

# **Supreme Court Commission on Children in the Courts**

Summary of June 12, 2009 Meeting

Present: Chief Judge Everett Inbody, Judge Douglas Johnson, Judge Vernon Daniels, , Judge Linda Porter, Judge Linda Senff, Judge Randin Roland, Judge Curtis Evans, Judge Patrick Runge, Judge Anne Paine, Sarah Helvey, Gwen Hurst-Anderson, Carole McMahon-Boies, Liz Waterman, Marsha Fangmeyer, Robert Goodwin, Thomas Harmon, Alicia Henderson, Todd Reckling, Dick Stafford, Janice Walker, Tami Soper (representing Sen. Gwen Howard), Carol Stitt, Monika Anderson, Mark Ells, Vicky Weisz

Judge Inbody asked Commission members to nominate topics for new subcommittees through written submissions. The summary of the Dec. 15, 2008 meeting was approved.

## **Committee reports/discussion:**

### **Immigration Subcommittee**

Judge Patrick Runge reported that two full-day sessions of training on Immigration Issues in Juvenile Court were presented earlier in the week in Norfolk and Lexington and that both these training sessions were very well received. He also reported that the training would be made available on line at a later date. The trainer, Kristen Jackson, adjunct law faculty at UCLA Law School, provided an overview of the main issues to the Commission.

### **Case Progression Standards**

Judge Linda Porter provided a report and recommendations from the subcommittee. The Commission discussed the various recommendations and voted to forward the attached recommendations (at the end of this document) to the Supreme Court for its approval.

### **Parenting Time Guidelines**

Judge Linda Senff presented recommended guidelines for parenting time from the subcommittee. The Commission discussed the guidelines and voted to forward the attached guidelines (at the end of this document) to the Supreme Court for its approval.

### **Implementing NCJFCJ Delinquency Guidelines**

Judge Randin Roland presented recommendations of the Detention and Adjudication/Revocation subcommittees of the Subcommittee. These recommendations were discussed but no action was taken.

**Next Meeting: December 4.**

## **Case Progression Standards for Juvenile Abuse/Neglect Cases (43-247(3)(a))**

1. Time between a child's removal and the first Temporary Custody Hearing: No more than 10 Calendar Days.
2. Time between the filing of a petition and the commencement of an Adjudication hearing (plea or contested hearing): No more than 60 Calendar Days
  - a. Good cause exceptions to this standard include:
    - i. Need for significant pre-trial discovery in cases with complex issues (e.g., injuries with significant medical evidence)
    - ii. Service issues
    - iii. Indian Child Welfare Act applicability
      1. Notice requirements
      2. Tribal rights of continuance
    - iv. Stipulation by all parties that parents are voluntarily participating in services and there is anticipation of dismissal beyond the 60 day period.
3. Time between Adjudication (jurisdictional findings by the Court following a plea or contested hearing) and Disposition: No more than 45 Calendar Days
4. Time between Motion or Petition for Termination of Parental Rights (TPR) and TPR Hearing: No more than 90 Calendar Days

Further, the Commission recommends that the court institute a reporting requirement for the Adjudication progression standard, contingent upon the court's information system, JUSTICE, being utilized to assist the courts in tracking their cases. If judges are provided with a list of their 3A cases that are not adjudicated within the 60-day time frame, they would be required to report on a form submitted to the Supreme court those cases not meeting the progression standard, with a statement as to the reason the case was not heard within the progression standard. The form should include a checklist of some of the more commonly anticipated reasons cases are not easily heard within the progression standard, as well as space for the more open ended explanation.

## GUIDELINES FOR PARENTING TIMES FOR CHILDREN IN OUT OF HOME CARE

---

1. Children shall be provided meaningful and safe Parenting Time from the time they enter care until reunification is accomplished or until further order of the court. The Department of Health and Human Services (hereafter referred to as the Department) shall provide as much Parenting Time as possible consistent with the best interests of the child, both in terms of frequency and duration and to provide that opportunity in the least restrictive, most homelike setting appropriate to meet the needs for safety.
2. The Parenting Time *Guidelines for Minimum Hours* contained herein are intended merely as the minimum Parenting Time and, when possible and appropriate, provisions for more Parenting Time shall be made.
3. Parenting Time Plans should be based on the circumstances and needs of each family and the reason for the removal of the child from the home. However, when there is a variance from the *Guidelines for Minimum Hours* that results in less parenting time, the reason for the variance must be articulated to all relevant parties to the case, factually based, appropriately documented, and approved by the court.
4. Should there be a conflict between what is in the best interest of the child and what is in the best interest of the parents, the best interest and well-being of the child shall always take precedence in developing and implementing the Parenting Time Plan.
5. Wherever used herein, the term "Parenting Time Plan" shall mean and refer to the schedule developed and implemented for the time the child, parents, and where applicable, siblings spend together.
6. An initial period of Parenting Time should be made available within the first 48 hours and no later than within the first 3 days (72 hours) following physical removal of the child from the home unless there is a court order to the contrary.
7. At the detention hearing, the court shall put into place, or ensure that the Department has put in place a meaningful Parenting Time Plan. The Parenting Time Plan shall remain in place until adjudication or until the family's circumstances change. Parenting Time may be limited or denied only if it is necessary to protect the child's health, safety, or welfare, i.e., domestic violence, sexual abuse.

8. In developing the Parenting Time Plan, visits will be supervised from removal until adjudication or further order of the court, unless the case specific Parenting Time Plan as outlined in paragraph (9) nine recommends otherwise. Pre-existing visitation plans with non-custodial parents will be maintained.
9. Within 45 days following removal of the child from the home, if the child remains in care, the Department shall develop a more case-specific Parenting Time Plan.
10. The Department will seek input from the parents, the child, the guardian ad litem, the CASA worker, foster parent, the county attorney and/or any agency or individual involved with the Parenting Time Plan. Where possible, this Parenting Time Plan should be developed in a family conference with as many of those participants present and other formal and informal supports as possible. Where appropriate and feasible, any other family member with whom the child has a significant attachment, the foster parents, and any service provider who is in a position to offer constructive comment in regard to Parenting Time, and, where applicable, any provider who has assessed the child, the child's family, or the child's circumstance, should be consulted in developing and implementing the Parenting Time Plan. Family members, including non custodial parent(s) and other persons demonstrating significant attachment or commitment to the child should always be considered as resources to facilitate Parenting Time.
11. The Parenting Time Plan should not be rigid, but should allow sufficient flexibility for change as circumstances warrant to ensure the safety and well-being of the child, provided, however, that any aggrieved party may request a hearing before the court.
12. Parenting time shall not be used as a threat or form of discipline to the child or to control or punish the parent.
13. Each party involved in the Parenting Time Plan, including the custodial or non-custodial parent or parents, the Department and individuals or agencies participating in the Parenting Time Plan, are responsible for complying with the Parenting Plan.
14. The following ***Guidelines for Minimum Hours for Parenting Time*** will be provided in every case unless there are circumstances to justify a variance:

Age Birth to Eighteen Months

Five (5) times a week, Daily visits are optimal

Age Eighteen Months to Three years	Four (4) times a week
Age Three to Eight Years	Three (3) times a week, preferably on nonconsecutive days
Age Eight to Fourteen Years	Two (2) times a week
Age Fourteen to Nineteen Years	Two (2) times a week

Families should have additional contact separate from the MINIMUM Hours listed above. Those contacts may include: telephone contact, school activities, doctor's appointments, and other family functions.

Visits should be long enough to promote parent-child attachment. The lengths of visits should gradually increase as the parent(s) show he and/or she is able to respond to the child's cues in consistent and nurturing ways, soothe the child, and attend to the child's needs. Initially limiting visits to one or two hours may allow the parent to experience small successes without becoming overwhelmed. As the family approaches reunification, unsupervised all-day, overnight, and weekend visits should be completed.

15. The ***Guidelines for Minimum Hours for Parenting Time*** provided in paragraph 14 shall apply in every case, unless, based on the circumstances of each case, a variation is warranted. In considering whether to vary from the Guidelines, consideration shall be given to any circumstances which might exist including, but not limited to, the following:

- (a) Safety, which shall always be of paramount concern;
- (b) Any special purpose for the Parenting Time based on the facts of that particular case;
- (c) The permanency plan for the child;
- (d) Existence of a concurrent plan;
- (e) Participation of siblings, including adults and children;
- (f) Presence of domestic violence;
- (g) The schedules and activities of the children;
- (h) The schedules and activities of the parents;

- (i) The relationship between the child and the current caregiver;
- (j) The relationship between the child and the custodial parent and/or noncustodial parent before and after removal;
- (k) Travel distance;
- (l) The activities planned for Parenting Time;
- (m) The reasons for removal of the child from the home;
- (n) Other existing court orders;
- (o) Placement of the child;
- (p) Placement of the parent; and
- (q) The history of the parent's exercise of parenting time.
- (r) Emotional needs of the child(ren)

16. The particular relationship between siblings in individual cases should always be considered because, generally speaking, sibling contact is at least as important as contact between children and their parents. The preference is that siblings who are removed from their home are placed together unless reasonable clear and articulated reasons explain why separation is in their best interests. However, if siblings cannot be placed together, the Parenting Time Plan shall make specific provisions for contact between siblings unless reasonable clear and articulated reasons explain why there should be no contact. It is not necessary that all siblings be present for all parenting time. Considering the children's ages and activities it may be perfectly appropriate to have some parenting time as a complete family unit, and some spent with various parts of the family unit. Provided however that, the duration, length, or quality of parenting time for one child or parent should not be sacrificed on account of another child or parent.

17. In any case where reunification is still the permanency objective and supervised visitation is still required six months following the removal of the child from the home, clear articulated reasons shall be shown at every review hearing for the necessity of supervised visitation or in the alternative why reunification is still the permanency objective.

Approved by Nebraska Supreme Court Commission on Children in the Courts  
June 12, 2009.