, JD</p>	
<p>Breaking Stigma and Changing the Narrative: Strategies for Supporting Expectant and Parenting Youth in Foster Care Presenters: TyAsia Nicholson • Lisa Mishraky-Javier, LMSW • Sando Zou-Capuzzi</p>	
<p>Adolescent Brain Science: What is it, and How Can it be Effectively Used to Advocate for and Engage Youth Presenters: Cristal Ramirez, MS • Ashley Ratliff, JD, MSW</p>	
<p>Call to Action for Attorneys: Urgent Advocacy to Harness the Consolidated Appropriations Act for Older Youth* Presenters: Aubrey Edwards-Luce, JD, MSW • Zoe Jones-Walton • Tom Welshonce, JD • Gillian Ruddy Wilcox, JD</p>	
<p>Use of Psychiatric Medication in Foster Children: What Lawyers Need to Know Presenter: Martin Irwin, MD</p>	
<p>Crossover Youth: The Criminalization of Trauma Presenters: Brittany Mobley, JD • Naïké Savain, JD • Veena Subramanian, JD</p>	
<p>2020 in Hindsight: NACC's Child Welfare Law Year in Review Presenters: Allison Green, JD, CWLS • Kristen Pisani-Jacques, JD, CWLS</p>	
<p>Ethical Obligations for Children's Attorneys: Setting Professional Boundaries, Addressing Bias, and the Model Rules Presenters: Jill Malat, JD, CWLS • Erin McKinney, MSW, LICSW, CMHS</p>	 Inclusive of 1.8 ethics hours
<p>Clearing the Path to Access Benefits for Transition-Aged Youth Presenters: LilCrystal Dernier, MS, MNM • Amy Harfeld, JD • Dan Hatcher, JD • Jasmine Snell, BS • Ruth White, MSSA</p>	
<p>Understanding Racial Trauma and Institutional Racism to Improve Cultural Responsiveness, Race Equity, and Implicit Bias in Child Welfare Cases * Presenters: The Honorable Aurora Martinez Jones, JD, CWLS • Tanya Rollins, MSW, CPS</p>	—
<p>Trauma-Responsive Skills for Lawyers – Part 2: Working with Clients in Crisis Presenter: Cynthia Bowkley, JD, CPPM, SE Advanced Student</p>	
<p>Meaningful Youth Engagement in a Virtual Legal World * Presenters: Shobha Lakshmi Mahadev, JD • Robert Latham, JD • Dani Townsend</p>	

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