

Sappenfield, Anne

From: Talis, John [Talis@co.dane.wi.us]
Sent: Thursday, November 18, 2004 4:56 PM
To: Sappenfield, Anne
Subject: TPR Committee

Ms. Sappenfield:

I am an Assistant Corporation Counsel for Dane County, assigned to prosecute CHIPS and TPR cases full-time in the permanency planning unit. I wanted to offer my input on two proposals which I have heard the Committee is considering.

1. The first proposal I have heard is to eliminate jury trials in TPR cases. Even though I am a prosecutor, I believe this is a bad idea for two reasons. First, in the three plus years I have done TPR work (I have been a lawyer for a total of thirteen years) I have had fewer than five cases actually go to jury trial out of an estimated 70 TPR cases filed. As shown, the jury requirement does not have a significant negative overall effect on permanence/the speed of the process. The great bulk of the cases go out on voluntary consents or on defaults when parents do not show up, and no jury is used in those cases. I respectfully submit that elimination of the jury requirement will not have any significant positive effect on permanence.

Second, consistent with our system of justice I believe in the jury system. I believe average people are the best people to determine facts. If I cannot prove my case to ten average people (the jury consists of 12 people, but the County still prevails if there are up to two dissenting jurors), I do not believe a parent's rights should be terminated. Elimination of the right to jury trial creates a higher risk of mistaken decisions with tragic consequences. I do not want to be responsible for a TPR unless it has been proven to the satisfaction of average people who demonstrate practical common sense.

Elimination of jury trials would be a mistake. I strongly recommend that the Committee not do it.

2. I have also heard that, with regard to the continuing CHIPS ground, the Committee may propose a reduction from 12 months to 3 months in the "substantial likelihood will not meet conditions" prong. With all respect and as a prosecutor, I still advise the Committee that this is a bad idea. Good case evaluation means that a CHIPS case where the parent(s) are on the brink of meeting conditions in the near future should not be filed as a TPR case. Our primary goal usually remains reunification of the child with his/her parents. If a parent is within 4 months (for example) of meeting conditions, they have been making significant progress that should result in a return home soon and permanence. With all respect, it is a mistake to undermine the parents' rights to this extent. The existing law is sufficient.

Thank you for your consideration.

ACC John Talis
266-9006