Friday, February 13, 2009

Events

February 19: “Anger Replacement Therapy”, Polk County Model Court Training Academy; 12 noon, Room 209A, Polk County Courthouse, Des Moines. Free CLEs and CEUs.

March 6-7: IFAPA Annual Spring Conference – March 6 & 7, 2009, Courtyard by Marriott Hotel, Ankeny, Iowa. The annual conference of the Iowa Foster and Adoptive Parent’s Association features keynote presentations by Marsha Ternus, Chief Justice of the Iowa Supreme Court and Eugene Gessow, Director of the Iowa Department of Human Services. For more information, go to IFAPA’s website at: www.ifapa.org

March 19: “Family and Juvenile Drug Courts in Polk County,” Polk County Model Court Training Academy; 12 noon, Room 209A, Polk County Courthouse, Des Moines. Free CLEs and CEUs.

Child News

S-CHIP Expansion Finally Passes: Congress has now passed legislation expanding the State Children's Health Insurance Program (S-CHIP). This program is known as “HAWK-I” in Iowa. The expansion of S-CHIP (which was vetoed by President Bush last year) was promptly signed into law by President Obama. The 4 ½ year reauthorization, funded through an increase in federal tobacco taxes, will expand S-CHIP by $32.8 billion and will provide health coverage to about 4 million children.
**State Legislative Update:**

**New Bills:** The following is a description of new bills that may be of interest to child advocates that have been introduced in the Iowa legislature since the last edition of *Child Views:*

**HF 99 – CHILD ENDANGERMENT:** This bill defines the presence of illegal drug in a newborn due to the foreseeable consequences of an act or omission by the mother as bodily injury, making it a Class “D” child endangerment felony.

**HF 105 – YOUTHFUL OFFENDERS:** This bill makes a 17-year old eligible to be placed on youthful offender status in adult court.

**HF 110 – KIDS IN CARS:** This bill makes it a simple misdemeanor to leave a child unattended or not properly supervised in a car.

**HSB 112 – FOSTER TRANSITIONS:** This bill, similar to SSB 1104, makes changes to provisions for the transition of children from foster care to conform with recent federal changes. The bill strikes current local transition committees and replaces them with child centered transition teams, and requires regular reviews of transition plans, requiring case permanency plans to address educational requirements. The bill also includes provisions on notice to parents for a child declared to be a Child in Need of Assistance (CINA), and on compulsory school attendance for the foster children.

**HF – 165 CHILD ABUSE INFORMATION:** This bill requires that, when an abuse reporter makes an oral report on child abuse, the reporter also notify juvenile court services (JCS). The bill also requires DHS to notify JCS when receiving an abuse report and to give a copy of the written assessment regarding the abuse to JCS. The bill also requires the JCS to keep such records confidential and makes it a serious misdemeanor for willful failures.

**HF 179 – CLERGY REPORTERS & ABUSE (Successor to HF 8):** This bill makes members of the clergy mandatory reporters for child abuse. The bill includes members of the clergy who are acting in their official capacity as persons who can be regarded as a caretaker when determining allegations of abuse.
HSB 128 – DPS MATTERS: This bill contains a number of unrelated public safety issues, but also requires that custody and adjudication data for a juvenile remain part of the criminal history record when the juvenile reaches 21 for the sex offender registry.

HF 182 – FOSTER CARE & SCHOLARSHIPS: This bill increases the amount of the FY 2009 appropriation for FY 2009 for the All Iowa Opportunity Assistance Program that can be used by the College Student Aid Commission to for foster care grants and scholarships to $750,000.

HF 187 – FOSTER CARE CHILD CARE: This bill prohibits a foster care parent from providing child care if a foster child is present who has been found by DHS to have abused another child.

HF 194 – SCHOOL DROPOUT REPAYMENTS: This bill requires schools to return 20% of the funding for every dropout from the previous year (defining dropout as students who withdrew from 7-12 for reasons other than to transfer to another school).

HF 195 – YOUNG VOTERS: This bill allows a registered voter who is at least 17 1/2 to vote in a primary election.

HF 215 (See Also SF 11) – IOWACARE PAYMENTS: This bill requires DHS to develop a process to pay nonparticipating providers under the IowaCare program for eligible services to expansion population members. The bill requires the provider to show that it was not possible to postpone the treatment or transfer the member to an eligible provider.

HF 259 (See SF 17) – COMPULSORY SCHOOL AGE: This bill raises the compulsory school to 17. It encourages a student who turns 18 during the school year and who wants to drop out to file a formal notice and to have an exit interview. The bill also requires the school to try to determine the reasons that the student is dropping out and to notify the parent of the formal declaration. The bill also requires the Department of Education to create a working group on compulsory attendance and to gather information on different options to keep students in schools, including support programs and financial options for schools to pay for support programs.

SF 74 – PAROLE FOR MINOR MURDERERS: This bill, similar to HF 43, allows a person serving a life sentence for murder who committed the murder while a minor to file for a sentence review after 15 years. The bill allows the Parole board to determine whether the person should be eligible for parole or work release, and establishes factors
to be considered at the hearing. The bill also allows a person who is denied parole or work release to reapply after two years or to appeal the decision to the courts.

**SF 87— DHS REPRESENTATION:** This bill makes the Attorney General the representative of DHS and a county attorney as representing the state in court cases when the county attorney disagrees with the DHS on an action in a juvenile matter.

**SF 100 – DELINQUENT CHILDREN:** This bill strikes the requirement that a juvenile court order that finds a child to have committed a delinquent act be set aside if the child is committed for having a mental illness or for having mental retardation.

**SF 122 (See also HF 182) – FOSTER CARE & SCHOLARSHIPS:** This bill increases the amount of the FY 2009 appropriation for FY 2009 for the All Iowa Opportunity Assistance Program that can be used by the College Student Aid Commission for foster care grants and scholarships to $750,000.

**SSB 1172 – CHILD ABDUCTION ACT:** This bill enacts the Uniform Child Abduction Act. It allows a person to file a petition seeking abduction prevention measures to prevent the abduction of a child, or allows the court to order such measures on its own. It requires the petition to include information on child custody determinations, the risk factors for abduction and whether prior action has been needed to prevent an abduction or domestic abuse. The bill also allows the court to consider a number of factors, including the parties’ ties to Iowa and the US. The bill allows an abduction prevention order to impose travel restrictions, have a visitation schedule, to require a party to post a bond, or require education classes, and allows the court to issue ex parte warrants to take custody of a child or to order law enforcement to take custody. The bill makes the order enforceable until a child turns 18 or is emancipated.

**SSB 1181 – INDIAN CHILD WELFARE ACT:** This bill makes changes in the Iowa Indian Child Welfare Act to conform to a Supreme Court ruling that found parts of the act unconstitutional (*In the Interest of A.W. and S.W.*, 741 NW 2nd 793 (2007) and *In the Interest of N.N.E.*, 725 NW 2nd 1 (2008)). The bill limits the Iowa Act to the scope of the federal act. The bill adds provisions for a “good cause exception” to specified placement and strikes down Iowa language allowing for a higher burden before changing placement preferences.

**SSB 1200 – PMIC PAYMENTS:** This bill directs DHS to work with PMIC providers on a new reimbursement system to begin July, 2010. The bill sets the PMIC reimbursement
rate for FY 2010 as a percentage of average costs but allows DHS to make exceptions. The bill also requires DHS to apply for authority to reimburse PMICs at 100% of costs.

**Updates of Bills:** The following is a report of updates as to the progress of bills previously noted in earlier editions of *Child Views*:

**HSB 8 – YOUTH COUNCILS:** This bill creates an “Iowa Collaboration for Youth Development Council” and an “Iowa Youth Advisory Council” in the Department of Human Rights. The bill defines youth to include persons through age 21 and requires members of the Youth Advisory Council be aged from 14-25. **The bill was Amended & Passed (12-7) out of the House Human Resources Committee.**

**HF 79 (Formerly HF 8) – CLERGY REPORTERS & ABUSER:** This bill makes members of the clergy mandatory reporters for child abuse. The bill includes members of the clergy who are acting in their official capacity as persons who can be regarded as a caretaker when determining allegations of abuse. **This bill has now passed (20-0) out of the House Human Resources Committee. It is now HF 179.**

**HSB 30 – GUARDIAN AD LITEM:** This bill makes the pay to a guardian ad litem for a child witness recoverable as restitution in some situations, and establishes the order of priority for payment of a guardian ad litem compensation in a restitution plan as after the coming after payment of victim restitution. The bill also allows child victims of enticement to get a guardian ad litem. **This bill was amended & passed (21-0) out of the House Judiciary Committee.**

**HF 40 (See also SF 17) – COMPULSORY SCHOOL AGE:** This bill raises the compulsory school to 17. It encourages a student who turns 18 during the school year and who wants to drop out to file a formal notice and to have an exit interview, and requires the school to try and determine the reasons that the student is dropping out and to notify the parent of the formal declaration. **This bill was amended & passed (12-10) out of the House Education Committee.**

**SF 22 – COLLEGE CHILD SUPPORT:** This bill allows a court to order that child support include support for college for unmarried parents and after a paternity finding. **This bill passed (13-0) out of the Senate Judiciary Committee.**

**SF 101 (formerly SSB 1091) – SHAKEN BABY SYNDROME:** This bill requires the Department of Public Health (DPH) to establish a statewide Shaken Baby Prevention program. It also requires DPH to work with experts to develop the plan and to use a
collaborative approach in working with others to reduce the shaken baby syndrome, and requires DPH to develop a methodology for tracking shaken baby syndrome. The Senate passed the bill, 49-0; it now goes to the House.

SSB 1104 – FOSTER TRANSITIONS: This bill makes changes to provisions for the transition of children from foster care to conform to recent federal changes. It strikes current local transition committees and replaces them with child centered transition teams. The bill requires regular reviews of transition plans and requires case permanency plans to address educational requirements. The bill also includes other provisions, such as notice to parents for a child declared to be a Child In Need of Assistance (CINA) and compulsory school attendance for the foster children. The bill was amended & passed (12-1) out of the Senate Human Resources Committee.

Check Off Child Abuse Keeping children safe from abuse is everyone’s business, and now there is a very simple but important way for you to help. When you file your 2008 tax returns, check off child abuse by donating a portion of your refund to the Iowa Child Abuse Prevention Program. Under the direction of Prevent Child Abuse Iowa, this program helps 60,000 Iowa children each year. Whether you are planning to spend your refund or save it, imagine the difference that even a few of those dollars could make in the life of a child. Your donation will specifically support projects in your community that work to prevent child abuse before it happens by building strong and healthy families. This year, the Iowa legislature designated Child Abuse Prevention as a beneficiary of the income tax check-offs on state income tax forms. To learn more about checking off child abuse, please visit the Iowa Department of Revenue’s website.

Waiver of Reasonable Efforts and TPR: In the Interest of L.T., (Iowa Court of Appeals, February 4, 2009): In this appeal of a termination of parental rights (TPR) order, the parents claimed error both in the trial court’s waiver of the reasonable efforts requirement as well as the termination itself. The Iowa Court of Appeals held that the reasonable efforts requirement is not a strict substantive requirement for a TPR:
Assuming without deciding that reasonable efforts should not have been waived, we may still conclude termination is appropriate. That is because the reasonable efforts requirement is not viewed as a strict substantive requirement of termination. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). Instead, the scope of the efforts by the DHS to reunify parent and child after removal impacts the burden of proving those elements of termination that require reunification efforts. *Id.* The State must show reasonable efforts as a part of its ultimate proof the child cannot be safely returned to the care of a parent.

**Ruling on Objections in Juvenile Court:** *In the Interest of M.L. and I.L.*, *(Iowa Court of Appeals, February 4, 2009):* In this TPR case, the Iowa Court of Appeals addressed the issue of whether or not a trial court should rule on objections in juvenile court:

We have reviewed the transcript and we note that the juvenile court ruled on objections. In equity cases, the trial court should ordinarily not rule on objections to testimony, but receive all answers subject to the objection. This procedure permits de novo review of the record in the appellate courts. Hughes A. Bagley, Inc. v. Bagley, 463 N.W.2d 423, 426 (Iowa Ct. App. 1990). These proceedings are in equity and the court was in error in ruling on the objections. In doing so the juvenile court deprived us of the opportunity to review the answers the witnesses may have given to the proffered questions.3 Jenny did not object to the juvenile court’s rulings on objections to questions and made no offer of proof. Consequently error on this issue was not preserved for review. We affirm on this issue.

**Future Support of the Child:** *In the Interest of C.W. and G.W.*, *(Iowa Court of Appeals, February 4, 2009):* In this case, the Iowa Court of Appeals stated that the possibility of future support from a parent is one factor to consider in determining whether or not to terminate parental rights:

The father contends he has a job waiting when he is released and that he has contributed to the support of this family and a child by another mother in the past. We also recognize that his negative criminal history, coupled with his substance abuse and incarceration, may stand in the way of getting a well-paying job. However, people make major turns, win lotteries, inherit or are
gifted money, or because of a certain talent or exposure are able to obtain well-paying jobs. We are not persuaded that the legislature intended section 232 to alter support obligations of parents who have the resources or possible resources to pay. See In re D.W.K., 365 N.W.2d 34, 35 (Iowa 1985) (affirming juvenile referee’s refusal to terminate on father’s voluntary petition under chapter 600A despite the fact that one ground for termination was shown, noting that the best interests of the child was always a factor). There also is a public interest involved where, as here, it appears the child may be receiving public assistance. See Anthony v. Anthony, 204 N.W.2d 829, 833 (Iowa 1973). Parents are legally obligated to support their children, and the court should consider whether a termination order will make a child a public charge and/or sole financial responsibility of a single parent with limited resources. See id. We affirm. In weighing the father’s deficiencies against the possibility of his providing support for the children we find the trial court should be affirmed.

The same issue was addressed in a footnote to another decision [In the Interest of C.W. and G.W., (Iowa Court of Appeals, February 4, 2009)] decided by the Iowa Court of Appeals on the same date as the C.W. decision:

The father initially was involved and has provided financial support for the children during the pendency of these proceedings. However, after his initial interest he no longer exhibited any interest, in part because of his difficulties in dealing with Jenny. His parental rights were also terminated. He has not appealed. While the issue is not before us, we question whether terminating his parental rights and his support for the children is prudent and in their best interest unless there is a clear indication the children will be adopted. See In re K.J.K., 396 N.W.2d 370, 371 (Iowa Ct. App. 1986). The children also appear to be receiving state support. Therefore the public interest is involved. Parents are legally obligated to support their children and courts should be slow in making children wards of the state where the parents have the means to provide support. See Anthony v. Anthony, 204 N.W.2d 829, 833 (Iowa 1973); K.J.K., 396 N.W.2d at 371.
The Face of Poverty in America: The following information about poverty in American comes from *Income, Poverty and Health Insurance Coverage in the United States: 2007*. U.S. Census Bureau:

- **Americans Living in Poverty:** The number of Americans living in poverty increased in 2007 over 2006, from about 36.5 million, to about 37.3 million people. The poverty rate—the percentage of the people in the United States living in poverty—also rose 0.2 percent, to 12.5 percent, in 2007.

- **American Families Living in Poverty:** The number of American families in poverty is about the same in 2007 as compared to 2006 and 2005. In 2007, out of 78.5 million U.S. families, 7.62 million lived in poverty—not statistically different from the 7.66 million families in 2006 and 2005. The poverty rate for families remained 9.8 percent, also unchanged from 2006 and 2005.

- **Race of Americans in Poverty:** Over 16 million non-Hispanic white Americans lived below the poverty line in 2007. There are 9.9 million Hispanics (of any race) in poverty, 9.2 million African Americans, and 1.3 million Asian Americans in poverty. As a percentage of the population, one in four African Americans lives in poverty, the highest percentage of any group.

What Does Love Mean? Since tomorrow is Valentine’s Day, here is something appropriate for the holiday:

A group of child professionals asked children between the ages of 4 and 8 to answer this questions: “What does love mean?”

Here are a couple of answers from children who were never in the child welfare system:

- “When you tell someone something bad about yourself and you’re scared they won’t love you anymore. But then you get surprised because not only do they still love you, they love you even more.”
• “When my grandmother got arthritis, she couldn’t bend over and paint her
toenails. So, my grandfather does it for her all the time, even when his hands got
arthritis too. That’s love.”

Here are a couple of answers from children who were in the child welfare system:

• “Love is that first feeling you feel before all the bad stuff gets in the way.”

• “When someone loves you, the way they say your name is different. You know
that your name is safe in their mouth.”

Have a very Happy Valentine’s Day.