



**Charting the Course Towards Permanency for
Children in Pennsylvania:
A Knowledge and Skills-Based Curriculum**

**MODULE SEVEN (7)
THE COURT PROCESS**

Standard Curriculum

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**For:
The Pennsylvania Child Welfare
Resource Center**

**University of Pittsburgh,
Pittsburgh, PA**

December 2016

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ACKNOWLEDGEMENTS

The Pennsylvania Child Welfare Resource Center would like to thank the following people for their assistance in the 2009-2011 revisions of *Charting the Course Towards Permanency For Children in Pennsylvania: Module Seven, The Court Process*.

Susan Adamec - Susquehanna County Children and Youth
Dave Arnold - Greene County Children and Youth
Khary Atif - Philadelphia Department of Human Services
Linda Badger - Schuylkil County Children and Youth
Lori Baier - Lycoming County Children and Youth
Laura Borish - Pennsylvania Child Welfare Resource Center
Debbie Bauer - Trainer
Tonya Burgess - Pennsylvania Child Welfare Resource Center
Eleanor L. Bush, Esq. – Legal Services Training Specialist, Family Design Resources
Robin Chapolini - Philadelphia Department of Human Services
Natalie Chesney - Snyder County Children and Youth
Pam Cousins - Elk County Children and Youth
Colleen Cox - Delaware County Children and Youth
Charles Crimone - Somerset County Children and Youth
Patricia Dervish - Trainer
William Dougherty - Pennsylvania Child Welfare Resource Center
Marilou Doughty - Montgomery County Office of Children and Youth
June Fisher - Trainer
Emma Fox - Northwestern Human Services
John Fox - Greene County Children and Youth
Michael Gill - Allegheny County Office of Children, Youth and Families
Mary Grant - Delaware County Children and Youth
Lisa Hand - Northampton County Department of Human Services
Wendy Hoverter - Cumberland County Children and Youth
Donne Kreiger - Springfield Counseling Services
Daniel Krikston - Trainer
Tom Lacey - Montgomery County Office of Children and Youth
Evelyn Lopez - Philadelphia Department of Human Services
Julie McCrae - University of Pittsburgh

Molly Mandes - Delaware County Children and Youth
Shawn McAuley - Cameron County Children and Youth
Angela McLarnon - Delaware County Children and Youth
Kathleen Moore - Trainer
Jan Miller - Pennsylvania Child Welfare Resource Center
Kurt Miller - Lancaster County Children and Youth
Leslie Molvihill - Montgomery County Office of Children and Youth
Joan Mosier - Trainer
Kristin Murphy - Delaware County Children and Youth
Edward Nowak - Trainer
Tina Phillips - Pennsylvania Child Welfare Resource Center
Mary Beth Rautkis - University of Pittsburgh
Shauna Reinhart - Pennsylvania Child Welfare Resource Center
Elizabeth Rokin - Delaware County Children and Youth
Jeanne Schott - Pennsylvania Child Welfare Resource Center
April Seeley - Bradford County Children and Youth
Charles Songer - Pennsylvania Children and Youth Administrators Association
Kathleen Swain - Pennsylvania Child Welfare Resource Center
Charlene Templin - Allegheny County Office of Children, Youth and Families
Caroline Tyrrel - York County Children and Youth Services
Doug Waegel - Chester County Children, Youth and Families
Rose Weir - Snyder County Children and Youth
Mike Whitney - Erie County Children and Youth
Claudia Witmer - Pennsylvania Child Welfare Resource Center
Jane Zupanic - Washington County Children and Youth

The Resource Center would also like to express its appreciation to all the dedicated child welfare and other related professionals that assisted with the original version and first revision of the curriculum that helped make this curriculum a reality.

Agenda for One-Day Workshop on Module 7: The Court Process

Estimated Time	Content	Page
1 hour	Section I: Introduction	1
1 hour 15 minutes	Section II: The Legal Authority and Decision Making Process for Court Intervention	15
1 hour 15 minutes	Section III: Initiating the Court Process and Preparing for Court	26
2 hours	Section IV: Preparation for Courtroom Practice	36
30 minutes	Section V: Summary	44

Module 7: The Court Process

Section I: Introduction

Estimated Length of Time:

1 hour

Performance Objectives:

- ✓ Identify the types of courts and the court participants associated with child welfare practice.
- ✓ Identify the legal authority for taking a child into protective custody and initiating a petition for court intervention.
- ✓ Identify the role and responsibility of the child welfare professional in the dependency court process.

Methods of Presentation:

Individual Activity, Lecture, Video presentation, Large Group Discussion

Materials Needed:

- ✓ 2 Flip Chart stands
- ✓ 2 blank flip chart pads
- ✓ Post it note pads, 5 colors
- ✓ Colored Markers
- ✓ Name Tents
- ✓ Laptop, LCD projector and screen
- ✓ ***Reference Manual for Charting the Course towards Permanency for Children in Pennsylvania***
- ✓ **Handout #1: Learning Objectives**
- ✓ **Handout #2: Agenda for Module 7: The Court Process**
- ✓ **Handout #3: Idea Catcher/Action Plan**
- ✓ **Handout # 4: Dependency Court Hearings**
- ✓ **Handout #5: Court Participants: Roles, Rights and Responsibilities**
- ✓ **Handout #6: Guardian *ad litem* Powers and Duties**
- ✓ **Handout #7: Court Appointed Special Advocate Powers and Duties**
- ✓ **PowerPoint Slide #2: Learning Objectives**
- ✓ **PowerPoint Slide #3: Agenda for Module 7: The Court Process**
- ✓ **PowerPoint Slides #4-5: Child Welfare Professional and Court Practice**
- ✓ **PowerPoint Slides #6-7: Child Welfare Practice and Pennsylvania's Unified Judicial System**
- ✓ **PowerPoint Slide #8: Child Welfare Practice Administrative Hearing and Appeal Process**
- ✓ **DVD #1: The Judicial Branch Pennsylvania's Unified Judicial System (optional)**

Section I: Introduction

Step 1: Greeting and Introductions

Lecture/Individual Activity

(10 minutes)

Trainer Note: Prepare the training room in advance by placing name tents, markers, and handout packets at each table. Greet the trainees and inquire if they were able to complete their Transfer of Learning activity and pre-work tasks. If they were unable to complete either of these tasks, provide suggestions as to how they could complete these assignments.

Trainer Note: If you are working with a cohort this may be a very brief reminder.

Greet the participants and welcome them to Module 7. Ask the participants to complete the name tents on their tables. If this training module consists of a cohort group the participants will know to complete their names tents upon arrival. Ask the participants to complete the lower right hand corner with the number of times they have testified in court. Ask the participants to stand their name tents in front of them when the name and four corners are complete.

Trainer Prepared Flip Chart: To assist the participants, the trainer may prepare in advance on a flip chart a model for how their name tents should be completed.

County	Unit/Department
Length of time in position	Number of times you have been in court.

Introduce yourself as the trainer and provide a brief summary of your background with a focus on your expertise in the court process. Ask the participants if there is anyone new to this cohort, if so, ask the entire group to briefly introduce themselves to each other by sharing their name, agency, position and the number of times they have testified in court.

Remind the participants of the Child Welfare Resource Center rules and classroom culture including:

- Be on time -15-minute rule.
- Training schedule – 9:00 to 4:00 with breaks.
- Document your presence on the sign-in sheet.
- Provide constructive and motivational feedback.
- Respect.
- Risk taking.
- Practice makes permanent.
- Focus on learning - No cell phones, beepers on vibrate, and only contact office for emergencies.

Trainer Note: Remind the participants of the cohort list of training room expectations and guidelines activity that was developed in Module 1. If the cohort list of training room expectations and guidelines has not already been provided by one of the participants or is not already posted in the training room, identify which participant volunteered to perform this task.

Step 2: Learning Objectives and Agenda

Lecture

(5 minutes)

Referring to **Handout #1 (Learning Objectives)** and displaying **PowerPoint Slide #2 (Learning Objectives)** review with the participants the learning objectives for Module 7: The Court Process. Describe to the participants how the learning objectives will be accomplished by reviewing **Handout #2 (Agenda for Module 7: The Court Process)** and **PowerPoint Slide #3 (Agenda for Module 7: The Court Process)**.

Distribute **Handout #3 (Idea Catcher/Action Plan)** and encourage the participants to write down any ideas or concepts that are presented in today's module that they would like to use in the spaces provided and identify how they intend to use it.

Trainer Prepared Flip Chart: Prepare two flip-chart papers in advance and hang on wall including WIIFM (What's In It For Me?) and Parking Lot flip chart.

Ask the participants to think of one thing that they want to learn from this module that will help them to become an effective child welfare professional in dependency court. Record the participants' responses on the What's In It For Me (WIIFM) poster. Explain to the participants that at the end of the day you will review the WIIFM poster and make sure that all of the concerns and questions have been addressed. Also, refer the participants to the "Parking Lot" flip chart paper and inform them that it is for those items that you cannot address or are not addressed in the training; however, you will direct them to a resource that can meet their need at the end of the day.

Step 3: Baseline Experience in Court.

Lecture/Individual Activity/Large Group Discussion

(10 minutes)

Trainer Prepared Wall Poster: In advance of the training seminar prepare a wall poster with a outline of a thermometer figure with the lowest point marked #1 (I have never been to Dependency Court) to the highest point marked #5 (I have made the decision to initiate....) include the other points in between.

1. I have never been to Dependency Court.
2. I have been to Dependency Court as an observer.
3. I have written or participated in writing a petition for Dependency Court.
4. I have testified in Dependency Court.
5. I have made the decision with my supervisor and/or legal representative to

initiate court action on behalf of a child, prepared the petition, testified regarding the allegations in the parents' presence, underwent a vigorous cross-examination and recommended that a child be removed from his or her parents.

Distribute "post it" notes to the participants, one color to each table. Ask the participants to record on the note the highest level of court participation that they have obtained and include their name. Ask the participants to put their "post-it" note on the prepared wall poster. Engage the participants in a conversation regarding their experience in court and point out commonalities of experience and/or inexperience.

Trainer Note: This exercise will give the trainer and the participants a sense of what kind of experience is available in the room. After the next activity the trainer may wish to move the participants so that at least one person at each table has either testified in Dependency Court or written a Dependency petition.

Step 4: The Child Welfare Professional and Court Action

Lecture

(5 minutes)

Using **PowerPoint Slides #4-5: (The Child Welfare Professional and Court Action):** Explain to the participants that:

- Initiating court action on behalf of a child, especially when removal is contemplated, is a very serious decision and a serious process. The entire court process from the beginning to the end is intimidating and it should be.
- Court action should always be an action of last resort used only after they have attempted to engage families through strength-based, solution focused methods to secure a child's safety with the parents' cooperation and those attempts have proven to be unsuccessful.
- It is understandable and appropriate for them to experience apprehension related to making a recommendation for a child to be removed from his or her home and testifying in court.
- Although the judge ultimately makes the decisions, child welfare professionals have a profound impact on the lives of children and families through their decision to bring court action and through their testimony and presentation of evidence.
- In court they will be expected to answer difficult and complex questions or testify to unfavorable information about parents in the parents' presence.
- They will experience challenging cross-examination by the parents' attorneys.
- They also will be held accountable for the services they provide families and their recommendations regarding the safety, well-being and permanency of children.
- Parents and children will experience even more apprehension about being taken to court and/or required to testify regarding their private matters.
- They can be responsible for preparing the parents, whom they are taking action against, child victims of abuse, other witnesses such as resource parents,

teachers, doctors, relatives and neighbors.

- When parents are distressed or angry regarding the court action or a critical witness is reluctant to take time away from a busy schedule to be available to testify in court this task can be difficult.
- It is extremely important for child welfare professionals, when utilizing the court's authority, to conduct themselves in a positive, constructive manner to minimize parents' understandable perception that court action represents either a betrayal or misuse of authority.
- Anticipatory preparation is the key to **competent** court intervention. They must approach and prepare every case and every interaction as if the case might be brought before the court.

Step 5: Introduction to Pennsylvania Unified Judicial System:

Lecture

(15 minutes)

Trainer Note: Optional DVD: The Judicial Branch Pennsylvania's Unified Judicial System. Trainer's have the option of showing a 15-minute program which describes the Pennsylvania's court system. If this option is taken, please limit content below to a brief review of the different types of Dependency Court Hearings and the Administrative Review process and eliminate any discussion regarding the types of courts.

Using **PowerPoint Slides #6-7 (Child Welfare Practice and the Pennsylvania's Unified Judicial System)** to provide the participants an overview of the relevant courts and their corresponding authority in child welfare cases.

Court of Common Pleas

Direct the participants' attention to the middle of the chart on the slide and explain to the participants that when they say or hear someone say that they are going to Juvenile or Dependency Court, what they really mean is that they are going to the Court of Common Pleas. The Court of Common Pleas are the trial courts, which hear cases involving major civil and criminal cases, including but not limited to cases involving adoption, divorce, child custody, abuse, juvenile delinquency and guardianship matters.

Courts of Common Pleas in different jurisdictions may designate separate divisions and refer to them as Juvenile Court, Family Court, Delinquency Court and/or Orphans Court depending upon their size or other considerations. Judges may be assigned permanently to a particular division or may transfer to another division on a periodic basis. Again it is very important to consult with your supervisor and/or legal representative to ascertain the designations in each of their jurisdictions. Divisions of courts or judges assigned to hear child welfare matters would preside over hearings including:

Distribute **Handout #4 (Dependency Court Hearings)** and briefly review the type and purpose of each hearing with the participants.

- Informal, Shelter Care or 72-hour hearing: Determination is made as to the child’s placement in an out-of-home placement or safe return home. (pg 1 on handout #4)
- Adjudication of Dependency Hearing (“Adjudicatory Hearing”): Determination is made as to whether evidence supports the petition filed on behalf of a child alleged to be dependent and abused or that the child could be adjudicated dependent only. (pg 1 and 2 on handout #4)
- Disposition of the Adjudication of Dependency (“Dispositional hearing”): Determination is made as to services that will assure the safety, well-being and permanency of a child who has been adjudicated dependent including in-home service or out-of-home placement. **(pg 3 and 4 on Handout # 4)**
- Permanency Hearing: If out-of-home placement has occurred, the permanency plan and the date by which it will be achieved are determined. **(pg 4 through 7 on Handout #4)**
- Permanency Review Hearing: Held periodically to review the permanency plan until permanency is achieved. **(pg 4 through 7 on Handout #4)**

Trainer Note: Explain to the participants that they will learn more about Permanency Hearings, Termination of Parental Rights Hearings and Adoptions in Module 9.

Orphans Court

Explain to the participants that the court typically referred to as “Orphans Court” also is a division of the Court of Common Pleas. Pennsylvania law permits judges under certain circumstances who hear a dependency matter in the “juvenile division” to hear the same matter when it is brought before the Orphans Court division. The hearings that occur in the Orphans Court are:

- Termination of Parental Rights Hearing: Determination is made as to whether parents’ rights and duties to their child should be ended either through a voluntarily relinquishment or an involuntary termination.
- Adoption Hearing: All required consents, investigations and testimony are heard to support a decree of adoption.

Trainer Note: In Philadelphia, Orphans Court by law does not have jurisdiction over TPR hearings and adoption matters. Family Court has jurisdiction over these matters.

Superior Court

- When parties to a court matter disagree with the ruling of the lower court (Court of Common Pleas) they have the right to ask a higher court (Superior Court) to review the lower court's ruling. This process is called an appeal.
- Child welfare professionals must communicate the right to appeal.
- The Superior Court hears most civil and criminal cases that are appealed from the Courts of Common Pleas including Dependency matters and Termination of Parental Rights.
- Consist of 15 judges who serve 10-year terms on this court.
- Typically, panels of three judges, who serve in Philadelphia, Harrisburg, or Pittsburgh, hear these appeals.

Explain to the participants that appeals to Superior Court:

- Do not involve testimony or new evidence.
- Involve the Superior Court's review of:
 - transcripts from the hearing,
 - case records and
 - other documentary evidence presented at the hearing by the parties, their attorneys and/or the guardian *ad litem*.
- Child welfare professionals must work closely with their agencies' attorneys to prepare and present well-documented case records,
 - Especially true for termination of parental rights hearings which are appealed more often than dependency dispositions.

Pennsylvania Supreme Court

- Highest court.
- Seven justices serving 10-year terms serve on this court.
- Hears appeals from cases from the Superior and the Commonwealth Court.
- Unlikely that a child welfare case would reach this level.
- Most appeals to the Supreme Court are not granted unless the appeal is deemed to have statewide importance or requires a clarification on a point of law.

Inform the participants they can learn more about the Pennsylvania court system by going to the court website at: <http://www.pacourts.us> and clicking on "For the Public" and then going to "Pennsylvania Courts: A Video Introduction."

Display **PowerPoint Slide #8 (Child Welfare Administrative Hearing and Appeal Process)**.

What is an appeal?

- Perpetrators have the opportunity to ask a higher court to reverse the decision of a trial court after final judgment or other legal ruling. This is called an appeal
- In the case of an indicated disposition, a person named as a perpetrator may request an administrative review or appeal and request a hearing

Making the request:

- The amended CPSL lengthened the timeframe for this request from 45 days to 90 days, and required these requests to be made in writing
- The person named as the perpetrator directs their request to the secretary of the department
- The request must be based on the person's claim that the indicated report is inaccurate or is being maintained in a manner inconsistent with the law

Responding to the request:

- The amended CPSL extends the timeframe for the department to send notice of the secretary's decision regarding the request for an administrative review hearing from 30 days to 60 days.
- If the secretary grants the request, the department will notify all subjects, including the county agency and appropriate law enforcement officials. All subjects, including the county agency now have 90 days to file an administrative appeal of the secretary's decisions.
- If the secretary refuses a request, or does not act within the prescribed timeframe, the perpetrator has the right to appeal and request a hearing before the secretary. The request for a hearing must be made within 90 days of notice of the secretary's refusal of the request. The perpetrator may request the hearing on grounds that the indicated report is inaccurate or is being maintained in a manner inconsistent with the law. The appropriate county agency and appropriate law enforcement officials shall be given notice of the hearing.

Appeal Hearing:

- The appeal is forwarded to the Bureau of Hearings and Appeals.
- The burden of proof in the hearing is on the county agency.
- A person appealing the secretary's decision has the right to a timely hearing to determine the merits of the appeal.
 - The department must schedule the appeal hearing within 10 days of receipt of the appeal and must make reasonable efforts to coordinate a hearing with the appellee and appellant.
 - The hearing must start within 90 days of the scheduling order, unless all parties agree to a continuance.
 - The hearing must be scheduled on consecutive days, whenever possible. If not possible, the hearing may not take longer than 30 days to complete.
 - At the hearing, the county agency is responsible to prove by substantial evidence that the report should remain categorized as an indicated report.

Prompt decision and notification:

- The Bureau of Hearings and Appeals must enter, file, and serve decisions within 45 days of the conclusion of the proceeding or hearing.
- The BHA can extend the date up to 60 days, if an order is entered showing good cause for an extension.
- BHA will provide notification of the decision to ChildLine, CCYA administrator, and the hearing participants, excluding the child.

- It is the county's children and youth agency's responsibility to provide notice to the appropriate law enforcement officials and all other subjects.

Appealing the final order:

- The CPSL added provisions for parties to request the secretary to reconsider the decision and/or appeal the final order of the BHA.
- All parties have 15 calendar days from the mailing of the final order to request the secretary to reconsider the decision.
- And all parties have 30 calendar days from the mailing of the final order to file an appeal to the Commonwealth Court.

Inform the participants they can learn more about the Bureau of Hearings and Appeals at the DHS website at <http://www.DHS.state.pa.us>: Click on "Information for Families and Individuals" and then go to "Hearing and Appeals Process."

Step 6: Courtroom Participants Roles, Rights and Responsibilities

Lecture

(15 minutes)

Using **Handout #5 (Courtroom Participants Roles, Rights and Responsibilities)** review the role, rights and responsibility of the court participants.

Judge or Master

The judge is the "trier of fact" in a hearing or trial. It is the judge's role to conduct or preside over the hearing by listening to and receiving evidence. The judge then applies the law to the facts to determine the controversy between or among the parties by determining the validity of the allegations presented in the petition and making or rendering a decision as to the outcome or disposition of the matter. It is the judge's responsibility to ensure that the dependency hearings proceed efficiently and that the parties are afforded their respective rights and that they are represented by effective counsel.

Trainer Note: Some counties, including Allegheny use the term "hearing officer."

In Pennsylvania, it is permissible for jurisdictions to establish rules for the selection and appointment of lawyers to serve as judicial officer or "master". The master is appointed by the court to hear testimony and provide the judge a written finding and recommendation. Unless a rehearing is ordered, the master's findings become the findings and order of the court when confirmed in writing by the judge. It is the master's responsibility to inform the parties that they have the right to have the matter heard by a judge. (42 Pa. §6305)

Parties

Parties are those individuals who are directly interested or concerned with the outcome of the dependency matter. Parties have the right to present evidence, cross-examine witnesses, and appeal the decisions of the court. All parties have the right to legal representation at all stages of the proceedings. If the party is without financial resources or otherwise cannot employ counsel, the court will provide counsel for that person. (42 Pa. §6337) It is the responsibility of the parties to prepare and present evidence regarding their position as to the petition.

To ensure the just determination and uniform practice and procedures of every dependency proceeding in Pennsylvania, the Supreme Court of Pennsylvania established a Juvenile Court Procedural Rules Committee to develop the Rules of Juvenile Court Dependency Matters. These Rules became effective on February 1, 2007. (Pa.R.J.C.P. 1101 *et. seq.*)

These rules specify that parties, including children 14 years and older, are to be notified of dependency proceedings in writing providing:

- The date, time and place of the hearing.
- Notification of the parties' right to counsel.
- Warning that the failure to appear may result in an arrest.
- Summonses must be served in-person or by certified mail, return receipt and first class mail.
- Parties can be excused from the hearing if the court finds that good cause has been shown.
- No hearing can be held in the absence of the child's guardian *ad litem* and legal counsel if one or both of them have been appointed.

The Juvenile Act also requires the court to issue a summons to all parties. requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is 14 or more years of age or is alleged to be a delinquent. (42 Pa. §6335(a))

The parties and their various roles include:

- Petitioner
 - CYA agency representative, the child welfare professional, is typically the petitioner who is requesting the court to take some form of action regarding another party. The specific roles and responsibilities of the CYA petitioner will be discussed more thoroughly in the next section.
 - Interested person. The Rules of Juvenile Court Dependency Matters were changed in 2007 and now require individuals, including parents, other than the county agency interested in filing a dependency petition to first file a petition to obtain permission of the court. If, after a hearing, the court grants permission the individual will be accorded party status and may file a dependency petition. (Pa. R.J.C.P. §1320) The rules do not provide

further description of interested persons, but they are likely to include relatives, neighbors, service providers and other individuals who the court determines have a legitimate interest in the child's life and circumstances.

- Parents

Parents are parties to dependency matters. However, it is important to understand that this term could include but is not limited to birth parents, adoptive parent, and/or legal guardians. The term also may include biological father, legal father, and/or putative father.

- Biological Father. In Pennsylvania, when children are born to women who are unmarried there is no legal relationship between the biological father and the child unless both parents have signed an Acknowledgement of Paternity form or a court Domestic Relations Section has entered an order that establishes the legal father of the child. However, fathers have the constitutional right to have a relationship with their child.
- Legal Father. Under Pennsylvania law, the legal father is the individual who has obtained the above referenced documentation or has otherwise had their paternity status adjudicated. However, when children are born to married women, the husbands are presumed to be the legal father. Although this person may be a party to the matter, they might fall under the definition of a parent.
- A putative father is alleged to have fathered the child however the above referenced documentation has not been yet obtained. This individual also may be considered to be a party.
- Unknown father might be designated in the event the known mother of the child is unable or unwilling to identify the father.
- Therefore, a child could have both a legal father and biological father or a legal father and putative father. Both combination of individuals may be considered "parties" to the dependency matter and may be entitled to the rights previously described.

Explain to the participants that fathers must also be diligently located at the very beginning of the case and engaged **continuously throughout** the child welfare process.

- Non-custodial Parent

Non-custodial parents are those parents who **do not** have physical or legal custody of the child. The child welfare professionals must diligently attempt to locate and engage all non-custodial parents. **The child cannot be found dependent when any parent**

including a non-custodial parent is ready, willing and able to parent the child. (In Re M.L., 2000)

- Child

The child about whom the petition is filed also is considered a party to the dependency. Under the Rules of Juvenile Court Dependency Matters, all parties, including children, **shall** be present at any proceeding unless an exception applies. (Pa.R.J.C.P. 1128) Exceptions to this rule include:

1. Absence from proceedings: The court may proceed in the absence of a party upon good cause shown except that in no case shall a hearing occur in the absence of a child's attorney. If a child has a guardian *ad litem* and legal counsel, both attorneys shall be present.
 - a. In the comment section of this rule it states, that, if a child is an infant, this would qualify as good cause.
2. Exclusion from proceedings: A party may be excluded from a proceeding only for good cause shown. If a party is so excluded, counsel for the party shall be permitted to be present. (Pa.R.J.C.P. 1128(B))

Good cause reasons for the child's absence from a hearing can include but are not limited to, the child's age, physical and emotional condition, and a legitimate and obvious concern for the impact the child's presence in court may have on the child's well-being. However, child welfare professionals must always consult with their supervisor and/or legal representative and the child's attorney and/or guardian *ad litem* when seeking the court's ruling that a good cause exist to excuse any child's presence at a dependency hearing, the child must continue to be accessible as the court has the authority to order any person having the physical custody or control of a child to bring the child to any proceeding. (Pa.R.J.C.P. 1128(C))

As stated above children, 14 years or older will receive a summons to dependency hearings and are expected to be present unless for good cause shown otherwise. (42 Pa. § 6335)

Legal Representatives

Attorneys are appointed or hired to represent the interests of the parties. They are licensed to practice law and admitted by the state's highest court to practice law. An attorney is considered an "officer of the court" and is subject to ethical and professional standards. Attorneys' ethics demand that they become familiar with all aspects of the case and possess competence in the area of law in which they are practicing. The attorney must not substitute their own judgment for their clients, but instead, competently counsel, advise, and diligently represent their clients' interests and/or best interests in these matters.

- Solicitors are attorneys employed or contracted by the CYS agency to represent their interest at dependency hearings.
- Parent attorneys also referred to as Parent Advocates are attorneys hired by the parents or appointed by the court to represent the legal interests of the parents or legal guardians.
- Guardians' *ad litem* are attorneys appointed by the court to represent the child's legal interest and best interest alleging a child to be dependent who:
 - is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;
 - has been placed for care or adoption in violation of law;
 - has been abandoned by parents, guardian, or other custodian;
 - is without a parent, guardian or legal custodian; or
 - is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child. (Pa. R.J.C.P. 1151)
- The guardian *ad litem* provides recommendations to the court based on evidence, investigation, and careful consideration of the child's wishes. Using **Handout #6 (Guardian *ad litem* Powers and Duties)** explain to the participants that the role and responsibilities of the guardian *ad litem* is prescribed by law. Review the guardian *ad litem* duties with the participants. Explain that the court must appoint a guardian *ad litem* to children in dependency matters, to represent children's legal interest and their best interest. (42 P.A. §6311) This appointment, including the appointment of legal counsel for the child if needed, must occur immediately after the child is taken into protective custody or prior to any proceeding. (Pa.R.J.C.P. 1151 (D)) The duration of the guardian *ad litem* and/or counsel for the child appointment is until the closing of the dependency case including any appeal permanency review. (Pa. R.J.C.P. 1150 (B))
- Counsel for the child. The court shall appoint counsel for a child alleged to be dependent who:
 - while subject to compulsory school attendance is habitually and without justification truant from school;
 - has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;
 - is under the age of ten years and has committed a delinquent act;
 - has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph; or

- who commits an act which is defined as ungovernable. (Pa. R.J.C.P. 1151)
- When both counsel and a guardian *ad litem* are appointed, the guardian *ad litem* represents the child's best interest and the attorney represents the child's legal interest. (Pa. R.J.C.P. 1151)

Witnesses

Witnesses provide evidence to the court by swearing to an oath (promising to tell the truth) and testifying to facts.

- Fact or lay witnesses such as the parents, resource parents, caseworkers, neighbors, teachers, or relatives give evidence in court and attest or swear under oath to events that have occurred.
- Expert witnesses such as licensed clinical social workers, doctors, psychologists, also testify or swear to facts under oath. However, expert witnesses are considered to have special knowledge and/or training not normally possessed by the average person. Typically, they are qualified by the court to testify as an expert and may offer a professional opinion.
- Remind the participants that they should consult with their supervisor and/or legal representative to determine whether they will be called as a fact or expert witness in their courts.

Others

- Court Appointed Special Advocate (CASA) Using **Handout #7 (Court Appointed Special Advocate Powers and Duties)** explain to the participants that a CASA volunteer, is a trained volunteer appointed by the court. This individual interviews the child and other appropriate persons including the CYS child welfare professional. The CASA volunteer also has access to confidential reports. They submit a written report to the court and assist the court in determining the best disposition for the child. (42 Pa. §6342)
- Resource (foster and kinship) parents, pre-adoptive parents or relatives providing care also must be provided timely notice of dependency hearings. The court must direct the county agency (CYS) or the juvenile probation department to provide this notice of the hearing. These individuals also have the right to be heard at any hearing. (42 Pa. §6336.1) In addition, Act 109 of 2008 also provided that these individuals are permitted to prepare and provide a written document to the court. However, these provisions do not result in these individuals achieving party status in these matter.

Module 7: The Court Process

Section II: The Legal Authority and Decision Making Process for Court Intervention

Estimated Length of Time:

1 hour and 15 minutes

Performance Objectives:

- ✓ Identify the legal authority for court intervention in child welfare practice
- ✓ Explain the impact the outcome of the safety intervention analysis has on the determination of whether to initiate court intervention
- ✓ Explain the requirement for undertaking a reasonable efforts analysis prior to obtaining protective custody of a child.
- ✓ Recognize the principles of case documentation that will support competent court preparation and participation

Methods of Presentation:

Lecture, Small Group Activity, Large Group Discussions

Materials Needed:

- ✓ 2 Flip Chart stands
- ✓ 2 blank flip chart pads
- ✓ 1X2 Post-it note pads
- ✓ Prepared note cards
- ✓ Colored markers
- ✓ Name tents
- ✓ Laptop, LCD projector and screen
- ✓ ***Reference Manual for Charting the Course towards Permanency for Children in Pennsylvania***
- ✓ ***Charting the Course Trainer Resource Book: Smith Family Folder***
- ✓ **Handout # 8: Definition of Dependent Child**
- ✓ **Handout #9: Pennsylvania's Required Preventive or Reunification Services**
- ✓ **Handout #10: In the Interest of R.F. and C.F.**
- ✓ **PowerPoint Slide #9: Legal Authority and Decision Making Process in Dependency Court**
- ✓ **PowerPoint Slides #10-12: Safety Definitions**
- ✓ **PowerPoint Slides #13-14: Hummel Family Safety Assessment, Part 1**
- ✓ **PowerPoint Slide #15: Hummel Family Safety Assessment, Part 2**
- ✓ **PowerPoint Slide #16: Combined Intent of Adoption Assistance Act & ASFA**
- ✓ **PowerPoint Slides #17-19: Child Protective Services Law and Juvenile Act**
- ✓ **PowerPoint Slide #20: Reasonable Effort Services**
- ✓ **PowerPoint Slide #21: Judicial Determination of Reasonable Efforts**
- ✓ **PowerPoint Slide #22: Principles of Documentation**
- ✓ **Trainer Resource #1: In the Interest of James Feidler, Robert Feidler and Christopher Feidler**
- ✓ **Trainer Resource #2: Hummel Family Safety Assessment, Part 1**
- ✓ **Trainer Resource #3: Hummel Family Safety Assessment, Part 2**

Section II: The Legal Authority and Decision Making Process for Court Intervention

Step 1: Legal Authority/ Grounds for Petition

Lecture/Small Group Activity/Large Group Discussion

(20 minutes)

Display **PowerPoint Slide #9 (Legal Authority and the Decision Making Process in Dependency Court)** and explain to the participants that there are several considerations that must be examined thoroughly and simultaneously before initiating court intervention. In addition, the child welfare professional must always obtain the advice and support of their supervisor and/or legal representative when determining the appropriateness of court intervention. The considerations that must be explored are:

- Legal authority or grounds for court intervention;
- Outcome of the In Home Safety Intervention Analysis;
- Reasonable Efforts to prevent placement;
- Principles of Documentation.

Legal authority or grounds for court intervention:

Explain to the participants that before initiating a petition for court intervention they must identify the reasons or basis for the dependency petition. The reasons or basis for the petition are commonly referred to as “grounds.” The grounds for a petition logically derive from the legal definition for the term dependency. Knowing the definition for dependency and skillfully recognizing whether the facts and circumstances support an allegation that these conditions exist in a case situation is an important prerequisite to determining whether CYs has the legal authority to support a dependency petition. Remind the participants that in Modules 1 and 2 they learned Pennsylvania’s legal definitions for child abuse and other conditions and that they were asked to review the definition for Dependency in the Juvenile Act and the definitions for child abuse in the Child Protective Services Law prior to attending this module.

Using **Handout #8 (Definition of Dependent Child)** review with the participants the definition of a dependent child.

Dependent Child. A child who:

1. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent’s, guardian’s or other custodian’s use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;
2. Has been placed for care or adoption in violation of law;

3. Has been abandoned by his parents, guardian, or other custodian;
4. Is without a parent, guardian, or legal custodian;
5. While subject to compulsory school attendance is habitually and without justification truant from school;
6. Has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;
7. Is under the age of ten years and has committed a delinquent act;
8. Has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);
9. Has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or
10. Is born to a parent whose parental rights with regard to another child have been involuntarily terminated within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

Distribute flip chart paper to each table group. Ask the participants to refer to the first definition of Dependent Child and record on flip chart paper examples of behavior and conduct that would describe this definition and would be considered to be grounds (basis, reason, and circumstance) that would demonstrate the existence of this definition. Explain to the participants it is this information that would then support a dependency petition. After 10 minutes, ask them to hang up their responses on the wall and for a representative from each table to review their responses for the larger group.

Step 2: Outcome of Safety Intervention Analysis

Lecture

(15 minutes)

Using **PowerPoint Slides #10-12 (Safety Definitions)** remind the participants that in Module 4 they attended an extensive three-day presentation on the Introduction to the Safety Assessment and Management Process. In that module they had learned how to identify safety threats and protective capacities leading to a safety analysis to determine whether a child was safe, unsafe, or safe with a comprehensive safety plan.

Explain to the participants that the safety assessment and management process also inform their identification of grounds and decision making regarding court action. Consequently, the time spent on documenting the safety assessment forms is valuable as it informs and supports any future court action.

Ask the participants to recall the Family Safety Assessment Form that they reviewed in Module 4. Ask them where, on this form would they find information to support their identification of the facts that would provide the grounds for a petition.

The participants should identify that the facts supporting the grounds will be located in:

- Case note (a narration of relevant information gathered in interviews)
- Section II (Safety Threats)
- Section III (Protective Capacities)

Illustrate this connection by providing the participants an example from the Hummel Family Safety Assessment that they considered in Module 4.

Trainer Resource #2: Hummel Family Safety Assessment, Part 1 and Trainer Resource #3: Hummel Family Safety Assessment, Part 2 is provided to provide the trainer background information regarding this case example if needed to expand upon the exercises below.

Display **PowerPoint Slides #13-14 (Hummel Family Safety Assessment, Part 1)** and ask one or more of the participants to read out loud the following statements from Section II #5 and #6 of the Hummel Family Safety Assessment form to illustrate how the “safety threats” section of the form can support a determination of grounds.

#5 Caregiver(s) are violent and/or acting dangerously: “April and Earl regularly argue. Their arguments have included throwing of objects, physically damaging the home and have also escalated to Earl physically hitting April. In an attempt to intervene on behalf of his mother, Bobby was struck in the face, by Earl, causing bruising and swelling around his eye. The information supports that this behavior is likely to continue.”

#6 Caregiver(s) cannot or will not control their behavior: “Both April and Earl drink to excess which leads to violence. It has also resulted in the children being left home alone with Bobby being responsible for the care of the other two children. Even though Earl states that he does not have a drinking problem neither he nor April demonstrate the ability to be in control of their behavior and prioritize drinking over providing care to the children.

After each statement is read ask the participants to refer to the flip chart paper from the previous exercise displayed in the room and ask them to identify if the description supports a dependency petition and if so how does it support this definition.

Display **PowerPoint Slide #15 (Hummel Family Safety Assessment, Part 2)** and ask one of the participants to read out loud the following statement from Section III #16 to illustrate how “protective capacities” section can support identifying grounds.

#16 The Caregiver has accurate perceptions of the child: “This is a diminished protective capacity for April and an absent protective capacity for Earl. While April makes the effort to provide basic resources for her children she relies on her seven-year-old child to care for the other children in the home. Earl does not have knowledge or understanding of child development and capabilities. Neither caregiver is aware of the children’s fear of Earl and the home environment.”

Again ask the participants to identify how the fact scenario supports the definition of

Dependent Child.

Section IV of the Safety Analysis of the Safety Assessment form:

Refer the participants to Section IV: Safety Analysis on the Safety Assessment form which informs and supports their determination as to whether to initiate court intervention. Remind the participants that Section IV ultimately identifies the factual circumstances that support their rationale for court intervention. This section also provides documentation of the reasonable efforts they undertook to prevent an out-of-home placement, if one is being recommended.

Refer the participants back to **PowerPoint Slides #10-12 (Safety Definitions)** and emphasize that:

- Whenever the determination of the analysis is that the child is **Unsafe**, CYS **must** file a dependency petition alleging sufficient grounds to support a finding of dependency and request the court to place the child in an out-of-home placement.
- If CYS makes a determination that the child is **Safe with a Comprehensive Safety Plan**, CYS **may** file a dependency petition alleging sufficient grounds to support a finding of dependency and request the court to order services or parental cooperation that would support the implementation of the comprehensive safety plan.
- The outcome of the safety intervention analysis supports the determination to initiate court intervention for dependency and a request for out-of-home placement or court ordered services.
- When the safety analysis process is completed thoroughly and competently the information from this process will assist them in providing evidence and testimony to support the dependency petition.
- They must always consult with their supervisor and/or legal representative before initiating court intervention.

Step 3 Reasonable Efforts

Lecture

(10 minutes)

Explain to the participants that the third consideration when initiating court intervention and requesting that a child to be placed in out-of-home care is whether reasonable efforts were made to prevent the placement.

This reasonable efforts mandate comes from the combination of two important Federal laws that were reviewed in Module 1: The Adoption Assistance and Child Welfare Act of 1980 and the Adoption and Safe Families Act of 1997.

These laws recognized the:

- Importance of the parent and child relationships to the child's health development.
- Negative emotional impact separation has on the child's development when that relationship is interrupted.
- Necessity of providing children stable, safe and permanent homes in a timely manner.

Using **PowerPoint Slide #16 (Combined Intent of the Adoption Assistance and Child Welfare Act of 1980 and the Adoption and Safe Families Act of 1997)** explain to the participants that the combined intent of the Adoption Assistance Act and ASFA is to ensure that:

- Children are not placed in out-of-home care when they can be safe and protected in their own homes.
- When removal of a child occurs, reasonable efforts to accomplish reunification must always be made unless a court has determined that such efforts are not required.
- When reunification is not possible, reasonable efforts are made to timely accomplish permanency for that child through finalization of an adoption or with placement with a permanent legal custodian.

Using **PowerPoint Slides #17-19 (Child Protective Services Law and Juvenile Act)** explain to the participants that Pennsylvania also mandates adherence to these federal provisions:

In the Child Protective Service Law it states that each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objective to:

- Keep children in their own homes, whenever possible. (23 Pa. §6373 (a))
- Reunite children and their families whenever possible when children are in temporary, substitute placement. (23 Pa. §6373 (a))
- Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home. (23 Pa. §6373 (a))
- In its effort to assist the child and child's parents, pursuant to Federal regulations, the county agency will make **reasonable efforts** prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his

home and to make it possible for the child to return home. (23 Pa. §6373 (b))

Using **PowerPoint Slide #20 (Reasonable Effort Services)** explain to the participants that reasonable efforts to prevent a child's placement consist of a full range of services that are:

- Logically related to the outcomes of assessments and plans.
- Developed with the family.
- Including those services documented in the:
 - Family service plan; and
 - Safety plan

Inform the participants that services provided by other agencies outside of CYS can be included in CYS's documentation of reasonable efforts if those services are related to maintaining a child in his or her home.

Although federal law does not define what specific services constitute reasonable efforts, federal regulations require states to provide a list of pre-placement and preventive services programs. Using **Handout #9 (Pennsylvania's Required Preventive or Reunification Services)** explain to the participants that to comply with federal law Pennsylvania regulations mandates every CYS agency to provide at **minimum** the following four prevention or reunification services to families and children:

1. Counseling service. Supportive and therapeutic activities provided to a child or a child's family and directed at preventing or alleviating conditions, including crisis conditions, which present a risk to the safety or well-being of the child by improving problem-solving and coping skills, interpersonal functioning, the stability of the family, or the capacity of the family to function independently.
2. Parent education. Practical education and training for parents in child care, child development, parent-child relationships and the experience and responsibilities of parenthood.
3. Homemaker/caretaker service. Home help, home care skills instruction and/or child care and supervision provided to a child and the child's family in the child's home by a trained homemaker or caretaker.
4. Part day service. Care and supervision for a child for less than 24 hours per day provided under a family service plan to enable the child to remain in or return to the child's own home. (55 Pa. Code §3130.35)

Trainer Note: Emphasize to the participants that many more services will constitute reasonable efforts. The services listed above are identified specifically in Pennsylvania's regulations.

Step 4 Judicial Determination of Reasonable Efforts Lecture

(5 minutes)

Explain to the participants that **only** the court can determine whether reasonable efforts have been made. Using **PowerPoint Slide #21 (Judicial Determination of Reasonable Efforts)**, explain that the court must make a formal judicial determination that:

- “reasonable efforts” were made to prevent or eliminate the need for removal of the child from his home; **or**
- preventive services were not offered due to the necessity of an emergency placement, the lack of such services was reasonable under the circumstances; **and**
- continuation of the child in the home would be contrary to the welfare, safety, or health of the child.

This judicial determination is required under Title IV-E of the federal Social Security Act. Pennsylvania and other states are reimbursed a substantial portion, 53%, of the costs of maintaining children in out-of-home care. However, to receive this reimbursement the judicial determination of reasonable efforts must be made at different points at the beginning and throughout the child’s placement in out-of-home care. CYS agencies have the burden of providing the evidence and proving to the court that reasonable efforts were made.

If the court does not make this determination because:

- The standard was not met,
- Not properly documented, or
- Due to a clerical error, was not recorded.

The federal funding may be withheld.

However, the court can order the child’s placement in out-of-home care even if the court determines that reasonable efforts were not made.

Therefore, it is imperative that clear documentation of reasonable efforts appears in court orders in addition to case notes and case plans.

Best practice would support the child welfare professional reviewing the court order with the solicitor to determine if that the proper documentation has been made in the court order.

Emphasize to the participants that although financial consequences are important **the most important consideration** is the detrimental impact on children when they are unnecessarily removed from their home.

Mental health professionals and child welfare experts agree that stable and continuous caregivers for children are very important to normal emotional growth. Children need secure and uninterrupted emotional relationships with adults who are responsible for their care.

Explain to the participants that reasonable efforts' determination must be made throughout the child's placement in out-of-home care and sometimes the court can make a determination that reasonable efforts need not be made, when aggravated circumstances occur. These topics will be presented later today and in Module 9.

Step 5 Determining Reasonable Efforts

Small Group Activity

(20 minutes)

Explain to the participants that they will now have the opportunity to serve as judges and determine whether reasonable efforts were made in a case. At their table they will review an actual case where the Pennsylvania Superior Court considered an appeal of a dependency court judge's determination of reasonable efforts.

Distribute **Handout #10 (In the Interest of R.F. and C.F.)** to the table groups. Explain to the participants that the handout is an edited version of the facts in a case that was reviewed by the Superior Court. They will act as the Superior Court judges and make the determination as to whether reasonable efforts were made to prevent these children's removal from their home. Ask the participants at each table to read the case and determine their rulings by a vote:

- 1) Were reasonable efforts made to prevent or eliminate the need for removal of the child from his or her home? If so what were those services?
- 2) If preventive services were not offered, did an emergency exist which made the lack of such services reasonable?
- 3) Would continuation of the child in the home be contrary to the welfare, safety, or health of the child?

After 10 minutes ask the table groups to report on their rulings and engage them in a discussion regarding the differences, if any in their rulings. After all of the reporting is completed share with the participants the determination made by the Superior Court.

In the Interest of R.F. and C.F.; The Superior Court determined there was not clear and convincing evidence that reasonable efforts had been made to keep the family together. The agency has not exercised all reasonable efforts to keep this family together. The Superior Court opined that "although we recognize that the agency bears a heavy burden in removing children from their natural parents,' we would not have it any other way since our legislature and this court have placed primacy on the right of

parents to raise their own children; thereby, keeping the family intact.” (*In the Interest of James Feidler, Robert Feidler and Christopher Feidler*, 1990)

Trainer’s Note: This next section is important especially if the participants express the belief that this case did demonstrate reasonable efforts. Explain to the participants that the court also made reference to the following points that may have contributed to their ruling that no reasonable efforts were made.

- The lower court had ordered the family to be evaluated at the Center, but the children youth agency had determined that the two meetings that they missed were a prerequisite to the evaluation and not part of a court order, so missing these appointments could not be considered a violation of the court order.
- The higher court did not consider the family missing the appointment to be deliberate. The mother had cancelled the first appointment and the caseworker testified that even if the family had come, the agency was closed that afternoon. There was no information on the record regarding why the second appointment was missed.
- The higher court also stated that “Woefully inadequate record upon which to justify removal of children from their family home.” And that “based on the record, we cannot find that the agency has exercised all reasonable efforts to keep this family together.”
- **This final point underscores the importance of providing adequate documentation of casework at hearings.**

Trainer Resource #1: The full case history is provided for *In the Interest of James Feidler, Robert Feidler and Christopher Feidler*.

Step 6 Principles of Documentation

Lecture/Large Group Discussion

(5 minutes)

Remind the participants that thorough and proficient documentation:

- Is a critical factor in initiating court intervention;
- Must be provided at the highest standard at every phase of casework process;
- Is essential to support a supervisor or colleague’s ability to testify in court when the author of the case note is not available; and
- Must be written as if it might be read by an attorney, judge, state or federal reviewer, because such a review could occur.

Remind the participants that they learned about the principles of documentation in Module 4. Using **PowerPoint Slide #22 (Principles of Documentation)** and briefly review the following principles with them.

- **Objective** information means that the statements are just and reasonable and without expressing bias or prejudice.
- **Accurate** information means that the statements are precise and truthful. Although errors can and do occur, the author should always strive to check facts, spelling of names and terms and grammar when documenting the case file.
- **Clear** information means the reader, a reasonable person, will comprehend the author's meaning without having to interpret the meaning of any particular jargon or ambiguous phrasing.
- **Descriptive** information means that the reader will glean a detailed understanding of the events that occurred.
- **Relevant** information means providing pertinent, important and significant information that relates directly to the child's safety, well-being and permanency and the families functioning and protective capacities.

Conclude this section by explaining to the participants that the child welfare professional's consideration and the **documentation** of the **legal authority, safety intervention analysis** and the **provision of reasonable efforts** to prevent a child's removal from the home often occur simultaneously and sometimes rather quickly depending upon the case situation. However, caution the participants that as they become more experienced they may be tempted to bypass considerations, engage in perfunctory analysis and/or superficial documentation. Encourage the participants to resist this temptation and establish a custom of engaging in a thorough analysis for each and every case and thorough documentation of the same. By consistently engaging in a high standard of practice they will become both competent child welfare professionals and court practitioners.

Module 7: The Court Process

Section III: Initiating the Court Process and Preparing for Court

Estimated Length of Time:

1 hour 15 minutes

Performance Objectives:

- ✓ Identify the legal authority for taking a child into protective custody
- ✓ Identify the process for initiating a petition for court intervention
- ✓ Describe the role of the child welfare professional in court preparation

Methods of Presentation:

Lecture, Small Group Activity, Large Group Discussions

Materials Needed:

- ✓ 2 Flip Chart stands
- ✓ 2 blank flip chart pads
- ✓ Post it note pads
- ✓ Colored markers
- ✓ Name tents
- ✓ Laptop, LCD projector and screen
- ✓ *Reference Manual for Charting the Course towards Permanency for Children in Pennsylvania*
- ✓ *Trainer Resource Book: Smith Family Folder*
- ✓ **Handout #11: Procedures for Protective Custody by Police and County Agency**
- ✓ **Handout #12: Aggravated Circumstances**
- ✓ **Handout #13: Dependency Petition**
- ✓ **Handout #14: Smith Family Updated Case Note and Safety Assessment**
- ✓ **PowerPoint Slides #23-26: Protective Custody**
- ✓ **PowerPoint Slide #27: Emergency Placement Facilities for Dependent Children**
- ✓ **PowerPoint Slide #28: Kinship Care Act**
- ✓ **PowerPoint Slides #29-32: Aggravated Circumstances**
- ✓ **PowerPoint Slides #33-36: Components of a Dependency Petition**
- ✓ **PowerPoint Slide #37: Testifying in Court Activity**

Section III: Initiating the Court Process and Preparing for Court

Step 1: Voluntary Placement Agreements

Lecture

(5 minutes)

Explain to the participants that the decision to initiate the court process is one of the most important decisions they can make in child welfare. The decision should always be made in consultation with their supervisor and/or legal representative. As discussed in the earlier session, child welfare professionals must first consider whether they have the legal authority and the grounds for the dependency petition, the outcome of the safety assessment and the provision of reasonable efforts. As part of the reasonable efforts consideration and a comprehensive safety plan, child welfare professional might consider the use of a voluntary placement agreement (VPA). Remind the participants that not all jurisdictions use VPA and that they should check with their agency to determine the policy. The terms for a VPA include:

Custody of child temporarily transferred to CYS for no more than 30 days, if the child's parent or other person legally responsible for the child freely enters into a written agreement with CYS. The agreement may not be renewed beyond the 30 days. The agreement must contain a statement that the parents' have the right to:

1. Be represented by legal counsel or other spokesperson.
2. Refuse to place the child.
3. Visit the child, to obtain information about the child, and to be consulted about and approve medical and education decision concerning the child while the child is in voluntary placement.
4. Immediate return of the child upon request, unless the court orders the legal custody of the child to be transferred to CYS. (55 Pa. §3130/65)

Remind the participants that some agencies support the use of an informal agreement in a comprehensive safety plan, whereby the parent agrees to allow their child to temporarily reside in another informal living arrangement as an alternative to initiating court action and/or requesting an out-of-home placement.

Step 2: Protective Custody

Lecture

(10 minutes)

Remind the participants that in some instances, the facts of a situation may require that immediate action be taken to protect the safety of a child. As stated earlier, in these instances it may not be possible to offer reasonable efforts to prevent a child's removal from the home and a child must be taken into "protective custody."

The Child Protective Service Law, the Juvenile Act and the Rules of Juvenile Court Procedures all identify procedures for taking a child into protective custody.

Using **PowerPoint Slides #23-26 (Protective Custody)** explain to the participants that under the Child Protective Service Law (CPSL) a child can be taken into protective custody:

- As provided by the Juvenile Act (see below), or
- By a physician examining or treating the child:
 - if protective custody is immediately necessary to protect the child;
 - limited to 24 hours, after which a court order is needed;
 - must provide immediate oral notice to the parent/guardian and to CYS; and
 - must provide written notice to parent, guardian within 24 hours.

- By the director or designee of a hospital or medical institution;
 - if protective custody is immediately necessary to protect the child; or
 - if the child is a newborn;
 - Newborn Protection Act (“Safe haven”) of 2002 42 Pa. §6401, *et seq.*
 - limited to 24 hours, after which a court order is needed;
 - must provide immediate oral notice to the parent/guardian and to CYS;
 - must provide written notice to parent, guardian or custodian within 24 hours, or
 - in case of newborn, CYS must make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn. (23 Pa. § 6315) (see also Pa.R.J.C.P. §1202)

As mandated by the **Juvenile Act**, a child can be taken into protective custody by:

- A court order, or
- A law enforcement officer or duly authorized officer of the court. This includes Juvenile Probation Officers as set forth by Rule 120, effective July 1, 2011.
- Either the police officer or county agency may obtain a protective custody order. (Pa.R.J.C.P. §1202)

The criteria include:

- There are reasonable grounds to believe that the child is suffering from illness or injury, or
- The child is in imminent danger from his/her surroundings and the removal is necessary, or
- If the child is a runaway. (42 Pa. §6324)

Explain to the participants these important considerations regarding protecting custody:

1. When a child has been taken into Protective Custody by someone other than a representative of the CYS agency, then the CYS agency must obtain an order permitting the child to be held in custody, if necessary, for a period beyond 24 hours. (Pa.R.J.C.P. §1201)

2. When protective custody is taken prior to filing a petition then the child welfare professional has 24 hours from the informal hearing to file a dependency petition. (23 Pa. § 6315(d))
3. Explain to the participants that if a child welfare professional determines that a child must be immediately removed from the home a protocol must be followed to obtain judicial authorization. No county agency or child welfare professional “may take custody of the child without judicial authorization based on the merits of the situation.” (Pa.R.J.C.P. §1202A.2.b) (see also 23 Pa. § 6315)
4. Each jurisdiction should have a protocol for obtaining the necessary court order authorizing protective custody of a child. Every jurisdiction must have a judge available 24 hours a day, 365 days a year to accept and decide whether a protective order should be granted. (23 Pa. §6315(b))
5. In no case should protective custody be maintained longer than 72 hours without an informal hearing. (23 Pa. §6315(b))

Ask the participants if any of them have been involved in a protective custody procedure and ask one or two to describe the process in their jurisdictions. Emphasize to the participants that awareness of their jurisdiction’s procedures for protective custody must be part of their preparation prior to any home visit. This preparation will ensure that they can respond to an emergency situation and a safety assessment that leads to the conclusion that a child is unsafe.

Provide the participants **Handout #11 (Procedures for Protective Custody By Police and County Agency)** and explain that Rules of Juvenile Court Dependency Matters of Juvenile Court Procedures in Pennsylvania designates these procedures for taking protective custody of a child. However, they should confirm the exact procedures in their jurisdiction with their supervisor and/or legal representative.

Display **PowerPoint Slide #27 (Emergency Placement Facilities for Dependent Children)** and explain to the participants that when a child is placed in the protective custody, the child must be placed in an appropriate:

- Medical facility,
- Foster home, Or
- Other appropriate facility approved by DHS for this purpose.

Display **PowerPoint Slide #28 (Kinship Care Act (Act 25 of 2003))** and explain to the participants that this Pennsylvania Act established a statutory requirement giving relatives first consideration as a placement resource when a child cannot safely remain with his/her legal family and is placed in the legal custody of an agency. Act 25 requires county agencies to document attempts to place children with a relative and, where appropriate, reasons why such as placement was not possible. (Children, Youth and Families Bulletin 3140-04-05/3490-04-01 Issued July 1, 2004)

Remind the participants that they carefully reviewed provisions of **The Indian Child Welfare Act (ICWA) of 1978, P.L. 95-608** in Module 1 and is available in the resource manual provided in the room and on the PACWRC website here:

<http://www.pacwrc.pitt.edu/Curriculum/CTC.html>. Remind them that in Sec. 101 (b) the federal law provides that “In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation ...shall transfer the proceeding to the jurisdiction of the tribe... Therefore, they must intentionally screen each family to determine whether the initial filing and/or transfer to a tribal court should occur.

Additionally, remind participants that agencies and courts must ask whether the child is

Trainer Note: The Bureau of Indian Affairs released updated ICWA Guidelines in February 2015. The revised guidelines state that the time period for temporary custody without a hearing has been shortened from 90 days to 30 days except in extraordinary circumstances. Additionally, the revised guidelines also state that ASFA’s exceptions to reunification efforts (*aggravated circumstances*) do not apply to ICWA proceedings.

or could be an Indian child in every child custody proceeding until it has been determined.

You may also remind participants of the MEPA/IEPA information provided in Module 1. This reminded may be supplemented by the use of **Trainer Resource #4 (Multi-Ethnic Placement Act as amended by the Inter-Ethnic Placement Act (MEPA-IEPA) Guide)** and **Trainer Resource #5 (Multi-Ethnic Placement Act (MEPA) and Inter-Ethnic Placement Act (IEPA) Screening Aid)**.

Step 3: Aggravated Circumstances

Lecture

(10 minutes)

Distribute **Handout #12 (Aggravated Circumstances)** and display **PowerPoint Slides #29-32 (Aggravated Circumstances)** and explain to the participants that prior to filing the petition the child welfare professional, supervisor and the legal representative of CYS should consider whether an allegation of “aggravated circumstances” should be made. If so, this allegation should be noted on the petition and a separate motion should be filed requesting that if the court makes a dependency finding that it also make a determination that aggravated circumstances exist. A separate request to determine whether reasonable efforts to reunify the family are not required to reunify the family also may be made. Emphasize to the participants that only the court can make a determination that aggravated circumstances exist. This allegation can be made at the initial dependency hearing and/or at future proceedings.

Explain to the participants that both ASFA and the Juvenile Act define “aggravated circumstances” and specify those instances when family reunification might not be required. They are:

1. The child is in the custody of a county agency and either
 - a. The identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or
 - b. The identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.
2. The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.
3. The parent of the child has been convicted of any of the following offenses where the victim was a child:
 - a. Criminal homicide;
 - b. Felony relating to:
 - i. aggravated assault;
 - ii. rape;
 - iii. statutory sexual assault;
 - iv. involuntary deviate sexual intercourse;
 - v. sexual assault; or
 - vi. aggravated, indecent assault.
 - c. Misdemeanor relating to indecent assault. and
 - d. An equivalent crime in another jurisdiction.
4. The attempt, solicitation or conspiracy to commit any of the offenses set forth above in 3.
5. The parental rights of the parent have been involuntarily terminated with respect to a child of the parent. (42 Pa. § 6302)
6. The parent of the child is required to register as a sexual offender under subchapter H of Chapter 97 (relating to registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

Emphasize with the participants that the determination of aggravated circumstances is a three step process.

- First the court must make a dependency determination.
- Second the court must determine whether aggravated circumstances exist.
- Third, the court must then determine whether reasonable efforts to prevent the child's removal or to reunify the child with the family will be required.

Emphasize that the mere existence of aggravated circumstances will not lead to a withholding of reasonable effort services. Therefore, the child welfare professional always must continue to engage the parent in the services until these judicial determinations are made.

Step 4: Child Abuse Allegation (5 minutes)

Explain to the participants that prior to filing a petition child welfare professional must consult with their supervisor and the legal representative as to whether the petition should include an allegation of child abuse, which is a separate and distinct finding from dependency. Remind the participants that in Module 2 they learned that a status determination of “founded” in an investigation of child abuse requires a judicial adjudication based on a finding that a child who is subject of the report has been abused. (23 Pa. §6370(b)(2) and 55 Pa. §3490.4) Therefore, this allegation and request for a finding of child abuse must be raised specifically in the petition. Child Protective Service Law (CPSL) states that such requests can be made “in those instances when an alleged perpetrator has access or poses a threat to a child”, and CYS deem it appropriate to petition the court for a finding of child abuse. (23 Pa. §6370(b)(2)(i))

Trainer’s note: A “founded” determination also may occur in other situations including but not limited to when the perpetrator pleads guilty, enters a plea of *nolo contendere* (implied confession) or is found guilty of a criminal charge involving the same factual circumstance involved in the allegation of child abuse. 55 Pa. §3490.4.

Step 5: Preparing a Dependency Petition

Small Group Activity

(45 minutes)

Explain to the participants that in this section and activity they will review updated case material regarding the Smith family. The primary purpose of this activity is to provide the participants an opportunity to identify the components of a dependency petition, distinguish relevant information for inclusion in a petition, and use the principles of documentation when drafting allegations in the petition.

Ask the participants how many of them, if they know, are responsible for preparing the petition for dependency themselves. Explain to the participants that jurisdictions vary regarding who has the responsibility for preparing the petition. In some jurisdictions the attorney prepares the petition, in another it is the child welfare professional, and in other jurisdictions it may be a paralegal. Regardless of the individual designated, if they are going to be a petitioner it is extremely important that they recognize each of the components of the petition and are able to competently summarize each of the allegations as they may be required to testify to the same in court.

Explain that the Dependency Petition is used to initiate court proceedings. It is a legal document that requests the court to respond to the situation that is presented. It is imperative that the contents of the petition be accurate and precise as it is the document that puts the parties, in particular, the parents on notice as to the allegations.

Provide the participants **Handout #13 (Dependency Petition)** and display **PowerPoint Slides #33-36 (Components of a Dependency Petition)** and explain to the participants that the sample petition is provided by the Administrative Office of Pennsylvania Courts. Ask the participants if they use this form in their counties. All

petitions for dependency must include each of these components. Ask the participants how many of them complete their own petitions and if not, who completes the petition for them. Remind the participants that even if someone else completes the petition on their behalf, if they are the petitioner they must be very familiar with every response on the petition as they will be asked questions about it in court. Briefly review the mandated components of the dependency petition:

- Petitioner name and contact information;
- Child Respondent including:
 - Age, DOB, sex;
 - Residence at time of removal and contact information; and
 - Race, ethnicity.
- Case Information;
 - Type of Dependency;
 - ✓ Abuse/Neglect; or
 - ✓ Status Offense/Truancy/Incorrigibility, Ungovernable.
 - Petition Type; and
 - Protective Custody.
- Abuse Allegation as defined at 23 Pa. C.S. §6303 (if applicable)
- Child's Parents and/or Legal Guardian or Custodian:
 - DOB, Contact Information, Whereabouts.
- Closest Relative if whereabouts of Parent is unknown;
- Child's Attorney/Guardian *ad litem* (if known and appointed at time of petition);
- Additional Participants and their relationship to the child;
- Dependency Allegation under the law (Juvenile Act at 42 Pa. C.S. §6302):
 - Including a statement that it is in the best interest of the child and the public; and
 - that court intervention is needed;
 - Reasonable efforts taken by the agency to prevent the placement; OR
 - A statement of the emergency nature of the situation which did not allow for reasonable efforts to be made.
- Narrative Statement:
 - Alleging the specific facts or grounds that are directly relate to allegations; and
 - Support the definitions of dependency, abuse, and/or aggravated circumstances.

- Averment (declaration) that “it would be contrary to the welfare, safety, and health of the child to remain under the care of _____; [Relevant only if removal of the child is being requested.]
- Motion for Aggravated Circumstances Attached (if applicable);
- Prayer [request] for particular relief.[conditions to be included in the court order]

Trainers Note: This exercise and those thereafter build upon one another and should not be missed or abbreviated. The final exercise depends upon the participants completing each exercise thoroughly and competently.

Provide the participants **Handout #14 (Smith Family Updated Case Note and Safety Assessment)**. Explain to the participants that the Smith family had undergone significant changes since module six.

Update the participants on the current status of the Smith family. Although Crystal and Colin had made considerable progress the family is once again experiencing stress resulting in creating an unsafe environment for the children. Crystal, who had been employed briefly, had to quit as a result of a difficult pregnancy. As a result of the resulting financial stress, she relapsed and began using drugs during her pregnancy. Colin, who is the father of the newborn infant, Cameron, began to drink excessively, and has become abusive to Crystal. A violent altercation occurred when Colin discovered that Crystal was leaving all three children alone while seeking drugs. The police were called and Colin was jailed. Inform the participants that the safety threats and protective capacities sections of the safety assessment and management plan will provide them more details.

Ask the participants to take 5 minutes to review the safety threats and protective capacity portion of the handout.

Ask the participants to assume that decisions to petition the court and to request the placement of the children in out-of-home care have been made.

Trainer Note: Trainer may wish to become familiar with the Smith family history provided in earlier modules by reviewing the Smith Family Folder (Section 2) from the *Trainer Resource Book*.

Trainer Note: If participants suggest that another action should be pursued, be supportive of their contribution and acknowledge their concerns. However, ask them, in the interest of time, to agree to disagree and proceed as if the decision has been made to pursue court intervention and request the placement of the child in out-of-home care.

Assign each table group one of the Smith children, Carley, Christian and Cameron, if needed assign more than one table group to a child. Ask the participants at each table group to write a draft for the narrative section of the petition using the principles of

documentation. Encourage them to make reference to allegations and grounds and to include reference to reasonable efforts.

Explain to the participants that they should include references to the siblings' petitions in the narrative as many jurisdictions require that a separate petition be completed for each child in a sibling group.

After 20 minutes, invite the small groups to select a spokesperson to present their narrative statements to the larger group. After each presenter has shared their narrative statement, ask the larger group to assess whether the statement logically supports the allegations and if it comports with the principles of documentation. Ensure that the participants identify the following:

- Five possible allegations
 - Domestic violence
 - Crystal's Drug Use
 - Children left unattended
 - Injuries to children
 - Colin's excessive drinking
- Identify the following reasonable efforts. Reference services from earlier Modules such as:
 - Informal living arrangement with grandmother.
 - Crystal's participation in detox program.
 - CYS monitoring Crystal's participation in detox program.
 - Day care program for Carley and Christian.
 - Co-parenting classes for Crystal and Colin.
 - Parenting classes and father's group for Colin.

<p>Trainer Prepared Flip Chart: Prepare in advance a flip chart with the instructions for this activity.</p>

Module 7: The Court Process

Section IV: Preparation for Courtroom Practice

Estimated Length of Time:

2 hours

Performance Objectives:

- ✓ When presented with the Smith/Levitt case scenario participants will demonstrate the ability to apply preparation skills by “testifying” accurately to prepared questions.

Methods of Presentation:

Lecture, Large and Small Group Activity

Materials needed:

- ✓ 2 Flip chart stands
- ✓ 2 blank flip chart pads
- ✓ 4X6 Colored note cards
- ✓ Colored markers
- ✓ Laptop, LCD projector and screen
- ✓ ***Reference Manual for Charting the Course towards Permanency for Children in Pennsylvania***
- ✓ **Handout #15: Courtroom Preparation**
- ✓ **Handout #16: Evidence Chart**
- ✓ **PowerPoint Slide #27: Testifying In Court Activity**

Section IV: Initiating the Court Process and Preparing for Court

Step 1: Preparation for the courtroom

Lecture

(20 minutes)

Explain to the participants that courtroom practice can be intimidating if they are not prepared. Preparation is the most important factor in becoming a competent court participant and witness. Through diligent preparation child welfare professionals will:

- Know their case sufficiently to competently present evidence to the court;
- Recognize the judicial expectations and accomplish them; and
- Identify how they themselves respond to scrutiny and become comfortable with the challenge.

Using **Handout #15 (Courtroom Preparation)**, review with the participants the components of courtroom preparation.

- Preparation and Anticipatory Planning (pg. 1 of **HO #15**)

Explain to the participants that Preparation and Anticipatory Planning are the best strategies for knowing their cases sufficiently to present effective courtroom testimony. When child welfare professionals have taken the time to be fully aware of the important and relevant facts in their case file, they become correspondingly more effective witnesses. No or inadequate preparation is easily recognizable in the courtroom. If child welfare professionals are uncertain about basic facts or they present inaccurate information, it can have a negative impact on their credibility in the courtroom for that hearing and future hearings. The following preparation strategies are recommended:

- Simple yet demanding review of case files until important and relevant facts are committed to memory.
- Meeting with the legal representative prior to the hearing to ascertain:
 - Strengths and weaknesses in the case;
 - The information that must be presented in court to support the petition;
 - Questions that will be asked under direct examination;
 - Identify possible questions that will be posed under cross examination; and
 - Determine whether it is permissible to refer to notes or case record.
- Engage in anticipatory planning with their supervisor and/or legal representative prior to the court hearing to identify the child welfare professional's ability to communicate in court.
- Welcome feedback regarding their strengths and weaknesses in their speaking and testimony style.
- Identify strategies to enhance those strengths and reduce the weaknesses.
- Professional attire and conduct in and out of the courtroom.
 - Appropriate clothing and grooming

- Calm tone and voice
- Avoidance of slang terminology and unclear professional jargon

Trainer Note: Emphasize to the participants that they should consult their supervisor and/or legal representative to determine what, if any, conversation they should have regarding each case before court with either the parent’s attorney or the guardian *ad litem* in advance of the hearing and whether such conversations should only occur in the presence of their legal representative. The response may vary based on the particular circumstances of each case.

Step 2: Preparing the Smith/Levitt Case for Adjudication of Dependency Petition
Large Group Discussion/Small group activity
 (25 minutes)

In the large group ask the participants to refer to the earlier Smith/Levitt narrative and identify witnesses, documents and evidence that would support the petitions. Record their responses on the flip chart.

- Identification of possible witnesses:
 - CYS worker, Crystal, Colin, Carley, Christian, police, 911 operator, jail personnel, school teachers, school guidance counselor, employers, family members, neighbors, former treatment providers, doctors, nurses.
- Identification of documentary evidence that will support allegations:
 - CYS records Police records, 911 audio recording, school records, employment records, and medical records.

Trainer Note: This activity is an important foundational activity for subsequent activities. Encourage the participants to think about relevance of the witnesses and documentary evidence and to prioritize and select the most relevant choices. Remind the participants that the actual selection of the witnesses and evidence will always be done in consultation with their supervisors and/or attorneys.

Distribute **Handout #16 (Evidence Chart)** and ask the participants to connect the allegations to the evidence, the document and/or witness in their table groups.

Allegation	Evidence	Document	Witness	Questions
Domestic Violence	Testimony/docs	Police report	CYS worker	
			Crystal, Colin, police, children	
			911 recording	
Mom’s Drug Use	Testimony/drug test	Police report	CYS worker, Colin, children	
			Rehab report	
			Drug testing	
Children unattended testimony			Colin, children	
Injuries to children testimony		medical records	children, Colin, Crystal, mother	

After 15 minutes, ask a volunteer from each group to briefly present their chart.

Step 3: Introductory Witness Questions

Lecture/Small group activity

(15 minutes)

Explain to the participants that many people find testifying in court very challenging, no matter their profession or experience. Refer to the participants' sticky notes to summarize the number of them who have actually testified in court. Ask any one of the participants to volunteer to take a seat in the front of the room facing the group to demonstrate testifying court. Praise the volunteer for taking a risk and volunteering. Once the volunteer is seated in the front of the room, ask the volunteer the following questions.

Trainer Note: Trainer should emulate the formal questioning style or posture an attorney might take when questioning the volunteer witness and encourage the trainee to testify in a similar serious manner to imitate the tone of an actual court. The trainer might choose to identify and select a volunteer witness in advance.

What is your name?

Do you promise to tell the truth and nothing but the truth?

Where do you work?

How long have you worked there?

What is your position?

What are your duties in this position?

Do you know ____ ? (insert the name of someone from the table where the volunteer was sitting.)

How do you know _____?

Where does ____ work?

How long has _____ worked there?

What are _____ duties?

Trainer's Note: Continue to ask questions until the volunteer answer "I don't know".

Ask the volunteer how it felt when he/she was asked a question that he/she did not know the answer to? Thank the volunteer for participating in the demonstration. Engage the participants in a discussion about their comfort/discomfort when they do not know answers. Reassure the participants that it is acceptable to not know the answer and that it is acceptable to testify that they don't know the answer to a question versus provide an inaccurate answer in court.

- Testifying (pg. 2 of **HO #15**)

Briefly review the following general techniques for testifying in court:

- Listen carefully to the question and answer only that question that is being asked. This practice will convey competence and reliability to the judge or master. Answering questions that were not asked can communicate poor listening skills, evasion, unreliability, and possibly bias that can undermine your credibility as a witness.
- Answer questions slowly and deliberately. Take the time to reflect on the answer to questions by taking a breath before answering.
- Accuracy and Impartiality The child welfare professional must strive to provide accurate and truthful information by including in testimony facts that support both the strengths and weaknesses in the dependency petition and in the parents' response to delivery of services.
 - The judge or master will give greater weight to the child welfare professional's testimony and recommendations when it is apparent that your testimony is objective and accurate.
 - The attorneys and guardian *ad litem* will view the child welfare professional's testimony and recommendations with greater credibility when it is apparent that the testimony is objective and accurate.
 - Parents' resistance will be minimized when the child welfare professionals' testimony is accurate and free of bias and embellishment.

Explain to the participants the different types of questioning that can occur in court.

Direct Examination

- Direct examination is the initial questioning of a witness by the party who called the witness.
- The purpose of direct examination is to present testimony containing the facts that support the allegations in the dependency petition.
- The witness is expected to be familiar with the facts that leading questions, those questions that suggest an answer, are generally not permitted.
- Child welfare professionals typically are the first witness called and will be asked questions by their own legal representative referred to as direct examination.
- Permissible Direct Examination Question:
 - *What did you observe at the Smith home?*
- Impermissible Leading Question:
 - *You saw broken furniture and glass at the Smith home didn't you?*

Cross Examination:

- Cross examination is the questioning of the witness by the other attorneys and/or guardian *ad litem* (or the party, if the party is not represented by counsel) other than the one who called the witness.
- These questions are about the information that was already presented in the direct examination.
- The purposes of cross-examination questions are to **clarify** or **discredit** the direct testimony.

- Patiently listen to the question before answering.
- Remain calm.
- Resist the temptation to interpret the question as a personal or professional offense.
- A composed accurate response that ignores any intended or unintended offense will impress the court with your professionalism and increase your credibility.
- Leading questions are permitted in cross examination.
 - *Isn't it true that Crystal Smith previously was cooperative and completed everything asked of her including a very demanding substance abuse program? So unlike the previous worker you were unable to engage Ms. Smith, correct?*
- Many times cross-examination questions are designed to require a “yes or no” answer.
 - If you believe, a yes or no answer does not fully answer the question, you may politely say so.
 - If you are directed by the court to answer yes or no, then provide the most accurate answer.
 - The agency attorney will, if necessary, to ask you clarifying questions regarding your yes or no answer during the redirect examination.

Redirect Examination:

- Redirect examination is the questioning of the witness by their own attorney after cross-examination.
- The purpose of this questioning is to clarify or rebut any damaging testimony elicited on cross-examination.
- Redirect examination is limited to any information brought out on the cross-examination.
 - *What specifically did you do to engage Ms. Smith when you met with her?*
 - *What were Ms. Smith's responses to your attempt to engage her?*

Trainer Note: Explain to the participants that the guardian *ad litem* may ask both type of questions, direct and cross-examination. Typically, questions from the guardian *ad litem* may serve to draw out new information as well as to clarify previous testimony. Guardians *ad litem* may also call their own witnesses to testify. Best practice would support the child welfare professional asking the guardian *ad litem* what questions they may be asking in advance of the hearing. However, before engaging the guardian *ad litem* in such a conversation, child welfare professionals should always consult with their supervisor and/or legal representative prior to do so.

Step 4: Testifying in Court

Large Group Activity

(60 minutes)

Explain to the participants that they will now have the opportunity to practice preparing the Smith/Levitt case scenario for court. They will be engaging in a similar process with their own attorneys and/or supervisors prior to every court hearing. Refer the participants back to **Handout #14 (Smith Family Updated Case Note and Safety Assessment)**.

Assign each table group a role in the Smith/Levitt family based upon the witnesses the participant identified in the evidence chart. For instance, one table group can portray the police, another the CYS worker, and another Crystal, Collin or one of the children.

Pass out five of the same color note cards to each table and ask them to write down the witness assigned to them on the cards.

Ask the participants at each table to engage in group anticipatory planning by identifying five questions that they anticipate that particular witness would be asked at an adjudication of the dependency hearing regarding the Smith/Levitt family.

Ask them to identify three questions that the witness would be asked on direct examination and two questions that the witness would be asked on cross examination. For instance, the solicitor would likely call the CYS and police officer as a witness and would ask those witnesses direct examination questions, whereas, the parent's attorney or the guardian *ad litem* would likely ask cross examination questions of these witnesses.

Remind the participants that the direct questions from the solicitor or the CYS worker would elicit or bring out answers that would prove the basis for the petition's allegations or grounds and legal authority. The cross-examination questions from the parent's attorney would be an attempt to elicit or bring out answers that would disprove the petition or even possibly undermine their credibility as a witness.

When each table group has completed their questions, ask them to turn their cards over and prepare answers to the questions.

When they have completed this task, ask the table groups to exchange cards so that each table group has different card questions that they did not prepare.

Display **PowerPoint Slide #37 (Testifying In Court Activity)** to assist the participants in completing the activity.

- In a round robin format ask each participant from each table to ask a question of a participant from the table group that had prepared those questions.
- Repeat until each participant has had an opportunity to answer a question.

Trainer’s Note: If time permits, the trainer might raise objections to questions and/or answers, if appropriate or invite the participants to do. For instance, the trainer might ask the large group: “What might be an objection to this question or answer.” Objections could include: Relevance: the response or the question is not relevant to the allegation to the petition. Hearsay: the response calls for the participants to repeat what was stated by another person. **Remind the participants that the rules of evidence changes according to what type of hearing is occurring. Generally, they will be permitted to testify to what a parent had stated. However, it is not their responsibility to determine if a statement is permissible hearsay or not, that is the responsibility of the attorneys and the judge or master.**

Remind the participants that in some courts they will be permitted to have “trial notes” with them when they are testifying to assist them in recalling details. They should check with their attorneys and/or supervisors to determine the practice in their court.

Conclude this activity reminding the participants again, that it is always permissible and appropriate to answer that they do not know the answer to a question, when they do not know the answer.

Module 7: The Court Process

Section V: Summary

30 minutes

Learning Objectives: participants will be able to:

- ✓ Summarize the information presented in the module and answer any unanswered questions.

Methods of Presentation:

Individual activity, Lecture

Materials Needed:

- ✓ **Handout #3: Idea Catcher/Action Plan, Revisited**
- ✓ **Handout #17: References**
- ✓ **Trainer Evaluation Forms**

Section VI: Summary

Trainer Note: Review the WIIFM poster and be sure that all of the questions and concerns have been addressed.

Step 1:

Ask participants whether they have any additional thoughts or questions. Address those questions/comments that you can and place on the Parking Lot those thoughts or questions that you cannot address. Assure participants that you will follow up on those comments/questions that participants brought up during the training.

Step 2:

Ask participants to locate **Handout #3 (Idea Catcher/Action Plan)** and review the action steps that they identified on their idea catchers/action plans throughout the training. Ask participants to share their ideas concerning what they learned and how they plan to use the information. Tell participants that part of the purpose of this information sharing is to network and consider whether the action plans that others wrote might benefit them.

Step 3:

Distribute **Handout #17 (References)** and inform the participants that references for the material presented in this module is identified. Encourage the participants to expand their knowledge and improve their skills by obtaining and reading professional journals and current research in child welfare practice.

Step 4:

Remind the participants to complete the post-TOL for Module 7 and the pre-TOL for Module 8 if they have not already done so. Also, remind the participants to remove the cohort guidelines from the room, if needed, and assign a participant with the responsibility for posting it for Module 8.

Step 5:

Ask participants to complete the Resource Center evaluation. Encourage the participants to include written comments in addition to the feedback scores as these comments are usually the most useful information for us in improving the curriculum and presentation.

Step 5:

Thank the participants for their attention and participation in this module.

References

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- Adoption and Safe Families Act of 1997. Pub. L. 105-89)
- Commonwealth of Pennsylvania Adoption Act (Title 23 – Domestic Relations
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