

TEMPORARY PHYSICAL CUSTODY HEARING, PLEA HEARINGS AND ROLE OF A PARENT'S ATTORNEY

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PLEA HEARINGS: THE TIMING COUNTS ...

- o Upon request, parents entitled to police reports and witness statements prior to the plea hearing. Wis. Stats. 48.293
- o Upon request, parents entitled to recorded interviews prior to fact-finding. Wis. Stats. 48.293
- o Request WISACWIS notes at all stages of case.
- o Within 48 or 72 hours of TPC hearing, petition must be filed.
- o Time Limits for Plea Hearing - Wis. Stat. 48.30 (1)
 - Child in secure custody: 10 days
 - Child in non-secure custody: 30 days
 - But since these children are likely out of home, the sooner the better!



COMPETENCE OF PARENTS?

- o Wis. Stats. 48.235 (1)(g)
 - GAL if parent is found not competent in an evaluation
 - o Wis. Stats. 48.295 allows for evaluation of parent for "physical, psychological, mental or developmental examination or an AODA assessment that conforms to criteria under 48.547 (4)
- o Wis. Stats. 48.235 (1)(a)
 - GAL can be appointed in any "appropriate matter"
 - o GAL is to "provide info to court regarding the parent's competency ... and to provide assistance to the court and adversary counsel in protecting parent's rights."



ADVOCATE COUNSEL RESPONSIBILITIES

- ABA Standards of Practice for Attorneys Representing Parents
- SCR 20:1.14 (2) – Advocate counsel must, so far as “reasonably possible”, maintain a normal attorney-client relationship. If advocate counsel believes that the client cannot adequately act in their own interest ... can seek appointment of a GAL.”
- *In the Interest of T.L.*, 151 Wis.2d 725 (1989)



TALKING TO YOUR CLIENT

- SCR 20:1.1, SCR 20:1.2, SCR 20:1.3, SCR 20:1.4



YOUR CLIENT’S RIGHTS

Also known as things you can easily screw up if you’re not paying attention during the plea hearing.



PATERNITY

- Fathers who are LEGALLY the father participate in CHIPS proceedings
- Types of Fathers
 - Alleged Father
 - Presumptive Father
 - Adjudicated Father
- Wis. Stats. 48.299 (6)(e)
 - Allows the court to order genetic testing to determine paternity, allowing dad to be dad and relatives to be relatives. Expedited testing may be ordered by the Court.



SUBSTITUTION OF JUDGE

- Must be filed by the end of the plea hearing
- Wis. Stats. 48.29



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JURY TRIAL

- Demand for jury trial must be made before the conclusion of the plea hearing or it is waived
- Wis. Stats. 48.30 (2)



TO ADMIT, TO DENY, TO PLEAD NO CONTEST

- Or to challenge the sufficiency of the petition vs. amend the petition

- 48.255(3) versus 48.263



PLACEMENT OF THE CHILD

- At every hearing, placement should be addressed!
Why can't this child go home today?



LAW IN ACTION

- 48.13 (10) Neglect
 - Whose parent, guardian or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.



ALWAYS REMEMBER THE 3 C'S

- Communication
- Competency
- Counsel



CULTURAL AWARENESS

- **Cultural Awareness**—The ability of individuals and teams to work toward effective understanding, and to respond appropriately to the cultural and language needs of the client(s) served in the juvenile court system.



CULTURAL COMPETENCY

- **Cultural Competency** —The proficiency demonstrated by individuals and teams to understand and effectively respond to the cultural and language needs of the client(s) served in the juvenile court system.



WHY IS CULTURAL COMPETENCY IMPORTANT?

- By improving our **cultural competency**, we can build rapport with clients and deliver more effective services to each client, regardless of his or her background.



HOW DO WE APPLY CULTURAL COMPETENCY TO OUR ROLE AS ADVOCATE COUNSEL TODAY?

- Take time to become aware of the different demographics we are serving.
- Use language that is easily understood.
- Be willing to address some of the cultural differences using our knowledge and position to facilitate and foster a relationship that provides permanence in safety.


