



## Two Primary Principles of Child Welfare Law

- 1. Limit removal of children from families to those in imminent risk of suffering harm if left at home;
- 2. Strive to return children to their families as quickly as possible consistent with the child's safety

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## Representing Parents in Child Welfare Cases

- 1. Prove unfitness
- 2. Protect the due process rights of the parents
- **Overriding Premise:** Children are best served when children are in their parents' custody.

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## Rule 1.1 Competence

- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

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## Challenges

- Poverty
- Substance Abuse
- Mental Illness and
- Domestic Violence.

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## Standards and Guidelines Emphasize

- Importance of client-driven representation;
- Attorney preparation and training;
- Work inside and outside of court;
- Advocacy for meaningful and appropriate services; and
- The value of early attorney appointment—when a case first comes to court or before a first hearing.
- Protect these rights against the awesome power of the State. (Santosky, 455 US 745 (1982)).

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## Questions that need to be considered early on:

- What is the specific problem that place the child at imminent risk of serious harm and what was done to alleviate the safety concerns? Why is removal necessary to address that problem?
- Will any service effectively address the family's specific problem to prevent removal?
- Was the family asked what services they need?
- Did the worker ask the family whether they'd cooperate with services?
- Constitutional standard: least restrictive alternative

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## Parents' attorney role in the process

- Accompany clients to meetings with case workers. Help them establish working relationship with the case worker.
- Identify solutions to problems. Non-adversarial. Propose relevant services.
- Stand with the client. Empower them. They HAVE a role in the process.
- Have a concrete plan at the end of the process. Make sure client knows the next steps and who will do what.

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## Be Informed

- Understand the relationship between case workers and parents and/or their attys;
- Learn the substantive law as well as local practice;
  - A parent's fundamental liberty interest in the care and custody of his or her child is at stake, and the attorney must be adequately trained to protect this interest.

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## Specific Knowledge Key

- To provide quality representation of client, attorney has to be familiar with applicable Federal, Wyoming and local rules, codes, statutes and case law interpreting them

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### Includes, but not necessarily limited to:



- UCCJEA
- The Fostering Connections to Success and Increasing Adoptions Act;
- Adoption and Safe Families Act (ASFA);
- The Indian Child Welfare Act (ICWA);
- The Child Abuse Prevention and Treatment Act (CAPTA);

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### Need to understand:



- ICPC
- HIPPA
- Wyo Child Protection Act
- Wyoming Court Rules
- DFS Rules and Regs
- GAL Rules and Regs

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### Effective Advocacy = Better Outcomes for Children



- Parents more likely to cooperate and collaborate
- Improve quality of decisions made by courts by testing information
- Increase options for the court through creative advocacy
- Inject a sense of urgency in the process. Impatience is a GOOD thing. Don't be complacent!

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## Washington Parent Rep Study

- Improved Outcomes for Children
  - Reduction in children entering foster care,
  - Increased family reunifications,
  - Fewer reunification failures and case re-filings
  - Reduced time to all permanency outcomes,
  - Continuance reductions,
  - Increased case participation by parents, and
  - Better access to services.

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## High-Quality Representation Can:

- Reduce costs to government of foster care, including maintenance payments, Medicaid, administrative and court costs.
- Free up caseworkers to work on cases where foster care is necessary

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## Quality representation for parents can prevent other "human costs":

- Can decrease involvement of children in juvenile system, teen pregnancy and unemployment.
- Negative outcomes can follow former foster youth into adulthood
  - More likely to be involved with criminal justice system, experience homelessness, and live in poverty.
- Can reduce overrepresentation of minority children in foster care.

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## Conclusion

- Federal law recognizes foster care not ideal;
- Requires agencies to use "reasonable efforts" to keep families safely together, where possible;
- If child is removed, "reasonable efforts" at reunification is priority;
- If not possible to reunify "reasonable efforts" must be made for permanency.

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## Knowledge is power

- It is critical that each party be competently and diligently represented in order for juvenile and family courts to function effectively
- Quality representation promotes courts that are better informed, more balanced, and a more responsive system for children and their families

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