



RIGHT TO COUNSEL FOR CHILDREN IN CHILD CUSTODY AND DEPENDENCY, NEGLECT AND ABUSE CASES

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THE PRESENTERS



Rebecca B. DiLoreto
Children's Law Center
772 Winchester Road
Lexington, Kentucky 40505
(859) 253-0152

REBECCA BALLARD DILORETO is the Litigation Director for the Children's Law Center. She graduated *magna cum laude* from Amherst College and received her J.D. from the University of Kentucky College of Law. Prior to joining the Children's Law Center, Ms. DiLoreto served with the Department of Public Advocacy. She has served as Post Trial Division Director and was the first director of the Lexington Public Defender's Office. Ms. DiLoreto established the Juvenile Post Disposition Branch following the Children Law Center's M.K. v. Wallace lawsuit that secured the First Amendment right to the assistance of counsel to help children access the courts in Kentucky. She serves on the boards of Partners for Youth, Kentucky Association of Criminal Defense Lawyers, the Central Kentucky Council for Peace and Justice, the Catholic Diocese of Lexington's Diocesan Review Board for the Protection of Children and Young People, and the Steering Committee for the Fayette County Model Court. In addition, she serves as Chair of the Kentucky Bar Association's Committee for Child Protection and Domestic Violence. Ms. DiLoreto was the recipient of the University of Kentucky College of Law Alumni Association's 2011 Circle of Compassion Award.

Professor Louise E. Graham
University of Kentucky College of Law
620 South Limestone
Lexington, Kentucky 40506-0048
(859) 257-1678



PROFESSOR LOUISE E. GRAHAM is the William H. Fortune and Robert G. Lawson Professor of Law at the University of Kentucky College of Law where she has taught since 1978. Prior to becoming a law teacher, she served as a law clerk to Judge J. Homer Thornberry of the United States Court of Appeals for the Fifth Circuit. Professor Graham received her undergraduate degree from the University of Texas and is a Coif graduate of its School of Law, where she served on the Texas Law Review. In 1989 she received the University of Kentucky Great Teacher Award. Professor Graham is the co-author of Kentucky Domestic Relations Law with James E. Keller. She is a member of the Kentucky and Texas Bar Associations.



Adrian Oliver
Fostering Goodwill
182 North Broadway #1
Lexington, Kentucky 40507
(859) 382-1201

ADRIAN OLIVER is the sitting Vice Chair for Fostering Goodwill, a Kentucky non-profit organization whose mission is to advocate and provide resources for youth who have aged-out of the Kentucky foster care system. As a twelve-year veteran of the Kentucky foster care system, Mr. Oliver uses his personal experience, insight and studies to share ideas on how we might choose to make the changes essential to addressing the shortcomings and failures of the system, and continually elevate public awareness of the plight of state committed youth. He is a passionate advocate for national child welfare reform, and is active in many community organizations that share in that cause.

**A SHORT ANALYSIS OF THE LATEST THINKING ON THE RIGHT TO
COUNSEL FOR CHILDREN IN DEPENDENCY, NEGLECT AND ABUSE OR
TERMINATION OF PARENTAL RIGHTS ACTIONS**

Rebecca Ballard DiLoreto¹

Adrian Oliver's story, which follows this piece, knocks us over the head. What it might do is to highlight for us, as members of the bar, the essential role played by lawyers who represent children. The ABA Model Act Governing the Representation of Children in Child Abuse, Neglect and Dependency Proceedings contemplates that children who are in the custody of the state because of unsafe circumstances in the home, should be provided counsel who have a duty to determinedly investigate the child's case, provide the child with solid advice, work diligently to communicate fully with their client (even where the client has a disability impacting comprehension) and advocate strongly in the courtroom on the child's behalf at the child's direction. If we could arrive at a place where every child in Kentucky received this level of protection it might be possible to better ensure every child's indelible constitutional right to life, liberty and happiness in our Commonwealth. What follows is a short analysis of this new Model Act.

In August of 2011 the American Bar Association adopted the Model Act Governing the Representation of Children in Child Abuse, Neglect and Dependency Proceedings [hereinafter Act].² The Act was brought forward by a number of committees and organizations including the ABA Sections on Litigation, Family Law and Criminal Justice, the Commission on Homelessness and Poverty, the Commission on Youth at Risk, the General Practice, Solo and Small Firm Division, the Steering Committee on Legal Aid and Indigent Defense, the Judicial Division and a number of local bar associations as well as several other sections of the ABA.

Section 3 of the Act directs that a court shall appoint a child's lawyer for each child who is the subject of an abuse, neglect petition or termination of parental rights action. Elsewhere in the act, that lawyer is defined as a lawyer who provides legal services for a child and who owes the same duties, including undivided loyalty, confidentiality and competent representation, to the child as is due an adult client. The Act recognizes the right of every child to have quality legal representation and a voice in any abuse, neglect, dependency, or termination of parental rights proceeding, regardless of developmental level. This lawyer for the child is differentiated in the Act from a "best interest advocate."

The Act recognizes that the court may appoint a "best interest advocate" for a child. According to the Act, the "best interest advocate" serves to provide guidance to the court with respect to the child's best interest and does not establish a lawyer-client relationship with the child. Nothing in the Act restricts a court's ability to appoint a "best interest advocate" in any proceeding. This "best interest advocate" does not necessarily have to be a lawyer. Most significantly, even where a "best interest advocate" is appointed, that individual does NOT replace the appointment of a lawyer for the child. As the Act was

¹ Chair, KBA Committee on Children's Rights, Child Protection and Domestic Violence.

² http://apps.americanbar.org/litigation/committees/childrights/docs/aba_model_act_2011.pdf

expressly written to address a child's right to counsel who advocates on the child's behalf, the Act explicitly does not "further address the role of the best interest advocate."

Additionally, the Act explicitly states its intent to NOT preclude a child from retaining a lawyer. The purpose of the Act is to set forth the standard that all states should provide a lawyer to a child who has been placed into state custody through voluntary or involuntary placement to be that child's voice in any proceeding that would impact the child's placement and life. The fact that the child is in the state's custody through the parent's voluntary decision should not diminish the child's entitlement to a lawyer.

The Act comports with the perspective of many leading scholars. After several conferences over a thirty year period of evaluation, where scholars and practitioners have gathered to examine the issue, and the publication and review of treatises on the subject of representation for children, the prevailing perspective is that children should be entitled to counsel who play the traditional, lawyerly role rather than substituting their judgment for that of the child, most typically in the role of guardian ad litem or best interest advocate.³

Kentucky would need to acknowledge a shift in standards, statute and practice to fully adopt the Act and perspective of these leading scholars. Training by the Administrative Office of the Courts emphasizes that counsel for the child is to act in the child's best interest. Supreme Court Rule 3.130(1.14) addresses the duty of a lawyer to take all steps necessary to have a traditional lawyerly relationship with a client who has diminished capacity.⁴

Family Court Rules of Policy and Procedure [hereinafter FCRPP] Rule 20 speaks of the circumstance where "any guardian ad litem" may have been appointed. FCRPP Rule 6 speaks of the appointment of a guardian ad litem in a custody matter. Similarly, FCRPP Rule 32 speaks of the file in an adoption or termination of parental rights matter including the name of any previously appointed "guardian ad litem."⁵ In contrast, KRS 620.100 speaks of "counsel for the child" rather than "guardian ad litem" and mandates that counsel be appointed in any matter where further hearings are required after a temporary removal hearing.⁶ This same statutory section recognizes the authority of the court to appoint a court appointed special advocate to represent the best interest of the child.⁷ These CASA workers are not required to be attorneys and typically are not members of the bar.

³ Koh Peters, Jean, Representing Children in Child Protective Proceedings, Section 2A-3[c][3], Lexis Nexis, 2007.

⁴ SCR 3.130(1.14).

⁵ <http://courts.ky.gov/NR/rdonlyres/21BD9C18-94C1-4650-9A8F-9F816BDBBE25/0/201009.pdf>

⁶ <http://www.lrc.ky.gov/KRS/620-00/100.PDF>

⁷ "Court-appointed special advocate program" and "CASA program" are defined by statute as a program by which trained community volunteers are provided to the court for appointment to represent the best interests of children who have come into the court system as a result of dependency, abuse, or neglect. KRS 620.100.

The appointment of a guardian ad litem is only expressly mandated in KRS 625.041(1), and only in circumstances where the state is seeking termination of parental rights. Yet, in practice, this statutory provision has bled over into the analysis of the role of counsel in all dependency, neglect and abuse matters. Hence, all appointed attorneys in dependency, abuse and neglect matters as well as in termination of parental rights cases are generally recognized by Kentucky courts as best interest advocates, rather than as legal counsel, appointed to represent the child's voice.

This short analysis highlights the need we have in Kentucky to determine how the ABA Model Act could inform the development of the law in this state as regards the right of children to representation and in particular the ethical duties owed by counsel appointed or retained in such matters.

ONE CHILD'S PERSPECTIVE ON REMOVAL AND STATE'S CARE

Adrian Lee Oliver

I must have just turned six no more than two months before that breezy May day when the state vehicles and police cruisers menacingly trolled to a halt in front of my great aunt's house. Forebodingly somber faces stretched thin to the chin, lest they crack a giddy smile, drunk with the power of authority, they dismounted their cars with the intention of driving to the hilt. That they did and more, nonchalantly hacking away at the connections that bound our family together, making sure that for the rest of my life, the last memory that I would ever have of home would be that of being ripped from my mother's arms while she fought the police in a futile attempt to salvage what they had come to destroy.

I don't know exactly what it was that I was expecting, perhaps to be turned into a toad or at the very least electrocuted, but as I squeezed my mother's neck tighter and tighter, bracing for the inevitable contact, the fear that I felt in that moment was all consuming. For my entire life, I had heard stories about these people. I thought of all the stories that my mother and her friends would trade while drinking beer and playing a game of cards around the table. Grown men would describe situations where just the suspicion that one of these people was around could clear an entire house of folks in mere seconds, and how, if they caught you, there was nothing you could do. What scared me most, however, was the fact that whoever these people really were, whatever powers it was that they truly had, it was enough to scare my mom, and that simple fact was the only thing I needed to know. We had spent our entire lives hiding from them, moving constantly from state to state, city to city... but they were everywhere. No matter how far away we got from Carlisle, Kentucky, my Mom was always on guard. She had taught us how to trick them, if we ever were out and we saw them, she would say that the trick was to hold hands and smile really big, and for us to just talk to each other about anything we could think of and to make sure that we looked like we were having the time of our lives, and most important was never to look at them. As they tore me from my Mother's neck, now they had us.

That was the day that the lives of my three siblings and myself became hopelessly bound to the most selfish, vindictive, petty, despicable, lazy, and overall most deplorable excuse for a human being that I have ever laid eyes on, Melissa, our new social worker. Perhaps things would have been much different for the four of us if there would have been somebody, anybody, who could have witnessed the vile and detestable way that she treated us and our case.

Our first night in care was spent in an emergency foster home in Cynthiana, Ky. The very next day Melissa returned to take us to Maplewood, a placement in Burlington, Kentucky. I remember that after having been on the road for just over an hour I began to realize just how far from home we were going to be and I said to Melissa something to the effect that I wanted to stay closer to home. Keep in mind that I was only six years old at the time and this woman had just ripped me from the only world that I had ever known, tossed me in the back of a car and had literally not spoken a single word to me and my siblings other than to bark orders at us to do this and that. This was my first attempt to speak to her, and the way that she responded to me set the tone for the next twelve years of my life in care. Upon my asking her if we could stay closer to home she

looked over her shoulder and screamed at me while driving the car, "You want to stay closer to home? Huh? How about I drop you off at Charter Ridge? Do you know what Charter Ridge is? It's a place where they strap little boys to the bed and stick them with needles all day. Unless you want to go to Charter Ridge, just sit there and shut up."

The next nine years with Melissa as my worker was more or less indistinguishable from not having a worker at all. For about the first six to eight months, we saw her a handful of times, but after about a year I would not see her for very long periods of time, one year, or two years with no contact was not uncommon. Of course I tried to contact her, I would call her office every time I had phone privileges, and each time I would get one of the same two responses, either she was in a meeting or on a smoke break. Years later when I was about to turn eighteen and I had a new worker for a few years who shared the same office as Melissa, I was sharing this story with her and a few of her colleagues, they all looked at me in disbelief and told me that Melissa had never smoked in her life.

Eventually, I'm guessing after it became apparent that she wasn't going to collect on an adoption bonus, Melissa separated all of my siblings from each other, no more than two years into our stay in care. I went years between seeing any of my siblings, and a decade before I ever saw my biological mother again. Through the vicissitudes of placements with names that were ironic and misleading, like Hope Hill or Spring Meadows, even Boys Haven, one could get the impression that I was off on a romp through rolling plains and fields of daffodils, but in reality I had been deliberately forgotten.

Left to sit for twenty-three hours a day in rooms with beige walls and tile floors that smelled like industrial strength degreaser. Left to contend with a reality that dictates that if you get in trouble, your state level gets raised and you get moved. If you stay out of trouble, your state level gets lowered and you get moved. No matter what you do there is nothing that you can do that won't result in you getting moved. And move you do, ten, fifteen, twenty-five times and then it all starts to blur together. By the time you hit move number thirty-five you start to wonder if you ever really had a home or if that place was just another group home that had gotten rid of you in the end as well. It's when you get a little bit older and start to understand why you move so much that you really begin to feel dirty and cheap. One day you discover that the state levels of 1-5 also have different monetary values attached to them. The worse you act, the higher your level, the more money any placement who takes you in is paid for having you. What are the chances that these places are going to want to see you do better and get your level lowered? More pertinently, what are the chances that a placement that used to make \$700 a month to take care of you is going to want to keep you around when your level goes down two points and now they only get \$500 a month for you? Especially when there are plenty of level 5 kids ripe for the picking?

In each of the places I went, if I wasn't abused and neglected, I was beaten and molested. I wasn't one of those kids who was too ashamed to tell people, I tried to tell people all of the time. Imagine how hilarious it must have been to see me pleading with my staff to tell somebody about how horrible my worker was, and then when those staff proved to be equally as, if not more, horrible than the previous worker. In hindsight, I would say that telling everyone within earshot of my complaint that my worker didn't give a darn what happens to me might have singled me out as a target. When the only person whom I had to tell about my treatment at the hands of these staff was my worker, needless to say my claims went un-investigated.

Before it's all said and done I'd been ripped out of my home to be, abused, neglected, beaten, tortured, warehoused, separated from my siblings, molested, ignored, bounced around thirty-five to forty placements, devoid and forbidden of any affectionate relationship, denied any friendships, robbed of any sense of community, segregated from the female sex for three-fourths of my childhood, stripped of twelve years of my life, forced to drop out of high school, denied my recommitment, and kicked out on the street to live in a broken down AMC Hornet when I turned eighteen.

I can't imagine what it would have been like to have a voice. After twelve and a half years of screaming in silence for closure that would never come, the means to capture what it would have felt like to have been respected, to have been cared for, to have been listened to, the means to capture the feeling of that long forgotten fantasy expired the day I turned eighteen and realized it would never come true.

To punctuate the extent of my degradation, to highlight how horribly hopeless I felt for every single one of the nearly 5,000 days that I spent in care, no one ever even told me why. No one EVER stopped and explained to me what was going on, why I wasn't at home, why I was always moving. Nobody ever told me what it was that my mother did that had us removed, though as I grew older I was able to read between the lines and fill in the blanks, but until this day I have never known why I was placed in state's custody and subjected to the evils of such sick people in such a broken system.

If I would have had just one person to listen to me, or to talk to me and give me the answers to the questions I was asking, maybe that would have been enough to keep people in charge of my care from acting out on their disgusting urges. Perhaps if they knew that every child had an advocate who listened to their problems and tried to get things done for them, they would think twice before they hurt a child or put a child in harm's way.

I would go one further and suggest that it should be mandatory that at least one time per month every state committed youth shall have contact with one adult who has no affiliation with CPS or social services, and that adult should be equipped with a list of questions that they have to ask the youth or youths they meet with. These should be direct questions concerning abuses that commonly occur in care, and whether or not the youth has been treated in any way similar. These youth should be forced into situations where they have to talk about their treatment, the conduct of their staff and social worker, and the conduct of their peers towards them. Someone might argue that this is over the top and an infringement on these youths' innocence, and I would challenge anyone who seemingly cares so much for the wellbeing of these youth to offer up a better alternative to guaranteeing the safety and dignity of these children.

I know just how much it would have meant to me, and I would much rather move forward with a generation of state committed youth who laugh about the uncomfortable and inconvenient monthly interview, I want to hear them say it's pointless because that kind of stuff never happens to them. I want them to have it so good that they have the luxury of not needing to know that the only reason those things don't happen anymore is precisely because all of the adults in the system are on the same page. Every person working with these youth needs to know that they will be held accountable for their actions, there is no longer a rug to sweep your transgressions under, and if you are not in this business for the betterment of the lives of these youth, you better at least learn how to pretend that you are and act accordingly.

SOURCE MATERIALS FOR
REPRESENTING CHILDREN IN KENTUCKY COURTS

I. KENTUCKY STATUTORY MATERIALS

KRS 387.305 -- Appointment of a guardian ad litem; duties; etc.

(1) No appointment of a guardian ad litem shall be made until the defendant is summoned, or until a person is summoned for him, as is authorized by law; nor until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the clerk, showing that the defendant has no guardian, curator, nor conservator, residing in this state, known to the affiant.

(2) A guardian ad litem **must be a regular, practicing attorney of the court** and may be appointed by the court, whether a guardian, curator, or conservator appear for the defendant or not. The guardian ad litem may be appointed upon the motion of the plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney shall be appointed, nor be permitted to suggest the name of the proposed guardian ad litem; **and the court may change the guardian so appointed whenever the interest of the infant may appear to require such change.**

(3) It shall be the duty of the guardian ad litem to attend properly to the preparation of the case; and in an ordinary action he may cause as many witnesses to be subpoenaed as he may think proper, subject to the control of the court; and in an equitable action he may take depositions, not, however, exceeding three (3), without leave of the court.

(4) The court shall allow to the guardian ad litem a reasonable fee for his services, to be paid by the plaintiff and taxed in the costs. The affidavit of such guardian, or of another person, or other competent evidence, is admissible to prove the services rendered, but not to prove their value. The court must decide concerning such value, without reference to the opinions of parties or other witnesses.

(5) **Whether appointed pursuant to this statute or pursuant to a provision of the Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to advocate for the client's best interest in the proceeding through which the guardian ad litem was appointed. Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the client in other proceedings.**

II. KENTUCKY CASE LAW

A. Branham v. Stewart, 307 S.W.3d 94 (Ky. 2010)

The Kentucky Supreme Court held that an attorney who represented a minor plaintiff in a personal injury action initiated by the minor's mother as his next friend owed professional duties to the minor, with whom he was

held to have an attorney-client relationship. The minor, his brother and his father were involved in an automobile accident that killed the father and brother and seriously injured the minor. The personal injury attorney represented the mother in District Court when she was named as the minor child's guardian. He then represented the mother individually, as the representative of the deceased brother's estate and in her capacity as the surviving minor's next friend. After the case was settled for over a million dollars, the attorney paid half the money to the mother individually and as the representative of the deceased child's estate and half to her as the surviving child's next friend, whereupon she apparently dissipated all of the proceeds and never filed any accounting. Some years later, the former minor child, who was now an adult, was determined to be incompetent to manage his own affairs by an Arkansas court, which appointed his wife as his guardian. The wife then sued the Kentucky attorney for breach of fiduciary duty and malpractice. The Kentucky attorney argued that he owed no individual duty to the minor plaintiff, but the Kentucky Supreme Court disagreed and found that the attorney owed professional duties to the minor plaintiff.

B. S.J.L.S. v. T.L.S., 265 S.W.3d 804 (Ky. App. 2008)

The appellate court in discussing an attempted step-parent adoption between two same-sex partners, initiated by only one of the parties after they had ceased to live together as partners, noted that the guardian ad litem appointed for the minor child was both a "fiduciary and lawyer of the infant and in a special sense the representative of the court to protect the infant." The appellate court faulted the guardian ad litem for expressing no legal opinion of her own and accepting the non-biological parent's argument that the adoption was similar to a step-parent adoption, which would not terminate the biological parent's rights.

C. Compton v. Compton, 2008 WL 4091007 (Ky. App. Sep. 5, 2008)

In a child custody case involving unproven allegations of sexual abuse by the father, the child's mother moved to have the child's guardian ad litem removed and sanctioned. The appellate court said that the guardian ad litem had complied with all of his statutory duties in the case and denied the mother's motion; however, the court also stated that it did not believe that there was any authority for the guardian ad litem's appointment.

D. Bosler v. Cromwell-Bosler, 2006 WL 446010 (Ky. App. Feb. 24, 2006)

Contentious divorce action, which apparently also involved the filing of a dependency action. The guardian ad litem represented the children in the dissolution, but continued to represent them post-dissolution, apparently in proceedings in which the parents argued over child support. The appellate court noted in *dicta* that there was no authority for the continued representation of the children post-dissolution.

- E. Sparks v. Boggs, 839 S.W.2d 581 (Ky. App. 1992)

Guardian ad litem appointed in district court to represent an incompetent person could not file suit for a declaratory judgment that would renounce the incompetent's decedent spouse's will. The court said that the action could only have been brought by the incompetent's next friend rather than the attorney guardian ad litem.

III. CASE LAW FROM OTHER JURISDICTIONS

- A. In re Jeffery R.L., 435 S.E.2d 162 (W.Va. 1993)

West Virginia Supreme Court dictated the duties of a court-appointed GAL in the appendix to this case. West Virginia had a statute dictating that children in dependency, neglect and abuse cases were entitled to an attorney; court rules provided for attorney appointment, but the supreme court spelled out what those guardians were to do as a matter of professional duties. See *a/so* Kristopher O. v. Mozzone, 706 S.E.2d 381 (W.Va. 2011) (noting that GAL has a duty to participate fully in appellate process involving minor child).

- B. In re Christina W., 639 S.E.2d 770 (W.Va. 2006)

Attorney appointed to represent teenager in dependency, neglect and abuse is told by the child that the child's quasi-step-father has been "touching" her. Attorney does not disclose this client confidentiality, which comes to light when the child repeats her story to social workers. The equivalent of the Cabinet for Families and Children moves to remove the GAL. The West Virginia Supreme Court discusses whether usual attorney-client rules on confidentiality apply in dependency, neglect and abuse cases. The West Virginia court holds that when the guardian's normal duty not to disclose client confidence will subject children to a high risk of harm of probable harm, the guardian's duty to the court requires disclosure.

- C. People v. Gabriesheski, 262 P.3d 653 (Colo. 2011),

A child sexual abuse victim's statements to guardian ad litem were not protected by the attorney-client privilege because the guardian ad litem, required to inform the court of the child's best interests, was not the child's attorney.

- D. Michael H. v. April H., 934 N.Y.S.2d 685 (N.Y. Fam. Ct. 2011)

An attorney whose closing argument directly contradicted child's wishes in child custody case had violated statutory duty to zealously advocate for client's wishes.

- E. Vlastelica v. Brend, 954 N.E.2d 874 (Ill. App. 2011)

Attorney appointed to represent child in disputed custody case entitled to common law absolute immunity in law suit by mother alleging that attorney's malpractice led to an inappropriate custody decision in trial court.

- F. In re R.M.T., 256 P.3d 935 (Mont. 2011)

Discussed the difference between best interest guardian ad litem and child's attorney and finding that attorney appointed to serve as GAL in termination proceeding fell within the first category and could be called as a witness.

- G. Zeifman v. Nowlin, 322 S.W.3d 804 (Tex. App. 2010)

Held that amicus attorney for child in highly disputed custody case was entitled to immunity in suit later brought by father and imposing significant sanctions on father.

- H. Aksamit v. Krahn, 227 P.3d 475 (Ariz. App. 2010)

Discussed role of best interest attorney in a child custody case and held that BIA report was used improperly by the trial court.

- I. In re H.R.C., 781 N.W.2d 105 (Mich. App. 2009)

Held that Michigan requires child's attorney to act as attorney would with any other client and that, because of that relationship, parents lacked standing to argue that child had ineffective assistance of counsel in dependency case and termination case.

- J. In re T.P., 757 NW.2d 267 (Iowa App. 2008)

Discussed Iowa rule that mature children are entitled to be represented by counsel, while younger children may be given only a guardian ad litem. See also State of New Mexico ex rel CYFD v. John R., 203 P.3d 167 (N.M. App. 2009) (New Mexico statute requires independent counsel for child over fourteen years old).

- K. In re Carol B., 550 S.E.2d 636 (W.Va. 2001)

In a dispute over placement of a child either in a foster home with her siblings or with other foster parents, the losing set of parents challenged the guardian ad litem for conflict of interest because he had previously represented the wife in one of the competing couples in a "lemon law" case several years before the instant action and did not disclose that fact to the court. Court said that it would have been "better" not to use a guardian who had a prior relationship with either adult party, even though the case happened several years after the first representation.

- L. Allen v. Allen, 330 S.W.3d 838 (Mo. App. 2011)

Losing parent challenged best interest guardian appointed in custody modification case for failing to interview child; appellate court said that it was reasonable that GAL did not conduct an individual interview for fact finding purposes when child had already been interviewed by other competent professionals on the issue of whether sexual abuse had occurred.

- M. Mott v. Olsen, 2011 WL 6975992 (Conn. App. Dec. 12, 2011)

The court discussed raising the fee for a GAL who requested \$40 per hour to \$100 per hour and noted that other GALs had billed as much as \$235 per hour for their experienced work.

IV. **SELECTED LAW REVIEW ARTICLES DISCUSSING STANDARDS FOR REPRESENTATION**

Barbara Atwood, "Representing Children Who Can't or Won't Direct Counsel: Best Interest Lawyering or No Lawyer at All?" 53 Ariz. L. Rev. 381 (Summer 2011).

Linda Elrod, "Please Let Me Stay:' Hearing the Voice of the Child in Hague Abduction Cases," 63 Okla. L. Rev. 663 (Summer 2011).

Melissa L. Breger, "Against the Dilution of the Child's Voice in Court," 20 Ind. Int'l & Comp. L. Rev. 175 (2011).

LaShanda Taylor, "A Lawyer for Every Child: Client-Directed Representation in Dependency Cases," 47 Fam. Ct. Rev. 605 (Oct. 2009).

Martin Guggenheim, "The AAML's Revised Standards for Representing Children in Custody and Visitation Proceedings: The Reporter's Perspective," 22 J. Amer. Acad. Matrimonial Law. 251 (2009).

James C. May, "Lawyering for Children in High Conflict Cases," 33 Vt. L. Rev. 169 (2008).

Annette Ruth Appell, "Representing Children Representing What? Critical Reflections on Lawyering for Children," 39 Colum. Hum. Rts. L. Rev. 573 (2008).

Kathryn Hunt Federle, "Righting Wrongs: A Reply to the Uniform Law Commission's Uniform Representation of Children in Abuse, Neglect and Custody Proceedings Act," 42 Fam. L. Q. 103 (2008).

American Bar Association Child Custody and Adoption Pro Bono Project, "Hearing Children's Voices and Interests in Adoption and Guardianship Proceedings," 41 Fam. L. Q. 365 (2007).

Barbara Bennett Woodhouse, "From Property to Personhood: A Child-Centered Perspective on Parents' Rights," 5 Geo. J. On Fighting Poverty 313 (1998).

Barbara Bennett Woodhouse, "Out of Children's Needs, Children's Rights: The Voice in Defining the Family," 8 BYU J. Pub. L. 321 (1994).

V. ONLINE RESOURCES

National Association of Counsel for Children: NAAC Recommendation for Representation of Children in Abuse and Neglect Cases:

http://www.naccchildlaw.org/resource/resmgr/docs/nacc_standards_and_recommend.pdf

American Bar Association: Standards of Practice for Lawyers who Represent Children in Abuse and Neglect Cases

http://www.americanbar.org/content/dam/aba/migrated/family/reports/standards_abuseneglect.authcheckdam.pdf

National Center for State Courts: Dependency Court Improvement Resource Guide

<http://www.ncsc.org/Topics/Children-Families-and-Elders/Dependency-Court-Improvement/Resource-Guide.aspx>

UNICEF: International Convention on the Rights of the Child

<http://www.unicef.org/crc/>

Briefly, the ecomap is a way of mapping the family system in its world. It provides the attorney with a way of actively gathering data about the family system and drawing conclusions about that data. This method of diagramming depicts the family in their dynamic ecological system. Other important systems that influence the family are included in the ecomap.

The mapping procedure:

- Portrays an overview of the family in their ecological situation;
- Pictures the important nurturing or conflict-laden connections between the family and the world;
- Demonstrates the flow of resources, or lacks and deprivations; and
- Highlights the nature of the interfaces and points of conflicts to be mediated, bridges to be built, and resources to be sought and mobilized.

Instructions for Ecomapping:

1. Draw a large circle in the middle of the map. This represents the members of household.
2. Inside the large circle, draw a genogram that describes the makeup of the household. It is often useful to add names and ages. Limited space may prevent adding additional descriptive information.

Use the symbols that are normally used in genograms.

3. Inquire into what outside systems influence the family unit and its members. Examples of these outside systems may include work, extended family, church, school, health care, social welfare, recreation, and friends.

Draw smaller circles around the large household circle and label them to represent the outside systems.

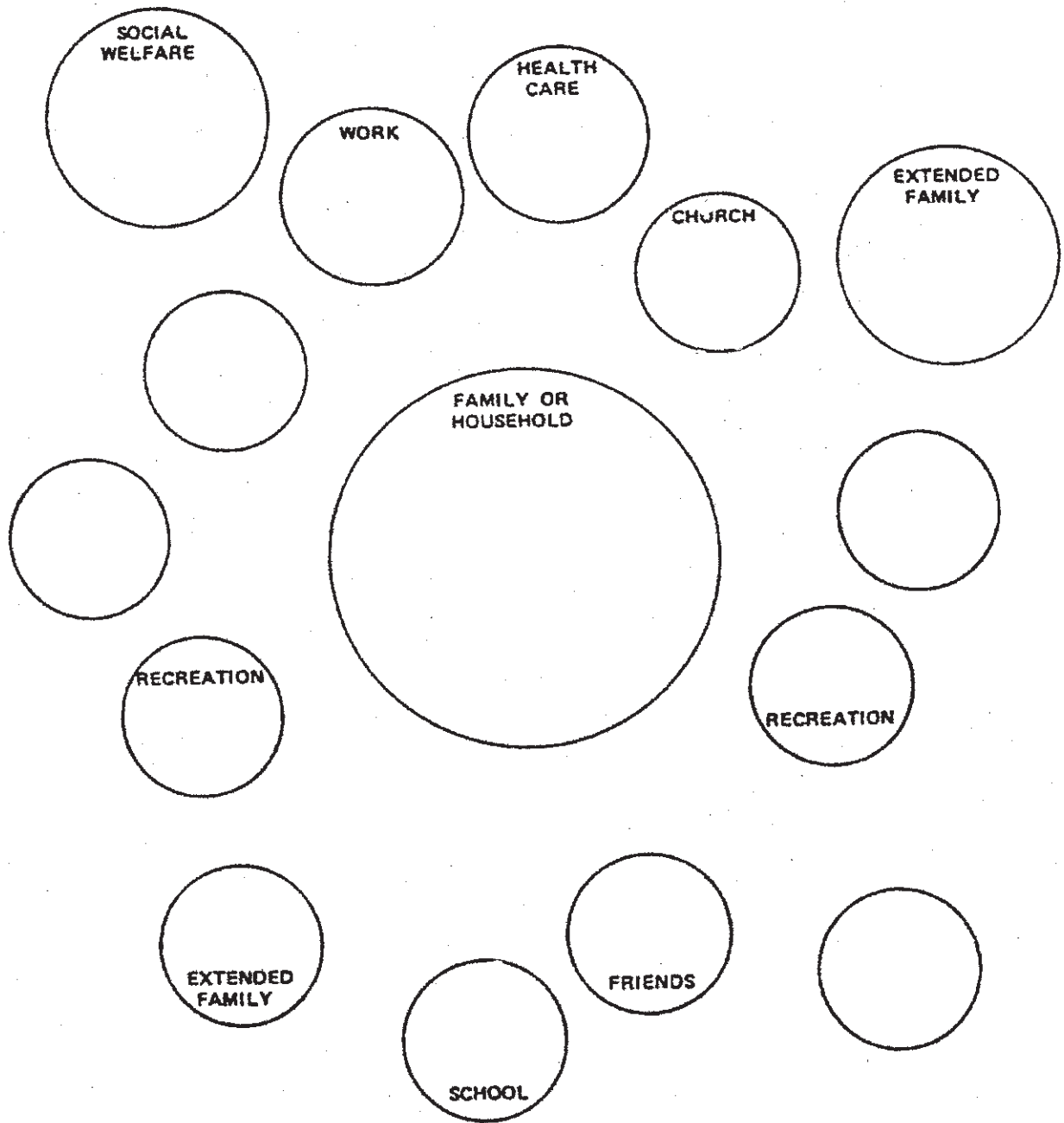
4. The next step is to begin to draw the connections of the family unit and its individuals to the various systems in their environment. These connections are indicated by drawing lines between the family and the circles representing the outside systems. Some of the connections may be drawn to the family unit as a whole or to the individual members. This differentiation demonstrates the way the various family members are connected to the environment.

http://www.dss.mo.gov/cd/info/cwmanual/section7/ch1_33/sec7ch25.htm

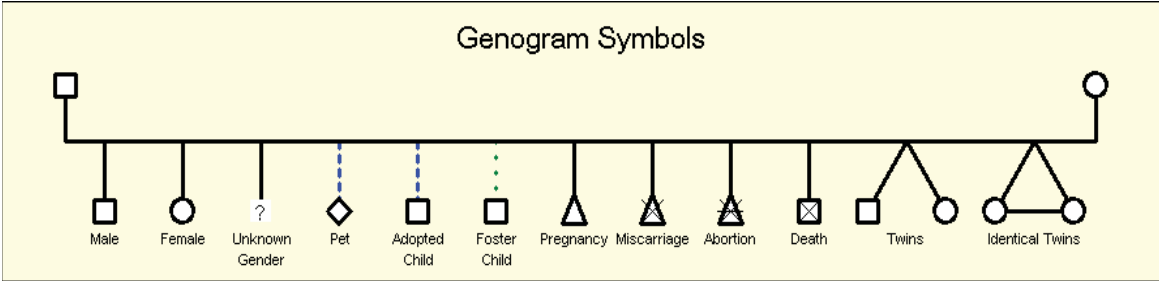
ECO-MAP

Name _____

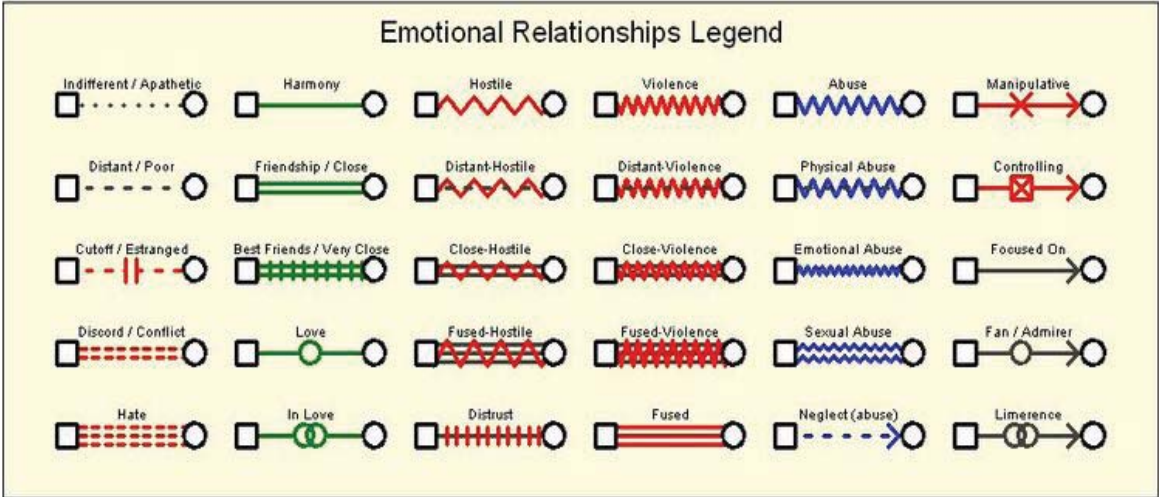
Date _____



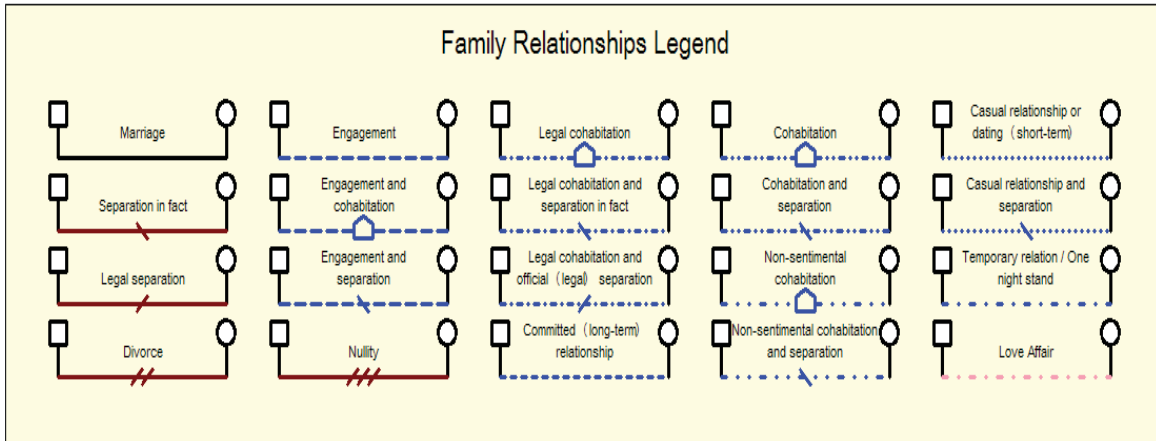
A genogram is a pictorial display of a person's family relationships and medical history. Genograms are like more elaborate family trees. They use symbols to represent gender, emotional relationship status, marital status, social relationship status, medical issues, etc. Genograms are very helpful to people like social workers who need to know background information before talking to a family.



<http://en.wikipedia.org/wiki/File:Genogram-symbols.svg>

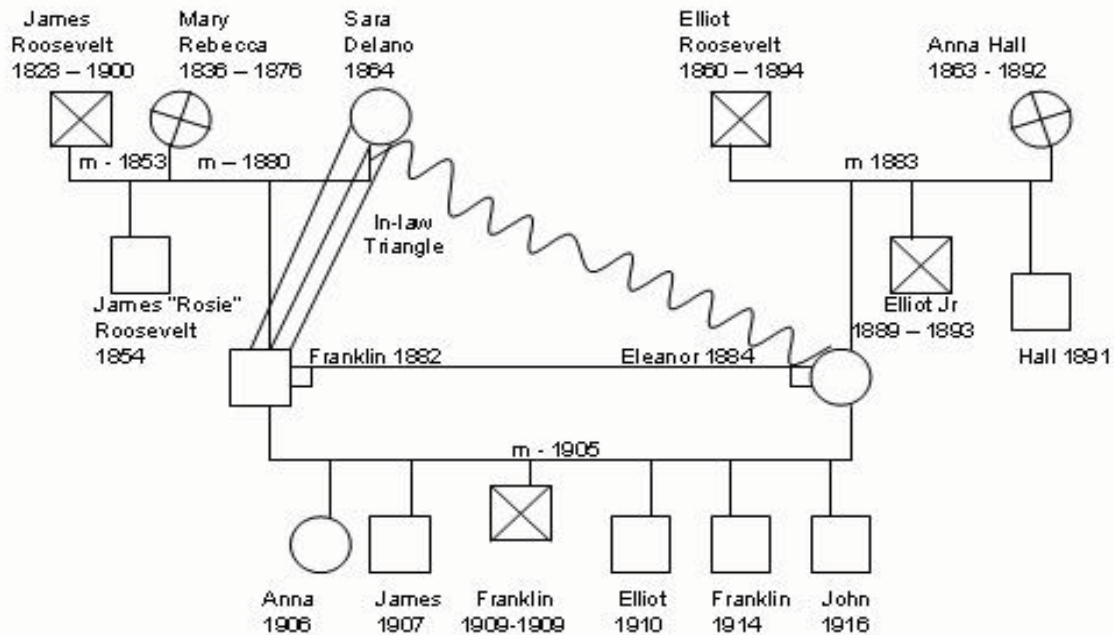


<http://en.wikipedia.org/wiki/File:Emotional-relationships.jpg>



http://en.wikipedia.org/wiki/File:Family_rel2.png#file

Figure 4. EXAMPLE OF COMPLETED GENOGRAM



A genogram is most useful in assessment when it covers at least three generations. This can provide an intergenerational history that can assist in identifying extended family support systems.

Instructions for Completing a Genogram:

Begin by diagramming the members of household. Symbols describe the sex of the individual. A male is indicated by a square; a female is indicated by a circle. A triangle is used to indicate if the sex of the person is unknown (*i.e.* the sibling of a great-grandparent or a still-born child whose sex is unknown).

An "X" through a figure indicated the person is no longer living.

Draw connecting lines between these symbols to describe the composition of the family system. Marital separation is indicated by a single slash along the connecting line; a divorce is indicated by two slashes.

Location of the slashes on the connecting line denotes which parent has custody of the children. The slashes on the marital line indicate the couple is divorced. The location of the slashes set the father off from the children and indicates the mother has custody of the children.

Additional lines are drawn between the symbols to describe the emotional quality of the relationships.

Children born to the couple are drawn below the parents and the child's symbol is connected to the line between the parents, starting with the oldest to the left. Twins are connected to one another and a single line connects their line to their parent's line.

Again, additional lines are drawn to describe the type of relationship that exists between the children and the parents or between the siblings.

A dotted line drawn around the group of individuals denotes the household composition. Repeat the process vertically and horizontally to include persons in the extended family. Grandparents are connected and diagrammed above the parents (vertically). Connecting lines extend from the grandparent's line to the parent.

Repeat the process horizontally, as needed, to include the aunts, uncles, and cousins of the children.

Upon obtaining the skeletal structure of the family, it is important to fill in the diagram with identifying and historical information, such as:

- a. Names, birthdates, and death dates that are written next to the person figures;
- b. The age of the individual can be written inside the person figure for quick reference;
- c. Marriage dates and dates of separation and divorce are written next to the connecting lines between the individuals.
- d. Occupations, interests, and descriptive characterizations, health condition, etc., can be written next to the individual.
- e. Information that further describes the family unit, such as race, income, religion, ethnic or cultural influences family can be written in the border.

http://www.dss.mo.gov/cd/info/cwmanual/section7/ch1_33/sec7ch25.htm

