



Iowa Children's Justice _____

April 2010
Children in Court

April Topic Children in Court

Children's Justice would like to thank Senior Judge Joe Smith, who authored the April Newsletter, for his thoughtful, personal reflections on the importance of children attending juvenile court hearings and the role of the GAL - all child welfare partners - in supporting this practice.

Child Welfare League of America Conference, 2010

At the Child Welfare League of America national conference in January, I attended a session about children going to court presented by staff members from the American Bar Association (ABA) and the National Resource Center for Youth Development (NRCYD). In 2005 I instituted an expectation that children age ten and older would come to court for hearings on their cases. At the time, there was some resistance. Some felt that kids should be in school not in court. Some felt that attending hearings would be emotionally harmful to children. Some believed that children really weren't interested in coming to court. I felt these were excuses. The ABA and the NRCYD share my perception.

The evidence and data overwhelmingly support the notion the children want to be and should be in court. Attending hearings empowers children. Studies show that going to court makes it easier for children to understand what's going on in their case. Generally speaking going to court is a positive experience that is enhanced when the social worker and GAL prepare the child for court. I've heard many children point out that they are made to go to doctor's appointments, dentist's appointments, therapy appointments and more so they should be able to go to court.

Benefits to attending court hearings

At court, children can see the judge who's making decisions about their life. They can speak to the judge privately if they wish. The CWLA presentation confirmed that the practice of judges seeing children in chambers is widely accepted. At court, children can share their thoughts if they wish. They can see their attorney/GAL in action. For some, it's a chance to see parents, if the parent is incarcerated or has been disinclined to regularly participate in family time. In fact most studies agree there simply isn't a downside to children attending court.

Likewise, the concern that children will be damaged by court attendance has been debunked. I now believe that, in nearly all cases, it is patronizing to decide for a child that they can't come to court because they might be traumatized. Children have lived through what is talked about at court. Obviously victims of child sexual abuse may not want to see their abuser. I have seen children before or after hearings in chambers. If they did not want to see one of the parties, a plan was made for them to enter my office without going through the courtroom or seeing the other party.

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Important things for Judges to consider:

Is the 'nature of the hearing' really exceptional?

The child's presence serves to focus the proceeding

Honoring the child's wish to attend

1. Start with the positive. All children shall come to court – unless you are presented with an “exception” reason.
 - In light of the positive effects of court attendance that the research supports, it is difficult for me to understand resistance to children being at hearings. It is clear on some GAL reports to the court that the GAL substituted their own judgment for that of the child. I received reports where the child would not be in court “due to the nature of the hearing.” The hearing was a review that was in no way exceptional. If it is an “exceptional” hearing, the child can be in the courtroom during an appropriate time and excused the rest of the time.
 - There are circumstances where it is difficult to arrange transportation. My experience is that the department worker is nearly always willing to facilitate transportation. As more and more foster parents attend hearings, there is no reason they cannot transport the child to court. It frequently appears that transportation issues are, more often than not, a ruse rather than a reality. With modern technology, children can participate even when they are in placement or out of state.
2. Consider age as a non-issue. The child's presence serves to focus the proceeding. Even a small child or baby can remind everyone in the room of the reason they are gathered. The child and not a pile of reports and orders and files should always be the focus of our proceeding. If that child is present it is a constant reminder of that fact.
 - Frequently the child is not in court due to, in GAL's words, “the child's age.” After more than five years on the bench in juvenile court I believe there is no downside to attendance by children of any age. There are, as always, a couple of caveats. First, no toddler is going to sit through a three hour contested adjudication hearing successfully, but nearly all children can maintain for a routine review hearing.
3. Honor the child's wishes. There are children who want to go to every hearing and their wishes should be honored, regardless of their age. Occasionally, children will attend a court hearing and decide that further attendance is not for them. Their wishes, if goes without saying, should be honored.

Findings from the ABA study about court attendance

- The ABA says study results show five things about court attendance:
- Children with advanced legal understanding are less distressed about their hearing and understand more about the decisions made in their case.
 - Most children do not have negative reactions to court attendance and prior knowledge about the process will make it even more positive.
 - Children need help understanding both the legal system and the decisions made on their behalf, understanding that court attendance enhances.
 - Fairness is a factor in teens' satisfaction with case outcomes. The perception of fairness is enhanced with court attendance.
 - Children who have a positive perception (reinforced by court attendance) of the legal system are less likely to become targets of delinquency petitions.

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When the positive results that accrue from children coming to court are considered it is time, once again, to advocate for the practice. The benefits of children's regular court attendance are clear. Everyone involved in the child welfare system should work diligently to insure the practice continues and is expanded.

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Justice

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