

# **Judicial Academy: Reasonable Efforts**

**Participant Guidebook**  
Live Online Version



Capacity Building  
CENTER FOR COURTS

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## **Session 1: Early Login and Technical Assistance**

We will be online early to help make sure you get connected to the workshop.

We encourage everyone to log on early as well so we can trouble shoot any technology issues that may arise before we get started.

Have you ever made a “no reasonable efforts” finding?

Why, or why not?

## **Session 2: Structured Note Taking**

The following two pages provide a structured space for you to take notes throughout the workshop. You may simply use these as a place to take notes, or create a “bench card” like version to help you remember what you have learned when you are on the bench.

## Reasonable Efforts Decision Making Framework

*The reasonable efforts findings are the most powerful tools juvenile court judges have at their disposal in dependency cases... - J. Leonard Edwards*

### **Reasonable Efforts to Prevent Removal**

*In order for a state to recover federal foster care funds, a judicial finding must be made that “continuation in the home would be contrary to the child’s welfare” and that the child welfare agency made “reasonable efforts” to prevent the need for placement and to make it possible for the child to return home. The “reasonable efforts” finding must be contained in a written court order made within 60 days from the physical removal of the child from parental custody. Failure to make a finding cannot be remedied after 60 days.*

**Reasonable Efforts to Return Home**

*The court must determine whether the agency has provided appropriate services to assist the parents in their efforts to reunify with their child. This determination necessarily assumes that the agency has conducted an appropriate assessment of the family and that the family was involved in that assessment.*

**Reasonable Efforts to Finalize an Alternative Permanent Plan**

*If a child's return home is no longer the appropriate plan, the agency must make reasonable efforts to finalize alternate permanency plans.*

## Session 3: The Law of Reasonable Efforts

This section of the workshop is designed to be a review of substantive “black letter law” regarding reasonable efforts. We will primarily focus on federal law as state law may vary. Be sure to check your jurisdiction specific law in Document 3B *Region 8 Reasonable Efforts Substantive Law Overview*.

## Reasonable Efforts: Overview of Federal Law

Region 8 Judicial Academy  
Jennifer Renne  
Capacity Building Center for Courts  
American Bar Association

### Brief legal history of Reasonable Efforts

- Child Abuse Prevention and Treatment Act (CAPTA). Originally passed in 1974 (Pub. Law 93-247), CAPTA has been reauthorized and amended several times, most recently by the Victims of Child Abuse Act Reauthorization Act of 2018 (Pub. Law 115-424). CAPTA provides, among other things, federal funding and guidance to states in support of prevention, assessment, investigation, prosecution, and treatment activities and also provides grants to public agencies and nonprofit organizations, including tribes and tribal organizations, for demonstration programs and projects. 42 U.S.C. §§ 5101-5116i.
- Indian Child Welfare Act (ICWA). 25 U.S.C. § 1901 *et seq.* (1978). Congress passed ICWA in response to the wholesale removal of Indian children from their families. It provides standards for state courts to apply for the removal of Indian children from their families and the placement of such children in foster or adoptive homes in order to prevent the break-up of Indian families, protect the best interests of Indian children and promote the continued existence of Indian Tribes. 25 U.S.C. §§ 1901-2.
- Adoption Assistance and Child Welfare Act (AACWA). Pub. Law 96-272 (1980). One of the first federal laws addressing adoption and child welfare nationwide, it placed substantial requirements on states' child welfare systems, including case reviews every six months, periodic permanency hearings, and required states to make reasonable efforts to prevent the need for removal or to reunify post-removal. *See* 42 U.S.C. § 671 *et. seq.*
- Adoption and Safe Families Act (ASFA). Pub. Law 105-89 (1997). Passed as a way to correct problems in the foster care system, it amended statutes previously enacted by the AACWA and facilitates permanent placement and safety of children in foster care and acknowledging the unique

position of kin in the foster care system. ASFA also added a new requirement that judges make findings of reasonable efforts to finalize permanency. *See* 42 U.S.C. § 675.

- ASFA Regulations 2000. 42 C.F.R. Part 1355. The regulations adopted by HHS specified, among other things, that judicial findings of “reasonable efforts,” including findings that reasonable efforts to prevent removal or reunification are not required, must be explicitly documented and made on a case-by-case basis (for non-ICWA cases).

- 

## **Reasonable Efforts**

45 C.F.R. §1356.21(b)

### **To prevent removal: (b)(1)**

- Agency must make RE to maintain the family unit, and prevent ... unnecessary removal
- Child’s health and safety must be paramount concern
- Finding must be made within 60 days of the child’s removal (b)(1)(i)
- If the court does not make the finding, the agency will not receive IV-E dollars *for the duration of the child’s stay in foster care* (b)(1)(ii)

Preamble:

*It is impossible for the State to provide efforts to prevent the removal of a child from home after the fact. In terms of practice, there is a profound effect on the child and family once a child is removed from home, even for a short time, that cannot be undone.* p.4052

### **To Finalize Permanency: (b)(2)**

- Agency must make Reasonable Efforts to ... reunify and make and finalize alternate permanency plans (reunification, adoption, legal guardianship, relative placement, APPLA) (b)(2)(i)
- Finding must be made within 12 months of foster care entry and at least once every 12 months thereafter (b)(2)(i)
- If the court does not make the finding, the agency will not receive IV-E funding ... *until such a determination is made* (b)(2)(ii)

## **Reasonable Efforts: Judicial Responsibility**

45 C.F.R. §1356.21(d)

- Documentation “must be explicitly documented ... on a case by case basis and so stated in the court order” 1356.21(d)
- If RE are not documented in the court order, a transcript of the proceedings is the only other documentation that will be accepted to verify §1356.21(d)(1)
- Neither affidavits nor nunc pro tunc orders will be accepted §1356.21(d)(2)
- Court orders that reference State law are not acceptable §1356.21(d)(3)

## ASFA Regulations Preamble

### Section 1356.21(d) Documentation of Judicial Determinations

Our purpose for proposing this policy can be found in the legislative history of the Federal foster care program. The Senate report on the bill characterized the required judicial determinations as “\* \* \* *important safeguard(s) against inappropriate agency action* \* \* \*” and made clear that such requirements were *not to become* “\* \* \* *a mere pro forma exercise in paper shuffling to obtain Federal funding* \* \* \*” (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)). *We concluded, based on our review of State’ documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become.*

***Our primary concern is that judicial determinations be made on a case-by case basis and it was not our intent to create a policy that was overly prescriptive and burdensome. The suggestion that the court order reference the facts of a court report, related psychiatric or psycho-social report, or sustained petition as a mechanism for demonstrating that judicial determinations are made on a case-by case basis ... would satisfy this requirement.***

## Session 3: Region 8 Reasonable Efforts Substantive Law Overview

The following is an overview of HHS Region 8 state statutes related to reasonable efforts.

### COLORADO

#### Definition

“Reasonable efforts’ . . . means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement. In determining whether it is appropriate to provide, purchase, or develop the supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child's home or to foster the safe reunification of a child with a child's family . . . or whether it is appropriate to find and finalize an alternative permanent plan for a child, and in making reasonable efforts, the child's health and safety shall be the paramount concern.” Colo. Rev. Stat. § 19-1-103(89).

#### When is the finding made?

- At the time that custody to the agency is ordered. Colo. Rev. Stat. § 19-1-115(6).
- Within 90 days of entry of dispositional order and at least every six months thereafter. Colo. Rev. Stat. § 19-3-702.

#### TPR-specific

- A consideration for TPR grounds is that “Reasonable efforts by child-caring agencies . . . have been unable to rehabilitate the parent or parents.” Colo. Rev. Stat. § 19-3-604(2)(h).
- Child’s placement in care for 15 of 22 months shall be considered when determining whether to order TPR, except that such consideration cannot contribute to TPR decision where there was a lack of reasonable efforts on the part of agency. Colo. Rev. Stat. § 19-3-604(2)(k).

#### Other

- A list of services that should be made available can be found at Colo. Rev. Stat. § 19-13-208. The implementation of such services is tied to the reasonable efforts determination per Colo. Rev. Stat. § 19-3-100.5(5) & Colo. Rev. Stat. § 19-1-103.

### MONTANA

#### Definition

“Reasonable efforts include but are not limited to voluntary protective services agreements, development of individual written case plans specifying state efforts to reunify families, placement in the least disruptive setting possible, provision of services pursuant to a case plan, and periodic review of each case to ensure timely progress toward reunification or permanent placement. In determining preservation or reunification services to be provided and in making reasonable efforts at providing preservation or reunification services, the child's health and safety are of paramount concern.” Mont. Code Ann. § 41-3-423

### **When is the finding made?**

- At show cause hearing within 20 days of the filing of the petition. Mont. Code Ann. § 41-3-432(5)(c).
- At a permanency hearing every 12 months after entry into foster care. Mont. Code Ann. § 41-3-445.

### **TPR-Specific**

*In re R.J.F.*, 443 P.3d 387 (Mont. 2019), held that failure of the agency to make reasonable efforts can be a defense to TPR on unfitness grounds.

### **Other**

The court CANNOT place a child in agency custody (foster care) after adjudication unless reasonable “services” have been provided to prevent removal OR make it possible for the child to return home. *See* Mont. Code Ann. § 41-3-442.

## **NORTH DAKOTA**

### **Definition**

“As used in this section, ‘reasonable efforts’ means the exercise of due diligence, by the agency granted authority over the child under this chapter, to use appropriate and available services to meet the needs of the child and the child’s family in order to prevent removal of the child from the child’s family or, after removal, to use appropriate and available services to eliminate the need for removal, to reunite the child and the child’s family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child’s health and safety must be the paramount concern.” N.D. Cent. Code § 27-20-32.2.

### **When is the finding made?**

Findings regarding reasonable efforts to prevent removal and finalize permanency must be made (*see* N.D. Cent. Code § 27-20-32.2), but specifics as to the timing of judicial findings are not contained in the statute, except that a judge must find that reasonable efforts were made to continue a child’s placement in foster care after the expiration of dispositional order. N.D. Cent. Code § 27-20-30.1.

### **TPR-Specific**

A parent can allege that the agency failed to make reasonable efforts toward reunification in an appeal from a TPR order. *See, e.g., In re A.B.*, 767 N.W.2d 817 (N.D. 2009).

## **SOUTH DAKOTA**

### **Definition**

“Reasonable efforts to prevent the necessity for removal of a child from the home of the child’s parents, guardian, or custodian and reasonable efforts to return the child to the home mean provision by the department of any assistance or services that:

- (1) Are appropriate for the child’s parents, guardian, custodian, or any other caretaker family of the child existing at the time of removal or possible return of the child, including instruction on parenting;
- (2) Are available pursuant to the comprehensive plan of preventive services of the department;

(3) Could be made available without undue financial burden on the department; or

(4) Would have a significant likelihood of protecting the child from substantial danger to the child's physical health or from severe emotional damage while enabling the child to remain in the home or to be returned to the home.

In determining the adequacy of reasonable efforts, the court shall consider the assistance, services, and efforts of the department. The court shall also consider the good faith efforts or the lack of good faith efforts made by the child's parents, guardian, custodian, or other caretaker family to cooperate with the department and to effectively utilize the assistance or services for the benefit and welfare of the child.” S.D. Codified Laws § 26-8A-21.

#### **When is the finding made?**

- At disposition, S.D. Codified Laws § 26-8A-22.
- At review hearings, S.D. Codified Laws § 26-8A-25.

#### **TPR-Specific**

TPR is conditioned upon the agency having made reasonable efforts. S.D. Codified Laws § 26-8A-26.

## **UTAH**

#### **Definition**

*See* Utah Code § 62A-4a-203; *See also State ex rel. A.C.*, 97 P.3d 706 (Utah 2004) (“Reasonable is commonly defined to mean ‘not extreme or excessive’ or ‘fair.’ Merriam–Webster's Collegiate Dictionary 974 (10th ed.1999). ‘Effort’ is commonly defined to mean ‘conscious exertion of power: hard work’ or as a ‘serious attempt.’ Id. at 368. Thus, DCFS would comply with its statutory obligation to make reasonable efforts toward reunification if it makes a fair and serious attempt to reunify a parent with a child prior to seeking to terminate parental rights.”).

#### **When is the finding made?**

- At a shelter hearing, Utah Code § 78A-6-306.
- At disposition, Utah Code § 78A-6-312.
- Every six months for cases with a goal of reunification, Utah Code § 78A-6-313.
- Prior to ordering TPR, Utah Code § 78A-6-507.

#### **TPR-specific**

The court must find that the agency made reasonable efforts before the court may terminate the parent’s rights. Utah Code § 78A-6-507.

## **WYOMING**

#### **Definition**

“Reasonable efforts determinations shall include whether or not services to the family have been accessible, available and appropriate.” Wyo. Stat. § 14-3-440(e)

#### **When is the finding made?**

At every court hearing, Wyo. Stat §14-3-440(f), including all review and permanency hearings, Wyo. Stat. § 14-3-431.

**TPR-specific**

One ground for TPR is “The child has been abused or neglected by the parent and reasonable efforts by an authorized agency or mental health professional have been unsuccessful in rehabilitating the family or the family has refused rehabilitative treatment, and it is shown that the child's health and safety would be seriously jeopardized by remaining with or returning to the parent.” Wyo. Stat. § 14-2-309 (emphasis added).

## **Session 3: The Art of Making Reasonable Efforts Findings**

This session will be a presentation by Judge Michael Key on the art of making reasonable efforts findings.

## Session 5: Break

Break Time! Get up, stretch, move away from your screen!

## Session 6: Small Group Discussion

What have you noticed so far about this workshop?

What questions do you still have?

How might you use this information after the workshop?

## Session 7: Q & A with the Presenters

What questions do you have for our presenters?

## Session 8: Evaluating Reasonable Efforts Findings

Step away from your computer and take a few minutes to read document *8A Emma Smith Case Facts and 8B Emma Smith Findings*. Are the findings sufficient under state and federal law? Would you make the same findings? Why or why not?

**Session 8: Emma Smith Case facts*****Facts***

Emma Smith was born on February 26, 2008, to Olivia Smith and John Prater. Mr. Prater resides in Seattle, Washington and other than paying two months of child support early in the child's life, Ms. Smith reports he has no contact with her or the child.

Ms. Smith and her boyfriend reside in a "home" in the backyard of his mother's house.

Ms. Smith's home has no running water and no insulation; it received electricity via a cord running from the main house, which was used to power a small refrigerator, a heater, and an air-conditioning window unit. There is no bathroom in Ms. Smith's home. Ms. Smith and her boyfriend sleep in the same room with Olivia. The mother and the child appeared to be living in destitute poverty, but when questioned by the social worker, the mother considers this living arrangement to be appropriate and indicates she does not need help.

Olivia regularly attends school and is an A/B student.

On one occasion, approximately 5 weeks prior to this hearing, the mother left the child with a nonrelative at a "sleep over" with a school friend without leaving appropriate medication for the child's seizure disorder. On this occasion, Ms. Smith was gone for 2 days and the person caring for the child had no way to contact her and did not know her whereabouts. When Olivia was not picked up after 2 days and efforts to locate Ms. Smith failed, the nonrelative caregiver called the police. Ms. Smith returned to pick up Emma within hours of her being picked up by the police and following a shouting match with the nonrelative caregiver, she went to the Department of Child Protective Services (DCPS) to inquire about Emma's whereabouts.

Upon contact with the Department of Child Protective Services (DCPS), Ms. Smith agreed to allow Olivia to reside with her maternal grandparents in a town approximately 7 miles away. After caring for the child for approximately 5 weeks, the grandparents notified the mother they were no longer able to care for the child and requested that DCPS pick up the child as they had no way of contacting the mother.

Adapted from *H.H. v Baldwin County Department of Human Resources*, 989 So. 2d 1094 (2008)

## Session 8: Emma Smith Findings

IN THE JUVENILE COURT OF KALAVARASS COUNTY, STATE OF ANYWHERE

IN THE MATTER OF EMMA SMITH

DOCKET NO: 07-00207-6

### PROTECTIVE CUSTODY ORDER

It appears to the Court from: the sworn allegations of the petition filed by MARC JOHNSON in this matter. That there is probable cause to believe that the above-named child is a dependent and neglected child within the meaning of the law, that the child is subject to an immediate threat to the child's health and safety to the extent that delay for a hearing would be likely to result in severe or irreparable harm, and there is no less drastic alternative to removal available which could reasonably and adequately protect the child's health and safety pending a preliminary hearing; that it is contrary to the child's welfare at this time to remain in the care, custody, or control of the parents/caretakers/custodians, because of the following (provide specific facts for each child):

The Court further finds that: Reasonable efforts have been made and services have been rendered to prevent or eliminate the removal of said child from her home, including:

- Mental health counseling for child/children
- Mental health counseling for parent
- Drug & alcohol counseling for child/children
- Drug & alcohol counseling for parent
- Parenting classes
- Psychological evaluation for \_\_\_\_\_
- Community Intervention Services (CIS)
- Family Crisis Intervention
- Structured After-School/Summer Activities
- Probation/Aftercare Day Treatment for \_\_\_\_\_
- Intensive Case Management
- Non-Custodial Assessment - to be provided once father located
- Home Ties Intensive in-home case management
- Sexual abuse treatment for child
- Sexual perpetrator treatment for \_\_\_\_\_
- Homemaker services Residential Treatment for \_\_\_\_\_
- Locating relatives Locating absent parent(s)
- Respite Care
- Other (specify) \_\_\_\_\_

It was reasonable to make no efforts to maintain the child(ren) in the home based on an assessment of the family and the child's circumstances that include: \_\_\_\_\_

The Department of Children’s Services failed to provide reasonable efforts to prevent the child’s removal from the home.

The Court further finds that it is in the best interest of the child as follows, and IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED:

The child is hereby brought into the protective custody of this Court. Temporary care and custody of the child is placed with the State of Anywhere, Department of Children’s Services with authority to provide any appropriate plans for the care of said child and to consent to any necessary medical, surgical, hospital, educational, institutional, psychiatric, or psychological care pending further determination of the child’s custodial status by the Court. The preliminary hearing in this cause is set for September 6, 2019 at 9am.

Kristen Jones shall be appointed as guardian ad litem for the child. Emily Melcher is appointed to represent the mother.

All state, county, or local agencies and any public or private medical or mental health treatment resources with information on records relevant to the child’s situation shall release such information or records as are necessary for the management of this case to the legal custodian named above and to any authorized representatives of the case management team of a community health agency, which is providing coordination of care and services with the legal custodian named above.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

JUDGE / MAGISTRATE

## Session 9: Lunch

Step away from your computer! Go have something delicious for lunch, go outside, stretch!  
We are 1/3 of the way through the workshop.

## Session 10: How Will This Workshop Impact Your Practice?

### Mad Tea Questions

What I find challenging about making Reasonable Efforts Findings is...

Something I should stop doing when making Reasonable Efforts findings is...

A courageous conversation we are not having about Reasonable Efforts findings is...

An insight about Reasonable Efforts findings that is emerging for me is . . .

## Session 11: Evaluating Reasonable Efforts Evidence

Step away from your computer for a few minutes and review *Documents 11A: Affidavit*. What questions do you have for the parties related to reasonable efforts? What findings would you make?

**AFFIDAVIT**

My name is Tasha Michaels and I am an Intake and Investigations Social Worker in the Child Protection Services unit of the Department of Human Services. On September 2, 2019, my office received a call on the Child Protection Hotline regarding a 10-month old, Rianna Williams, who was at Children's Hospital. The investigation was assigned to me and I proceeded to the hospital. Dr. Marcia Martin, who had recently examined Rianna, reported that her parents brought her in complaining that she was inconsolable and could not stop crying, but that they were not sure why. X-Rays revealed that Rianna's right femur was broken and that she also had three broken ribs in various stages of healing.

I then interviewed Rianna's parents separately. Rianna's father, Mike Williams, reported that Rianna rolled off the side of the couch yesterday and suggested that this may have been the cause of her injuries. Her mother, Ashley Johnson, stated that she did not know how Rianna sustained her injuries. She refused to give me her phone number and then stormed out of the hospital.

Next, I inspected Rianna, who appeared small for her age. Her leg had already been placed in a cast. In addition, I observed that Rianna had a scratch on her lower back, a pencil-eraser-sized mark on her hand, and a scab on her foot. I was unable to interview the child due to her age.

I then discussed the situation again with Dr. Martin and the hospital social worker, Darlene Reynolds. Ms. Reynolds stated that Rianna was ready for discharge. Dr. Martin stated that Rianna could not have broken her femur by rolling off the couch and that the break was more likely the result of direct force. In addition, the parents offered no satisfactory explanation for the broken ribs. Because Rianna needed to be released from the hospital and there was no safe option for her care, I removed her on an emergency basis and brought her to DHS for screening and placement.

Signed and Sworn this 14th of April, 2020

Tasha Michaels.

## **Session 12: How will this workshop impact your practice?**

Take a few minutes to step away from the computer. In the space below, “free write” for a few minutes, reflecting on how this workshop might impact your practice. What new behaviors, habits, or ways of being might you want to adopt? We will soon begin simulations that will allow you the opportunity to try out new things you would like to bring to your practice.

**Session 13: Simulation I**

You will be sent to a breakout room for this session. When you arrive in your breakout room, a faculty member will assign you a simulation to read. Step away from your computer and take a few minutes to read the materials. Prepare to conduct your hearing in this matter.

Congratulations! You made it to the end of day 1. We are 2/3 of the way there.

**You will need some colored pencils, crayons, or markers for tomorrow....no, *really*, you will want these things for tomorrow, trust me!**

## Session 15: Reasonable Efforts Monsters

You will need a sheet of paper, something to write with, and colored pencils, crayons, or markers for this session. Your facilitator will tell you what to do next.

## Session 16: Open Space

What “Reasonable Efforts Monsters” would you like to talk about?

## Session 17: Simulation II

You will be sent to a breakout room for this session. When you arrive in your breakout room, a faculty member will assign you a simulation to read. Step away from your computer and take a few minutes to read the materials. Prepare to conduct your hearing in this matter.

**Session 18: Simulation III**

You will be sent to a breakout room for this session. When you arrive in your breakout room, a faculty member will assign you a simulation to read. Step away from your computer and take a few minutes to read the materials. Prepare to conduct your hearing in this matter.

Break Time! Get up, stretch, move away from your screen!

**Session 20: Simulation IV**

You will be sent to a breakout room for this session. When you arrive in your breakout room, a faculty member will assign you a simulation to read. Step away from your computer and take a few minutes to read the materials. Prepare to conduct your hearing in this matter.

## Session 21: Q & A with the Faculty

What questions do you have for our faculty?

## Session 22: Closing and Evaluation

Please log in at [www.JudicialAcademy.org](http://www.JudicialAcademy.org) to complete your post-Academy evaluation.

If you are willing to submit recordings of hearings pre- and post-Academy to help us in our analysis of the effectiveness of this training, please contact Melissa Gueller at [Mgueller@ncjfcj.org](mailto:Mgueller@ncjfcj.org).

## Additional Resources

Alice C. Shotton, Making Reasonable Efforts in Child Abuse and Neglect Cases: Ten Years Later, 26 CAL. W. L. REV. 223, 237 (1989).

<https://scholarlycommons.law.cwsl.edu/cgi/viewcontent.cgi?article=1428&context=cwlr>

Easy Come, Easy Go: The Plight of Children Who Spend Less Than Thirty Days in Foster Care

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1197&context=jlasc>

Ignoring Reasonable Efforts: How Courts Fail to Promote Prevention <https://chronicleofsocialchange.org/top-stories/ignoring-reasonable-efforts-why-court-system-fail-promote-prevention/32974>

It's Time to Follow the Law and Take Reasonable Efforts Seriously

<http://rethinkingfostercare.blogspot.com/2018/10/its-time-to-follow-law-andtake.html>

Reasonable Efforts: A Judicial Perspective

<https://www.ncjfcj.org/resource-library/publications/reasonable-efforts-judicialperspective>

Reasonable Efforts Checklist for Dependency Cases Involving Domestic Violence

<https://www.ncjfcj.org/resource-library/publications/reasonable-efforts-checklistdependency-cases-involving-domestic>

Reasonable Efforts as Prevention

[https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/january-december-2018/reasonable-efforts-as-prevention/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january-december-2018/reasonable-efforts-as-prevention/)

Should Judges Ask Questions? The Enquiring Magistrate <http://www.judgeleonardedwards.com/docs/CJA16-4Edwards.pdf>

# Simulation Materials

# Simulation A: In re DM-RE

## Permanency Hearing Report

### PERMANENCY HEARING REPORT

1. **JURISDICTION:** Delonte Marcus (DOB: 6/12/2005) remains under the jurisdiction of the court pursuant to this court's order dated January 11, 2017.
2. **PLACEMENT:** Delonte remains in the care and custody of DCFS. He is currently placed at Westville Boys' Home.
3. **PARENTAL RIGHTS:** The rights of both parents, Alysha Hancock and Kevin Marcus, were terminated pursuant to this court's order dated March 22, 2018.
4. **PERMANENCY GOAL:** Delonte's permanency goal is adoption.
5. **ACTIVITY SINCE THE LAST HEARING:**
  - a. The following services have been provided to defendants: None. Parents rights are terminated.
  - b. DCFS has taken the following steps to promote and expedite adoption of the child: Adoptions Unit is currently pursuing an adoptive home for Delonte.
  - c. **Placement:** Delonte has disrupted three (3) Specialized Foster Home placements since his release from Meadow Valley Treatment Center. He continues to have issues with complying with his treatment services and with taking his medication. He is having difficulty making sound decisions for himself and presents extremely impulsive behavior at times.

6. RECOMMENDATIONS:

- a. It is presently in the Delonte's best interest to maintain the permanency goal of adoption within six to twelve months.
- b. DCFS has made reasonable efforts to finalize the child's permanency plan. DCFS has taken the necessary steps to promote and expedite adoption.

Respectfully submitted,

*Justine Miller.*

Justine Miller

Social Worker, Permanency Unit, Department of Children and Family Services

**Simulation B: In re DW Petition****COUNTY SUPERIOR COURT****FAMILY DIVISION****DEPENDENCY PETITION**

WHEREAS, the petitioner Department of Social Services alleges the following:

Deanna Wilkins was born on March 14, 2003 and is presently 16 years old. Prior to petitioning this case, Deanna resided with her mother, Angela Wilkins.

In 2017, the Department of Social Services substantiated an allegation of substance use impacts parenting with regard to Angela and Deanna Wilkins. The Department released the Deanna to the care of her putative father, Christopher Owens, at that time.

On September 3, 2019, the Department responded to a call from Officer Johnston of County Police regarding a domestic disturbance at 4400 Maple Road, Apartment 22. The reporting officer stated that Angela Wilkins and Deanna Wilkins were involved in a verbal and physical altercation. The mother was screaming profanities and sweating profusely and could not be deescalated despite the officers' attempts. Reportedly, the child was crying and called her mother a [expletive]. Officer Johnston additionally reported that the mother had pushed and kicked her partner, Officer Hernandez, and was being arrested and charged with one count of Assault on a Law Enforcement Officer.

This worker arrived on the scene thereafter and observed the home. It was highly cluttered and reeked of cigarettes and marijuana, with piles of clothes on the floor and unwashed dishes in the sink. This worker then interviewed the child. The child indicated that she did not want to be in her mother's home, and she was aware that her mother did not want her there. She stated that her mother was "doing too much." The child stated that she returned to her mother's care last year, and had a distant relationship with her father, whom she stated "never cared about me anyway."

This worker then interviewed the mother. The mother indicated that she was "sick and tired of the disrespect" and would not allow the child to live in her home. When asked where Deanna could stay, the mother stated "I don't care." This worker asked Ms. Wilkins for a phone number for the child's father. She provided a number but this worker was unable to reach Mr. Owens on that number, instead getting a generic voicemail recording. This worker left a message but did not hear back from Mr. Owens.

This worker attempted to alternative plan with the family. Ms. Wilkins was willing to complete a voluntary intake for youth homeless shelter Highcrest Home, but there were no beds available for Deanna. Ms. Wilkins also provided the names of some family members, but cautioned that the respondent's behavior was an ongoing concern. This worker was only able to reach the maternal grandfather, who stated that he would not be able to care for the child at this time. As such, the child was left without a caregiver.

Deanna Wilkins was removed from her mother's care on an emergency basis on September 3, 2019.

WHEREFORE, Deanna Wilkins is a dependent child pursuant to State Code § 12.40.01. Reasonable efforts to prevent the removal were made pursuant to State Code § 12.40.02 (g). DSS requests placement in shelter care pursuant to State Code § 12.40.06.

**Simulation C: In re KJ Petition****COUNTY SUPERIOR COURT****FAMILY DIVISION****DEPENDENCY PETITION**

WHEREAS, the petitioner Department of Social Services alleges the following:

Kari Jones was born on June 30, 2008 and is presently 11 years old. Prior to petitioning this case, Kari resided with her mother, Mia Jones.

The family first became known to DSS in 2013, when the Department received several calls alleging substance use on the part of Ms. Jones. In 2017, the Department substantiated an allegation when Ms. Jones admitted to heroin use. Ms. Jones entered an inpatient substance use program on or about April 2019, and was released in May 2019, having successfully completing the program.

During the afternoon of September 3, 2019, the Child Protection Hotline received a call from a service provider reporting that Ms. Jones was observed to be under the influence of an unknown substance. The reporting source and this worker both observed Ms. Jones to have slurred speech, an unsteady gait, a vacant stare, and an inability to maintain eye contact or respond appropriately to questions. Ms. Jones initially stated that she had taken medication prescribed by her physician, but was unable to identify the medication or show this worker the bottle.

This worker interviewed the child without her mother present. Kari stated that when she arrived home from school she observed her mother in the same condition as described above – “wobbly,” “drowsy,” and speaking slowly. Kari stated that her mother is usually focused and not wobbly, but she has seen her mother in today’s condition before. She further stated that when her mother is “high” she is also “mean, goes outside, and does not cook.” Kari denies seeing her mother smoke cigarettes or anything else.

Upon information and belief, the biological father of the child is known as “Keith,” but no surname has been disclosed. Keith has not contributed to the child’s care financially, emotionally, or otherwise.

Kari Jones was removed from her mother’s care on an emergency basis on September 3, 2019.

WHEREFORE, Kari Jones is a dependent child pursuant to State Code § 12.40.01. Reasonable efforts to prevent the removal were made pursuant to State Code § 12.40.02 (g). DSS requests placement in shelter care pursuant to State Code § 12.40.06.

**Simulation D: In re DF, RH, and PH Proposed Reasonable Efforts****Findings****REASONABLE EFFORTS OF THE AGENCY TO ACHIEVE PERMANENCY**

The Court concludes that the Agency  **Has**  **Has Not** made **Reasonable Efforts** to achieve the goal of **reunification** as described by the following (specify in detail for each child):

- The agency coordinated a substance abuse assessment for Ms. W, and the agency monitored Ms. W's participation in inpatient substance abuse treatment. The agency has encouraged her to obtain outpatient treatment and whatever other support she needs to refrain from drug use.
- The agency referred Ms. W for a mental health evaluation at the Assessment Center.
- The agency has encouraged Ms. W and Mr. H to undergo DV assessments and to participate in DV services.
- The agency offered to do a substance abuse assessment for Mr. H.
- The agency has referred Ms. W, Mr. F, and Mr. H to parenting classes.
- The agency has monitored the children's physical health, the children's development, and the children's emotional wellbeing, and the agency has ensured the children receive all necessary medical care.
- The agency has monitored the children's education and ensured that they receive all necessary educational services.