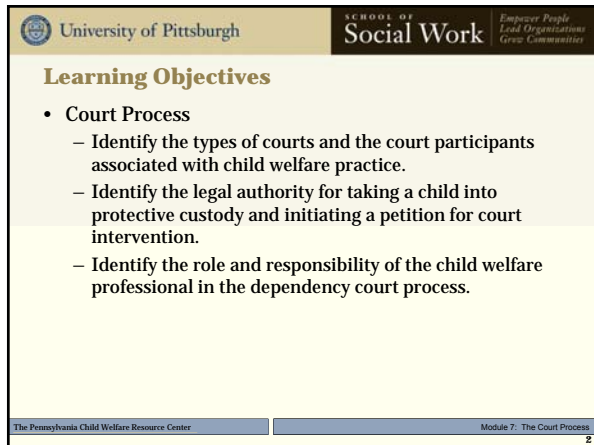
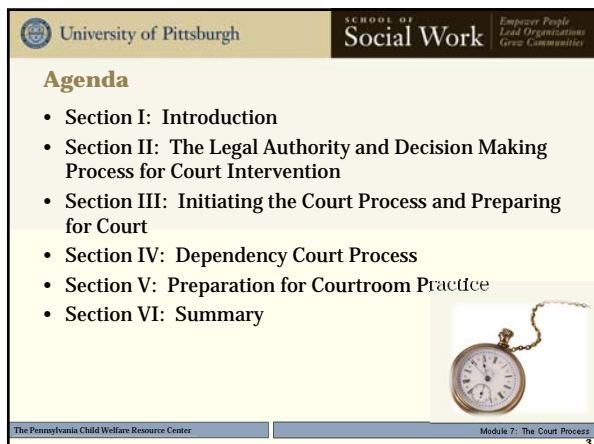


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The Child Welfare Professional and Court Action

- Serious decision and a serious process.
- An action of last resort.
- Apprehension is appropriate and understandable.
- Judge makes the decision; the child welfare professional makes a recommendation.
- Difficult and complex questions must be answered.
- They will experience difficult cross-examination.
- They will be held accountable for the services and recommendations.
- Parents and children can experience even more apprehension.



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The Child Welfare Professional and Court Action, (cont'd)

- Child welfare professionals can be responsible for preparing the parents and witnesses.
- Parents, children, witnesses can be upset and reluctant to participant.
- Child welfare professionals must:
 - Conduct themselves in a positive, constructive manner.
 - Minimize parents' understandable perception that court action represents a betrayal or misuse of authority
- Anticipatory preparation is the key to competent court intervention. Approach and prepare every case and every interaction as if the case might be brought before the court.

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Child Welfare Practice and Pennsylvania's Unified Judicial System

SUPREME COURT	SUPERIOR COURT
Appeals from Commonwealth and Superior Courts	Appeals from Courts of Common Pleas

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Child Welfare Practice and Pennsylvania's Unified Judicial System, (cont'd)

COUNTY COURTS OF COMMON PLEAS

Family/Juvenile/Delinquency Divisions	Orphan Division
Informal/Shelter Care	Termination of Parental Rights
Adjudication of Dependency	Adoption Hearings
Permanency Hearing	
Permanency Review	

www.pacourts.us
 "For the Public"
 "Pennsylvania Courts: A Video Introduction."

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Child Welfare Practice Administrative Hearing and Appeal Process

- SUPREME COURT
 - Appeals from Commonwealth and Superior Courts
- COMMONWEALTH COURT
 - Appeals from Bureau of Hearings
- DEPARTMENT OF HUMAN SERVICES
 - Bureau of Hearings and Appeals – Appeals of:
 - Determination of Abuse
 - Decisions regarding service provision
 - DHS decisions to expunge records

www.dhs.pa.us
 "Information for Families and Individuals"
 "Hearing and Appeals Process"

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Legal Authority and Decision Making Process in Dependency Court

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

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Safety Definitions

- Safe
 - Either caregiver’s existing protective capacities sufficiently control each specific and identified safety threat, or no safety threats exist. Child can safely remain in the current living arrangement or with caregiver. Safety plan is not required.

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Safety Definitions, (cont’d)

- Safe with a Comprehensive Safety Plan
 - Either caregiver’s existing protective capacities can be supplemented by safety interventions to control each specific and identified safety threat or the child must temporarily reside in an alternate informal living arrangement. No court involvement is necessary; however a safety plan is required.

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Safety Definitions, (cont’d)

- Unsafe
 - Caregiver’s existing protective capacities cannot be sufficiently supplemented by safety interventions to control specific and identified safety threats. Child cannot remain safely in the current living arrangement or with caregiver; agency must petition for custody of the child. A Safety Plan is required.

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Hummel Family Safety Assessment, Part 1

- #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.”

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Hummel Family Safety Assessment, Part 1, (cont'd)

- #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.

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Hummel Family Safety Assessment, Part 2

- #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.”

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Combined Intent: Adoption Assistance Act of 1980 & Adoption and Safe Families Act of 1997

- 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 legal guardian.

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Child Protective Service Law and Juvenile Act

- Child Protective Service Law - (23 Pa. §6373 (a)(b))
 - Keep children in their own homes, whenever possible.
 - Reunite children and their families whenever possible.
 - Provide a permanent, legally assured family for a child, who cannot be returned home.
 - 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 to home.

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Child Protective Service Law and Juvenile Act, (cont'd)

- Juvenile Act - (42 Pa. §6351(e))
 - Court must make findings on the record prior to removing a child from the home
 - The continuation of the child in his home would be contrary to the welfare, safety or health;
 - AND
 - Whether **reasonable efforts** were made prior to the placement of the child to prevent or eliminate the need for removal of the child from his home;
 - OR

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Child Protective Service Law and Juvenile Act, (cont'd)

- Juvenile Act - (42 Pa. §6351(e))
 - Court must make findings on the record prior to removing a child from the home
 - Necessity for an emergency placement, rendered lack of services reasonable;
 - OR
 - If reasonable efforts were not made to prevent removal, whether reasonable efforts were under way to make it possible for the child to return home.

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Reasonable Efforts Services

- Logically related to the outcomes of assessments and plans.
- Developed with the family.
- Including:
 - risk assessment
 - family service plan
 - safety assessment
 - safety plan
- Services provided by other agencies outside of CYS can be included as the provision of reasonable efforts.
 - *(If those services are related to maintaining a child in his or her home.)*

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Judicial Determination of Reasonable Efforts

- “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.


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Principals of Documentation

- Objective
- Accurate
- Clear
- Descriptive
- Relevant



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Protective Custody

- Child Protective Services Law (CPSL)
 - As provided by Juvenile Act; or
 - By physician examining/treating 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.

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Protective Custody, (cont'd)

- By the director/designee of hospital:
 - if protective custody is immediately necessary to protect the child; or
 - if the child is a newborn;
 - 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/custodian within 24 hours; or
 - in case of newborn CYS must make diligent efforts to notify parent/ guardian/custodian/family member of the whereabouts of the newborn.

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Protective Custody, (cont'd)

- **Juvenile Act**
 - A child can be taken into protective custody:
 - By a court order; or
 - By a law enforcement officer or duly authorized officer of the court;
 - Including Juvenile Probation Officers; or
 - Either police officer or CYS may obtain a protective custody order.

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Protective Custody, (cont'd)

- **Juvenile Act, (cont'd)**
 - The criteria include but are not limited to:
 - 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.

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Emergency Placement Facilities for Dependent Children

- Medical facility;
- Licensed foster home or home approved by the court;
- Facility operated by a Child Welfare agency or one approved by the court; or
- Any other DPW-approved facility.

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Kinship Care Act (Act 25 of 2003)

- Requires
 - First consideration be given to relatives 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;
 - CYS to document attempts to place children with a relative and, where appropriate, and
 - CYS to document reasons why such as placement was not possible.

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Aggravated Circumstances

- The child is in the custody of a county agency and either
 - 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
 - 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.

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Aggravated Circumstances, (cont'd)

- 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.

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Aggravated Circumstances, (cont'd)

- The parent of the child has been convicted of any of the following offenses where the victim was a child:
 - Criminal homicide;
 - Felony relating to:
 - aggravated assault;
 - rape;
 - statutory sexual assault;
 - involuntary deviate sexual intercourse;
 - sexual assault; and
 - aggravated indecent assault.
 - Misdemeanor relating to indecent assault; and
 - An equivalent crime in another jurisdiction.

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Aggravated Circumstances, (cont'd)

- The attempt, solicitation or conspiracy to commit any of the offenses set forth above.
- The parental rights of the parent have been involuntarily terminated with respect to a child of the parent. (42 Pa. C.S.A. § 6302)
- 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.

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Components of a 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.

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Components of a Petition, (cont'd)

- 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;

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Components of a Petition, (cont'd)

- Dependency Allegation under the law (Juvenile Act at 42 Pa. C.S. §6302); and
 - 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.

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Components of a Petition, (cont'd)

- Narrative Statement:
 - Alleging the specific facts 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 _____;
- Aggravated Circumstances Allegations (if applicable); and
- Prayer for particular relief.

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Testifying in Court Activity

- Identify on note card which witness for whom you will prepare questions.
- Prepare five questions that witness would be asked at a dependency hearing.
- Three questions direct questions.
- Two question cross-examination questions.
- Prepare answers to the questions on the back of each card.
- Exchange cards with another table group as directed by the trainer.
- Take turns answering questions as if you are testifying in court.
