

**PARENTS, CHILDREN, AND FAMILIES' RIGHTS IN
CHILD WELFARE CASES**

By Judge Joseph Fernandes

OUTLINE

1. What is child welfare services?
 - a. What are the rights of the child?
 - i. Prior to court involvement
 - ii. Subject to court order
 - b. What are the rights of a parent/caregiver?
 - i. Prior to court involvement
 - ii. Subject to court action
2. What triggers an investigation?
 - a. Reasonable Cause to Suspect vs. Conducting an investigation
3. What happens during an investigation?
 - a. Components
 - b. Standards for risk assessment
 - c. Types of reports
4. How long will an investigation take?
5. What happens after the investigation?
 - a. Is it possible to appeal the findings of an investigation and how do you so?
6. Will my child be removed from home?
7. Can the results of an investigation impact parent custody of child?
8. Scenario examples

ORIGINS AND DEVELOPMENT OF PENNSYLVANIA DEPENDENCY LAW & JUVENILE COURTS IN PHILADELPHIA

By Judge Joseph Fernandes

A. Early History

- Poor relief and child welfare were intertwined for the first century and a half of Philadelphia's history.
- State law established in 1705 the Overseers of the Poor, later known as the Guardians of the Poor.
 - It allowed the right to levy taxes for relief of the poor and to remove children from parents deemed unworthy or unable to care for them.
 - Children were regarded as "small adults" whereby a system of apprenticeships was employed to assist with housing, care and schooling and teach them a trade. The prevalent idea was that work would help them into good adults.
 - In 1883, the concept of family foster care replaced apprenticeships.
- In 1862, an Act of assembly allowed Philadelphia to commit children to St. John's Orphan Asylum and St. Vincent's Home. Many other agencies opened to lessen the burden on the county government. Agencies such as Children's Aid Society of Pa (1882), The Baptist Orphanage (1879), The Methodist Episcopal Orphanage (1879), the Pa Society to Protect Children from Cruelty (1876).
- In 1883, reformers concerned about long-term institutionalization were able to have the state pass an act that prohibited the commitment of any child for longer than 60 days, unless the child had physical or mental handicaps.
- In 1903, an Act of the Assembly allowed Philadelphia to merge the Department of Charities and Corrections with the Bureau of Health of the Department of Public Safety, creating the new Department of Public Health and Charities. This was a significant change because it allowed all of the municipal medical facilities as well as government childcare and welfare obligations and duties to be handled within one department.

- Under the Charter of 1919, the caring of children was again split into two departments: the Department of Public Health and the Department of Public Welfare.

B. The Home Rule Charter of 1951

- Reformers realized that the needs of children were important and therefore a new approach and thinking needed to re-direct.
- The Charter continued with the existence of the Department of Public Welfare and charged the City of Philadelphia to “receive, care for and place dependent, mentally defective, neglected, incorrigible and delinquent children.....” Child were now viewed as “a treasured resource of our community.”
- In 1961, the legislature enacted amendments to the child welfare law, which supplemented and broadened the Department’s mandate under the City Charter, without sufficient funding forcing the Mayor at the time to once again reform the process to maintain children in their own home, and if necessary to place children in foster care but reinstate them to a family setting as practical.
- Much later the department was renamed the Department of Human Services. Over the years, the department’s operating model has been reformed to its current model of Improving Outcomes for Children sharing responsibilities with Community Umbrella Agencies (“CUA”).

C. The Juvenile Act and Federalism

- The change in child welfare laws in Pennsylvania is usually driven by federal legislation due to the streams of funding or major events within the state due to public outcry. The state of Pennsylvania is usually very compliant in amending existing laws or passing new legislation to be in conformity with federal law. Between the years of 2013 thru 2016, Pennsylvania has been taking the lead in making sweeping changes to the Child Protective Services Law. Since 2013, there has been significant changes impacting the reporting, investigating, assessment, prosecution, and judicial handling of child abuse and neglect cases. These new laws expand and further define mandated reporters and the reporting process, increase penalties for those mandated to report suspected child abuse who

- fail to do so, and provide protections from employment discrimination for filing a good faith report of child abuse.
- In 1972, the Pa legislature passed the Juvenile Act of 1972, which brought many procedural and substantives changes in how Dependency Courts hear child welfare cases. Also, truancy was now a status offense to be handled in dependency court.
 - The Adoption Opportunities Law, Act 339 of 1974, increased the number of children for whom permanent plans could be made.
 - In 1975, Act 124 established procedures for reporting and investigating the abuse of children. Act 41 of 1977, removed the label of "delinquent" from status offenders and also diverted responsibility for this group of youth into the child welfare system. Act 148 of 1977 stressed keeping children in their own homes and placing children in the least restrictive environment in the child's own community if removal from the home became necessary.
 - The Adoption and Child Welfare Act (Public Law 96-272) was enacted in 1980. It achieved a very important step by defining, on a federal level, good child welfare practice and child welfare philosophy. There followed a period during which permanency planning was expanded and refined, called for practice that included the following considerations:
 1. Intensive, in-home services to maintain children in their own homes and prevent placement. Family preservation programs have since spread across the country. The term family preservation is reserved for intensive and short-term services in families whose children would have to be placed if such services were not available.
 2. Reconceptualization of foster care as temporary service to parents. New kinds of services developed from this major shift.
 3. Careful assessment of every child who does come into care and of the child's family.
 4. A permanency plan with clearly defined time limits.
 5. Contracting with the parents and others so that everyone is absolutely clear about plans and expectations.
 - On November 19, 1997, "Adoption and Safe Families Act" (ASFA) was enacted. This law reaffirmed the purpose and nature of Child Welfare, as well as changed and/or added various mandates and requirements that guided practice. The intent of ASFA was to re-

emphasize the priorities for children in the child welfare system based on safety, permanency, and well-being for all children. Within that intent, there was a renewed focus on the need for timeliness by child welfare agencies in achieving permanence for all children.

- On December 12, 1999, The Chafee Foster care Independence act was enacted. The purpose was to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency.
- On March 10, 2000, the Child Abuse Prevention and Enforcement Act was enacted to reduce the incidence of child abuse and neglect. Major Provisions of the act: Authorized the use of Federal law enforcement funds by States to improve the criminal justice system in order to provide timely, accurate, and complete criminal history record information to child welfare agencies, organizations, and programs that are engaged in the assessment of activities related to the protection of children, including protection against child sexual abuse, and placement of children in foster care.
- On October 6, 2000, Inter-country Adoption Act was enacted to provide for implementation of the Hague Convention on Protection of Children. Major Provisions of the act established the U.S. Central Authority within the Department of State with general responsibility for U.S. implementation of the Convention and annual reports to Congress. Allowed the State Department to enter into agreements with one or more qualified accrediting entities to provide for the accreditation of agencies (nonprofit) and approval of persons (for-profit agencies and individuals) who seek to provide adoption services for adoptions covered by the Convention.
- The Child Abuse Prevention and Treatment Act (CAPTA) was originally enacted on 1-31-1974. The act was later amended by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. The law was completely rewritten in the Child Abuse Prevention, Adoption and Family Services Act (10-25-1988). It was further amended by the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (10/25/89) and the Drug Free School Amendments of 1989 (12/12/89). Further amendments were done to the CAPTA throughout the 2000 decade.
- The Community-Based Child Abuse and Neglect Prevention Grants program was originally authorized by sections 402 through 409 of

- the Continuing Appropriations Act (10/12/84). The Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 transferred this program to the Child Abuse Prevention and Treatment Act, as amended. A new title III, Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness, was added to the Child Abuse and Neglect Prevention and Treatment Act by the Stewart B. McKinney Homeless Assistance Act Amendments of 1990 (11/29/90).
- On October 12, 1999, The Missing, Exploited and Runaway Children Protection Act was enacted. The Act amended the Missing Children's Assistance Act to direct the Administrator of the Office of Juvenile Justice and Delinquency Prevention to annually make a grant to the National Center for Missing and Exploited Children, which shall be used for resources to find missing children.
 - On June 25, 2003, The Keeping Children and Families Safe Act was Enacted. The Act reauthorized the Child Abuse Prevention and Treatment Act (CAPTA). CAPTA, which helped states improve practices in preventing and treating child abuse and neglect, included a basic state grant program for improving the child protective services (CPS) system infrastructure and a grant program focused on community-based prevention efforts. The Act also reauthorized the Adoption Opportunities Act, the Abandoned Infants Assistance Act and the Family Violence Prevention and Services Act. As of 4-12-16, this Act is in the process of being amended. Amendments to the Act would include placing limitations on the possession, sale, and other disposition of a firearm by persons convicted of misdemeanor sex offenses against children.
 - On December 2, 2003, The Adoption Promotion Act of 2003 was enacted. The legislation enacted proposal to extend the Adoption Incentive Program. The bonus program, first created as part of the Adoption and Safe Families Act of 1997, has contributed to the substantial increase in adoptions in recent years. Despite recent progress, many children are still in need of adoptive families. Today, national data show that a child over the age of 9 is more likely to remain in foster care through his or her 18th birthday than to find an adoptive home. The Adoption Promotion Act of 2003 helped change that statistic by encouraging States to focus greater effort on finding adoptive families for children ages 9 and older. The Adoption Incentive Program included a targeted bonus for States successful in increasing the number of older children adopted from foster care,

as well as to continue to recognize overall progress in increasing adoptions from foster care.

- On Nov 22, 2005, The Fair Access Foster Care Act was enacted. The Act Amended part E (Foster Care and Adoption Assistance) of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.
- On July 3, 2006, The Safe and Timely Interstate Placement of Foster Children Act of 2006 was enacted. This Act amended the Social Security Act to require each state to plan for foster care and adoption assistance provided that the state shall: (1) have in effect procedures for orderly and timely interstate placement of children; (2) complete home studies requested by another state within a specified period; (3) accept such studies received from another state; and (4) not impose any restrictions on contracting with a private agency to conduct such a study. Incentive payments were to be provided to states that had approved home study plans and that completed, and provided the Secretary a report on, such studies. State agencies were encouraged to cooperate with courts which had authority with respect to the placement of a child in foster care or for adoption for the purpose of locating a parent of the child. The Act amended the definition of "case review system" to: (1) increase the required frequency of state caseworker visits to a child who was placed in foster care outside the state in which the child's parents reside; (2) required a child's health and education record to be supplied to the child at no cost when he/she left foster care by reason of having attained the age of majority under state law; and (3) provide for a foster parent's right (currently, opportunity) to be heard in any proceeding (currently, review or hearing) respecting their foster child. The Act required state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care were notified of any such proceedings.
- On July 27, 2006, The Adam Walsh Child Protection and Safety Act was enacted. This law strengthened Federal laws to protect our children from sexual and other violent crimes, prevent child pornography, and make the Internet safer for children. The Walsh Act organized sex offenders into three tiers according to the crime committed, and mandates. Tier 3 offenders (the most serious tier) were required to provide updates about their whereabouts every three months with lifetime registration requirements. Tier 2 offenders were required to provide updates about their whereabouts

every six months with 25 years of registration, and Tier 1 offenders were required to provide updates about their whereabouts every year with 15 years of registration. Failure to register and update information was considered a felony under the law. States were required to publicly disclose information of Tier 2 and Tier 3 offenders, at minimum. The laws also contained civil commitment provisions for sexually dangerous people. The Act also created a national sex offender registry and instructed each state and territory to apply identical criteria for posting offender data on the internet (i.e., offender's name, address, date of birth, place of employment, photograph, etc.). The Act was named after Adam Walsh, an American boy who was abducted from a Florida shopping mall and later found murdered. The laws amended part B (Child and Family Services) of title IV of the Social Security Act (SSA) with respect to the promoting safe and stable families (PSSF) program.

- On Oct 2, 2006, The Deficit Reduction Act of 2005 (DRA) was enacted. The Act made changes to Medicaid, Medicare, the State Children's Health Insurance Program (SCHIP), Supplemental Security Income (SSI) and other federal health care programs.
- On October 8, 2008, The Fostering Connections to Success and Increasing Adoptions Act was enacted. The Fostering Connections to Success and Increasing Adoptions Act (The Fostering Connections to Success and Increasing Adoptions Act (the FCA or Fostering Connections Act). FCA amended parts B and E of title IV of the Social Security Act to extend and expand adoption incentives through FY2013; create an option to provide kinship guardianship assistance payments; create an option to extend eligibility for title IV-E foster care, adoption assistance and kinship guardianship payments to age 21; de-link adoption assistance from Aid to Families with Dependent Children (AFDC) eligibility over time; and, provide Federally-recognized Indian Tribes, Tribal organizations, or Tribal consortia (Tribes) with the option to operate a title IV-E program, among many other provisions. On September 30, 2011, The Child and Family Services Improvement Act was enacted. The Act extended funding authorization for Child Welfare Services Program and the Promoted the Safe and Stable Families Program for five years.
- On September 29, 2014, The Prevention of Sex Trafficking and Strengthening Families Act were enacted. The laws required all states to implement a "reasonable and prudent parent standard" for

- decisions made by a resource parent or a designated official for a child care institution. All states must now produce best practices for assisting resource parents to apply the reasonable and prudent parent standard in a way that protects the child while also allowing them to experience normalcy, and also takes into consideration the concerns of the biological parents related to participation in activities (although these concerns won't necessarily determine the participation of the child in activities). This provision also ensures that liability policies will ensure appropriate liability for caregivers who approve a child's participation in an activity in accordance with the reasonable and prudent parent standard. Many states have already passed laws for the implementation of the new Federal law.
- On May 4, 2015, The Reasonable and Prudent Parent Standard Act 75 was enacted. This law was passed to create more normal life situations for a youth while in the foster care system. The resource parent or a designated official is allowed and has a duty to make parental decisions that maintain the health, safety, and best interest of the child and also decisions about the child's participation in extracurricular, enrichment, cultural and social activities based on the child's age and development.

Dependency Cases
By Judge Joseph Fernandes

Law of Dependency

Three Pennsylvania Civil Statutes permit State intervention in abuse and neglect cases.

Statutes are:

- a) Child Protective Services Law, 23 Pa. C.S.A. §6301 et. seq.;
- b) Juvenile Act, 42. Pa. C.S.A. § 6301, et. seq.; and
- c) Protection from Abuse Act, 23 Pa. C.S.A. §6101 et. seq.

A. Child Protective Services Law

It is a reporting statute – it governs who must report child abuse, when and how to report child abuse, and the procedures for investigation of reports of child abuse. It provides authority for cases to be brought to court when children are at risk. Once in court, the provisions of the Juvenile Act and rules of court control.

B. The Juvenile Act

It is the primary authority for intervention in dependency or child protection cases. It applies to both dependency and delinquency proceedings. It provides the definition of a "dependent child" in §6302 (10). The Juvenile Act has ten definitions for a dependent child. A child may be dependent but not "abused". The Juvenile Act governs dependency court proceedings where decisions are made concerning removal of children from their parents.

C. Interrelationships of the Acts

The Child Protective Services Law permits the court to deal with five defined types of child abuse: sexual abuse or exploitation, serious physical neglect, serious mental injury, serious physical injury, and placing a child in imminent risk of physical injury.

How A Case Enters Dependency Court?

A. Initiation of Court Case

1. OPC is requested by DHS. If approved, DHS is allowed to place child in custody. Ex-parte communication based on investigation of an alleged abuse report.
2. Within 72 hours, a Shelter Care Hearing must occur. The court will either release the child from custody or issue a temporary commitment.
3. DHS must file a dependent petition within ten (10) days. If an OPC is inappropriate, an urgent petition may be filed. The Pa. R.J.C.P. Rule 1404 (b) requires a petition to be heard within 45 days of filing. An adjudicatory hearing must be held.
4. In some cases, DHS will initiate court involvement pursuant to CPSL with the filing of a Petition to Compel Cooperation.

B. Adjudicatory Hearing

- It is a critical hearing under the Juvenile Act. The court must find that either the child is dependent or not.
- Child is dependent when he is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental or emotional health or morals.
- A dependent child is neglected when the child is not being provided basic necessities.
- Burden is on DHS to provide clear and convincing evidence

C. Dispositional Hearing

- If child is dependent then you proceed to a dispositional hearing.
- The court may order any disposition best suited for the protection of the child, and the physical, mental and moral welfare of the child. DHS must provide a clear necessity for the removal. Rules of evidence do not apply.

D. Permanency Hearing

- All hearings that occur after the child is adjudicated, who are in need of home placement or at home. Findings must be made under the Juvenile Act, 42 Pa. C.S.A. § (f), (f.1).

E. Goal Change and Termination of Parental Rights

1. Goal Change

The Juvenile Act governs the goal change to adoption.

- Petition for Goal Change encompasses a best interest standard.

2. Termination

The Adoption Act governs the termination of parental rights. The rights of a parent may be terminated voluntarily or involuntarily.

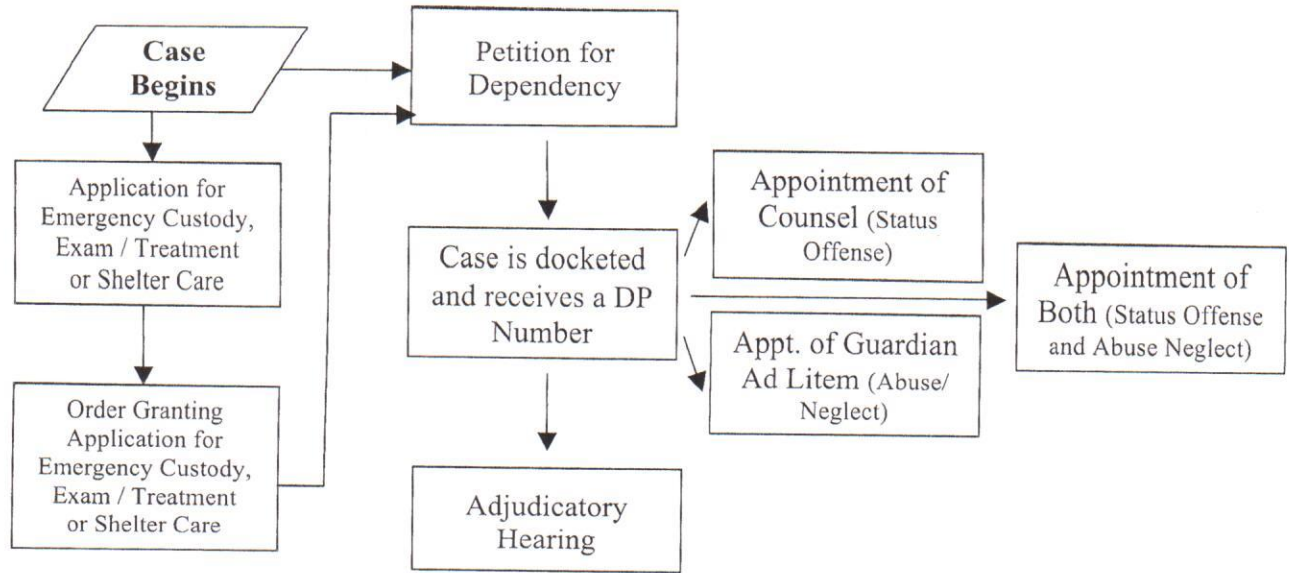
i. Voluntarily

- If a parent wants to give up rights to a child, the court may proceed in two ways:
 - i. Petition for voluntary relinquishment, or
 - ii. Petition to confirm consent
- Both are governed by the Adoption Act, 23 Pa. C.S.A. §2101 et. seq.

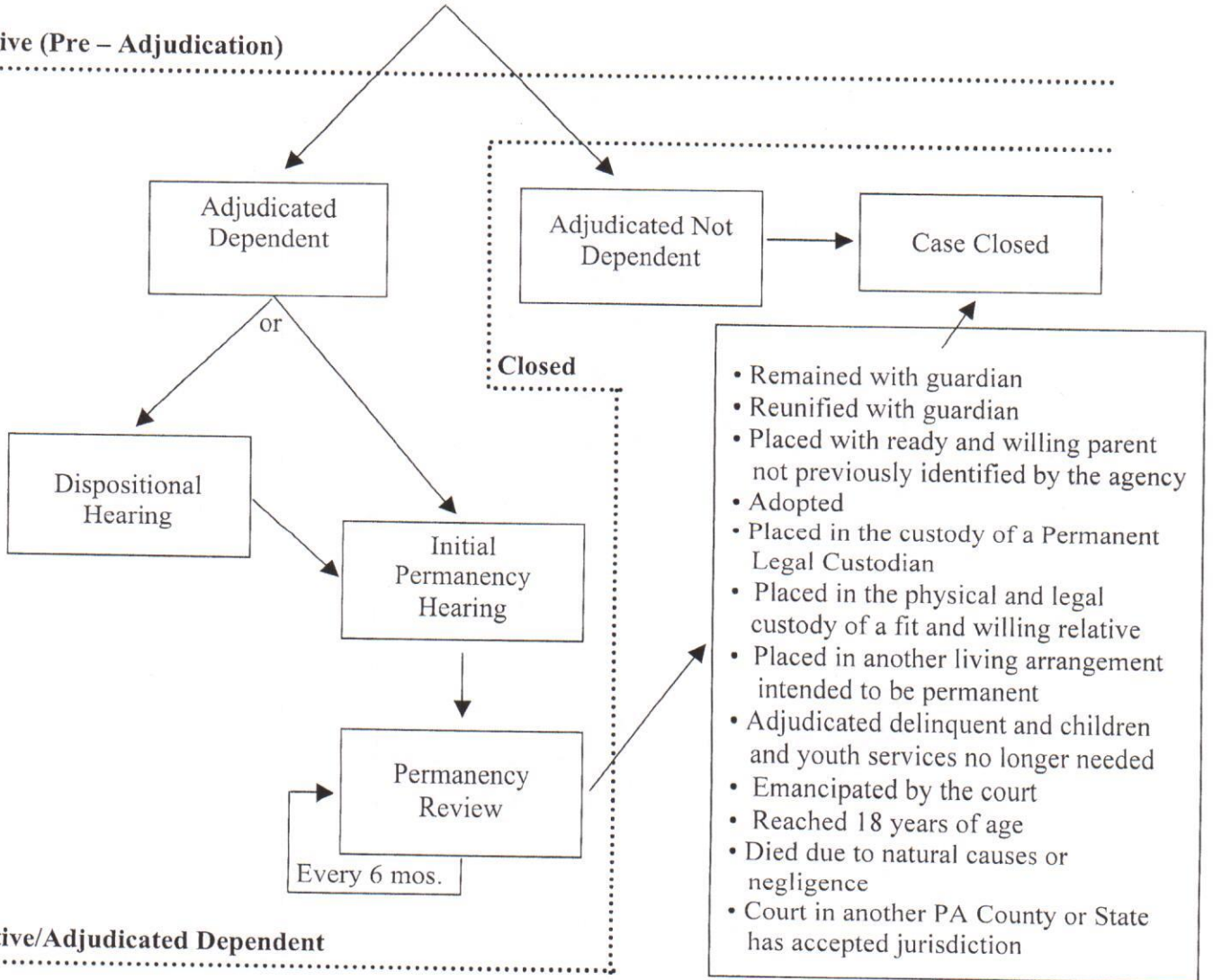
ii. Involuntary Termination is a contested trial

- The burden is on DHS to prove by clear and convincing evidence the grounds of the statute.
- The Adoption Act requires that one of nine enumerated grounds be proven. 23 Pa. C.S.A. §2511 (a).
- Once 2511(a) has been established, the court must then consider the "needs and welfare of the child" under §2511(b). The focus is whether termination will destroy an existing, necessary and beneficial relationship for the child.

Generic Life Cycle of a Dependency Case



Active (Pre - Adjudication)



Active/Adjudicated Dependent

DEPENDENCY COURT FLOW CHART

Order for Protective
Custody

Voluntary Placement Agreement (VPA)
Followed by dependent petition

Dependent Petition

SHELTER CARE HEARING
Followed by dependent petition

I. **ADJUDICATORY HEARING**
Std: ~~without proper parental care~~ CLEAR AND CONVINCING

Outcomes:

1. Deferred adjudication
2. Adjudicated dependent
3. Discharged

II. **DISPOSITION HEARING** (usually part of Adjudicatory Hearing)
Std: best interest of child BUT clear necessity for removal

Outcomes:

1. Home with supervision
2. Commit to DHS and placement
3. Placement with relative

III. **PERMANENCY HEARINGS/NON-PLACEMENT REVIEW HEARINGS** (occur at least every 6 months)
Std: best interests of the child

Outcomes:

1. Deferred adjudication and supervision
2. Adjudication and commit to custody of DHS
3. Temporary legal custody to relative or another person
4. RAC (remain as committed)

IV. **GOAL CHANGE & TERMINATION OF PARENTAL RIGHTS**
Std: best interest of child for goal change, but see Adoption Act for grounds to terminate

Outcomes:

1. Voluntary relinquishment
2. Involuntary termination
3. Denied

CLEAR & CONVINCING +
IRREPARABLE HARM
TO TERMINATE

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Dependency

GLOSSARY

- Adjudication Deferred:** Agreement to defer an adjudicatory hearing.
- Adjudicatory Hearing:** Hearing before a judge to determine whether a child is "dependent" within the meaning of the Juvenile Act.
- Aggravated Circumstances:** Possible exceptions to the requirement to provide reasonable efforts to preserve and reunify families.
- Achieving Reunification Center (ARC):** Department of Human Services program that supports parents and/or other caregivers who are actively seeking family reunification with their children in out-of-home placement.
- Achieving Independence Center (AIC):** Department of Human Services program available to youth from ages 16-21 years of age who are or were in out of home placement at the age of 16.
- Behavioral Health System (BHS):** Philadelphia's Behavioral Health System consists of three major components that work together to help consumers receive coordinated and effective mental health and drug and alcohol treatment services. The three BHS components are the Office of Mental Health (OMH), Coordinating Office for Drug and Alcohol Abuse Programs (CODAAP), and Community Behavioral Health (CBH).
- BHS Court Unit:** An office located within the Family Court Building at 1801 Vine Street where individual children, parents and families can receive assistance with referrals and assessments for mental health services.
- Board Extension:** Continuing a dependent placement for an 18 to 21 year old that is in any educational or vocational program.
- Child and Adolescent Needs And Strengths (CANS) Assessment:** An assessment tool used to determine what level of foster care or group home a child should receive. This assessment tool is used when a child initially enters care and is also used when a child's level of care is changed.

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| Central Referral Unit (CRU): | Department of Human Services non-case carrying unit of social workers and supervisors. Their function is to provide resource and planning assistance to DHS social workers with caseload responsibilities. | |
| CEU (Clinical Evaluation Unit): | Another on-site office within Family Court, providing drug and alcohol screening, assessment, follow-up and monitoring of children or parents with substance abuse concerns. | |
| Child Advocate: | An attorney appointed by the county juvenile court to represent a child. | |
| Child Advocacy Unit (CAU): | Division of the Defender Association of Philadelphia | |
| Child Prep Services: | Service provided to a child whose goal is adoption. The purpose is to help the child reconcile their past and prepare for the future. | C A C (|
| Child Profile (Adoption): | In depth evaluation of the child's background, family history, mental health, education, and current status. Used by the Court to determine whether adoption is appropriate for the child. | C C |
| Child Protective Services: | Those services and activities provided by the Department of Public Welfare and each county agency for child abuse cases. | C C |
| Child Protective Services Law (CPSL): | Statute used as a guide for reporting child abuse. Provides authority for cases to be brought to court when children are at risk. | D |
| Child Protective Services Report (CPS Report): | Report of abuse under Child Protective Services Law. The CPS report can be "indicated," which means the investigation revealed substantial evidence to show abuse and the report is registered with a state wide registry, and/or "founded" which is a judicial determination that there has been abuse. | D D |
| Commit to DHS (Commit to Stand): | When child is committed to the custody of DHS. | DE |
| Commit (to DHS) Discharged: | When custody returns to parent or another caregiver. | Do |

- Community Behavioral Health (CBH):** A non-profit corporation serving Philadelphia's Medicaid recipients. This managed care organization provides behavioral health coverage for citizens of Philadelphia.
- Compelling Reasons:** Documented evidence that filing a petition for termination of parental rights would not serve the welfare and needs of a child.
- Compulsory School Attendance:** All children between the ages of eight and 17 are required to attend school in Pennsylvania. Parents can decide when to start their children in school but it must be no later than eight. Children must attend regularly through their 17th birthday.
- Coordinating Office of Drug and Alcohol Abuse Programs (CODAAP):** See Behavioral Health System
- Court Appointed Special Advocate (CASA):** An individual appointed by the Court to participate as an advocate for a child. Generally, individuals serving as CASAs are not attorneys. A child who has a CASA advocating for him will also have an attorney assigned to represent him.
- CY-47:** Written report of suspected abuse.
- Cycle Date:** Every six months, there must be an FSP meeting and a court review. The review must be on the "cycle date", i.e., the sixth month anniversary of the date DHS accepted the case for service.
- Delinquent Child:** A child 10 years of age or older whom the Court has found to have committed a delinquent act and to be in need of treatment, supervision, or rehabilitation.
- Department of Human Services (DHS):** Philadelphia County's children and youth agency. Each of Pennsylvania's 67 counties has its own children and youth agency. All are licensed and regulated by the Department of Public Welfare.
- DHS Supervision:** Dependent child is in own home under DHS supervision.
- Domestic Relations Court (DR Court):** All custody matters (other than dependency) are heard in Domestic Relations Court at 34 S. 11th Street.

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| Dual Diagnosis program: | Integrated mental health and substance abuse treatment. |
| Early Periodic Screening Diagnosis and Treatment (EPSDT): | Comprehensive federal preventative healthcare program. Program entitles each child with a Medical Assistance card to free complete health exams, vaccines, and all other necessary medical care. |
| Emancipation: | Refers to the release of a minor from parental control. Courts generally say that deciding whether a minor can claim an emancipated status is a question of fact. This means that a judge will look at all of the applicant's circumstances to determine whether the minor is free from parental control and able to live on her own as an adult. A judge will usually consider the following factors: age, marital status, ability to be self-supportive, and desire to live independently of parents. The Court will consider whether the minor is employed and has a stable income as well as a place to live. |
| Family Preservation: | Very intensive, time limited SCOH services. These can be implemented to prevent a child from being removed or to assist with reunification. |
| Family Profile (PLC and Adoption): | In depth evaluation of the prospective permanent caregivers' background and relationship with the child. Used by the Court to determine whether permanent legal custody or adoption is appropriate for the family. |
| Family Service Plan (FSP): | Required by the Federal Adoption Assistance Plan if child is dependent/involved with DHS; the plan denotes responsibilities and goals of each party. |
| General Protective Services (GPS): | Those services and activities provided by each county agency for non-abuse cases requiring protective services, as defined by the Department of Public Welfare in regulations. |
| General Protective Services Reports (GPS Report): | These are reports of neglect, as compared to abuse. They are not registered with the statewide registry, even though GPS reports may also be "indicated." |

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| Group Home/Congregate Care: | Placement option for dependent children in need of specialized social services assistance, such as mental health or medical care. |
| Guardian ad Litem: | Represents the legal interests and the best interests of a child. Must be an attorney at law. |
| Healthy Beginnings: | A specialized program through Medical Assistance (MA) that provides services that are specifically targeted at pregnant and postpartum women and their children. The services include prenatal health care, parenting classes, and treatment for newborns and children age six and under. |
| In Loco Parentis: | A person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption. It embodies the two ideas of assuming the parental status and discharging the parental duties. |
| Independent Living Services: | Services aimed at assisting foster children in developing the skills necessary to have a successful transition from out-of-home placement to living independently in the community. |
| Individual Service Plan (ISP): | A description of the activities which implement the family service plan. The ISP is usually prepared by the placement or foster care agency. |
| Individualized Education Plan (IEP): | A written plan for the education of a child who has a disability or who is gifted. |
| J#: | In Family Court all children of a given mother are assigned the same identifying "J" number. |
| Mandated Reporter: | Requirement that professional persons having contact with a child who they have reasonable cause to suspect is abused report to the Department of Public Welfare's Child Line in accordance with the Child Protective Services Law. |
| Mobile Therapy: | Provides psychotherapeutic services to children and their families in a range of community settings. |
| Multi-Disciplinary Evaluation (MDE): | Evaluation that is used to determine if a child needs special education. |

- Non-placement Review Hearing:** Hearing for adjudicated children who reside with their biological parent(s) or legal custodian(s).
- Office of Mental Health (OMH):** See *Behavioral Health System*
- Order for Protective Custody:** Permitting DHS to take emergency custody of a child.
- Parens Patriae:** The role of the state as sovereign and guardian of persons under legal disability.
- Parenting Capacity Assessment:** Formal evaluation of the parent's parenting skills and abilities, performed by a mental health professional, to assist the Court in planning for permanency for the child.
- Performance-Based Contracting (PBC):** Initiative of the Department of Human Services, using outcome-based contracts with foster care agencies, to increase the number of cases in which permanency (defined as reunification, adoption, subsidized permanent legal custodianship) is achieved for children in a timely manner.
- Permanency Hearing:** Hearing conducted for the purpose of determining or reviewing the permanency plan of a child, the date by which the goal of permanency might be achieved and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of a child.
- Permanent Legal Custodianship (PLC):** Permanency option for permanent placement of children who cannot return home and for whom the Court has determined that adoption is not an appropriate option. Child must be adjudicated dependent, in the legal custody of DHS for at least six months, and been living with the identified permanent legal custodian for at least six months immediately preceding the establishment of the PLC.
- Petition:** Required under the Juvenile Act to invoke the Court's jurisdiction.
- Petition Dismissed:** Either by court determination or by agreement when child is not found to be dependent.

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| Petition to Treat: | Petition which must be filed if a child in DHS custody requires medical treatment that is beyond routine care, but is not life threatening, and the parents are unavailable to give consent. If a parent is available but unwilling to give consent, a hearing must be held regarding the requested treatment, but a petition is not required. |
| Pre-Hearing Conference: | Court-ordered mediated conference of all parties and their attorneys that occurs prior to the adjudicatory hearing. The purpose is to encourage the parties to discuss the issues and come to agreements where possible. |
| Reasonable Efforts: | Requirement that DHS provide services to a family if possible to avoid placement. |
| Residential Treatment Facility (RTF): | Institutional setting for dependent children with behavioral problems. RTF are usually a therapeutic milieu based upon behavior modification. Some have on-ground schools. |
| Restitution: | Paid to victims to reimburse them for lost or damage to their property. |
| SCOH (Services to Children in their Own Homes): | Social work services to children in their own home to preserve the family and protect the child(ren). Provided directly by DHS or by another agency. Protective SCOH is more intense, usually ordered when a child is at serious risk. |
| Shelter Care Hearing: | Hearing which must be held within 72 hours of receiving an order for protective custody. The purpose of the hearing is for the Court to make a determination that the child is suffering from illness or injury or is in imminent danger from his parents or caregivers or surroundings and that removal was and continues to be necessary. |
| Stand-by Guardianship: | A legal way for the Court to appoint someone to care for a child in the future if the parent is unable to do so due to a terminal illness. |
| Statewide Adoption Network (SWAN): | Links county agencies with private adoption agencies. Private adoption agencies under contract with SWAN or DHS can provide specific adoption |

- activities to the children and/or families in the process of adopting.
- Supervised Independent Living (SIL):** Living arrangement designed for dependent adolescents between the ages of 16 and 20 where clients reside in communities, living on their own, while having agency supports. Prepares them for independence in the community and to be independent of the adult welfare system through life skills, group activities, and monthly meetings.
- Supplemental Security Income (SSI):** A federally financed and administered needs-based program that serves disabled persons (including disabled children) and low-income elderly.
- Temp Commit:** Temporary commitment to DHS after a detention hearing. This must be followed by an adjudicatory hearing within 10 days.
- Temporary Assistance to Needy Families (TANF):** A Department of Public Welfare public assistance program.
- Temporary Legal Custody (TLC):** Since all custody is temporary, this phrase simply means legal custody until circumstances change.
- Tender Years Doctrine:** Exception to hearsay rule involving an out-of-court statement made by a child victim or witness, who at the time the statement was made was 12 years of age or younger, describing physical abuse or indecent contact. Court must find that testimony by the child as a witness will result in the child suffering serious emotional distress such that the child cannot reasonably communicate.
- Therapeutic Support Staff (TSS):** An adult who provides a child with one-on-one attention with immediate behavioral reinforcement, emotional support, self-esteem building, time-structuring activities, academic support, and other psychosocial rehabilitative activities. See also *Wrap-Around*
- Truancy:** When a child of compulsory school age does not attend school for three or more consecutive days without a valid excuse for the absences.

VIS (Victim Impact Statement):

Letter prepared by a victim in a criminal case or on his/her behalf to the court to detail the personal impact of a crime for the purpose of sentencing a defendant.

Voluntary Placement Agreement (VPA):

Parent acknowledges in writing that he or she is unable to care for the child and places the child in the custody of DHS, thereby waiving the family's right to the detention and adjudicatory hearings. VPA's are only valid for 30 days.

Wrap-Around:

Mental health services designed to help a child remain at home rather than needing placement in an institutional setting. These services may include a mobile therapist, a behavioral specialist, and therapeutic staff support (TSS). The TSS can accompany the child to school, on the bus, and/or stay at home with the child. These services are arranged through Community Behavioral Health in Philadelphia.

Inn of Court

January 10, 2023

Maggy is a 10 year old girl living with her mother Laurie Brown. Ms. Brown's boyfriend Sam is at their home regularly. Late one Monday night, after Sam and Laurie had been drinking, Sam slapped Maggy and repeatedly punched Ms. Brown. Maggy was able to get out of the living room where Sam was beating Ms. Brown and she called 911.

About 20 minutes later, the police arrived at the home. Sam was gone and Police Officer Jones called an ambulance to take Ms. Brown to the hospital. The police observed numerous empty bottles of alcohol in the living room, the house was a mess, and Maggy was crying uncontrollably. PO Jones asked Maggy if she had anywhere to go, but Maggy just shook her head and kept crying.

As a mandated reporter, Officer Jones called the DHS hotline. The hotline worker marked the report as a Child Protective Services (CPS) report and asked Officer Jones to transport Maggy to the DHS child care room since she hadn't identified someone she could live with and it was so late at night. DHS obtained an Order for Protective Custody (OPC) and a hearing was set for 3 days later.

In the morning a DHS investigations social worker, Ms. Winston, talked to Maggy and finds out what school she attends, what happened the night before, and asks her about family. Maggy told her that she has an aunt who she is not close to, but she would be ok living with if Maggy couldn't go with her mom. When prompted, Maggy also mentioned her father who she said she didn't like because when she lived with her dad bad things happened. She refused to give more details. Maggy was placed in a foster home.

Ms. Winston went to the hospital to talk to Ms. Brown who said that what happened was a one time thing – Sam is usually more gentle. DHS told her about the hearing scheduled for 9:30 on Thursday morning. Ms. Brown promised to be there because she wanted Maggy to come home right away. She also said that Maggy's father, Simon Byrd, was no good and had a history of substance use but would not say more.

Ms. Winston located Mr. Byrd's address and left a notice for the Thursday hearing in a mailbox.

Both Ms. Brown and Mr. Byrd appeared at the Thursday OPC hearing. Maggy is not brought to court. During the hearing, Ms. Winston testifies very briefly and shares that she is handing the case off to Bethanna, the CUA assigned to Ms. Brown's neighborhood. Because the parties were not in agreement and needed more information, the judge ordered the temporary commit to DHS to stand and set the adjudicatory hearing for the following Friday morning.

As attorneys for each parent and Maggy:

- **What would you advocate for?**
- **What information would you want to gather and from whom?**
- **How would you obtain it?**
- **How would you counsel your clients?**
- **Let's talk about where each avenue could lead**
- **Would you advise Ms. Brown to press charges? If she does, what could she expect to happen?**

After the first hearing, Mr. Byrd decides that he does not want to cooperate with DHS and he files for custody in DR Court. Ms. Brown is infuriated. She tells her CUA worker that she believes Maggy was “harmed sexually” when she visited Mr. Byrd in the past. The CUA worker is surprised by this but believes Maggy should have a forensic interview and lets DHS know about the allegation.

As the family court attorneys for the parents:

- How would you advise them?
- How would law enforcement get involved?
- How do you see this playing out between custody and dependency court?
- What are the ethical dilemmas involved in this matter?

How do you imagine this case playing out?

Issues we want to be sure to address:

Information about Mandated Reporters

Subpoenaing police records

Accessing DHS records

Having police involved in forensic interviews

Whether Ms. Brown should pursue a PFA – would that help her case? Would she be willing?

5th Amendment issues for Mr. Byrd

What will happen in custody court when Dependency still proceeding?

Weaponizing DHS and PFA