December 8: Legislative Forum on Subsidized Guardianship, sponsored by the Iowa Foster and Adoptive Parents Association (IFAPA), 9:30 a.m. to 11:30 a.m., Joan and Lyle Middleton Center for Children’s Rights, 2400 University Avenue, Des Moines. A panel of experts will speak on the issue of subsidized adoption.

December 21: Model Court Training Academy, Polk County Courthouse, Noon – 1 p.m. (Free Ethics CLE).

Adoption Invalidation Law in Dispute: A federal court in Denver will decide the fate of an unprecedented Oklahoma law that would challenge adoption rights of same-sex couples. In 2004, the State of Oklahoma passed the “Adoption Invalidation Law”, which bans state officials from recognizing a same-sex adoption. Under the act, same-sex couples from any state with legally adopted children would lose their status as parents when inside the State of Oklahoma - meaning doctors, educators, police and others in Oklahoma would not recognize the parental relationship created by the adoption. A federal judge in Oklahoma struck down the law in May. Oklahoma officials appealed the case to the 10th Circuit Court of Appeals. The appeals court heard arguments in the case last month.

Smoking by Foster Parents: Under rules taking effect on January 1, Texas foster parents will no longer be allowed to smoke in their homes if they have foster children living there. They also will be prohibited from smoking while driving if children are in the
Under these new rules, Texas will join Vermont, Washington and Maine in prohibiting foster parents from smoking in front of children in their homes and cars.

The new Texas rules will also add a requirement that swimming pools have fences around them and increase the minimum age of foster parents from 18 to 21. Under existing rules in Texas, foster parents are already barred from selling or giving tobacco products to youths under the care of the state.

**Death Penalty for Foster Parents:** According to an article in the Beacon-Times, the Public Children Services Association of Ohio, a private group that represents the Ohio's child welfare agencies, has announced that it plans to deliver a number of suggested reforms to the Ohio state Legislature. One of those recommendations will include a law that will make it automatically possible for foster parents to receive the death sentence if convicted of killing children placed in their care.

Apparently, the proposal was prompted by the death of a developmentally disabled 3-year-old foster child (Marcus Fiesel) who allegedly died at the hands of his foster parents in August. The foster parents (Liz and David Carroll Jr.) are accused of binding the child with a blanket and packing tape, and leaving for a family reunion in Kentucky. The boy was dead when the couple returned to their home two days later.

Along with the death penalty recommendation, the Public Children Services Association of Ohio's proposals include matching children with emotional and physical disabilities with trained caretakers. The proposals also include changing the foster care funding mechanism so that agencies still receive money for helping keep families together, rather than removing children.

**November Statistical Summary:** During the month of November, the Iowa Supreme Court rendered one decision in a juvenile case. That decision, reported in the last edition of *Child Views*, was a termination of parental rights case wherein the Supreme Court reversed the Court of Appeals, thereby affirming the trial court's order terminating the parental rights. Also, during the month of November, the Iowa Court of Appeals rendered 24 opinions in juvenile cases. Of those 24 cases, 18 were Termination of Parental Rights (TPR) cases, 4 were Child In Need of Assistance (CINA) cases, 1 was a case involving a placement decision post-TPR, and one was a delinquency case. Here is what happened on those cases:

**TPR Cases** In all 18 of the TPR cases, the parent(s) appealed the trial court's order terminating parental rights, and the Court of Appeals affirmed the termination of parental rights.
**CINA Cases:** In the one CINA case, the Court of Appeals affirmed the trial court's adjudication of a child to be a child in need of assistance (CINA) as well as the dispositional order placing the child with the mother. In one CINA case, the Court of Appeals affirmed the order of the trial court in a dispositional hearing placing the child with the biological father. In one CINA case, the Court of Appeals affirmed the placement of a child with the maternal grandparents in a permanency hearing. In one CINA case (discussed below) the Court of Appeals affirmed the trial courts dismissal/closure of a case.

**Post-TPR Placement Order:** In its TPR order, the trial court placed custody and guardianship with DHS for purposes of adoption by the foster parents (who had the children for the previous 18 months). Both sets of grandparents appealed separately seeking placement with each of them. The Court of Appeals affirmed the trial court.

**Delinquency Case:** In this case (discussed below) the Court of Appeals affirmed the trial court's denial of a minor's request to allow him to withdraw his plea, and to vacate the adjudication and disposition.

**In Re: A.P.:** *(Iowa Court of Appeals, November 30, 2006):* In a CINA proceeding, children had been removed from the mother (the custodial parent) and placed with the father (the non-custodial parent). The father sought, and was granted, concurrent jurisdiction to modify the prior dissolution decree between the parties. The district court modified the dissolution decree awarding the father sole legal custody, prohibiting visitation by the mother until full compliance with DHS’s recommended services in the juvenile case, and holding that after complying with such services the mother was free to petition the court for visitation. The juvenile court, then, closed the case finding that the adjudicatory harm was alleviated and that services were no longer needed to protect the children. Mother appealed claiming that closure of the case prohibited her from receiving additional services. The Court of Appeals affirmed the trial court, ruling: “Once James obtained sole legal custody from the district court, the harm concerning the children’s exposure to Jamie’s unhealthy lifestyle choices was no longer an issue... The juvenile court made the requisite finding that the adjudicatory harm was alleviated and was proper...”

**In Re: G.L.F.:** *(Iowa Court of Appeals, November 30, 2006):* A child moved to allow him to withdraw his plea to a delinquent act. He did not claim that he lacked the requisite understanding or that the juvenile court did not fully comply with the procedural requirements of the Code before accepting his plea. Instead, he claimed that he lied in entering the plea and that, as such, the plea was not voluntary and should be set aside. The Court of Appeals affirmed the trial courts refusal to set aside the plea, holding that “... a lie in entering a guilty plea does not, without more, render the plea involuntary.”
State v. Hajtic, ___ N.W.2d ___ (Iowa 2006): (Iowa Supreme Court opinion dated December 1, 2006): This was a criminal action against a 17-year-old, but was not subject to the juvenile code under Iowa Code § 232.8(1)(c) because it involved a forcible felony. However, the case did provide some clarification of the rules relating to a minor’s waiver of Miranda rights:

“One of the protections accorded most juveniles is the requirement that a parent consent to a juvenile’s waiver of Miranda rights... When a juvenile is over sixteen, section 232.11 does not require a parent’s consent to the juvenile’s Miranda waiver, but only a good-faith effort to inform the parent (1) that the child is in custody, (2) the nature of the act charged, (3) the location of the child, and (4) the right of the parent to confer with the child.”

The Effect of Race on Education:

A number of different studies have identified the effect of race on Iowa’s educational systems. Here are the results of several of those studies:

Funding: Iowa school districts with the highest minority enrollment receive $596 less per student of state and local dollars compared to the lowest-minority districts.

Educational Achievement: 64% of African-American 4th graders in Iowa read below grade level (compared to 26% of Caucasians). African-American 8th Graders in Iowa were 30 points below (3 years behind) their Caucasian counterparts in science & math.

Suspensions: In Iowa, African-Americans are 3.6% of student body, but account for almost 15% of all suspensions.

Drop-Outs: The African-American drop-out rate in Iowa is 3 times the Caucasian rate. (For African-Americans, the rate is 1 dropout for every 3 who graduate. For Caucasians, the rate is 1 dropout for every 10 who graduate.)
"A failure is not always a mistake; it may simply be the best one can do under the circumstances. The real mistake is to stop trying." -- B.F. Skinner