

Fundamentals of Abuse/Neglect/Dependency Court

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Overview

- 3 C's of A/N/D Court
- Key Players in Abuse/Neglect/Dependency Court
- Stages of an Abuse/ Neglect/Dependency Case
- Little Known Facts about DSS

3 C's of A/N/D Court

- Counsel for All
 - Parents, guardians, custodians, and the juvenile all have the right to counsel and to present evidence in court hearings
- Court makes the final decision
 - Unless there is a consent reached amongst all parties in a case, the Court makes all decisions based on evidence presented from the parties and state and federal law
- Confidentiality
 - DSS is prohibited by law from discussing the specifics of any A/N/D case to people who are not parties absent a court order allowing disclosure of information
 - This includes case-specific statements to non-parties, the media, and other organizations regarding open AND closed cases and investigations

Key Parties in A/N/D Court

- Parents/Guardians/Custodians/Caretakers
- DSS Social Workers
- Juvenile(s)
- Guardian Ad Litem & GAL Attorney Advocate
- Judge
- Attorneys for DSS & Parents/Guardians/Custodians/Caretakers
- Rule 17 Guardian Ad Litem
- Placement Providers

Stages of an Abuse/Neglect/Dependency Case

- Initial Report → Investigation → Case Decision
- In-home services
- Petition & Nonsecure Custody
- Adjudication & Disposition
- Permanency Planning & Review Hearings
- Termination of Parental Rights & Adoption

Initial Report, Investigation & Case Decision

- DSS receives report alleging the juvenile to be abused, neglected or dependent
- DSS determines if the report meets the definition of A/N/D under state law and begins investigation
- Investigation lasts approximately 45 days (may be extended)
- Juvenile may remain in the home or be placed in a Temporary safety Placement
- Case decisions: Unsubstantiated / Substantiated

In-home Services

- DSS works with family to correct issues from investigation
- Juvenile may remain in home or in Temporary Safety Placement
- Cases involving emergencies may not be placed in in-home services before court intervention

Petition & Nonsecure Custody

- Stage where the court case begins
 - Attorneys are assigned to all parties (parents, legal guardians, custodians, caretakers, and the juvenile when the case is file)
- DSS alleges that the juvenile is abused/neglected/dependent and in need of court intervention based on state law and results from the investigative and in-home services phases
- Nonsecure custody requested if the juvenile cannot remain in the home
 - Custody/ Placement options
 - DSS custody: placement in a licensed foster home, a relative's home, or home of non-relative kin (i.e., godparent, teacher, etc.)
 - Temporary custody to a relative or non-relative kin

Adjudication & Disposition

- Adjudication: Are allegations in the petition true?
 - DSS presents its evidence, the parties and their lawyers and the juvenile's attorney present their evidence
 - After receiving all evidence from all parties, the court makes the ultimate decision
 - If allegations are not proven, petition is dismissed
 - If allegation are proven, case moves forward
- Disposition: What services are needed to fix the problems that led to court intervention?
 - After receiving all evidence from all parties, the court decides:
 - What services the parties need to engage in
 - Amount of visitation parties receive with the juvenile
 - Whether placement outside of the home is or remains necessary

Permanency Planning & Review Hearings

- Permanency Planning Hearings: held when the juvenile has been removed from the home
 - Reunification, custody, guardianship, adoption, Another Permanent Planned Living Arrangement (APPLA)
- Review Hearings: held when the juvenile remains in the parties' custody
- Both types of hearings occur on a regular schedule after adjudication and disposition until reunification occurs or until a permanent plan is achieved
- Both types of hearings review the juvenile and parties' present circumstances, status of services ordered, visitation, placement updates, and other issues deemed relevant by law or by the court
- All parties and their lawyers are allowed to present evidence at these hearings before the judge makes decisions

Termination of Parental Rights & Adoption

- TPR hearings clear juvenile for adoption when adoption is a permanent plan for the juvenile
 - DSS and the parties all present evidence as to whether the parents' parental rights should be terminated based on state law
 - The court decides whether or not the parents' rights should be terminated
- If the parents' rights are terminated, review hearings continue to be held periodically until the adoption is finalized or another permanent plan is achieved

Little Known Facts About DSS

- Only a fraction of all reports received by DSS result in court intervention
- Most substantiated cases are resolved during the in-home services phase without the need to file a petition
- Federal and state law requires DSS to prioritize relatives or non-relative kin (godparents, teachers, etc) for placement over foster parents when the court finds relatives or non-relative kin to be appropriate for placement
- Children are more likely to be placed in custody or guardianship of biological relatives or non-relative kin than to be adopted by foster parents if they are unable to return home