

Role of Counsel for Children & Parents in DCF Removals

Prepared by

Carolyn Signorelli

Chief Child Protection Attorney

Commission on Child Protection

www.ct.gov/ccpa

Right to Counsel is Statutory upon filing of a Petition with the Court

- § 46b-129a- All children subject to neglect petitions entitled to state paid representation from the CCPA.
- § 46b-135(b) - Parents of children subject to neglect petitions entitled to representation paid by the CCPA if they are unable to afford counsel.

Process for Appointment of Parent's Counsel

- DCF Files a Motion for Order of Temporary Custody and Neglect Petition with Court.
- If granted, Notice to Appear at 10 Day Preliminary Hearing served on Parents.
- Notice contains advisement regarding right to counsel.
- Parents must appear at court & complete financial affidavit for eligibility determination.

Appointment Process for Parent cont.

- If the parent appears at court before the preliminary hearing, completes the financial affidavit and is found eligible, the clerk enters CCPA's juris # in system and CCPA assigns an independent contractor.
- If the parent waits until the Preliminary Hearing to request counsel, contract attorneys on Standby are assigned.

Attorney Assignment Process for Children

- Upon the granting of OTC and filing of Petition, clerk enters case information into system.
- CCPA immediately assigns an attorney to represent the child.
- The attorneys receive notice of their assignment through CCPA's Kidsvoice Information Data System "KIDS."

Advisement of Right to Counsel

DCF's "Parent's Right to Know Brochure"

Investigation: "You have a right to have an attorney with you at any time."

Petition Filed in Court: "If DCF files a court petition for temporary custody of your child, you should consult an attorney. If you are unable to pay for an attorney, you may ask the court to appoint one for you."

OTC Notice to Appear Informs Parents of Right to Counsel

- You have the right to be represented by an attorney. If you prove you cannot pay for one, the court will make sure that an attorney is provided to you by the Chief Child Protection Attorney.
- It is recommended that you apply for an attorney by going in person to the court as soon as possible so the attorney can prepare for the hearing.

Sec. 33a-2(e) Notice of Child's Placement Information to Counsel for Child

Whenever DCF obtains an OTC from the judicial authority, DCF shall provide the clerk with a sealed envelope marked "Attention: Counsel for Child(ren)" with the contact information for the social worker and supervisor; and the child(ren)'s placement contact, address and phone number. If the placement information changes prior to the preliminary hearing, DCF shall notify counsel for the child immediately.

Barriers to Receipt of Effective

Legal Representation in Removal Cases

- The vast majority of parents do not have meaningful access to counsel during the investigation or after the 96 hour hold.
- This is a critical stage where parents need a trusted advocate who they can speak with in confidence, who will ensure their rights are protected and essential interventions and services are provided in a timely manner.

Parents, Children & their Attorneys are at a Disadvantage at Preliminary Hearing

- DCF is inconsistent in providing placement contact information to counsel for children.
- Most parents wait until Preliminary Hearing to Request Counsel.
- Independent Contractors do not have time and resources to adequately prepare to defend OTC.

Attorneys often Excluded from Case Planning Process

- Notifications regarding TPC or ACR are late or not provided.
- Court schedules do not permit attendance at administrative proceedings.
- Family Conferences are either not being held or key participants such as attorneys are not attending.

Specific Steps – Communicating Placement Changes to Counsel

- Advise all parties of any changes in the child(ren)'s placement.
- During the time DCF has custody of the child(ren), keep the child(ren)'s attorney and/or guardian ad litem informed in writing of the child(ren)'s location, placement and contact information.

ISSUE: No time requirement= in pending cases removals happen without notice to counsel.

Family Conferences Should Occur ASAP in all Removal Cases

- **PROPOSAL for PILOT:**
- When High Risk report received or Investigation may lead to removal, DCF should contact CCPA for assignment of counsel.
- A meaningful Family Conference should be held if possible before removal or;
- At Preliminary Hearing Specific Steps should include a court order to all parties, including counsel, to facilitate FC by date certain.