

## FLORIDA BENCHCARD: CHILDREN AND THE COURT

### A. Court Hearing:

- Child must receive notice since he/she is a party. §39.01(51), Fl. Stat., Rule 8.225(c)(4).
- The child has a right to be present at the hearing unless it is not in the best interest of the child. §39.01(51), Fla. Stat., Rule 8.255(b).

### B. Filing the Pre-Disposition Study (PDS)/Approving the Case Plan:

- The PDS or another document must state the reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference. §39.521(2)(e), Fla. Stat.
- A written case plan and PDS must be provided to the child not less than 72 hours before the disposition hearing. §§39.521(1)(a), 39.6011(7), Fla. Stat.
- The child should be permitted to participate in the development of the case plan, the case plan should address the specific needs of the child, and the child should have the opportunity to object to any of the provisions of the caseplan. §§39.4085(12), 39.6011(1)(a), Fla. Stat.
- The provisions of the case plan should be explained to the child. §39.6011(3), Fla. Stat.
- The Guardian Ad Litem report should include a statement of the child's wishes and be provided to the child at least 72 hours before the hearing. §39.807(2)(b)(1), Fla. Stat.

### C. Judicial Reviews (JR):

- The legislature intends for the caseworker to be in contact with the child alone at least once a month, not just the parents. §39.4085(14), Fla. Stat.
- The child has a right to be heard by the court at all review hearings. §39.4085(19), Fla. Stat.
  - The department shall provide written verification that the child has been encouraged to attend all JR hearings occurring after his or her 17th birthday. §39.701(6)(a), Fla. Stat.
- The court may dispense with the child's attendance pursuant to §39.701(2)(a), Fla. Stat. Best practice is to determine excusal on a hearing by hearing basis.
- If a youth petitions the court before his or her 19th birthday to continue the court's jurisdiction, the court may retain jurisdiction for up to a year following the youth's 18th birthday. §39.013(2), Fla. Stat.

### D. Permanency:

- DCF shall advise the child about the availability of more permanent and legally secure placements and what type of financial assistance is associated with each placement. §39.621 (3)(b), Fla. Stat.
- The court must consider the child's preference. §§39.621(5)(a), 39.621(10), 39.621(10)(d), Fla. Stat.
- The court may approve Another Planned Permanent Living Arrangement (APPLA) as a permanency placement when a foster child, who is 16 years of age or older, chooses to remain in foster care and the child's foster parents are willing to care for the child until the child reaches 18 years of age. §39.6241(1)(d), Fla. Stat.
- The court must conduct an age-appropriate consultation with the child during a permanency hearing. Adoption and Safe Families Act, 42 U.S.C. §675(5)(C)(iii)(2008).

### E. Termination of Parental Rights:

- When determining the manifest best interests of the child, the court shall consider and evaluate the reasonable preferences and wishes of the child. §39.810, Fla. Stat.
- Any child may appeal. §39.815(1), Fla. Stat.

## **F. Children's Right to be Involved:**

- The child may inspect and copy any official record pertaining to the child. §39.0132(3), Fla. Stat.
- Foster children can organize as a group to ensure that they receive services and to provide support for one another. §39.4085(22), Fla. Stat.
- The department shall deliver a copy of any injunction to the child. §39.504(4), Fla. Stat.
- The child may be questioned separately from the parents or caregivers, or by in camera examination. Rules 8.255(c), 8.255(d)(2).

## **G. Independent Living:**

- DCF must make a good faith effort to fully explain every document, report, form, or other record to the child. §409.1451(3)(a)(6), Fla. Stat.
- The child should set early achievement and career goals for the child's postsecondary educational and work experience. §409.1451(3)(a)(6)(b), Fla. Stat.
- Children receiving life skills services should be provided with information related to social security insurance benefits and public assistance. §409.1451(4)(b)(1), Fla. Stat.
- DCF must advertise the criteria, application procedures, and availability of the Road to Independence Program to children and young adults in, leaving, or formerly in foster care. §409.1451(5)(b)(6)(a), Fla. Stat.
- DCF must assist the child with a transitional plan. §409.1451(5)(c)(1), Fla. Stat.

## **H. Residential:**

- If the child is admitted to a residential mental health treatment program, the child must be involved in the preparation of the treatment plan and given a copy. §39.407(6)(e), Fla. Stat.
  - When placing a child in a residential treatment center, the child's wishes should be considered. Rule 8.350(a)(3).
  - The motion for placement must state whether or not the child is in agreement with the placement. Rule 8.350(a)(4).
  - If the child disagrees with the placement, a hearing will be held within 10 days. Rule 8.350(a)(9).
  - The court must conduct a hearing to review the status of the child's treatment plan no later than 3 months after the child's admission, and every 90 days thereafter. §§39.407(6)(g)(2), 39.407(6)(h), Fla. Stat.
- If a child is being placed in a residential group facility, the assessment shall incorporate the desires of the child. §39.523(1), Fla. Stat.

## **I. Crossover Cases:**

- Unless waived, the child must be present for proceedings involving children and families in need of services. Rule 8.625(b).
- The child shall be present in juvenile delinquency proceedings unless it is not in the child's best interests to attend. Rule 8.100(a).

## **J. Recommendations:**

- Direct the guardian ad litem, caseworker and/or therapist to prepare the child for the hearings and offer the child a chance to debrief after the hearing. The child should be told:
  - When the hearing will occur
  - who will be in the courtroom
  - the purpose of the hearing
  - what is expected to happen
  - how to talk to the judge