



A child's journey through the Juvenile and Domestic Relations Court

The Honorable Barry G. Logsdon, Chief Judge
Juvenile & Domestic Relations District Court
2501 Huntington Avenue
Newport News, Virginia 23607



The Juvenile and Domestic Relations Court is a Court

- Same powers and requirements as all other courts with:



- Three primary *distinctives*:
 - Confidentiality
 - Rehabilitation and
 - Authority over parents and legal guardians



The majority of cases in JDR Court are adults, but a child can come into the Juvenile Court in many ways.





Crimes and offenses by the child

- Delinquency- crimes committed while under the age of 18.
- Traffic Violations by minors.





Needy Status



- A petition alleging the Child is in Need of Services (CHINS)
- A petition alleging the Child is in Need of Supervision (CHINS-super)



As victims

- Criminal Abuse or Neglect
- Civil Abuse or Neglect





- Custody or visitation
- Parentage or support



The Court Process: Delinquency and Offenses

Children coming before the court charged with crimes, CHINS or CHINS-super, have a **three part** process in court.



They are **arraigned**,

tried and, if evidence is enough to find the child guilty, they have a

dispositional hearing.



Arraignment



Arraignment is the first appearance before the court where the child is advised of the charge and their rights.

- They will have an attorney appointed, or their parents may hire an attorney.
- After this hearing they will meet with their attorney and prepare for trial



The goal is to have trials **within 21 days** of arraignment (less time does not give the defense or the Commonwealth Attorney time to subpoena witnesses).



Adjudication

At **trial**, witnesses must be sworn, if the charge is criminal (delinquency) the court uses the **beyond a reasonable doubt standard.**





- If the evidence is enough to find the child guilty, the Court will order a “*social history*,” a document prepared by the Court Services Unit, and will set a dispositional hearing.



- The Social History document includes detailed neighborhood, school, behavioral, peer, friendship, community and family information.
- It includes insights from the Court Services Unit Worker and a computer program called YASI as to the strengths and weaknesses of this juvenile.



Withheld Findings

- The Court will sometimes **withhold a finding** of guilt, to allow the juvenile an opportunity to redeem themselves. If they are able to accomplish all the Courts rehabilitative prescriptions and the Court is convinced they are unlikely to reoffend, the Court can Dismiss the charges without it going on the child's record.



Philosophy of punishment in Juvenile Court:

Rehabilitative:

Punishment fits the *person*

In adult courts, punishment is meant to fit the *crime*





Dispositional options:

- Parental probation
- Supervised probation,
- Community service, Suspend license (or ability to get one)
- 30 days in detention, Six month post-D detention, For Felonies, commit to the Dept of Juvenile Justice up until age 21





A child has a **right to an attorney** if charged with a delinquent act, or is before the court on a Chins petition, or Chins-super, or is alleged to be civilly abused or neglected and their home placement may be changed.



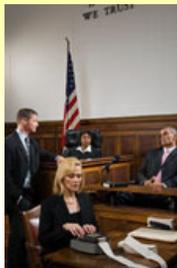
- Child may have an attorney called a **guardian ad litem** in some custody or visitation cases or rarely when they are the victim in adult criminal trials.



Guardians ad litem

An attorney appointed to represent the **best interests of a child** (not just the expressed interests of their client)

Governed by the SCV Standards of Practice





Different Agencies, One Court

- Court Services
- Juvenile Services
- Community Services Board
- Department of Human Services
- Court Appointed Special Advocates
- Guardians ad litem



Court Services Unit

- The Court Services Unit is a State Agency that works for the JDR Court.
- It has 4 functions:
 - Intake
 - Investigation
 - Probation
 - After-Care



Intake

Reviews all complaints and determines whether there are enough facts to involve the court. If so, the intake officer may either proceed informally to make practical adjustments without filing a petition or **may authorize the filing of a petition to bring the matter before the judge.**



Investigation

Conducts all background studies required by the judge, such as examination of a juvenile's social and educational background.





Probation

Supervises delinquent juveniles released into home probation (and in some jurisdictions children in need of services) and supervises adults released on probation in support and other cases involving the defendant's relation with family members and individuals to whom he has a support duty.



After-care

Supervises juveniles recently released from state institutional care



Juvenile Services

- A county/city-managed agency that administers, pre-trial and post-trial out of home placements for alleged or convicted delinquents:
- Detention (Pre-Trial and Post-Dispositional) and
- Detention Alternatives.



Detention Alternatives

- EMP (electronic monitoring)
 - A GPS based tracking system with an attached ankle bracelet that must be charged from time to time.
- IDS (intensive day supervision)
 - Non overnight supervision for juveniles who do not otherwise have adult daytime supervision.
 - IES (intensive evening supervision) is a type of IDS, but after work hours.
- CWAP (community service)
- **Voice Monitoring**



Community Services Board

- Regional entity charged with managing mental health treatment.
- Many jurisdictions provide psychological and psychiatric services for indigent parties before the court.
- They also provide treatment and management of the Juvenile Drug Court.



Department of Human Services

A city/county agency that provides for social services provision:

- child protective services,
- family stabilization,
- structural family therapy,
- CHINS unit,
- Family Drug Court.



Abuse and Neglect in Virginia



The Honorable Barry G.
Logsdon, Chief Judge
Juvenile & Domestic Relations
District Court
2501 Huntington Avenue
Newport News, Virginia 23607



In Virginia,
an abused or neglected
child is a child whose
caregiver
creates, inflicts, allows or
threatens *physical or
mental injury* to the
child *other than by
accident*.





A child whose caregiver *abandons* the child or who is *mentally or physically unable* to care for the child may be abused or neglected.





A child can also be abused or neglected if the caregiver *does not provide necessary medical care* or *allows a sexual act* to be committed against the child.



Reporting



The Department of **Human Services** receives reports of suspected child abuse or neglect.

These reports are usually made to the *Child Abuse Hotline* (1-800-552-7096).



Mandated reporters

Certain people are required to report any suspicion of child abuse or neglect.

These people are called **mandated reporters**, they include, among others: teachers, medical professionals, counselors and CASA workers.



Deadline to report



If a mandated reporter **suspects** abuse, a report to DHS **must be made.**

No later than 72 hours after receiving the information that gives rise to the suspicion.



Founded or Unfounded

- Social workers investigate the reports and if the reports are **found** to be true, Human Services will determine what help the family and child need.





- Often the social worker will draft a **safety plan** in consultation with the caregiver, outlining what the caregiver should do.
- If the investigation indicates that the allegation cannot be believed, the report is administratively **unfounded**.



The first hearing

Human Services will file a *petition* with the Juvenile and Domestic Relations District Court for an **Emergency Removal Order (ERO)** if the family fails to cooperate, the situation is severe or services cannot be provided while the child is in the home.



At the ERO hearing, the judge will hear testimony or review a sworn affidavit from the social worker as to why the child needed to be removed.

The parties are often not present, this is why this is sometimes referred to as the *ex parte* hearing.



If the court believes from the evidence that the child is subjected to an *imminent threat* with the likely result of severe or *irremediable injury*, the court will grant the ERO and schedule a preliminary removal hearing **within five business days**.



The judge will likely also *appoint attorneys* for the caregiver, the other parent(s), and a guardian ad litem for the child. CASA is often appointed at this stage.



The Five Day Hearing

At the five-day hearing, sometimes called the **preliminary removal hearing**, the judge *will determine* if the child is abused or neglected *unless* a party makes an *objection to a finding*.

If such an objection is made, the court *must* put off making this decision and set a separate hearing to determine if the child is abused or neglected at an **Adjudicatory hearing** within *30 days*.



Objections at the Five Day

Once an objection is made at the five-day hearing, the judge will then simply decide whether the child should stay in the custody of Human Services until the adjudicatory hearing or be immediately returned.

If no objection is made and the Court finds the child is abused or neglected, the Court will schedule a Dispositional Hearing *within 60 days*.



Reasonable Efforts

- The Court *must* also find that **reasonable efforts** have been made by Human Services to prevent the removal and that no less drastic alternatives exist.





- If there was no opportunity to provide preventive services, the Court *must deem* that reasonable efforts were made.
- *Failure to document* reasonable efforts will not impact merely that case, but may result in a *denial of federal funds* to the entire non-compliant state or the locality.



Civil, Not Criminal

When making a finding of abuse neglect, the Court looks to see if there is a **preponderance of the evidence** that the child was in an abused or neglected condition *at the time indicated in the petition.*



Standard of Proof



A "preponderance" means "*more likely than not*"

it is the lowest standard of proof known to the law and requires *much less* than the standard of **beyond a reasonable doubt** which is used in criminal cases.



A finding of Abuse Neglect is a **civil finding** regarding the child, **not** any particular caregiver.

Because it is a civil proceeding, a finding of Abuse Neglect does not itself carry criminal sanctions.



The Adjudicatory Hearing



If an objection was made to a finding at the five-day hearing, the court will make the decision at the **adjudicatory hearing**.



Tight time frames

If the court finds the child was abused or neglected at either the five day or adjudicatory hearing, the court must then schedule the **dispositional hearing** *within sixty(60) days from the date of removal* (this would likely only be 30 days from the adjudicatory hearing, if there had been an objection at the 5 day hearing).



The timeframes are required by Federal Law, the Adoption and Safe Families Act (ASFA), with the goal to have every abused or neglected child in a safe and **permanent placement within 12-18 months** of coming into care.



The Dispositional Hearing

At the dispositional hearing, the Judge will consider a **Foster Care Plan** that was filed by Human Services *a month in advance* of the hearing. The month is required to allow the parents, older children, the attorneys and the GAL to review the Plan.



Options at the Dispositional Hearing

- The attorneys or GAL may *agree* to the plan, *object* to the plan or *ask for corrections or amendments* to the plan.
- The Judge will then decide whether to **adopt, reject or amend** the Plan. Once the Plan is approved, the parties (including the Agency) are bound to follow the requirements of the Plan.



The Foster Care Plan

The plan includes an *aspirational goal* of where human services is heading with the case regarding permanency.





- The permitted goals under *federal* law are **return to own home, placement with relatives, adoption**, or rarely, **APPLA** (usually a specialized institutional placement for children with profound needs).





- The Plan should have two **concurrent** goals, one that is the likely preferred **and** a fall back goal if the hoped for goal cannot be achieved.



- Virginia follows the federal goals but had previously had additional permitted goals of **independent living** and **permanent foster care**. Independent living is *no longer a permitted goal* as it does not lead to permanent connections. Permanent Foster Care is *sometimes rarely utilized*.



- An example of when permanent foster care might be used is when a **child over 14** refuses, contrary to the recommendation of Human Services and the GAL, to terminate the parental rights of an abusive parent so that adoption is not attainable.



- In that case if no family member is appropriate, return home cannot be safely achieved and adoption is prohibited, then no other goal could be achieved, hence, permanent foster care might need to be considered.



Most Common Order of the Goals

- The law indicates that in most cases, children are better served by being returned to their own home if services have been put in place to remedy the conditions that placed the child in care and it is now safe and appropriate to do so.



Consequently, Return to Own Home is often (but not always) one of the concurrent goals of the first Foster Care Plan. If there is a competent relative available and willing, the law prefers them to strangers, and consequently, relative placement is a frequent goal.



The Foster Care Review Hearing.

The Court will set a **Foster Care Review Hearing** *within four months* of the Dispositional hearing. The Judge will hear evidence as to whether the parents and Human Services are doing what the Plan requires.



- The Court may change the goal and/or plan based on progress or lack thereof in meeting the goals of the Plan.



The Permanency Planning Hearing.

- The Court will then approve an aspirational goal and plan to be reviewed *within five months* at the **Permanency Planning Hearing**.
- If the child still cannot be safely returned or placed with a relative within the next five months, the goal of adoption will likely be proposed.



The Adoption Goal

If *adoption* is the goal of the plan, Human Services *must* file a petition for **Termination of Parental Rights (TPR)** for each parent, including any *putative* (legally likely) or "*unknown*" fathers.



Termination of Parental Rights

- Termination of Parental Rights is deemed by the appeals courts as "one of the most serious invasions into the rights of individuals and families" as it effectively cuts off from the child all the biological relatives through that parent.



Not surprisingly, the standard of proof for a finding that termination is in the best interests of the child is *higher* than that for abuse neglect.

It is "**clear and convincing**" evidence. This "middle" standard between "preponderance of the evidence" and "beyond any reasonable doubt".



An older child may object

As indicated before, a child fourteen or older, may *object* to a termination, the court may only override the objection by finding that the child is by virtue of a disability not a child who is developmentally of the *age of discretion*.



- The law of Virginia has been streamlined to ensure that children to do not languish in the court or foster care systems for long periods of time.



- Many agencies and individuals dedicate their careers and lives to bettering outcomes for kids and families in crisis, nevertheless, there is more work to be done.



- Because there are many ways for a child to come into the often complex system designed to protect them and the community,





We all need to be familiar with the position of the child in the process. If we **know who the players are** and their roles, we can better advocate and collaborate. When we work together we can break the cycle of abuse and neglect.



- Thank you.
