

COURT IMPROVEMENT PROGRAM TRAINING

Laws in the Child Welfare System

**A Multi-disciplinary Curriculum for Improvement of
the Child Welfare System**



Laws in the Child Welfare System:

**A Multi-Disciplinary Curriculum for Improvement of
the Child Welfare System**

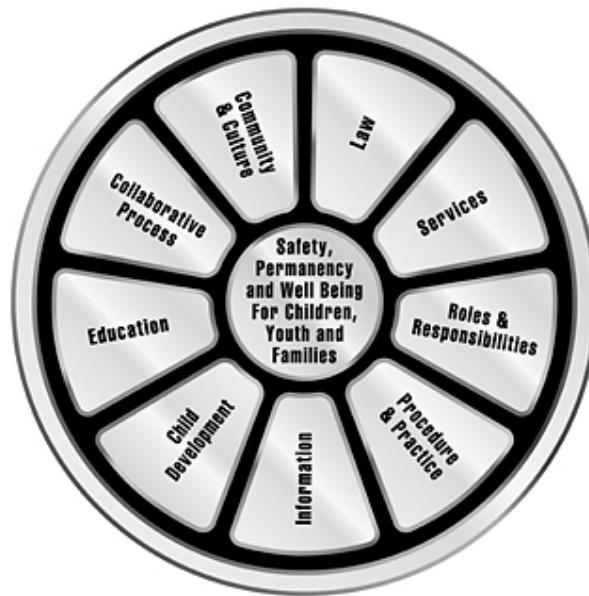
By The National Association of Counsel for Children



NACC
**National Association
of Counsel for Children**

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Court Improvement Program
Office of The Colorado State Court Administrator
101 W. Colfax, Suite 500
Denver, CO 80202



Colorado Court Improvement Program Training Wheel Curricula

It is not surprising that the diverse culture of the child welfare system creates knowledge and experience gaps for child welfare participants and practitioners alike, which leads to the question, “How can individuals who are involved in the child welfare system know about that system as a whole as well as the roles of others involved in it?”

The Colorado Court Improvement Program (CIP) is in the process of designing training to answer this very question. The Training Wheel Curricula is made up of nine separate modules, each representing a discipline or service area associated with the Child Welfare process. The purpose of each module is to assist multi-disciplinary Best Practice Court Teams in building a foundation of core knowledge within each discipline or service area. While each discipline or service area may have a required professional knowledge and skill base that exceeds core knowledge, it is core knowledge in all areas that creates an understanding of the child welfare process as a whole.

The *Law Curriculum* was authored by staff at the National Association of Counsel for Children, www.naccchildlaw.org.

For questions about the *Law Curriculum* or about other Training Wheel curriculum, please contact Kay Yorty, Training Coordinator for the Colorado Court Improvement Program at margaret.yorty@judicial.state.co.us



Colorado's
Best Practice Court Teams

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Faculty Resources

Detailed Agenda	Faculty Resource 1a
[Key] Abuse & Neglect Proceedings- Flow Chart	Faculty Resource 1b
Goals and Motives	Faculty Resource 1c
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Handouts

Agenda	Handout 1a
Marianne's Case	Handout 1b
Abuse & Neglect Flow Chart	Handout 1c
Proceedings Bank	Handout 1d
Marianne's Proceedings	Handout 1e
Proposed Services Plan	Handout 1f
Stuck? Thought Questions	Handout 1g
Bibliography	Handout 1h
Evaluation	Handout 1i

Electronic Resources

Compendium of State and Federal Child Welfare Law	E-Resource 1a
Chapter 10: Federal Child Welfare Law Legislation	E-Resource 1b
Evolution of Dependency Court- Historical Timeline	E-Resource 1c
Chapter 11: U.S. Supreme Court Cases Regarding Child Welfare Law	E-Resource 1d
Colorado Department of Human Services Regulations	E-Resource 1e
Regulatory Environment of Service Providers	E-Resource 1f
Chief Justice Directives	E-Resource 1g

LAW IN THE CHILD WELFARE SYSTEM COMPETENCIES & LEARNING OBJECTIVES

LAW IN THE CHILD WELFARE SYSTEM: COMPETENCIES & LEARNING OBJECTIVES

Time	6 hours of learning content; 7.5 total hours for the training day
Purpose	To provide a procedural and substantive understanding of the legal framework which governs the child welfare system.
Competencies	Participants will be able to explain the legal framework governing the child welfare system.

Learning Objectives:

- Participants will learn the basic legal requirements that allow the State to intervene in the lives of children and families.
- Participants will learn the law governing child welfare proceedings and be able to identify professionals who can provide more information to them about how the law impacts a particular case.
- Participants will demonstrate a basic understanding of the language that is commonly used in dependency proceedings and their jurisdiction in general.
- Participants will identify the legal role of each professional within dependency proceedings.
- Participants will describe what happens generally during court proceedings, as well as an understanding of courtroom culture and proper professional etiquette.

Materials	All materials as well as this curriculum are available in electronic and printed format
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LAW IN THE CHILD WELFARE SYSTEM PREPARATION

LAW IN THE CHILD WELFARE SYSTEM – PREPARATION

Expectations of Trainers – The Lead Trainer shall have experience in the child welfare system either as a member of the judiciary or attorney with extensive knowledge of the court process and law. Ideally it will be someone known to stakeholders in the community.

Facility – The facility should be a public meeting area such as a government office, school, or court house. The main meeting room should be large enough to accommodate local stakeholders and provide space for participants to break out into small groups. Ideally there will also be space outside of the meeting room to accommodate networking / discussions during breaks.

Faculty – The presentation can be done by one or more presenter with experience in the dependency court, this could include a judge, an attorney. Additionally, a representative from the Department of Human Services (DHS) could also present on areas related to DHS policy, regulations, investigations, etc.

Advance Reading – Faculty must review the PowerPoint and script in detail in addition to reviewing all of the handouts. Participants must review and become familiar with Handout 1b: Marianne's Case.

Set Up – A PowerPoint projector and screen will be needed.

WELCOME AND INTRODUCTIONS

Time: 20 minutes

Description of Activity: Lecture

Note: [»SX] = Slide number

[»S1]: Title Slide - Child Welfare Law

- *Welcome trainees to training session.*
- *Thank trainees for their commitment to court improvement and for their time commitment.*
- *Thank trainees for having completed the advanced reading, “Hypothetical Child Welfare Case Scenario” (Marianne’s Case).*
- *Thank rest of faculty and training organizers.*

[»S2]: Introduction

- *Briefly introduce yourself and explain your interest in this project.*
- *Orientation with facilities: Orient trainees with facilities (bathrooms, break rooms, lunch, etc.).*
- *Overview of the Day: Provide a general overview of the day, including breaks and the agenda.*
- *Trainee Introductions:*
 - *Acknowledge that everyone has some general exposure to the Child Welfare System (“CWS”) but that not all have met each other.*
 - *Provide 5-7 minutes for each table to introduce each other in a round-robin, identifying:*
 - Name
 - Role as a stakeholder
 - One system deficiency and one system strength from their experiences.
- *The Case Problem: Marianne’s Case: Ensure everyone has a copy of Marianne’s Case [Handout 1b].*

LAW IN THE CHILD WELFARE SYSTEM WELCOME AND INTRODUCTIONS

[»S3]: Objectives

- *Identify the major objectives outlined in the curriculum.*
 - Participants will learn the basic legal requirements that allow the State to intervene in the lives of children and families.
 - Participants will learn that the law governs child welfare proceedings and be able to identify professionals who can provide more information to them about how the law impacts a particular case.
 - Participants will demonstrate a basic understanding of the language that is commonly used in dependency proceedings and their jurisdiction in general.
 - Participants will describe the legal role of each professional within dependency proceedings.
 - Participants will describe what happens generally during court proceedings, as well as an understanding of courtroom culture and proper professional etiquette.

THE LEGAL FRAMEWORK

Time: 30 minutes

Description of Activity: Lecture

[»S4]: Session 1: Title Slide - The Legal Framework

[»S5] The Legal Framework

Presenter should review the items on the slide as a general overview of the “Legal Framework” session and the major topics to be discussed in detail.

The Development of Child Welfare Law

- Background: Children and society
- Parents’ rights under the Constitution
- Children’s rights under the Constitution
- Government intervention
- Basic federal law
- Basic state law

[»S6:] Background: Children and Society [Reference Electronic Resource 1d: Evolution of Dependency System]

- *Explain that for much of Anglo legal history, the legal framework for children in the law was concerned with two major objectives: securing wealth and inheritances through progenitors and mitigating the social burden imposed on upper-class as a result of poverty. Consequently, the law did not address “child welfare” per se, but instead saw the welfare of children as a means to establish economic lineage and security, or as a way to address the toll society must incur to “deal with” the poor. Regarding the latter, the State’s interest in children arose when there was a conflict as to inheritances or taxes, but the well-being of children was left almost exclusively up to the family. The State took interest in children through orphanages and reform schools to produce contributing workers and reduce the financial burden on society writ large. Again, there was little focus on the welfare of children as rights bearing members of society. Instead the focus was on poor children as social burdens.*

LAW IN THE CHILD WELFARE SYSTEM THE LEGAL FRAMEWORK

- *Explain that the 20th Century ushered in a shift in the legal framework of child welfare law, focusing on the rights of children (child labor laws, women's suffrage, abolition, all played a part in the rising awareness of the plight of children under the law). This new focus emerged as the State endorsed policy of parens patriae: of the State as the ultimate parent over neglected children. By recasting the legal framework in this light, child welfare law became concerned with children as citizens and human persons with rights of their own, thus the present formulation of "the child's best interest" jurisprudence.*
- *Child welfare as a legal issue then, evolved from an economic-social issue to a pseudo-human rights issue whereby the State has an interest in the welfare of children as children, and an explicit duty to preserve their rights.*
- *In the 1970s with the adoption of the federal Child Abuse Prevention and Treatment Act, which we will discuss in more detail later, dependency courts began to shift focus from vagrant / pre-delinquent children to maltreated children. States codes were modified to create processes for the intake, adjudication and disposition of maltreated children.*

[>S7]: Sources of Law & Principles

- *This slide is an overview of the main sources and policies of contemporary child welfare law.*
- *Three Main Sources of Law:*
 - 1.) *The U.S. Constitution-*
 - *It creates a platform of laws to protect citizens from state intervention. States can afford additional protections, but must guarantee that constitutional rights are protected.*
 - 2.) *State Law/ Regulations/Chief Justice Directions-*
 - *In Colorado, the authority of the dependency court is derived from state law – found in Title 19 of the Colorado Revised Statutes. The content of Title 19 is based on constitutional requirements (such as notice and an opportunity to be heard), federal law (which include, for example, provisions for mandatory reporting, reasonable efforts, set timeframes), and state law. Principles that guide the dependency court are derived from these sources of law. Regulations interpret the state law and provide guidance for the application of law. In addition, there are numerous Chief Justice Directives that are binding.*

LAW IN THE CHILD WELFARE SYSTEM

THE LEGAL FRAMEWORK

3.) Principles – *there are also overarching principles that guide the dependency court in decision making:*

- *Family Reunification is identified as a federal goal, at each stage of the proceeding the court must consider whether the family can be safely reunified, and if not, what is required to be able to safely reunify them?*
- *Parens Patriae – as discussed earlier, the state acts as the ultimate parent.*
- *Child's Best Interests – Dependency Court is distinct from other proceedings because the objective of the court is to determine what is in the child's best interests.*

[>S8]: Parents' Rights

Explain the basic Supreme Court rulings that shape a parent's constitutional rights:

- Meyer v. Nebraska: The Court ruled parents have a constitutionally protected liberty interest in the education of their children. 262 U.S. 390 (1923).
- Troxel v. Granville: The Court found that fit parents are capable of making decisions to determine what is in a child's best interest. 530 U.S. 57 (2000).
- Stanley v. Illinois: The Court held that under the Due Process Clause of the Fourteenth Amendment all parents are entitled to a hearing on their fitness before their children can be removed from their custody. 405 U.S. 645 (1972).
- Caban v. Mohammed: The Court held unwed fathers and unwed mothers have the same right to their children pursuant to the Equal Protection Clause of the Fourteenth Amendment. 441 U.S. 380 (1979).
- Wisconsin v. Yoder: The Court held that the right to religious freedom under the First Amendment outweighs the state's interest in compulsory education in order to form a productive citizenry. 406 U.S. 205 (1972).

These cases taken together shape the relationship between parents and the state when the state is intervening in a family. Thus, in Colorado parents have a right to notice of proceedings, and they have a right to appointed counsel if they cannot afford a lawyer.

LAW IN THE CHILD WELFARE SYSTEM THE LEGAL FRAMEWORK

[»S9]: Children's Constitutional Rights

Explain the basic Supreme Court rulings that shape children's constitutional rights:

- In re Gault: The Court held that the due process clause of the Fourteenth Amendment applied to delinquency adjudicatory hearings. 387 U.S.1 (1967).
Applied 14th Amendment and Bill of Rights to children, such as:
 - Right to notice of charges
 - Right to confrontations and cross-examination
 - Right to not self-incriminate
 - Right to counsel in specific contexts
- Tinker v. Des Moines Independent Community School Dist.: The Supreme Court held that student's have a First Amendment right to free speech. 393 U.S. 503 (1969).
- Parham v. J.R.: The Court held that while children have a Fourteenth Amendment liberty interest in not being unnecessarily confined and not being improperly labeled mentally ill, children can be voluntarily committed to state mental hospitals with proper due process. 442 U.S.584 (1979).

Note the important limitations on children's rights, especially the absence of a right to counsel in dependency proceedings (unless ICWA applies).

However, CAPTA does require appointing a "representative" such as a GAL, attorney, or volunteer. Colorado law requires that an attorney-GAL be appointed to represent the best interests of the child in a dependency proceeding.

[»S10] Government Intervention (When is it allowed)

Explain that state law provides the legal framework for government intervention and the legal proceedings, but that the Constitution provides the enforceable rights afforded to the parties in an abuse and neglect case.

[»S10]: When is it allowed?

- Answers:
 - When there is a founded report and investigation of child maltreatment (abuse and neglect).
 - Define Abuse and Neglect: Acts that threaten the health or welfare of a child.
 - Some jurisdictions allow emergency protective custody if a child is in imminent danger of injury or there is probable cause abuse has occurred.

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- Absence of parents
- Delinquency
- Juvenile status offense (running away or truancy)
- Disability
- Dependency Issues (custody proceedings during a divorce, for example)

This, [»S10] is a basic introduction of the circumstances under which the government may intervene into the lives of children and families (that is, in the presence of abuse and neglect). Slide 11 will then address the Constitutional justification for such intervention.

[»S11]: Government Intervention

- *Fundamental rights jurisprudence (substantive due process) is rooted in the 14th Amendment. According to the Supreme Court's precedent and the text of the amendment, no State shall infringe upon the liberty interest of familial autonomy unless it is "necessary to achieve a compelling purpose" (strict scrutiny).*
 - *"Necessary" means that there are no other ways to accomplish the purpose save for the infringement of the right at stake.*
 - *There are a very limited number of "compelling purposes" in fundamental right's jurisprudence, such as remedying past discrimination, diversity, and national security. Relevant to child welfare law, stopping the abuse and neglect of a child is a compelling purpose justifying government intervention. However, the right may only be infringed if necessary to stop the abuse.*
- *Termination of parental rights ("TPR") is the last resort of government intervention. So long as due process rights are upheld, if a parent is found to be "unfit" by clear and convincing evidence, their fundamental rights as parents can be terminated. When parental rights are terminated, the child-parent relationship is dissolved and the parties are as legal strangers.*
 - Stanley v. Illinois: The Court held that under the Due Process Clause of the Fourteenth Amendment all parents are entitled to a hearing on their fitness before their children can be removed from their custody. 405 U.S. 645 (1972).
 - Santosky v. Kramer: The Court held a state must prove its case with "clear and convincing" evidence in order to terminate parental rights pursuant Due Process Clause of the Fourteenth Amendment.

[»S12]: Government Intervention (duties)

Explain the duties of the State regarding their custody relationship with the child.

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- Youngberg v. Romeo: The Court held that while the State has no duty to protect a child outside its custody, once within its custody, the State has a duty to ensure the child is not placed in a home the State knows or has reason to know may be abusive. 457 U.S. 307 (1982).
- Deshaney v. Winnebago County Dept: The Court held that the State does not have a duty to act to protect a child that is not within its custody. 489 U.S. 189 (1989).
- Suter v. Artist M.: The court held the Adoption Assistance and Child Welfare Act does not create enforceable rights to “reasonable efforts” as to the State’s duty to private individuals, but created a general duty enforceable by the Secretary of Health and Human Services. 503 U.S. 347 (1992).

[»S13]: Federal Law: Funding Incentives

The next two slides are an enumerated list of important federal laws regulating child welfare. They fall in two categories: funding and substantive. Identify 2 laws from each slide you deem particularly relevant and briefly explain their significance.

- **Foster Care Reimbursement to States**: Federal funds provided to and matched by state funds to pay for “foster care maintenance” (including housing, food, clothing, etc.), “foster care administration” (eligibility determinations, referrals to services, child placement, etc.), and “foster care training” for parents and foster care workers. Title IV, E does **not** pay for prevention services or to help families caring for abused or neglected children. Social Security Act, 42 U.S.C. § 672.
- **Adoption Assistance Reimbursement to States**: Federal funds provided to and matched by state funds to pay for “maintenance, administration, and training,” and nonrecurring adoption expenses. Social Security Act, 42 U.S.C. § 673.
- **Promoting Safe and Stable Families Program (PSSF)**: Federal funds set aside for child abuse and neglect prevention and intervention services. Social Security Act, 42 U.S.C. § 620. Subpart 2.
- **Child Welfare Services Program**: Federal funds made available for child abuse and neglect services. The program is very broad and is not aimed at specific uses. Social Security Act, 42 U.S.C. § 620, Subpart 1.
- **Chafee Foster Care Independence Program**: Federal funds dedicated to provide for youths aging out of foster care. 42 U.S.C. § 677.
- **Child Abuse Prevention and Treatment Act Programs**: Provides federal funds to community based-prevention of child abuse and neglect, state grants, and research. 42 U.S.C. §§ 5101-07.

[»S14]: Federal Law: Substantive

LAW IN THE CHILD WELFARE SYSTEM THE LEGAL FRAMEWORK

- **The Child Abuse Prevention and Treatment Act (CAPTA):** Provides federal funding to support states in their efforts to respond to and prevent child maltreatment. CAPTA includes some substantive provisions, such as the requirement that a guardian ad litem be appointed for child at all judicial proceedings. In order to qualify for funds, a state must:
 - Establish a mandatory reporting program for suspected child abuse and neglect.
 - Provide a system that effectively responds to those reports.
 - Take action appropriate to the level of the risk of harm reported. 42 U.S.C. § 5106(a) (2006).
- **Adoption Assistance and Child Welfare Act of 1980 (AACWA),** which established Titles IV-B and IV-E of the Social Security Act.¹ The act's overarching goal was to reduce the number of children entering foster care and to reduce the length of time they remained in the system after they entered foster care. 42 U.S.C. § 621 et seq; 42 U.S.C. § 670 et seq
- **Titles IV-B and IV-E of the Social Security Act:** Provides a federal funding scheme to allow for the administration of federal monies to state child welfare agencies in support of their child protection efforts. Titles IV-B and E are not substantive but provide a comprehensive plan with which states must comply to receive funds. 42 U.S.C. § 622.
- **Adoption and Safe Families Act (ASFA):** A comprehensive federal schema created to reform the nation's child welfare laws. ASFA reaffirmed the prior federal commitment to family preservation in order to reduce the number of children who enter into foster care. Additionally, the law refined the requirement that child welfare agencies make "reasonable efforts" to keep families unified. If this is not possible or reasonable efforts are not productive, ASFA allows for states to take appropriate measures to protect the child's safety and welfare. Finally, ASFA calls for states to establish an "aggravated circumstances" exception whereby a parent will be rendered ineligible for family preservation of reunification efforts. Pub. L. No. 105-89.
- **The Indian Child Welfare Act (ICWA):** Substantive federal legislation passed in response to the historical discrimination experienced by Native American families when their children were removed from their custody in order to facilitate their assimilation into the majority culture. Most of the provisions in ICWA seek to preserve the rights of Indian families and tribes to make decisions regarding their children's best interests. 25 U.S.C. §§ 1901 – 63.

¹ 42 U.S.C. § 621 et seq; 42 U.S.C. § 670 et seq.

LAW IN THE CHILD WELFARE SYSTEM

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- **The Multi-Ethnic Placement Act (MEPA):** Federal legislation which seeks to (1) preclude consideration of race, color, or national origin in licensing foster parents and making placement decisions with foster or adoptive parents, and (2) recruit foster and adoptive families that reflect the ethnic and racial diversity of children in the State where foster and adoptive families are needed. 42 U.S.C. §622(b)(9); 42 U.S.C. § 671(a)(18); 42 U.S.C. 3/2/2011 674(d).
- **The Foster Care Independence Act (Chafee):** An amendment to Title IV-E intended to assist older youth transitioning out of foster care and facilitating independence as adults. 42 U.S.C. §§ 671, 677, 1396(a).
- **Temporary Assistance for Needy Families (TANF):** Provides funds to low-income families with children, much of which is used to pay for child welfare services. 42 U.S.C. § 609-19.
- **Fostering Connections to Success and Increasing Adoption Act -** The Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act) became law on October 7, 2008. In broad terms, the Fostering Connections Act amends numerous provisions of Titles IV-B and IV-E to promote maintaining a child's ties with family, expedite children's passage through the foster care system, provide prompt permanency, and achieve better outcomes for youth once they leave the foster care system. Pub. L. No. 110-351; 42 U.S.C. § 621 et seq.; 42 U.S.C. § 670, et seq.

[»S15]: State Law

Explain that while each state may devise its own child welfare system, they almost all take some form of this structure. Each of these steps will be fully explicated in the course, so a brief overview of each step here will suffice.

[»S15]: Basic overview of state child welfare law and process:

- Mandatory reporting of abuse and neglect
- Custody hearing
- Adjudication
- Disposition
- Placement
- Permanency hearing
- Termination of Parental Rights / Final Orders
- Review hearing

[»S16]: Reflection and Application

Brief Review

- History of Child Welfare Law

LAW IN THE CHILD WELFARE SYSTEM THE LEGAL FRAMEWORK

- Sources of rights and responsibilities
- Parents' constitutional rights
- Children's constitutional rights
- Government intervention
- Federal laws
- State laws

Application: Marianne's Case

Use this slide to (1) review the preceding material and orient the class on the general structure and sources of child welfare law, and (2) invite the trainees to identify the constitutional rights at stake for the parties in Marianne's Case. This should be a brief, facilitated group discussion. Be sure to manage time here and allow for further exploration of the issues in later activities.

Examples of Parents' Constitutional Right at Stake for the Parties in Marianne's Case:

- *Child's education*
- *Care, custody, and control*
- *Parental fitness hearing before deprivation of custody*
- *Unwed fathers and mothers have equal rights*
- *Religious education*

Examples of Child's Constitutional Right at Stake for the Parties in Marianne's Case:

- *Due process in delinquency adjudicatory hearings*
- *Bill of Rights and 14th Amendment*
- *Freedom from unnecessary confinement*
- *Notably, no constitutional right to counsel in dependency and neglect proceedings.*

HOW A CASE BEGINS

Time: 40 minutes

Description of Activity: Lecture

[»S17]: Session 2: Title Slide: **How a Case Begins**

[»S18]: Who Reports?

The following slides are focused discussion detailing how to initiate an abuse and neglect investigation. All of the material and relevant Colorado statutes can be found in the Electronic Resources.

[»S18]: Who Reports?

- Anyone, but especially some professionals.
- Reports should be based on suspicion of abuse or neglect.
- **Mandatory Reporters:** Some **professionals** are required to make reports if they have **reasonable cause to know or suspect** that a child has been abused or neglected. They must also report if they observe the child subjected to conditions that would reasonably result in abuse or neglect.
- Examples: Physician, social worker, clergy

[»S19]: Reports What?

Take a moment to familiarize the trainees with the legal definitions of abuse and neglect. While the list on the slide is not exhaustive, it is a good reference point for some common manifestations of abuse.

Direct trainees to Electronic Resource 1a for a comprehensive list.

[»S19]: Reports What?

- Define: Abuse and Neglect
 - Acts that threaten the health or welfare of a child.
 - For example:
 - Non-accidental skin bruising, bleeding, malnutrition, failure to thrive, burns, etc.;
 - Any case in which a child is subject to unlawful sexual behavior;

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HOW A CASE BEGINS

- The child's caretaker failing to provide adequate food, clothing, education, shelter, medical care, or supervision;
- The child being subject to emotional abuse that substantially impairs or places at risk the child's intellectual or psychological functioning or development;
- When the caretaker has abandoned the child;
- When the child's environment is injurious.

[»S20] through [»S27]: Reporting

Continue to trace the steps of the DHS investigation and basic protocol. Meaningful connections to each of these steps as satisfying due process and the rights discussed in the preceding Legal Framework session will help reinforce the material. Be sure to identify the following key terms and emphasize their relevance as common vocabulary in the Child Welfare System:

- *Abuse and neglect*
- *Mandatory reporter*
- *Confirmed reports*
- *Reasonable efforts*
- *Due process*

[»S20]: Reporting Procedures

- Reports of child abuse or neglect are to be **immediately** made to county DHS or local law enforcement, promptly followed by a written report.
- This report is admissible in D&N proceedings.
- It is subject to confidentiality requirements.
- DHS gives copies of all reports to the district attorney and to local law enforcement.

[»S21]: Who Investigates?

- DHS must begin investigating after receiving the report.
- Protecting the child and, if appropriate, preserving the family are the immediate concerns.
- After the investigation is completed, the findings are assessed.

[»S202]: Post-Investigation

- DHS determines if the report is **confirmed** or **unfounded**.
- It is **confirmed** if supported by a **preponderance of the evidence**.
- Confirmed reports are forwarded to the state Department of Human Services within **sixty days**.

LAW IN THE CHILD WELFARE SYSTEM

HOW A CASE BEGINS

- DHS **may be liable** for not investigating allegations of abuse when recommending placement with an abusive family member.

[»S23]: Post Investigation

- DHS may file a D&N **petition**.
 - Must be done in **10 days** of court taking temporary custody.
 - Petition must include facts and evidence of reasonable efforts
- DHS may seek a **court order** to take the child into **protective custody**.
- Preliminary Protective Hearing
 - Within 72 hours of taking custody
 - DHS may:
 - Recommend removal
 - Send child home with supervision & services
 - Send child home without services

[»S24]: Post-Investigation

- DHS must provide “**reasonable efforts**” to prevent or eliminate the need for out-of-home placement of a child.
- DHS must develop, with the family, an **individual case plan** for all abused and neglected children and families of such children in each case opened for service.
- If reasonable efforts fail or are impracticable, then DHS may seek a court order to obtain **custody** of the child.

[»S25]: Temporary Custody

- DHS may seek a court order for custody of a child at any time of the day or night.
- If custody is granted by the court, the parent or guardian is entitled to a **hearing** within **72 hours**, excluding weekends and holidays.
- **Emergency exception** may apply.
- At the **preliminary protective hearing**, the court will determine the initial, temporary placement of the child.

Special Note: [»S25]: “Emergency Exception” defined:

- **Emergency Exception:** *Law enforcement may take a child into custody without a court order when the child is abandoned, lost, seriously endangered or seriously endangers others, and immediate removal appears necessary to protect the child or to protect others.*
- *If this is done, and the child is placed in a temporary facility not operated by DHS, law enforcement must promptly notify the court. The parent or guardian is entitled to a hearing on this decision within 48 hours, excluding weekends and holidays. C.R.S. § 19-3-403(2).*

LAW IN THE CHILD WELFARE SYSTEM

HOW A CASE BEGINS

[»S26]: What's it like in the DHS? The Regulatory Environment of the DHS

- While dependency proceedings are governed by state, federal and constitutional provisions, DHS also has its own extensive regulatory framework.
- Taken as a whole, this system provides comprehensive safeguards necessary to help ensure the child's best interest.

[»S27]: Rules and Regulations Governing the Colorado DHS

Taken as a whole, this system provides comprehensive safeguards necessary to help ensure the child's best interest.

- *Colorado Children's Code is the law that rules dependency proceedings*
- *CDHS Regulations as listed in Volume VII – interpret statutes and has the force of law*
- *Policy-based Agency Letters are not law; these provide guidance for applying the law in practice*
 - *Note the 3 main sources of regulations. See Electronic Resource If: REGULATORY ENVIRONMENT OF SERVICE PROVIDERS (The actual regulations are too broad and expansive to cover here, just know they are there and how to access them).*

[»S28]: Reflection: Marianne's Case

Use the prompts on the slide to facilitate a brief group discussion rooted in the question:

- Do you suspect abuse or neglect?
- Who, if anyone, should report?
- To whom should they report?
- What should be done next?
- What if the investigation yields no abuse or neglect?
- What if the abuse or neglect is confirmed?

NETWORKING BREAK: ICE-BREAKER

Time: 30 minutes

Description of Activity: Small Group Collaboration

[>S29]: Session 3: Title Slide: **Ice-Breaker**

- *Distribute one to each table:*
 1. Handout 1c: Abuse & Neglect Proceedings Flow Chart
 2. Handout 1d: Proceedings Bank
- *Direct trainees to work as a group and place the steps in the “Proceeding Word Bank” on the “Case Proceedings Flow Chart”*
- *Explain that so far you have only covered the first few steps, but that groups should apply their work experience and table/network to anticipate the order of the remaining steps in the proceeding.*
- *Note to presenter: Remember, this is an ice-breaker, so the absence of curricular knowledge provides for trainees to dialogue and interact to “figure out” the flow chart. It is important this be expressly articulated to the group and allowed to occur.*

LAW IN THE CHILD WELFARE SYSTEM OVERVIEW: CASE PROCESS

OVERVIEW: CASE PROCESS

Time: 15 minutes

Description of Activity: Group Discussion

[»S30]: Session 4: Title Slide: Case Process

[»S31]: Abuse and Neglect Proceedings Flow Chart

This is the “answer key” to the ice-breaker. Introduce each step in the flow chart and evaluate trainee responses. Keep in mind that each step will be detailed after lunch, so this should serve as a snapshot of how the state laws form the basic litigation in a child welfare case. Reference Faculty Resource 1b [Key]: Abuse and Neglect Case Proceedings Flow Chart.

[»S32]: Dependency Vocabulary Review

Reinforce common vocabulary and language used in the child welfare system.

Be sure to use the language as much as possible in the presentation from this point on.

[»S32]: Vocabulary

- Abuse and Neglect – Acts that threaten the health or welfare of a child.
- Mandatory Reporter – Professionals that are required to report if they have reasonable cause to suspect abuse or neglect.
- Confirmed Report - A report substantiated by a preponderance of the evidence.
- Reasonable Efforts – The state’s attempt to preserve and reunite families.

ROLES AND RESPONSIBILITIES

Time: 30 minutes

Description of Activity: Facilitated Groups Discussion

[»33]: Session 5: Title Slide: Roles and Responsibilities

[»S34] Brainstorming Session

Invite the trainees to share-out who they think are the relevant parties and players involved in all aspects of a child welfare case. It may be helpful to “web” the answers on the whiteboard/large paper.

- Who is involved? Who is needed? What must be done?
- As a group, brainstorm and identify the major players in child welfare proceedings and their responsibilities.
- Hint: Think in terms of three categories:
 - Fact witnesses
 - Legal representatives
 - Legal decision makers

[»S35] through [»S42]: Roles and Responsibilities

Each slide will detail the various roles identified in the brainstorming session.

The presenter should read through the slides prior to the presentation and familiarize themselves with each slide/role. The presenter is encouraged to add details/anecdotes/refinement to any of the slides' content.

Trainees should be prompted to pay special attention to recognizing the roles of each party and how they might be utilized by other parties in the case. Remember, the child welfare system, while “adversarial” is rooted in the child’s best interest. Therefore, one of this training’s objectives is to provide trainees the ability to identify and utilize the various participants in the case as resources.

[»S35]: Fact Witnesses: Caseworker

- Caseworkers’ duties include:
 - Responding to reports of abuse or neglect
 - Performing investigations
 - Evaluating circumstances of families and children
 - Filing petitions

LAW IN THE CHILD WELFARE SYSTEM ROLES AND RESPONSIBILITIES

- Determining initial placement
- Balancing between child's needs and "reasonable efforts" to assist parents

[»S36]: Fact Witnesses: CASA

- CASAs' duties include:
 - Speaking up for abused, neglected or abandoned children
 - Accountability to the child, family, and court
 - Perform independent investigations
 - Personal commitment to the child's well-being
 - *Many CASAs are volunteers with varied backgrounds

[»S37]: Fact Witnesses: Foster Parents, Therapists, Educators, Experts

- Foster Parents' duties include:
 - Providing care for children placed in their home
 - Participation in court proceedings
- Therapists' duties include:
 - Preserve confidentiality, where required
 - Share appropriate information
- Educators' duties include:
 - Report suspected abuse
 - Disclose information and provide required protections
- Experts' duties include:
 - Can offer expert opinion to court

[»S38]: Legal Professionals: GAL – duties outlines in Children's Code and Chief Justice Directive

- GALs duties include:
 - Represent the child's best interests;
 - Conduct and independent investigation
 - Navigating between the child's wishes and what is best for the child
 - Advocating on behalf of the child
 - Collaborating with lawyers, judges and caseworkers to promote the child's welfare

[»S39]: Legal Professional: RPC – model rules of professional conduct

- Respondent Parent's Counsel's duties include:
 - Representing the child's parents in court
 - Advocating for the parent's rights
 - Educate client regarding stages of proceedings
 - Balance confidentiality with legal responsibilities

[»S40]: Legal Professionals: County Attorney – prosecutes the case

LAW IN THE CHILD WELFARE SYSTEM ROLES AND RESPONSIBILITIES

- County Attorney's duties include:
 - Represent the People of the State of Colorado and DHS in all court proceedings
 - Exercise candid professional judgment and give legal advice
 - Counsel the agency regarding legal and policy objectives

[»S41]: Legal Decision Makers: Judges and Magistrates

- Magistrate and judge's duties include:
 - Preside over court proceedings
 - Evaluate compliance with case plan
 - Determine whether "reasonable efforts" have been made to preserve the family
 - Rule on the case

[»S42]: Application: Reflecting on Roles and Responsibilities Using Marianne's Case

- *Who represents Marianne?*
- *Who represents DHS?*
- *Who represents Leon, Brianne, and Sandra?*
- *What potential conflicts or tensions arise out of this model?*
- *What are some possible solutions to those conflicts?*

LEGAL DECISION MAKING

Time: 15 minutes

Description of Activity: Lecture

[»S43]: Session 6: Title Slide: Legal Decision Making

- *This session focuses on the processes involved in making myriad legal decisions throughout the litigation process. Special attention is paid to the nature and importance of relationships in the legal environment and strategies to cultivate productive partnerships.*
- *In dependency cases the proper venue is the county where the child resides or is present. The juvenile court has exclusive jurisdiction to decide child abuse or neglect cases among other cases involving children including paternity, adoption and commitment proceedings for mentally ill or disabled children.*
- *The court is charged with making findings of fact and conclusions of law. The purpose of a hearing is for the parties to present evidence to the decision maker (who can be a magistrate or judge) so he or she can make the best possible decision for that child.*

[»S44]: Overview: Legal Decision Making

The major points to be covered in this session:

- Integral relationships between witnesses, lawyers, and judges
- Rules of Evidence
- Court proceedings
- Courtroom culture and etiquette

[»S45]: Relationships

- Adversarial System:
 - *Explain the framework in which legal decision makers interact and the virtues and vices of an “adversarial system” especially in light of family law. Presenter is free to elaborate on the tensions that arise between parties and the special nature and sensitivities involved in child welfare cases.*
- Sources of Conflict
 - *Opposing roles: Ex- county attorney and respondent parent counsel*
 - *Collaborative roles: Ex- county attorney and social workers*
 - *Advocacy: looking beyond the instant case to systemic reform; motives behind taking a case and selecting particular arguments.*

LAW IN THE CHILD WELFARE SYSTEM

LEGAL DECISION MAKING

- Differing values: *opposing advocates and differing theories on the need for reform, the child's needs, etc.*
- Solutions and Strategies
 - Conflict resolution system
 - *Explain that parties can adopt systems that attend to and resolve conflicts by establishing guidelines such as:*
 - *Face-to-face meetings to try and resolve conflict*
 - *Clear delineation of chains of command*
 - *Identify what issues are the decisions of social workers and that of lawyers*
 - *Identify issues that must be resolved jointly*
 - *Refrain from instigating conflict in front of a judge; instead anticipate and (at least) articulate possible points of conflict*
 - *Have a working understanding of the law and what is sufficient compliance*
 - Commitment to a common cause: identify common ground
 - Communication and respecting obligations: professionalism and mutual respect are essential tools to litigation

[»S46]: Evidence: Rules of Evidence

Consistency in Decision Making – promote consistency in decision making by regulating what type of information can come into court.

Explain the basic rules of evidence and the 3 major components to admissible evidence.

- Foundation
 - The basis for believing a piece of evidence is relevant and admissible.
- Relevance
 - The information sought must make a fact at issue more or less likely.
- Hearsay
 - **Defined:** “A statement other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted.”
 - Generally **inadmissible**, unless within a specific exemption.

[»S47]: Evidence: Standards of Proof

Explain the different standards of proof in each hearing. Also, identify the reasoning between differing standards in relation to due process.

- Standards of Proof
 - Preliminary Protective Hearing
 - Liberal standards
 - Hearsay is admissible

LAW IN THE CHILD WELFARE SYSTEM LEGAL DECISION MAKING

- “Any evidence of probative value”
- Adjudication
 - “Preponderance of the evidence”
 - Colorado Rules of Evidence
 - Hearsay inadmissible

[»s48]: General Court Proceedings:

Reinforce the case proceedings covered earlier in the day.

Identify key components of each hearing

General Court Proceedings:

- Preliminary Protective Hearing
 - Determine initial placement
 - Evaluate continued jurisdiction
- Pretrial Discovery and Motions
 - Interrogatories
 - Production of documents
 - Depositions
 - Request for admissions
- Adjudication
 - Trial: Proving allegations by a “preponderance of the evidence”
- Disposition (aka Treatment Plan Hearing)
 - Custody, contact. services

[»S49]: Culture: Courtroom Culture and Etiquette

Explain the importance of proper courtroom etiquette.

Presenter is invited to tell an anecdote/personal story illustrating the culture of the courtroom.

Courtroom Culture and Etiquette

- Attire
 - Business attire
 - Modest and generally conservative
- Manners
 - Language
 - “Your Honor,” not “Judge” or “you”
 - Legal representatives as “sir” and “ma’am”
 - Refer to other parties as “Mr.” / “Ms.” not “mom”, “dad”, “Respondent”, etc.

LAW IN THE CHILD WELFARE SYSTEM

LEGAL DECISION MAKING

- Body Language
 - Confidence
 - Respect
 - Humility
- Treating others Appropriately – Parties, Witnesses & Court Staff

[»S50]: Considering Cultural Context of Families

Introduction – Many of the families in child welfare cases are living at or below poverty line; cases often involve single mothers rearing more than one child; often times addiction, mental illness, developmental or cognitive issues impact services and planning for permanency; nationally African American and Hispanic children are in foster care at rates disproportionate to their representation in the general population; youth in foster care have a greater incidence of emotional, behavioral and developmental challenges than other adolescents.

Each case involves unique individual with unique needs and it's critical to explore the culture and subculture of each family to determine specific needs of the family and create an effective service plan.

- *Factors to consider - Race, ethnicity, religious faith and practice, poverty, language, mental and physical disability, literacy gender, sexual orientation.*

Recognize individual assumptions from personal life experiences and the impact they have on interpretation of facts.

- *The resolution of any case depends on the application of the law to the facts of the case; although this is also true in dependency cases our own life experiences can color the facts and inappropriately impact the proceedings. The critical issue for stakeholders (attorneys, judges, social workers, service providers) is to understand their own cultural assumptions and perceptions and let those give way to a methodical approach to questioning the reality of the lives of the children and families involved in the system.*

To do this, we need to create a balance between cultural context and compliance with the law at every stage of the proceedings – the scope of relevant facts should be expanded to include the life experiences of the adults and children before the court – the following principles provide guidance for this process:

- *Culture does not shape the law – it provides a backdrop to help determine the levels and types of services and the anticipated impact of those services on the outcome of a case.*

LAW IN THE CHILD WELFARE SYSTEM LEGAL DECISION MAKING

- *Cultural context encompasses more than race and ethnicity – keep in mind socio-economic status, literacy, language, immigration status, education, disabilities, gender, age and sexual orientation.*
- *Learn to question why parents or children respond the way they do, instead of learning a few generalizations about the characteristics of various groups of people.*
- *Balance the facts of the case against the law with an eye on the impact of culture in shaping the permanency outcomes.*
- *Examine each family with the assumption that they are a unique entity working within their own environment that is impacted by race, economics, language, disability and more.*

[»51]: Reflection: *Children in the Courtroom*

- Recent state law requires that in permanency hearings in dependency and neglect proceedings the court must consult with youth in an age appropriate manner concerning the proposed permanency plan.
- *Discuss how this has been implemented in your jurisdiction – challenges, success, ideas for promoting youth involvement.*

THE COURT PROCESS

Time: Part I - 30 minutes; Part II - 15 minutes

Description of Activity: Lecture/Facilitated Group Discussion

Note: Sessions 7 & 8 are combined and run concurrently in “The Court Process.” [»S52] – [»S63] should be covered before lunch as Session 7: Court Process Applied 1. [»S64] – [»S73] should be covered after lunch, as Session 8: “The Court Process: Part 2.”

[»S52]: Session 7: Title Slide: **The Court Process: Part 1**

[»S53] through [»S63]: Court Proceedings

Presenter should read through and familiarize themselves with the slides. This section is a detailed look at the entire process from report to closing of the case.

- [»S54 & 55]: Investigation:
 - A mandatory reporter or community member has made a report of abuse or neglect to a state agency.
 - The DHS must begin investigating to determine whether abuse or neglect has occurred and assess the risks to the child.
 - Must notify alleged perpetrator and give him an opportunity to respond
 - Evaluate whether the child has been maltreated or is at a substantial risk of maltreatment.
 - Safety Assessment Considerations:
 - Whether the child will be safe in the home without further involvement by child protective services.
 - Whether the case could be moved to community partners.
 - Whether home-based services are necessary to protect the child.
 - Whether the child needs to be placed in out-of-home care.
- [»S56 & 57]: Investigative Decision Making:
 - Unfounded
 - The state must expunge records accessible to the general public (background checks, etc.)
 - Child welfare agencies may keep information to aid in future risk and safety assessment.
 - Confirmed – the allegations are supported by the preponderance of the evidence [19-1-103(27)].

LAW IN THE CHILD WELFARE SYSTEM

THE COURT PROCESS: Parts I & II

- DHS must provide the family services and inform law enforcement.
 - In situations of *immediate danger*, law enforcement or, with a court order, DHS may take the child into emergency protective custody
 - Parents will be given a hearing within 24 hours of the removal.
 - DHS may file a D&N Petition
 - DHS may seek a court order to take the child into protective custody.
 - Parents will be given a hearing within 72 hours of removal.
- [»S58]: Filing a Petition:
 - DHS will then file a D&N Petition within 10 days of taking the child into custody. It is usually filed at the Preliminary Protective / Temporary Custody Hearing.
 - The Petition will discuss the facts that make the child “abused or neglected”
 - Court issues a summons with the date, time and place of the hearing
- [»S59]: Preliminary Protective Hearing / Temporary Custody Hearing:
 - Court may consider *any* information having probative value (19-3-403 (3.6) rules of evidence do not apply)
 - Within 24 hours of an emergency removal or 72 hours of temporary protective custody, the hearing will determine further custody of the child
 - The best interest of the child standard prevails.
 - GAL appointed to represent the child
 - MUST advise parents of their rights
 - Counsel is appointed for the parents if indigent
- [»S60]: Preliminary Protective Hearing:
 - The Court will decide:
 - Physical custody of the child
 - Legal custody of the child
 - To continue the removal of the child, the Court must hold that:
 - Continuation of the child in the home would be contrary to the child’s interests

LAW IN THE CHILD WELFARE SYSTEM THE COURT PROCESS: Parts I & II

- There has been compliance with reasonable efforts regarding the child's removal.
- Respondents must admit or deny the petition. IF they admit the petition, the child is determined dependent and a Disposition Hearing is scheduled. If they deny the petition the case goes to an Adjudication Hearing.

The following three slides are not meant to be inclusive, but merely a generalized summary of the proceedings.

- [»S61]: Adjudication Hearing:
 - Must be held within 90 days of the petition service. If the child is under age 6, the time limit is 60 days.
 - Determining the child's status:
 - Whether the child has the benefit of parental guidance, concern, protection or support.
 - Whether the child has been abused or neglected.
 - Does the evidence support the petition allegations by a preponderance of the evidence?
 - *Explain "preponderance of the evidence" burden of proof.*
 - Any party can request a jury trial.
- [»S62]: Adjudication Hearing:
 - A "neglected or dependent" child is one who is:
 - Abandoned
 - Mistreated or abused
 - Lacking parental care
 - Subject to an injurious home environment
 - Neglected
 - Homeless
 - Beyond parental control
 - Habitual abuse
- [»S63]: Adjudication Hearing:
 - If the allegations are not proven:
 - The Court must dismiss the petition
 - Return the child home
 - Release the respondent from any temporary orders or restrictions
 - If the allegations are proven:
 - The Court may sustain the petition
 - Find the child is dependent or neglected

- Hold a Dispositional Hearing

1 Hour Break for Lunch

[»S64]: Session 8: Title Slide: **The Court Process: Part 2**

[»S64] through [»S74]: Services, remaining steps in The Court Process.

Presenter should read through and familiarize themselves with the slides. This section is a detailed look at the entire process from report to closing of the case. The following slides will look at the final steps of the process in detail.

- [»S65]: Disposition, Services Plan:
 - Must be held within 45 days of the adjudication or for a child under 6 within 30 days of adjudication
 - What disposition—treatment plan—would be in the child’s best interests?
 - The Court may:
 - Allow the parent to retain custody
 - Transfer custody to a relative or DHS
 - Set a hearing on termination of parental rights.
 - Decision to transfer custody of child from parents or to continue out of home placement must be based on preponderance of the evidence
 - If not termination, the Court must approve a services plan.
- [»S66]: An Appropriate Services Plan:
 - An appropriate services plan is reasonably calculated to render the respondent fit to adequately parent the child within a reasonable time based on the child’s needs. It must involve the child and each named respondent, including any special respondents.
- [»S67]: Services:
 - The Colorado DHS, Division of Child Welfare, lists services as:
 - Child Protection and Support
 - Safety Needs and Risk Assessments
 - Family Services Plans

LAW IN THE CHILD WELFARE SYSTEM

THE COURT PROCESS: Parts I & II

- 24-Hour Monitoring
 - Permanency Programs
 - Core Services- therapies for family members
 - Adoption
 - Foster Parent Recruitment and Retention
 - Adolescent Programs
 - Out-of-Home Services
 - Kinship and Foster Care Homes
 - Developmental Disabilities and Child Habilitation
 - Therapeutic Residential Care
 - Psychiatric Residential care
- [»S68]: Services:
 - The services will be provided by DHS Caseworkers who have the responsibility of making and reviewing:
 - Individual and family assessments;
 - Family Service Plans;
 - Records maintenance and documentation including updated information in the Department's automated reporting system; and,
 - Plans for termination of services.
- [»S69]: Services:
 - Confidentiality of Abuse and Neglect Reports and Service Records:
 - All such reports and records shall be confidential and not accessible to the public, unless the court finds good cause to disclose such records
 - However, the following may have access to the records absent a good cause finding:
 - Law Enforcement
 - A Physician
 - An agency caring for, treating, or supervising the child
 - The child's parents or guardian
 - The DHS for various evaluation and record-keeping purposes
- [»S70]: Review Hearings:
 - Involuntary Review Hearings
 - Three months after a placement order, the court should assess the need for and appropriateness of the placement, progress under the treatment plan, efforts to reunify the family, and the permanency planning goal.
 - Reviewed every six months.

LAW IN THE CHILD WELFARE SYSTEM

THE COURT PROCESS: Parts I & II

- Voluntary Review Hearings
 - The court must review children who are voluntarily placed for more than ninety days. The court must determine if placement is necessary and in the best interests of the child and community. The court then orders appropriate placement.
- [»S71]: Permanency Hearing:
 - Purpose: to choose a permanent plan for the child, making a final decision about where the child will grow up.
 - Permanency options include:
 - Child returns home to the parents;
 - Adoption: the court orders DHS to file for termination and free the child for adoption;
 - Guardianship: the court establishes a legal guardianship for the child;
 - Allocation of parental decision-making responsibilities.
 - Other planned permanent living arrangement, such as living with a fit and willing relative.
- [»S72]: Termination – Clear and Convincing Evidence:
 - The court may terminate parental rights if the parents abandon the child, are unfit, or fail to progress under the treatment plan
 - Termination frees the child for adoption. Termination of the parent-child legal relationship means the court permanently eliminates all parental rights and duties.
 - Court must give primary consideration to the physical, mental and emotional conditions and needs of the child.
 - Court must find that no less drastic alternatives to termination exist.
- [»S73]: Progress Review:
 - The court must hold a review hearing within ninety days of a termination order. The goal of this hearing is to make sure DHS takes prompt action to finalize an adoption for the child.
 - If no adoption takes place within a reasonable time, the court should determine if adoption is feasible and appropriate. If not, the court may change the child's permanency goal to another permanent placement, such as relative guardianship or long-term foster care.
- [»S74]: Case Closed:
 - Services shall be terminated and the case shall be closed when one of the following are met:

LAW IN THE CHILD WELFARE SYSTEM
THE COURT PROCESS: Parts I & II

- Specific program eligibility criteria are not met.
- Client no longer needs the service.
- Client has died.
- Services are completed.
- The child is ready for emancipation or reaches his/her 21st birthday.

**LAW IN THE CHILD WELFARE SYSTEM
THE COURT PROCESS: MARIANNE'S CASE**

THE COURT PROCESS: MARIANNE'S CASE

Time: 60 minutes

Description of Activity: Facilitated Group Discussion

[»S75]: Session 9: Title Slide: The Court Process Applied

Unlike several of the previous sessions, this session is primarily a facilitated group discussion applying the prior front-loaded content to the case pattern. Trainees will “lead” the discussion with their interactive feedback and small group discoveries.

Trainees should form groups of approximately five (5)

Distribute Handout 1e: Marianne's Proceedings

As a small group and following the prompts on the slides, trainees should attempt to fill in the steps in the process of litigating Marianne's Case and address the issues raised on the slides.

[»S76]: Activity Directions

Review the directions with the group. Invite them to extend their insights beyond the material and think about the system as a whole.

- From groups of about 5. Try to join with new faces.
- Each group will receive a set of questions.
- As a group, answer the questions, keeping in mind the steps in the court proceedings.
- Spend 7-10 minutes on each group of questions, discussing the issues as you go.
- Be prepared to present your opinion and assessment.

[»S77] through [»S79]: The Court Process Applied

Presenter should move through one slide every 7-10 minutes, allowing time for the trainees to respond on their handout.

*Presenter **should not** advise participants, but should monitor the room and offer probative and heuristic comments so that the groups “wrestle” with the material and its application.*

[»S77]: Apply:

- What are the roles and responsibilities of the people involved?

LAW IN THE CHILD WELFARE SYSTEM THE COURT PROCESS: MARIANNE’S CASE

- What are the unique characteristics of this family? What information could be gathered to identify a sense of the cultural context of the mother and children?
- How did the case begin?
- What is the current status of the parties?
- What are the potential conflicts between the parties involved?

[>S78]: Extend:

- What will happen at the Preliminary Protective Hearing?
- What decisions will be made?
- What evidence should be presented to the court? Who should offer it?
- Are there any systemic barriers or problems you foresee?

[>S79]: Predict:

- What will happen at the Adjudicatory Hearing?
- What decisions will be made?
- Do you believe the children are neglected, abused or dependent?
- What will the Disposition be? What should it be?
- What services would best suit this family?

[>S80]: Reflect:

- What kind of reviews will be done and how often will they occur?
- What would their permanency plan look like? Or would it be termination?
- What do you feel would be the best future plan for this family, these children?
- How might you collaborate with other parties involved in the case?

After allowing the groups 7-10 minutes with [>S80], the presenter should facilitate a group discussion compiling the answers on a hand drawn flow chart on the whiteboard.

Hand drawn flow chart instructions:

- *Draw two, large, vertical rectangles parallel to each other.*
- *Label the left rectangle “Court Proceeding”*
- *Label the right rectangle “Marianne’s Proceeding”*
- *Fill in the steps/facts as the group shares out. Use the question handout to facilitate discussion of the myriad issues.*

RECAP

Time: 15 minutes

Description of Activity: Lecture

[»S81]: Session 10: Title Slide: **Recap**

This section is a review of the material covered in the course so far.

[»S82]: Overview: Recap

A summary of the slides to follow:

- Legal Framework
- How a Case Begins
- Case Process
- Roles and Responsibilities
- Legal Decision Making
- Court Process
- Overarching Values and Policy

Slides [»S83] through [»S89]: Recap Content

Reinforce the material with a final review of the course content.

Presenter should be familiar with slides and provide a space for attendee inquiries and refinement. At this point, the trainee's should have mastered the course objectives.

[»S83]: Legal Framework:

Federal Law

- Constitutional Rights
 - Parents
 - Children
 - Government
- Federal statutes
 - Funding state CWS
 - Substantive regulations
- Policy

State Law

LAW IN THE CHILD WELFARE SYSTEM RECAP

- Statute
 - Child welfare systems
 - General structure
 - Policy aims and goals
- Regulations
- Constitutional parameters
- Funding
 - Compliance with federal standards
 - State sources

[»S84]: How a Case Begins:

- Reporting
 - Define abuse and neglect
 - Mandatory reporters
- Investigation
 - DHS's role
 - Confirmed?
 - Petitions
- Preliminary Protective Hearing
- Determining temporary custody

[»S85]: Court Proceedings:

- Steps in case process

[»S86]: Roles and Responsibilities:

- Fact Witnesses
 - Caseworkers
 - CASAs
 - Foster Parents
 - Educators
 - Therapists
 - Experts
- Legal Representative
 - Respondent Parent's Counsel
 - GALs
 - County Attorney
- Legal Decision Makers
 - Judges

LAW IN THE CHILD WELFARE SYSTEM RECAP

➤ Magistrates

[»S87]: Legal Decision Making

- Integral relationships between witnesses, lawyers, and judges
- Rules of Evidence
- Consistency of decisions
- Court proceedings
- Courtroom culture and etiquette

[»S88]: Court Proceedings

- Relationships
 - Conflicts
 - Solutions
- Rules of Evidence
 - Foundation
 - Relevance
 - Hearsay
- Culture and Etiquette

[»S89]: Overarching Values and Policies:

- Children's rights v. social implications
 - Bill of Rights
 - 14th Amendment
 - Children as people, not property
- Child's best interest
- Parens Patriae

NETWORKING BREAK

Time: 15 minutes

Description of Activity: BREAK

[>S90]: Session 11: Title Slide: **Network**

Invite trainees to network for 15 minutes.

During Break: Presenter should be setting up for the Roles and Responsibilities Role Play Session (See directions in next session).

ROLES AND RESPONSIBILITIES APPLIED

Time: 60 minutes

Description of Activity: Small Group Discussions

[»S91]: Session 11: Title Slide: **Roles and Responsibilities Applied**

[»S92] through [»94]: Role Play Activity Directions

Goal: The goal of this activity is to teach trainees to appreciate the different roles and responsibilities involved in coming to a legal decision and to experience navigating conflicting interests in attaining a solution to a particular case problem.

Group Objective: The objective for this activity is to produce an effective and appropriate services plan while having each group achieve their goals and satisfy their motive as stated in their “Goals and Motives” envelope.

Basic Structure: Each group will be given the court proposed services plan which they will then modify to meet their particular goals. Each group will need to collaborate with other groups to design an effective services plan from their group’s perspective. After the allotted time, the presenter will facilitate a whole group discussion and attempt to compile a final services plan that accomplishes most of each groups’ goals.

Directions: [Allot 10 minutes to explain the directions; break into groups] [»S92-94]

- *Presenter should place Role Markers on chairs: J (judges), CA (County Attorney), GAL (Guardian ad litem), RPC (Respondent Parent’s Counsel), CW (Caseworker).*
- *Direct participants to sit in groups according to the letter on their chair. (All J’s together, all CA’s together, etc.).*
- *Review Marianne’s Case and inform the groups to assume all of the allegations were proven true in the adjudication and the court is now attempting to decide what kind of Services Plan would be appropriate.*
- *Distribute corresponding “Goals and Motives” [Faculty Resource 1c: Goals and Motives] (For example, “Judges: Goals and Motives” for the “J” group to each group).*
 - *Each groups’ envelope will include **two goals** and **one motive***
 - *Instruct the groups not to share the content of their envelope with other groups (yet).*
 - *Instruct the groups to keep the motives secret, but to share their goals with the other groups when appropriate.*
 - *Goals should be shared if they help facilitate cooperation, and may be altered/compromised if they hinder cooperation.*
 - *Groups may alter their goals in order to reach a solution. However, failing to accomplish any part of a group’s goal should*

LAW IN THE CHILD WELFARE SYSTEM

ROLES AND RESPONSIBILITIES: APPLIED

be considered failing to accomplish the objective of the activity. Therefore, each group should work to attain their goal, satisfy their motive, and formulate an effective services plan.

- *Motives should frame and inform the groups' decisions as to what modifications they choose to make.*
- *Refer attendees to Handout 1f: Proposed Services Plan*
- *Instruct each group to assign one person to be the **liaison** for the group.*
 - *The **liaison** will move from group to group when needed to help determine the goals of other groups and attempt to collaborate.*
- *Instruct the groups to assign one person to be the **scribe** for the group.*
 - *The **scribe** will:*
 - *Make note of the goals and potential motives of each group.*
 - *Modify the services plan according to their group's direction.*
- *Instruct the trainees that you will start a timer and they will have **30 minutes total** to evaluate the case plan and modify it according to their goals and motives.*
- *Groups may send their liaison to other groups to collaborate with them and determine their goals and try to decipher their motives.*
 - ***NOTE:** Groups are encouraged to do so because the final product will have to reflect the goals of all the groups, so making modifications to the plan with those goals in mind will avoid future conflict in formulating the master services plan at the end of the activity.*
- *Note that groups can refer to Handout 1g: Stuck? Thought Question if they are struggling.*
- *After the 30 minutes has ended, direct trainees back to their group tables.*
- *Presenter will then facilitate a group discussion and attempt to compile a comprehensive services plan that meets most of the groups' goals by assimilating the 5 services plans produced by the different groups.*

Activity [Allot 45 minutes total]:

- *Move to [»S95]: Proposed Case Plan and instruct the groups to begin modifying their plan. (15 minutes).*
 - *Give a 5 minute warning*
 - *Have groups return to their designated group tables*
- *Move to [»S96]: Final Case Plan and begin to fill in the template with group suggestions and conclusion. (15 minutes).*
 - *On the Whiteboard or poster paper, list the following major categories to create the Final Case Plan Template: (1) Custody, (2) Parties Involved, (3) Services Required, (4) Compliance, (5) Records.*
 - *Ask each group to prioritize their top 3 modifications (about 3 minutes).*
 - *Giving each group a chance to speak, ask the respective groups what 3 major modifications they propose.*
 - *Write them in on the Final Case Plan Template.*
 - *Ask if the whole group agrees.*
 - *Where conflicts arise, allow groups to discuss/collaborate/disagree/compromise.*

**LAW IN THE CHILD WELFARE SYSTEM
ROLES AND RESPONSIBILITIES: APPLIED**

- *Attempt to facilitate a compromise that satisfies the objectives.*
- *Produce a Final Services Plan from the discussion (10 minutes).*

[»S97]: Reflection [**Allot 10 minutes**]:

Facilitate a group discussion reflecting on the collaborative process and the Final Services Plan they produced. Use the following questions as prompts:

- What information did you need?
- To whom did you go to acquire it?
- What conflicts arose?
- What solutions did you employ to address them?
- How did the differing role affect the final product?
- Are you happy with the plan?
- Where the child's best interests met by the Final Services Plan?

CLOSING

Time: 30 minutes

Description of Activity: Lecture/Facilitated Group Discussion

[»S98]: Session 12: Title Slide: **Closing**

Presenter should use the whiteboard to facilitate a group discussion reflecting on the course and trainees responses to its content.

In particular, the presenter should make lists reflecting the answer to the following questions, solicited from the trainees:

- What will you do differently now?
- How will you use the information you learned today to better promote and protect the safety, permanency and well being of children and families?
- What will you take from this course that will directly transfer into your job tomorrow?
- What will you take from this course that you will ponder in the future?

[»S99]: Session 13: Title Slide: **Question & Answer**

If none, review resources in the manual

[»S100]: Title Slide: **Thank You**

Encourage attendees to complete Evaluation in their material