

JUVENILE COURT CORNER: *Engaging Fathers in the Child Custody Process*

Non-custodial fathers infrequently appear in child protection proceedings. Some fathers cannot be found; others do not want to participate; some state laws make it difficult for the father to know about the proceedings or participate; some mothers do not want the father to know of the proceedings, and social workers sometimes are ambivalent about engaging the father. Many observers consider juvenile dependency court a "Mother's Court", focusing on reuniting children with their mothers while fathers remain on the periphery. In spite of all of these barriers, from a judicial perspective and from a child's perspective, fathers should be involved in the child protection process.

There are many reasons for this. A father's involvement may result in better outcomes for the child. The father may provide placement for the child; he may be able to develop a positive relationship with the child; he may be able to provide resources for the child; and his relatives may be available for placement if neither parent is able to do so. Children need to know who their father's are, and, if possible, have a meaningful connection with him. His engagement in the child protection process will enable this to happen.

Unfortunately, our history and law seem to devalue and punish unmarried parents and their children. Children of unmarried parents have been given names such as "bastard", "son of a bitch", and illegitimate, while their mothers are called "whores". These terms come from medieval times when marriage was important for purposes of inheritance, and the Christian religion emphasized marriage as the proper and exclusive setting for having children. Our laws still reflect a prejudice against unmarried parents. In modern child protection proceedings, however, the child's best interests are the focus of the proceedings. The child does not know or care (at least early in life) whether his parents are married. The child wants to know his family, the entire family, and that includes the father and his relatives.

If courts are truly going to serve the best interests of children, fathers and their families need to be identified and engaged early in the proceedings. Judges have a significant role to play in the identification of fathers and can greatly influence whether a father will participate in child protection proceedings.

The judge can do the following:

I. Identify all possible fathers as soon as possible. While this enquiry can begin with the social worker before the matter is heard in court, the judge should also question the mother and other relatives about the identity of the father.

II. Question the mother under oath regarding the identity of the father. By asking questions in a formal court setting and stressing the importance of the enquiry, the judge is more likely to gain information than anyone else in the court system.

III. Determine where the father or potential fathers are located. This enquiry will place responsibility on the social worker to investigate jails, prisons, motor vehicle records, child support records, and many other places where the father may be located or where information about his location may be obtained. The degree of success in such a search will be related to the standards that the judge sets for the investigating social worker and the emphasis the judge makes on addressing this issue.

IV. Order the social worker to follow up on any information regarding the father that is produced at court hearings. The social worker should be taking notes when the judge is questioning the mother (or other family members) concerning the identity and location of the father. The social worker should also be ordered to report back to the court on the results of any search.

V. Order the social worker to personally serve all possible fathers with notice of the court proceedings and take reasonable steps to make it possible for these men to attend the court hearings.

VI. Order the clerk of the court to comply with the parentage enquiry as mandated by CRC 5.634(d)(3).

VII. Insist that caseworkers use good faith efforts to identify, locate, and support the father throughout the child protection process. The judge should be prepared to use the "no reasonable efforts" finding should the social worker not carry out these judicial orders.

VIII. Revisit the questions of identity and location of the father at all subsequent court hearings.

IX. When a potential father comes to court, let him know that the court is pleased that he has appeared because he is an important person in the child's life. Inform the father that once his paternity is established that he will be treated as a parent in all subsequent court proceedings. Follow Welfare and Institutions Code section 316.2 regarding paternity inquiry.

X. Order that paternity testing be completed as soon as possible at state expense. The payment for the testing should be provided by the children's services agency or by the child support agency.

XI. Appoint counsel for the father at state expense immediately or at least as soon as paternity has been established with the possibility of reimbursement considering his financial means.

XII. Order visitation between father and the child. Make it clear to the father and all participants in the court process that the father will be considered for placement. If the father is

incarcerated, consider alternative means of contact such as telephone calls and letters.

XIII. Take steps to identify the father's extended family and ensure that they know about the legal proceedings and know that they will be considered as possible placement if placement is necessary.

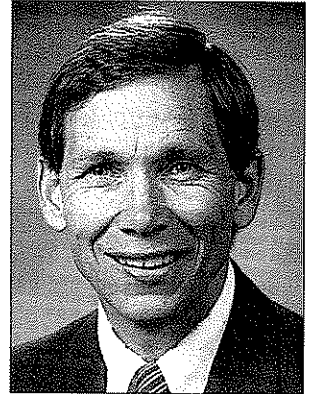
XIV. Permit the extended family to participate in group decision-making processes, visitation, and court hearings.

XV. Determine if the father is a danger to the mother or to the child and make appropriate protective orders.

XVI. Encourage the development in the community of services that will meet the needs of fathers. These could include parenting classes for fathers, parent coaching, fathers mentoring fathers, and other gender-based programs.

Children need to know who their fathers are. They need to know who all of their relatives are, not just those on the mother's side of the family. Children will fare better in life when they are connected to their entire family. These statements are particularly true in child protection proceedings when the state has to intervene on behalf of a child. The identification and engagement of fathers and their families can be greatly enhanced by the leadership and actions of the juvenile court judge.

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COURT BUDGET: DISPROPORTIONATE FOCUS: *Mike Belote, California Advocates, Inc.*



As the California Legislature prepares to reconvene for the second year of the current 2009-2010 two-year session, there are plenty of issues on which there is no agreement. Two points relevant to the judiciary garner wide consensus, however. The first is that passage of the fiscal year 2010-2011 state budget is going to present extraordinary challenges; one key legislator recently suggested that the process will be "excruciating". The second is agreement among legislators and staff that focus on the judicial branch budget has been surprisingly intense for such a small share of the general fund.

With much that is unknown as the system begins the New Year, the following are some admittedly random observations:

Leadership Changes: Shortly after the New Year begins, the Assembly will swear in a new speaker, Assembly Member John Perez of Los Angeles. Mr. Perez is a freshman member, and can thus serve upwards of five years as speaker, an advantage that brings a measure of stability to a highly unstable house, in the same fashion as the leadership reign of Fabian Nunez. It has even been suggested that an unwritten protocol is being fashioned for legislative leadership positions, where the Senate is run by Caucasian members from Northern California (Lockyer, Burton, Steinberg) and the Assembly by alternating African-Americans and Latinos from Southern California (Villaraigosa, Wesson, Nunez, Bass, Perez).

Unclear at this point is to what extent key committee chairs will change under Mr. Perez. For example, the Budget Committee was chaired during last year's (excruciating) budget season by Noreen Evans, a lawyer with a strong practice background and support for the court system. Ms. Evans is running for an open Senate seat next year and may or may not remain involved in the budget process. The budget position is obviously key for the judicial branch.

Regardless of his leadership team, Mr. Perez will be sorely tested by budget realities. An eighteen-month deficit of \$21 billion is greater than the combined expenditures of the prison system and the entire structure of public higher education. Democrats are going to strenuously resist the kinds of draconian cuts which would be required by a "cuts-only" budget, and Republicans who even mention the possibility of tax increases are literally and quite realistically threatened with recall. And it sure does not look like borrowing can supply much of the answer: historically liberal Treasurer Bill Lockyer has issued very grim warnings about debt load and the state's already lowest in the country credit rating.

Given these institutional constraints, it seems likely that two possible scenarios will emerge: first, an attempt to test the degree to which revenue increases can be enacted by majority votes. Ultimately courts may be asked to decide the constitutionality of

continued on page 8