family matters

newsletter of the
Department of Family Administration
Maryland Administrative Office of the Courts

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Administrative Procedures for Child Support Establishment

Affidavit of Support Law Takes Effect

A new law took effect January 1 that permits the Child Support Enforcement Administration to use an administrative process for establishing child support by consent. While the agency hopes to eventually take full advantage of the law, the new procedures will be rolled out slowly with an initial pilot.

The law, which passed during the 2006 session of the General Assembly as House Bill 272, permits the local child support office to have parties execute an "affidavit of support" if they agree upon a child support amount. The affidavit is filed with the court after a 60-day period passes, during which either party may rescind their consent. No petition is filed and no hearings are held.

The affidavit becomes effective and is fully enforceable upon execution, i.e., when the parties sign it, even before it has been filed with the court. This is intended to permit the local support office to issue an immediate earnings withholding notice and expedite initial payments. This will help prevent new payors from building up arrearages due to delays in getting earnings withholding initiated.

The new administrative process can only be used where paternity has already been established and where both parties have agreed upon the terms of support. The non-adversarial process is intended to eliminate unnecessary litigation between family members, promote parent-child relationships, and reduce family conflict.

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Satisfaction Surveys Completed, Being Evaluated

by Althea Stewart Jones, Deputy Director, Family Administration

Data compiled from several recent surveys of Maryland litigants and attorneys will help the Department of Family Administration and courts understand the impact of the Judiciary's family court reform efforts. With funding from the State Justice Institute, the Department of Family Administration developed four survey tools including a litigant satisfaction survey, an attorney satisfaction survey, and co-parenting and self-help program exit surveys. The instruments and an implementation plan were developed by an outside vendor as a mechanism for litigants, attorneys, and program users to provide direct feedback on how they felt the family divisions and programs were serving their needs.

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It's Always Good to Know How

The *Family Matters* Survey Results are In

Nothing has changed faster than the manner in which we communicate. To keep pace with our readers' needs and expectations, several months ago we forwarded an electronic survey to all *Family Matters* readers for whom we had ready access to an e-mail address. We wanted to know how well this publication served your needs. Would you prefer to get various types of information in a different way, for example through e-mail bulletins or Web postings? Which regular features of the publication did you find of value?

We received 131 responses. The majority of respondents (64 to 71 percent) preferred to receive the publication quarterly in its current hard copy form. Approximately 25 to 30 percent of readers were open to receiving the publication in a different format—as an e-mailed publication, as a Web-posted document, or as the latter with an e-mail notification and link.

Nearly 55 percent of respondents found the publication "very informative;" another 42.9 percent found it "somewhat informative." Readers generally confirmed the value of feature articles and existing columns —"Around Maryland," "Case Law Updates," "Committee on Family Law Updates," and especially "Legislative Updates." Somewhat less valued were "FCCIP Updates" and the calendar.

Perhaps most enlightening were your comments. Readers' ideas included:

- "judge's roundtable" where readers could hear a judicial point of view
- An article on "reasonable efforts"
- Articles featuring "exit poll" results from CINA and TPR mediation
- Features on special projects in the jurisdictions
- Frequently asked questions and/or letters to the editor
- An article on family law in the military
- Information on updated forms
- More profiles and less coverage of conferences
- Questions and answers regarding the self-represented
- Articles from outside authors with specific expertise
- Human interest stories

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family matters

We welcome your comments and contributions.
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Regular contributors at the Department of Family Administration include: Joan Dudley, Clifton Files, Hope Gary, Althea Stewart Jones, Erica LeMon, Pamela Cardullo Ortiz, Carolyn Ross, and Tracy Watkins-Tribbitt.

We're Doing

Pamela Cardullo Ortiz,
Executive Director,
Family Administration

We have begun to address some of these ideas in this issue, with more to follow. In direct response to reader suggestions, this issue includes:

- An article on how to address reasonable efforts in delinquency matters using the new delinquency orders
- An article by staff at the Department of Human Resources on the new CHESSIE (Children's Electronic Social Services Information Exchange) information system
- Reduced coverage of our recent *CAN DO* conference
- No committee updates, at least for the moment

In addition, we hope to use the information readers provided us to reinvigorate and reformat *Family Matters* for 2007. We hope to incorporate more features on local innovations and more pieces by non-AOC authors. We welcome your ongoing feedback, and of course would be delighted to have you contribute an article, photo, or information for inclusion in an upcoming issue.

Finally, if you would like to see the results of the reader survey visit: www.mdcourts.gov/family/family_matters_survey_summary.html.

The Judge's Domestic Violence Resource Manual

New Manual Provides Updated Domestic Violence Information for Judges

by Clifton Files, Domestic Violence Specialist, Family Administration

The Department of Family Administration has produced the *Maryland Judge's Domestic Violence Resource Manual*. The manual will be distributed to circuit court and District Court judges, masters, court administrators, and circuit court family division administrators and coordinators. The manual contains updated information concerning Maryland law on domestic violence and adult and juvenile peace orders. It contains valuable flowcharts and tables. Appendices list the law enforcement agency that executes service in each county, contact information for offices in surrounding states, Maryland family support services coordinators and administrators, and a directory of abuser intervention programs.

The manual is intended as a quick reference and includes updated statutory information and references to relevant case law. The manual will be distributed at the end of January and will also be available at http://mdcourts.gov/family/otherpublications.html.

CANDO 2006 Highlights

by Tracy Watkins-Tribbitt, Director, FCCIP, Family Administration

The Ninth Annual Child Abuse, Neglect, and Delinquency Options (CANDO) Judicial Conference, sponsored by the Department of Family Administration/Foster Care Court Improvement Project, took place October 16-18 at the Harbourtowne Golf and Conference Center in St. Michael's. This year's conference featured a multidisciplinary format for more than 200 juvenile judges, masters, attorneys, social workers, CASAs, and other key child welfare stakeholders, with permanency for older youth as the focus.

The second day of the conference offered a traditional set of break-out sessions for juvenile judges and masters, along with three very interesting plenary sessions on "Barriers to Adoptions," "Dually Adjudicated Youth," and "Gender Specific Issues." The conference featured a parallel one-day event for attorneys at the Judicial Education and Training Center in Annapolis. As in previous years, the judicial portion of the conference concluded with a focus on juvenile justice and delinquency. The three-day conference offered something for everyone.

The Foster Care Court Improvement Project (FCCIP), which plans the child welfare portions of the annual CANDO Conference: Erica LeMon, Carolyn Ross, Hope Gary, Tracy Watkins-Tribbitt, Harry Amarantidis, and Courtney Adams.

DHR Secretary Christopher McCabe; FCCIP Director Tracy Watkins-Tribbitt; Chief Judge Robert M. Bell of the Court of Appeals; Judge Patrick Woodward of the Court of Special Appeals; and Baltimore City Circuit Judge Joseph H.H. Kaplan at this year's CANDO Conference.

Support Law, from 1

Deviations from the Guidelines. The local support office may negotiate a support amount that deviates from the child support guidelines if they determine application of the guidelines would be unjust or inappropriate in that case. The administration must make a "written finding on the record" stating the reasons for departure from the guidelines. That finding must take a specific form as detailed in Md. Code, Fam. L. §10-1A-02(A)(2).

Modifying Prior Court Orders. An affidavit of support process may also be used to modify a prior court order governing child support. A properly executed affidavit of support will supercede the prior court order unless and until overruled by a tribunal.

Forms and Filing. The Child Support Enforcement Administration has developed a standardized form for use by local offices in drafting affidavits of support.

The local office must forward the executed affidavit to the court *for its approval* between 60 and 90 days after the document has been executed by the parties. The parties have 60 days during which to rescind their consent, after which the child support administration has 30 days to forward it to the court for filing. The affidavit may not be sent to the court before the rescission window has closed. The statutory requirement that the affidavit be sent to the "clerk of a circuit court *for its approval*" appears to suggest that the judge will need to sign the affidavit. The statute is clear, however that the affidavit is fully enforceable upon execution.

Maryland is not alone in adopting such a process. According to the Child Support Enforcement Administration, 36 percent of states use an administrative process in establishing child support obligations.

For a copy of the bill, see: http://mlis.state.md.us/2006rs/bills/hb/hb0272t.pdf

To see a copy of the affidavit of support and rescission forms see: http://www.courts.state.md.us/family/pdfs/affidavit_of_support-12-1-06.pdf

The Administrative Office of the Courts and the Child Support Enforcement Administration will be collaborating to provide information to judges, clerks, and other court personnel on the process before implementation of a pilot. At the time of this writing, pilot sites had not yet been selected.

New Adoption Rules In the Works

by Erica LeMon, Permanency Planning Court Coordinator, FCCIP

Members of the Foster Care Court Improvement Project (FCCIP) Legislative Subcommittee assisted in redrafting Title 9, Chapter 100 of the Maryland Rules to conform to the changes in the adoption and guardianship laws that went into effect on January 1, 2006 (Permanency for Families and Children Act of 2005). The revised rules and forms address problems raised by practitioners and are designed to simplify the process.

Additionally, consent forms and consent-related documents were created to promote compliance with the requirements of the newly separated sections of Family Law Article, Title 5, Subtitles 3 (DSS-related guardianship and adoption), 3A (private agency guardianship and adoption) and 3B (independent adoption).

The forms are significantly different than the forms in the current rules and some documents are intended to be used in more than one circumstance and across subtitles. Approval of the forms by the Court of Appeals is pending.

If you would like a copy of the proposed consent forms, contact Erica LeMon at erica.lemon@mdcourts.gov.

Recent Family Law Decisions

by Pamela Cardullo Ortiz, Esq.,
Executive Director, Family Administration

COURT OF APPEALS

Child Support / Paternity/ Adult Disabled Child

Trembow v. Schonfeld, No. 64, September Term, 2005. Filed June 8, 2006. Opinion by Wilner, J. Dissenting opinion by Raker, J.

Mother of a destitute adult child born out of wedlock is not entitled to pursue a paternity action, and therefore support, after the child has turned 18 and is no longer in high school. In *dicta* the court notes, however, that had paternity been established prior to the child's 18th birthday or graduation from high school, she would have been entitled to seek support. The child is independently entitled to seek to establish paternity prior to that point and upon the ascertainment of paternity to recover child support both during his minority and, as a destitute adult child, thereafter. FL§5-1006 creates a special statute of limitations in paternity actions, requiring they be filed before a child's 18th birthday. While a parent may have a support obligation for a destitute adult child, here the mother had not established paternity before the statute ran and thus was not entitled to pursue support on the child's behalf.

CINA

In re: Blessen H., No. 71, September Term, 2005. Filed May 11, 2006. Opinion by Battaglia, J. Dissenting opinion by Bell, C.J.

The judge did not need to personally address the petitioner parent in a CINA case on the record in order to secure a waiver of her right to a contested adjudicatory hearing. To warrant a personal address on the record, the right sought to have been waived need to have been not only "fundamental," but must have also been a right from which confinement could result. Petitioner alleged that because parenting is a fundamental right, the judge needed to address her personally on the record to secure her consent to the waiver. The court affirmed the Court of Special Appeals, which had found that although CINA proceedings implicate the fundamental right of a parent to raise his or her children, thereby demanding a certain level of due process, it is less than that owed an individual who faces the loss of personal liberty and thus the personal waiver standard of *Johnson v. Zerbst*, 304 U.S. 458, 57 S.Ct. 1019, 82 L.Ed. 1461 (1938) was not implicated.

In re: Kaela C., Gunner C. and Franklin, C., No. 63, September Term, 2005. Filed September 8, 2006. Opinion by Battaglia, J.

The trial court erred in adopting the master's recommendations in a CINA matter prior to the expiration of the five days for the filing of exceptions where the court dismissed the petition and awarded custody to the father. Rule 2-541(f) requires that the court not direct entry of an order or judgment based on the master's recommendations until the expiration of the time for the filing of exceptions. Rule 11-1115(b)'s provisions permitting immediate implementation of the master's recommendations cannot be read to overcome this limitation.

In re: Karl H. and Anthony H., No. 92, September Term, 2005. Filed September 6, 2006. Opinion by Greene, J.

An initial concurrent permanency plan order that includes the option of adoption operates to deprive a parent of his or her fundamental right to raise his or her own child and is thus immediately appealable. A parent is deprived of the right to a six-month review hearing when a concurrent permanency plan order includes adoption because a termination of parental rights petition must be filed within 30 days. Therefore in this case, the father was

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Family Matters highlights recent reported decisions of the Maryland Court of Appeals and Court of Special Appeals that address family law issues. Copies of reported opinions are available online at www.mdcourts.gov/opinions.html.

entitled to an immediate appeal of the concurrent permanency plan for reunification and adoption.

In re: Maria P., No 89, September Term, 2005. Filed August 1, 2006. Opinion by Greene, J.

The trial judge abused his discretion in excluding the petitioner parent from the courtroom in a CINA adjudicatory hearing without first making a finding on the record to support a factual basis for his decision. Here the only evidence to support the exclusion of the parent was the department's allegation that petitioner would unduly influence her daughter's testimony.

Custody/Child Counsel

Garg v. Garg, No. 97, September Term, 2005. Filed June 8, 2006. Opinion by Wilner, J.

The Court of Special Appeals erred in considering *sua sponte* the issue of whether the trial court should have appointed counsel for the minor child pending resolution of the jurisdictional dispute and erred in ruling on that issue, vacating the judgment of the trial court and failing to reach the other issues raised by Ms. Garg. It was not unreasonable, arbitrary or capricious for the trial court judge to deny the appointment of counsel at the jurisdictional phase. Judgment remanded to the Court of Special Appeals for consideration of the other issues raised earlier by Ms. Garg.

Delinquency

In re: Antoine M., No. 120, September Term, 2003. Filed September 14, 2006. Opinion by Eldridge, J., retired. Dissenting opinion by Wilner, J., in which Cathell, J., and Harrell J. join.

A respondent in a juvenile proceeding is not required to make a motion for judgment of acquittal under Rule 4-324(a) in order to preserve his right to appellate review of the sufficiency of the evidence. The criminal procedure rules do not apply in juvenile proceedings. The trial court should have determined whether the respondent had an honest and reasonable belief that he was allowed on the property in question in order to determine if he trespassed.

Divorce

Ricketts v. Ricketts, No. 136, September Term, 2003. Filed July 28, 2006. Opinion by Bell, C.J.

A complaint for limited divorce alleging constructive desertion based on lack of marital relations may be maintained when both parties continue to live under the same roof, albeit not in the same bedroom, and without cohabitation. Moreover, in such a circumstance, a complaint for custody and visitation of the parties' children may also be maintained.

Marital Property

Conteh v. Conteh, No. 104, September Term, 2003. Opinion by Eldridge, J., retired, specially assigned.

Pension benefits under a disability retirement plan acquired during the marriage do constitute marital property and therefore are subject to equitable distribution. Husband argued the benefits were not marital property but should be treated as workman's compensation. The benefits were due to a work-related injury the husband suffered. They were permanent benefits for which he was not subject to periodic medical reviews. He had never applied for workman's compensation. The court followed *Lookingbill v. Lookingbill*, 301 Md. 283, 483 A.2d 1 (1984).

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MD CHESSIE

New Child Welfare Information System to Be Launched

Carnitra White, MSW, Deputy Exec. Director,
Social Services Administration, Dept. of Human Resources
and Sheritta Barr-Stanley, MSW, Children and Family Services
Social Services Admin., Dept. of Human Resources

The Maryland Children's Electronic Social Services Information Exchange (MD CHESSIE) is Maryland's version of the Federal Statewide Automated Child Welfare Information System, otherwise known as SACWIS. In FY 2005, the referral module of CHESSIE was operational in all 24 local departments of social services. As of this fall, the full release module was in use 23 of the local departments of Social Services in Maryland including the Department of Human Resources.

The Department of Human Resources (DHR) strategically brought the system on line in phases so they could address any issues or concerns along the way. This also allowed DHR to enhance worker training to address issues that might occur. The schedule of phases has included:

- Phase I - Harford County (February 2006)
- Phase II - Kent, Queen Anne's, Talbot, Caroline, Wicomico, Worcester, Dorchester, and Somerset counties (June 2006)
- Phase III - Calvert, Charles, St. Mary's, and Prince George's counties (July 2006)
- Phase IV - Allegany, Garrett, Frederick, Carroll, Howard, and Washington counties (August 2006)
- Phase V - Anne Arundel, Montgomery, Cecil, and Baltimore counties (October 2006)
- Phase VI - Baltimore City (early 2007)

MD CHESSIE will assist caseworkers with providing a continuum of exemplary child welfare services, support management in the determination of costs and outcomes, and facilitate improved electronic communications between child welfare staff statewide.

Child Welfare Services staff provide permanency-planning services for children who have been removed from their families or have been voluntarily placed by utilizing a case planning process that documents, organizes, and analyzes casework services to families and their children in the temporary custody of a local department. These tools have been embedded in the Maryland Statewide Automated Child Welfare Information System/MD CHESSIE.

MD CHESSIE contains necessary documents to complete court petitions, document the court hearings and court reports. The system is also capable of documenting the status of legal custody and notifications.

Second Bill Takes Effect to Enhance Implementation of Juvenile Competency Proceedings

By Joan Dudley, Juvenile Justice Specialist, Family Administration

Legislation passed during the 2006 session of the Maryland General Assembly provides the services component necessary to complete the juvenile competency procedures adopted during the 2005 session. See Md. Code CJ §3-8A-17ff. On May 2, the governor signed HB 1275 into law, authorizing the court, after holding a competency hearing, to order services to youths when found to be incompetent, as well as establishing specific procedures when the court makes a finding of incompetency. Of utmost importance under this new bill is that there remains a presumption of innocence throughout the competency hearing.

HB 1275 redefines "qualified expert" as a licensed psychologist or psychiatrist who has expertise in child development and training in forensic evaluation of children as approved by the Secretary of Health and Mental Hygiene. The competency evaluator, in performing an assessment of the youth, is only to make a determination as to whether the youth is competent to proceed in the delinquency or violation of probation petition before the juvenile court.

Upon the court determining if the youth is competent to proceed, the court can hold the scheduled proceeding. However, if the court finds the youth incompetent to proceed and there is a "substantial probability" the youth may be able to attain competency within the "foreseeable future," the court has several options. The court may:

- Order competency attainment services through the Department of Health and Mental Hygiene (DHMH) for a 90-day period. The competency services provided, however, must be in the "least restrictive environment." The youth, however, can be placed in a facility for children if he or she had previously been placed in detention or community detention, presents a danger to himself or others, or is likely to flee the jurisdiction.
- Order a "petition for emergency evaluation" if the youth has a mental disorder and is a danger to the life of himself or herself or others under Md. Code Health Gen. §10-622.
- Order the Developmental Disabilities Administration (DDA) to evaluate the youth to determine whether he or she is eligible for Title 7 services if the youth has a "developmental disability" under Md. Code Health Gen. §7-101.

Should the court order competency attainment services, DHMH must submit a written report to the court stating whether the youth:

- has attained competency;
- remains incompetent; however, competency is attainable in the "foreseeable future;" or
- remains incompetent; however, competency is unattainable in the "foreseeable future."

In the instance where the youth has attained competency, the court can proceed with the petition before it. However, where the youth has yet to attain competency, the court can order competency attainment services to be continued, and in intervals of six months, the DHMH must submit written reports to the court regarding the competency of the youth.

If the court determines the youth is incompetent to proceed and competency is unlikely to be attainable in the "foreseeable future," the court may:

- dismiss the petition within 18 months after the competency findings when the youth is alleged to have committed a felony (if committed by an adult);

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DFA Awarded $1.4 Million to Advance Statewide Domestic Violence Database

by Clifton Files, Domestic Violence Specialist

A new grant will permit the Administrative Office of the Courts (AOC) to complete the Statewide Domestic Violence Database, a project designed to have a broad range of benefits for victims. The Department of Family Administration was awarded $1,439,736 under the federal Office of Violence Against Women's Grants to Encourage Arrest Policies Program. The award will permit the AOC's Judicial Information Systems (JIS) Department to complete a comprehensive database of protective orders, peace orders, and related case information.

Grant funds will be used to bring on additional staff at JIS to advance the project. A portion of the funds will be provided to the Maryland Network Against Domestic Violence to convene an advisory group including representatives from victim advocacy groups to ensure the project is developed in a manner that will benefit domestic violence victims.

Clifton Files, domestic violence specialist at the Department of Family Administration, and Kathy Schwartz, grants coordinator at the AOC, collaborated to secure the grant on behalf of the AOC.

The current "database" consists of 35 separate District Court databases and 24 separate circuit court databases. Any effort to search for related cases across jurisdictions, or evaluate statistics statewide, is hindered by the cumbersome, repetitive efforts required to compile data from 59 unique databases. As a part of this project, JIS is creating a central repository that courts throughout the state can access to get information on protective and peace orders. The project was divided into 11 phases. Project Phases 1 through 5 have already been completed.

The interactive database will house all protective and peace orders issued in the state. The Judiciary anticipates that its Web-enabled interface will eventually permit law enforcement officers to access protective orders from the field. The system is being designed to interface with the Maryland Interagency Law Enforcement System (MILES) and the FBI's National Crime Information Center (NCIC) to enhance sharing of critical information and improve victim safety.

Juvenile Competency, from 9

- dismiss the petition within six months after the competency findings when the youth is alleged to have committed a misdemeanor (if committed by an adult); or
- dismiss the petition if the District Court, under Title 4, Subtitle 3 of the Courts Article, has exclusive original jurisdiction over the felony, or if the youth is alleged to have violated §5-133, 135, 138 or 203 under the Public Safety Article or §4-203, 204, 205 of the Criminal Law Article.

In addition, HB 1275 mandates that the secretaries of DHMH, the Department of Human Resources, the Department of Juvenile Services, and the state superintendent of schools jointly adopt regulations to enable the above provisions to be carried out.

Both the competency evaluation and competency services court orders will be available on the Uniform Court System within a few months. The orders are available on the Judiciary website at: www.mdcourts.gov/family/forms/judgments-orders.html. Diskettes and hard copies have been mailed to juvenile judges and masters. If you have any questions, please contact Joan C. Dudley, Esq., at joan.dudley@mdcourts.gov or (410) 260-1727.

Satisfaction Surveys, from 1

Surveys were disseminated during the winter and early spring of 2006. Litigant and attorney satisfaction surveys were mailed to all participants with cases that closed during December 2005. Family services coordinators and court providers distributed and collected the co-parenting and self-help program exit surveys.

The department received approximately 1,000 responses for each type of survey, with the litigant satisfaction survey receiving the most responses. An outside vendor entered the data into a database. While the department is still in the process of analyzing the data, this article shares some preliminary observations.

Litigant Survey

Most of the survey respondents were Caucasian (59 percent) and female (60 percent). Divorce was the largest case type that was reported. Although there were some comments from survey respondents regarding concerns about customer service by courthouse staff, the majority of them reported that they felt that judges and masters, as well as others working in the courthouse, treated them with respect.

The services reported as most helpful were the information desk, forms and instructions, and brochures and written information. All services used were ranked between very helpful and somewhat helpful. The most prevalent comments involved concern over the waiting time between when the case was docketed and when the case was actually called, as well as the length of time between hearings.

Other points of interest related to what the survey respondents felt they needed to represent themselves. The most needed service seemed to be telephone assistance with classes on how to represent themselves being a close second.

Attorney Survey

An overwhelming majority of attorneys that responded to the survey were Caucasian (84 percent) males (61 percent). Attorneys reported that judges generally treated them with courtesy and respect, and treated their clients in a fair and unbiased manner. An overwhelming majority of the attorney survey respondents felt that most of the judges and masters were knowledgeable about family law and the Maryland Rules that apply to family law cases. Attorneys reported the following five services as mostly used: pre-trial conferences; scheduling conferences; judicial settlement conferences; co-parenting education; and child access mediation. All five service types were ranked between somewhat useful and very useful.

Self-Help Program Exit Survey

Most of the survey respondents were African-American (53 percent), females (65 percent), and had finished high school (42 percent) or had some college education (35 percent). The primary reason that respondents were representing themselves was because they could not afford to hire a lawyer. The respondents felt that the program staff listened to their concerns and were knowledgeable about what they were doing. An overwhelming majority of respondents indicated that they were able to get the information that they needed. Respondents reported they would benefit from telephone assistance and classes on how to represent themselves.

Co-Parenting Course Exit Survey

The results from the co-parenting course exit survey were also very positive. Similar to the litigant satisfaction survey, most of the persons who responded were Caucasian (56 percent) and female (52 percent). This survey was given at the end of the co-parenting course. From the responses of the survey, it appears that the respondents learned a lot from the class. Survey respondents acknowledged that children should have a close relationship with both parents and that the course increased their likelihood that they would be able to work with the other parent to make good decisions about their child(ren). What is also of interest are the mediation statistics. Of the 930 persons who responded to this question, more than half indicated that they took the co-parenting course prior to taking mediation.

All survey data will be further analyzed, and a more detailed report will be generated. This should enable each court to continue what they are doing well and make any necessary changes to improve their deliverance of family-related services.

Recent Family Law Decisions, from 7

Same Sex Marriage

Duckworth, et. al., v. Deane et. al., No. 101, September Term, 2004. Filed July 28, 2006. Opinion by Eldridge, J., retired, specially assigned.

A circuit court clerk had no right to intervene individually in a matter brought by others challenging the constitutionality of a Maryland statute limiting marriage to that between a man and a woman; any right of intervention he would have would be represented by the Attorney General of Maryland. Nor did eight legislators and one member of the public have any right of intervention as their interest was no different from that of the general public and they would be no more affected by an adverse decision that any other citizen of the state.

Self-Represented Litigants

Touzeau v. Deffinbaugh, No. 126, September Term, 2005. Filed September 19, 2006. Opinion by Battaglia, J. Bell, C.J., Cathell, and Greene, JJ. dissent.

The trial judge did not abuse his discretion in denying a continuance to a self-represented parent in a modification of child custody matter. Even where the denial of the continuance has the effect of leaving the moving party without benefit of counsel, it does not constitute a denial of due process of law. Petitioner had not been taken by surprise by an unforeseen event, and had not acted with due diligence to mitigate the consequences of not being represented by counsel. The denial of the self-represented litigant's motion was not subject to a higher standard of scrutiny than those put forth by litigants with retained counsel.

Dissenting Opinion. In the dissenting opinion authored by Chief Judge Bell, the minority express concern at the majority's unwillingness to take into account the seriousness of the appellee's circumstances, especially her financial limitations and lack of access to legal services. The minority also note that such problems would be obviated if a Civil Gideon, a right to representation in certain civil cases, were adopted by the state.

COURT OF SPECIAL APPEALS

Administrative Law / Abuse and Neglect

Department of Human Resources v. Howard, No. 2099, September Term, 2004. Filed May 18, 2006. Opinion by Murphy, C.J. Concurring opinion by Murphy, C.J. Dissenting opinion by Moylan, J. Dissenting opinion by Eyler, D., J.

Mother did not commit an act of "indicated child abuse" when she had chosen to impose corporal punishment on her 13-year-old because of his disrespectful behavior, and where she had intended to strike him on the back of the head with her knuckles, but inadvertently injured his eye when he unexpectedly turned his head. The local department had found mother had committed indicated child abuse. The decision was affirmed by the Office of Administrative Hearings, and reversed on appeal by the circuit court. The Court of Special Appeals affirmed the findings of the circuit court in favor of the mother.

Child Support

Corapcioglu v. Roosevelt, No. 1313, September Term, 2005. Filed September 20, 2006. Opinion by Eyler, D., J.

Under federal law, the $252,930 judgment awarded to a mother against the father for counsel fees and costs she incurred in seeking the child's return to her custody in Maryland after the child had been abducted by the father and taken to Turkey, was non-dischargeable in bankruptcy as child support or in the nature of child support. A state court has concurrent jurisdiction with the federal courts to

determine whether and how a matter before the state court may be affected by the automatic stay provision of 11 U.S.C. §362; and that is an issue to be decided under federal law, not Maryland law. It is a well-established principle in federal bankruptcy law that debts for actual expenses incurred in enforcing a state court's custody order are "in the nature of child support," and hence are non-dischargeable.

The court examined case law from several dischargeability cases that have dealt with expenses incurred by a parent in recovering a child abducted by the other parent, all of which found that those costs were non-dischargeable. Judgment remanded to the circuit court to determine the extent to which that award represents the same fees and costs awarded as part of an earlier judgment, and to enter a new judgment to which mother is entitled but which do not overlap with the earlier award.

Walker v. Grow, No. 2613, September Term, 2004. Filed June 5, 2006 and September 12, 2006. Opinions by Kenney, J.

The trial court did not err in excluding pass-through income from the father's S-corporation from the calculation of actual income for the purposes of determining child support where there was testimony that the father did not actually receive the money as it was retained by the company for ordinary and necessary business expenses, and was not a vehicle to manipulate or shield income to avoid child support obligations. In determining a parent's actual income, the court can consider whether subchapter S-corporation income shown on a parent's tax return was actually received by the parent as actual income, or constitutes pass-through income not available for child support. *In dicta*, the court suggested that trial courts could aid appellate review in the future by making an express finding that the parent was not using the corporation to shield income to avoid the child support obligation. The burden is on the parent seeking to exclude pass-through income from actual income to persuade the court that the pass-through income is not available for child support purposes.

Judgment remanded to permit the trial court to properly include all dividend and interest income, commissions, as well as health insurance provided to the father by his company (less amounts paid to cover the children) as actual income. The trial court was also directed to determine whether the cost of therapy was an extraordinary medical expense or whether it should have been included in the support obligation, and to determine whether attorney's fees were warranted.

CINA

In re: John F., Jr., and Shawn F., No. 1741, September Term 2005. Filed June 2, 2006. Opinion by Eyler, D., J.

Evidence submitted by the appellant was insufficient to rebut the presumption that the court had jurisdiction over the subject matter in a CINA case where the allegations in the petition stated the children were living in Maryland at the time the reports were made, where the children were interviewed in the state, where there was varying testimony regarding where the children resided afterwards and where no other state had asserted jurisdiction. Burden of proof was on the appellant to establish that the presumption of jurisdiction created by the allegations in the petition had been overcome.

Custody

Tarachanskaya v. Volodarsky, No. 1453, September Term, 2005. Filed May 2, 2006. Opinion by Davis, J.

The standard of proof in determining whether abuse occurred pursuant to

cont. on next

Recent Family Law Decisions, from 13

Family Law §9-101 is whether the trial court had reasonable grounds to make its finding. The trial court erred in requiring a higher standard of proof, by indicating that abuse had not been established by a preponderance of the evidence. The Court of Special Appeals noted that reasonable grounds was the standard articulated by the General Assembly when it drafted §9-101. Also, under settled case law, the reasonableness standard applies to protective orders based on physical abuse. Judgment remanded to permit the court to reassess the evidence based on the lower threshold of reasonable grounds.

The trial court also erred in relegating to others material terms of the appellee's visitation where the court ordered visitation in a "structured therapeutic setting" without specifying the terms of that visitation. As such, the order constituted an improper delegation of judicial authority. On remand, the court should specify a visitation schedule, including the nature of any supervision by a therapist in order to "assure the safety" and meet the "physiological, psychological, and emotional" needs of the child as specified in Family Law §9-101.

Default Judgment

Wells v. Wells, No. 845, September Term, 2005. Filed April 23, 2006. Opinion by Eyler, D., J.

The trial court abused its discretion by denying the appellant's motion to vacate a default judgment as to all issues except the decision to grant the divorce. On the issue of divorce, the trial court abused its discretion by denying the appellant's motion without holding an evidentiary hearing and making a factual finding on the issue of fraud. Parties resided in the same house with their child at all relevant times until the divorce was granted. When advised by the sheriff that she had to vacate the home because a divorce had been granted, mother demonstrated surprise and shock. She alleged in her motions that husband had told her the summons was a separation agreement, that she and husband had reconciled and remained together as married persons, that she never saw the notices of hearings or default judgment and that husband had kept such notices from her as he sorted the mail. The trial court had denied her motions without a hearing. The court sited *Flynn v. May,* 157 Md. App. 389 (2004) which established that on the question of child custody, "a default judgment cannot substitute for a full evidentiary hearing when a court, in order to determine custody, must first determine the best interest of the child."

Marital Property

Eller v. Bolton, Personal Representative, No. 692, September Term, 2004. Filed March 31, 2006. Opinion by Kenney, J.

The trial court had the authority to amend a QDRO where it had expressly retained jurisdiction over the pension and retained the ability to make changes *nunc pro tunc.* Here the trial court had amended a qualified domestic relations order (QDRO) to remove language terminating the wife's interest in a portion of the husband's pension benefits upon her death, and to establish payment of those benefits to be made through the personal representative of the wife's estate where the problems were noted in the QDRO, where it did not correspond properly to provisions of the Consent Order agreed to by the parties, and where the wife died before those changes could be made and before the husband became eligible for benefits under the pension plan.

Hart v. Hart, No. 2496, September Term, 2004. Filed June 2, 2006. Opinion by Adkins, J.

A court ordering the sale of a jointly titled family home once the use and possession period

for that property expires may not divide those sale proceeds unequally rather than adjusting the equities between the parties via a separate monetary award. The trial court improperly awarded an unequal percentage distribution of proceeds from the sale of the marital home following a use and possession period.

This amounted to awarding a proportion of unknown net proceeds from a future sale of the marital home. **Family Law §8-202(b) permits the court to order a sale and divide the proceeds after a use and possession period, but it requires the proceeds be divided *equally***. Maryland courts cannot order one spouse to pay a monetary award to the other from the proceeds of the house. If the court wanted to adjust inequities in the ownership of marital property, it should have done so by granting a marital award.

Servicemembers

Hernandez v. Hernandez, No. 1827, September Term, 2004. Filed September 1, 2006. Opinion by Krauser, J.

The trial court improperly failed to vacate divorce proceedings pursuant to the Servicemembers' Civil Relief Act, 40 App. U.S.C. 522, upon appellant's request where the appellant was a captain on active duty in the U.S. Army, where he was about to be posted to Colombia, South America, for 12 months and where his ability to prosecute or defend the action would be materially affected by reason of his active duty service. The appellant satisfied both statutory requirements by:

1. notifying the court how his current duties would materially affect his ability to appear and indicating when he would be available; and
2. submitting a letter from his commanding officer stating why his service would prevent his appearance and confirming that leave was not authorized. Having satisfied those requirements, the court should have granted a stay of at least 90 days. "The statute leaves no room for judicial discretion."

Visitation

Koshko v. Haining, No. 1302, September Term 2005. Filed May 2, 2006. Opinion by Rodowsky, J., retired, specially assigned.

In light of current precedents, particularly the binding authority of higher courts, Maryland's grandparent visitation statute is valid and was constitutionally applied. Here the circuit court had ordered grandparent visitation over the parents' objection to any visits. On appeal, parents had contended that Maryland's grandparent visitation statute found in Family Law §9-102, was unconstitutional in light of *Troxel v. Granville*, 530 U.S. 57 (2000). *Troxel* created a rebuttable presumption that parents know what is in their child's best interest; if overcome, the court would then have to determine whether grandparent visitation was in the child's best interest.

By looking at how the Maryland statute has been interpreted the appellate court concluded that, although not expressly stated in the law itself, Maryland's statute "carries a presumption in favor of the parental decision," and is thus not unconstitutional. It was also applied correctly. Here the trial court properly found that there was evidence to conclude, by a preponderance of the evidence, that the parents did *not* have their children's best interest in mind and the court was therefore free to determine whether it believed visitation to be in the child's best interest. In other words, the presumption was overcome.

Courts and Agency Must Permanency Goals

Performance measurement is a national trend from which no government entity is immune. With the passage of Maryland's Child Welfare Accountability Act of 2006, which took effect January 1, the Maryland Department of Human Resources (DHR) adopted a new outcome-based method of tackling old challenges. Central to the new law's requirements are specific measures that DHR must develop and execute that will demonstrate where the agency is doing well, and which areas require more attention.

These new measures include everything from documenting supervisory review of screened out abuse and neglect claims to measuring the number of children who successfully remain in their homes following receipt of agency services. As critical stakeholders in the child welfare system, courts are also learning the importance of evaluating their own performance in collaboration with the agency helping children to find safe and permanent homes where the child's well-being is paramount. The focus on the effectiveness of agency efforts to achieve permanency and stability for children in their custody corresponds directly with the Judiciary's efforts to examine its own role in expediting permanency.

The American Bar Association (ABA)'s Center on Children and the Law, in conjunction with the National Center for State Courts (NCSC) and the National Council of Juvenile and Family Court Judges (NCJFCJ), has identified key performance measures designed to focus court efforts on issues of ***safety***, ***permanency***, ***timeliness of court action***, and ***due process***.

Safety measures look at the percentage of children who experience additional abuse both while under court jurisdiction and within twelve months following disposal of their case.

Permanency oriented measures are aimed at discovering the impact of length of time under court jurisdiction on the achievement of permanent living situations, and overall time to permanent placement.

Timeliness measures look specifically at the impact of court delays between events, specifically filing to adjudication, filing to the first permanency hearing, and time to termination of parental rights (TPR).

Failures in service of process, and the impact of multiple judicial officers over the life of a case fall under the issue of ***due process***.

The National Council for Adoption also advocates for implementation of performance measures specifically examining such issues as re-entry after reunification, adoption, and guardianship. Council President Thomas Atwood cites the accountability aspect of performance measures and emphasizes the opportunity for strategic planning for court improvement.

Under the new act, the agency is subject to similar accountability analyses. For example, the agency must address performance in the area of permanency and stability by measuring the percentage of children with more than two out-of-home placements in a report year. The agency must also provide statistics on the types of placements children experience and the percentage of children who exit care within time periods consistent with federal standards, and with a breakdown by each standard. A primary source of such federal standards to which both the social services agency and the courts are obligated is the Adoption and Safe Families Act of 1997, better known as ASFA. This statute places requirements on the agency to make reasonable efforts both to prevent a child's removal from the home, and once the child is removed to then finalize that child's permanent living situation or plan without delay.

The Maryland Child in Need of Assistance (CINA) statute, which bases its mandates on ASFA, also provides the specific time standards to which both court and agency must look. Courts and

Work Together to Achieve for Children and Families

by Carolyn Ross, Foster Care Specialist, FCCIP

Judicial Proceedings §3-823(h) states that every reasonable effort should be made to provide permanency for a child within 24 months of the child's initial out-of-home placement. While it is the social services agency with the most control over placement of children, courts do have opportunities to help beat this two-year timeframe. In addition to the Administrative Office of the Court's inclusion last year of child welfare cases in the agency's caseflow analysis, the Foster Care Court Improvement Project (FCCIP) also addresses timeliness performance, by asking courts to access time standard compliance-related reports available through the court's management information system and working collaboratively with all stakeholders to meet time standards.

To aid courts in assessing performance, FCCIP attempts to provide statewide timeliness analysis by collecting critical pieces of data including the date a child is initially removed from his or her home, the date the permanency planning hearing is held, and the time between reviews conducted in a case. Courts can assist with this data collection by asking the agency attorney at each shelter care hearing to state clearly the date the child was removed from his or her parent or guardian's home.

At site visits throughout 2006, FCCIP staff members have met with court leaders across the state dedicated to making the necessary changes in court practice and culture to improve timeliness. In several circuit courts, TPR/guardianship cases are now moved to the top of the assignment calendar, and in other courts, simple measures such as stamps on court documents indicating the next hearing target date in a child welfare case or the priority nature of a TPR case, have made big differences in compliance. Many courts also hold regular stakeholder meetings with individuals from Legal Aid, the Department of Social Services, and even the Sheriff's office to address both systemic issues and resolution of specific cases.

Courts, like the child welfare agency, also have an interest in the impact on permanency of the number of times a child moves, as well as other aspects unique to the court role, such as issues of due process or court calendaring practices. FCCIP is introducing the collection of placement change statistics and statistics regarding the number and party type who proceed *pro se* at the various junctures in a child welfare case. For ease of data collection, courts are encouraged to place on the record each instance of a child's placement change made known to the court, as well as clearly indicating the representation status of parties to the case at each hearing held.

In addition to the measures common between courts and agency, the Child Welfare Accountability Act's focus on the range of issues impacting children in care such as the placement of siblings and meeting health and educational needs, demonstrates the enormous impact of both the social services agency and the court's role in the lives of the families and children they serve. The actions taken by the agency and the court are different, but many of the barriers to meeting standards and creating change are common. By focusing on outcomes that result from both the efforts of the agency and the court, and taking the next step to address the barriers, children and families will benefit.

The joint ABA/NCJFCJ/NCSC publication, *Building a Better Court: Measuring and Improving Court Performance and Judicial Workload in Child Abuse and Neglect Cases*, is available at: www.ncsconline.org/WC/Publications/Res_CtPerS_TCPS_PackGde4-04Pub.pdf.

For the report of the National Council for Adoption's performance measures, see: www.adoptioncouncil.org/documents/AABrief_PerfMeasforCourts_final_000.pdf.

Carnival Provides Day of Fun for Girls at Waxter Children's Center

by Joan Dudley, Juvenile Justice Specialist, Family Administration

The Baltimore City Girls Task Force sponsored a carnival for youth residing at Waxter Children's Center on September 21. The carnival was a day of fun, food and games for the girls. The task force was created and is chaired by Baltimore City Circuit Judge Audrey J.S. Carrion to examine and address the special needs of females in the juvenile justice system.

Three players from the University of Maryland women's basketball team made a surprise visit, and many of the girls got to have one-on-one conversations with them. The number of questions asked by the girls impressed the players. It was obvious these girls knew the difference between college and professional basketball, as well as pay discrepancies between female and male athletes, and the numerous hours of practice one has to commit towards being a "star" player.

Many volunteers contributed their time, energy, and resources to make this event possible. Kara Donaldson and Jennifer Davis, both of the Office of the Public Defender (OPD), donated plants and helped the girls prepare a flower and herb garden. Vanita Taylor and Maria Hudson from the OPD/CINA division prepared popcorn, cotton candy, and snowballs, while Joan Dudley, AOC, grilled hotdogs and handed out snacks. Faye Gaskin, deputy state court administrator, OAC, donated the hot dogs, buns, and condiments; Larry Jones, minority business enterprise officer, AOC, provided bottles of sanitizers and erasable highlighting pens courtesy of the AOC's procurement department. The WNBA's Washington Mystics team donated lots of prizes and pictures. Talk of the Town of Rockville, Maryland, donated carnival games, as well as the snowball, cotton candy, and popcorn machines. Talieb Wills, Gloria Storch, Chris Davis, and Robert Ehrhart manned the game tables. Various members of the Baltimore City Circuit Court Juvenile Division donated food items and prizes. Attorney Alma Yarborough's daughter also met with the girls in advance of the carnival to help them create creative writing samples that were displayed at the carnival. The employees at Waxter were also instrumental in pulling the event together. They provided punch and music so the girls could dance, and coordinated the schedule that allowed all the girls residing at Waxter an opportunity to participate in the carnival.

As the volunteers' feet began to ache from all the day's activities, each girl was given a certificate of participation. Both the girls and the staff said it was an enjoyable day and thanked the volunteers wholeheartedly. Young women in the juvenile justice system have a variety of needs, including the need for positive experiences and opportunities to learn socialization skills to aid them in becoming productive persons when transitioned back into the community. The Waxter Carnival was an enjoyable way to address some of those needs.

The Baltimore City Girl's Task Force is also planning to develop a Street Law course at the facility this winter and they are looking for volunteers. Contact Judge Carrion at the Circuit Court for Baltimore City if you are interested in participating in this or other special events.

Applying Reasonable Efforts Requirements in Delinquency Matters

by Joan Dudley, Juvenile Justice Specialist, Family Administration

Some jurisdictions still have questions regarding how to apply the requirements of Title IV-E of the Social Security Act to the particular case or facts before them. This can be particularly tricky for delinquency cases. Generally, the same legal findings that are required in child welfare are required in delinquency matters. By complying with federal law in all delinquency cases, courts can ensure those cases are eligible for federal funding should the child at some point be placed in a IV-E placement. The courts have a critical role to play in ensuring the state receives federal funding to support these children.

There are three types of findings that are required in delinquency cases:

- Contrary to the Welfare: Continuation in the home must be contrary to the welfare of the child in order for the state to be eligible for federal foster care matching funds.
- Reasonable Efforts to Prevent Removal: Courts must determine whether the state agency made reasonable efforts to prevent a child's removal from the home.
- Reasonable Efforts to Finalize a Permanency Plan: Children who have been found delinquent and status offenders in eligible foster care must have permanency hearings. At the first permanency hearing, the court must determine whether the agency made reasonable efforts to finalize a permanency plan for the child.

To aid courts in drafting effective orders that comply with federal law, the Department of Juvenile Services has provided examples of language that is legally sufficient under Title IV-E and language that is not.

(For additional information on how and when these findings must be made see the article entitled "Complying with Federal Requirements in Delinquency Cases," in *Family Matters*, Vol. 5, No. 2, available at: www.mdcourts.gov/family/familymatters.html, or the *Frequently Asked Questions* available at www.mdcourts.gov/family/otherpublications.html)

Contrary to the Welfare Findings

Examples - Sufficient

The language below would satisfy the statute.

1. The evidence presented sustained the finding that continuation of the Respondent in the Respondent's home is contrary to the Respondent's welfare, and that it is not now possible to return the child to that home because the following circumstances exist: *(Include information describing youth's behavior(s), availability of effective care and supervision available in the home, unsuccessful prior treatment attempts, etc.)*
2. The Respondent is a threat to him/herself because the alleged delinquent behavior poses a physical danger to the Respondent and may result in future long-term confinement. The behavior entails: *(Include information describing youth's behavior(s), availability of effective care and supervision available in the home, unsuccessful prior treatment attempts, etc.)*
3. The nature of the alleged offense is such that allowing the child to remain in the community would be contrary to the welfare of the child and the community for the following reasons:

cont. on next

(Include information describing youth's behavior(s), availability of effective care and supervision available in the home, unsuccessful prior treatment attempts, etc.)

4. Work with the Respondent in the community has failed to stop the Respondent from committing additional offenses which compromise the safety and welfare of the child and the community. *(Include information describing youth's behavior(s), availability of effective care and supervision available in the home, unsuccessful prior treatment attempts, etc.)*

Examples - Insufficient

The language below would not satisfy the statute.

1. ORDERED, the respondent, _____, shall remain detained at the Alfred D. Noyes Children's Center pending a further hearing on _____, with the right of the custodian to consent to such medical, educational, and ordinary treatment as may be determined to be in the Respondent's best interest, subject to the further order of this Court;

   Comment: *This order does not state that the continuation in the home is contrary to the welfare of the child, nor the specific circumstances regarding their youth which caused the court to issue this order.*

2. "Whereas, it has been duly determined by the Circuit Court of _____, Division for Juvenile Causes, that continued residence in the home is contrary to the welfare of the child and it is not now possible to return the child to the home because of the following reasons: the proffer by the parties."

   Comment: *The order does not indicate the specific circumstances regarding their youth which caused the court to issue this order. The term "proffer of the parties" does not describe those circumstances, which are not otherwise documented in the order.*

3. *Instances have been observed where the following reasons have been stated as "the facts stated in the petition," or the reasons have been omitted. In these instances the order would also not be sufficient for IV-E purposes.*

4. The Court orders that the following agencies perform the following actions regarding _____ by the next court session; DJS shall securely transport… from Shepard Pratt today to Pending placement and to all other placements."

   Comment: *The order contains no contrary to welfare or reasonable efforts findings.*

Reasonable Efforts to Prevent Removal Findings

Examples - Sufficient

The language below would satisfy the statute.

1. The following reasonable efforts were made prior to the placement to prevent or eliminate the need for removal of the child; (Check the services that have been provided to the youth and/ or family)

   ___ substance abuse treatment for _____

   ___ individual counseling for _____

cont. on next

___ family counseling

___ supervision by a probation officer

___ wrap around services provided by _____

___ community detention

___ other community services (describe services)

2. The evidence presented sustained a finding that because of the emergent nature of the situation, reasonable efforts could not be made to prevent removal of the child from the home;

The emergent nature that existed is that: *(Include a description of circumstances that exist that preclude the use of in-home services.)*

Examples - Insufficient

The language below would not satisfy the statute.

1. Subject to further order of this Court, it is further ordered, that the reasonable efforts required by 42 U.S.C. Annotated Section 671 (A)(15): (i) concerning pre-placement efforts to prevent removal from the home, have been made; and (ii) post-placement efforts to enable a return to the home applicable to the circumstances of the child will continue to be made."

   Comment: The order does not indicate the specific efforts made to prevent the youth's removal from the home. The use of boilerplate language or the quoting of the statute does not *meet the requirements of Title IV-E.*

2. ORDERED, that reasonable efforts continue to be made to reunite the child with his or her family.

   Comment: *The order does not indicate the specific efforts made to prevent the youth' removal from the home.*

Reasonable Efforts to Finalize the Permanency Plan Findings

Examples - Sufficient

The language below would satisfy the statute.

1. The Court finds that the child's permanency plan is: *(Select one of the following options. These are the only permanency options that meet Title IV-E approval):*

   ___ Reunification with parent or guardian

   ___ Placement with a Relative

   ___ Adoption by a non-relative

   ___ Guardianship by a non-relative

   ___ APPLA- Another planned permanent living arrangement

   That the efforts to achieve the permanency plan made by the Department of Juvenile Services _X were reasonable; ____ were not reasonable.

cont. on next

2. The Court found that during the last ___ 12 months ___ six months, the Department of Juveniles Services made reasonable efforts to achieve the permanency plan for the following reasons. *(Describe the specific factors the Court considered in determining that the efforts made by DJS were reasonable.)*

Choose all that apply:

A. ___The Department provided services in the community to the Respondent. Those services included the following:

___substance abuse treatment

___individual counseling

___family counseling

___supervision by a probation officer

___wrap around services by a private provider

___community detention

___other community services (Specify service)_____

B. ___ The Department provided services outside of the community in *(Specify placement)* _____to the Respondent to meet his or her special needs.

___ mental health needs

___ substance abuse treatment needs

___ behavior modification

___ educational services

___ medical services

___ life skills training

___ other

C. ___ The Department worked with the Respondent and the Respondent's family to enable the Respondent's return to the community.

___ provided family visitation

___ helped family develop skills to meet the Respondent's needs

___ assisted with housing

___ arranged for services in the community when the Respondent returns

i. ___ substance abuse treatment

ii. ___ individual counseling

iii. ___family counseling

iv. ___ supervision by a probation officer

cont. on next

v. ___ wrap around services by a private provider *(Specify Provider)* _____

vi. ___ other community services

___arranged for job interview

___arranged for vocational training/career counseling

___arranged individualized educational plan (IEP) meetings

___other *(Specify Service)*:

Examples Insufficient

The language below would not satisfy the statute.

1. The permanency plan for _____ was reunification and has been put in place. It is further found that reasonable efforts required by 42 U.S.C. Annotated Section 671 (A)(15) were made prior to placement to prevent the removal of the respondent from the home.

   Subject to further order of this Court, it is further ordered, that the reasonable efforts required by 42 U.S.C. Annotated Section 671 (A)(15) concerning pre-placement efforts to prevent removal from the home, have been made, and post-placement efforts to enable a return to the home applicable to the circumstances of the child will continue to be made.

   Comment: *The order does not document the efforts made by DJS to finalize the permanency plan for this youth, nor does it make a finding as to those efforts being reasonable.*

2. The permanency plan for _____ is independent living.

   Comment: *Independent living is not one of the Title IV-E approved permanency options. The approved permanency plan in such a case would be Another Planned Permanent Living Arrangement. Independent living is viewed by the Administration for Children and Families as being a service, not a plan.*

Department of Family Administration

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UPCOMING EVENTS IN 2007

April 25-28	ABA Section on Dispute Resolution Conference Washington, D.C.	For additional information see: www.abanet.org/dispute/
April 27	CINA/TPR ADR Conference Columbia, Maryland	FCCIP, 410-260-1580
May 3-4	ABA/UB Unified Family Court Summit Baltimore, Maryland	By invitation only.
May 30-June 2	AFCC Conference Washington, D.C.	For additional information see: http://www.afccnet.org/conferences/ afcc_conferences.asp
September 24-28	ABA 40-hour Basic Mediation for Judges JECC, Annapolis, Maryland	Althea Stewart Jones, 410-260-1580
October 15-17	CANDO Conference Ocean City, Maryland	FCCIP, 410-260-1580