



**CHARTING THE COURSE TOWARDS  
PERMANENCY  
FOR CHILDREN IN PENNSYLVANIA:  
A Knowledge and Skills-Based Curriculum**

**MODULE TWELVE (12)  
THE COURT PROCESS**

**A Training Outline**

**Developed by:  
The Pennsylvania Child Welfare  
Training Program**

**University of Pittsburgh,  
School of Social Work  
Pittsburgh, PA**

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## **Module 12: The Court Process**

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## **Module 12: The Court Process**

### **Agenda for One-Day Workshop on Module #12: The Court Process**

<b>Estimated Time</b>	<b>Content</b>	<b>Page</b>
50 minutes	Section I: Introduction	3
1 hour, 10 minutes	Section II: The Basis for Legal Intervention	8
2 hours, 10 minutes	Section III: Decision Making and the Pre-Court Process	15
1 hour, 20 minutes	Section IV: Juvenile Court	30
30 minutes	Section V: Self Assessment and Transfer of Learning	41

# **Module 12: The Court Process**

## **Section I: Introduction**

### **Estimated Length of Time:**

50 minutes

### **Learning Objectives:**

Participants will be able to:

- ✓ Identify the competencies and learning objectives for Charting the Course: The 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
- ✓ Colored Markers
- ✓ Name Tents
- ✓ Overhead projector and screen
- ✓ TV/VCR/DVD
- ✓ Reference Book for Charting the Course towards Permanency for Children in Pennsylvania
- ✓ **Handout #1 (Learning Objectives and Competencies)**
- ✓ **Handout #2 (Agenda for Module 12: The Court Process)**
- ✓ **Overhead #1 (Learning Objectives)**
- ✓ **Overhead #2 (Agenda for Module 12: The Court Process)**
- ✓ **Video (The Yarn Princess)**

### **Outline of Presentation:**

- Prepare the training room
- Welcome trainees to Charting the Course for Children in Pennsylvania
- Introduce himself/herself to the group
- Facilitate trainee introductions
- Review the learning objectives for the session using **Overhead #1 (Learning Objectives)** and **Handout #1 (Learning Objectives and Competencies)**

## Section I: Introduction

**Trainer Note:** Prepare a poster for the wall entitled WIIFM (What's In It For Me)? If the trainer gives the handouts out in a packet, remove **Handouts #8 and #14** as they contain the answers to the questions proposed in the activity associated with them. The handouts should be distributed after the activity is completed.

**Trainer Note:** Prepare the training room in advance by placing name tents, markers, and handout packets at each table.

Be sure that the video: The Yarn Princess is cued up and prepared to play. The clip may be available on DVD and no cuing up will be necessary.

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.

TOL work for Module 12:

- 1) Observe a dependency or review hearing in Juvenile Court
- 2) Bring a blank petition from your agency
- 3) Bring a completed petition, with all identifying information blocked out.

**Step 1:** (5 minutes)

**Lecture**

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

The trainer starts the training session by covering the following points:

1. Welcome participants to the training
2. Introduce the trainer
3. Complete name tent
4. Remind participants of the 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

**Step 2:** (5 minutes)

**Lecture**

If this training is for a cohort group participants will complete their names tents upon arrival and this step may be eliminated. If this training session is not part of a cohort

group guide participants through the completion of their name tents.

The trainer instructs participants to write the county in which they work in the top right corner of the name tent. The trainer instructs participants to write their position in the agency in the top left corner.

The trainer asks participants to write the amount of time they have been in their positions in the bottom left corner. The trainer asks participants to write the amount of experience they have in Child Welfare in the bottom right corner.

When the name and four corners are complete, the trainer asks participants to stand their name tents in front of them.

### **Step 3: (10 minutes)**

#### **Lecture**

The trainer refers participants to their workshop packets and reviews the competencies, objectives and agenda for the workshop using **Handout #1 (Learning Objectives and Competencies)** and by displaying **Overhead #1 (Learning Objectives)**. The trainer describes how the learning objectives will be accomplished by reviewing the **Handout #2 (Agenda for Module 12: The Court Process)** and **Overhead #2 (Agenda for Module 12: The Court Process)**.

Trainer should ask participants to think of one thing that they want to learn about Juvenile Court: it's function and process. Participants should write this thought on the WIIFM poster. At the end of the training, review the WIIFM poster and make sure that all of the concerns and questions have been addressed.

### **Step 4: (10 minutes)**

#### **Individual Activity**

**Trainer Note:** Prepare a wall poster with the following statements on it. Consider using a thermometer figure going from the bottom (#1) to the top (#5).

The trainer asks participants to use the post it notes at their tables to individually respond to the following statements.

1. I have never been to Juvenile Court.
2. I have been to Juvenile Court but only as an observer.
3. I have been to Juvenile Court as a Child Welfare Professional.
4. I have written or participated in writing a petition for Juvenile Court.
5. I have testified in Juvenile Court?

Participants should mark their highest level of involvement with Juvenile Court with testifying being the highest level. After they write their answers down, ask participants to put their post it note on the prepared wall poster and to share their name, county and their response to the question with the large group.

**Trainer Note:** This exercise will give the trainer and the participants a sense of what kind of experience is available in the room. If necessary, the trainer must move the participants around to be sure that at least one person at each table has either testified in Juvenile Court or written a juvenile petition.

**Step 5:** (10 minutes)  
**Video**

**Trainer Note:** The **Yarn Princess** should be cued up to 50.30 and run until 53.32 (at the end of the court hearing). The scene begins with two of the children, Jimmy and Daniel, calling their Child Welfare Professional to request that they be placed in foster care. The clip may be available on DVD and will require no cuing up.

Ask the group to take a moment to Tune In To Self and visualize themselves on the witness stand testifying. What are their thoughts and feelings? List them on a flip chart as participants to call out answers.

Ask the group to take a moment to Tune In To Others and visualize what the parents must be feeling prior to and during a court hearing? What a child who understands the court process and may even be attending the court hearing must be feeling? List them on a flip chart as participants call out answers.

Ask the group if any of the participants has testified in court. If one says yes, ask them what it was like? Ask them if they think the thoughts and feelings listed on the flip chart are accurate.

Explain to participants that you are going to show a segment of a Child Welfare court hearing. Ask them to focus on the roles of each person in the courtroom, the Child Welfare issues (safety, well-being) that are presented, and how the Child Welfare Professional is feeling at the end of the court hearing.

Explain to participants that this is a dramatization and not all court hearings are like this. In many cases the Child Welfare Professional, family and attorneys are able to agree upon a plan without ever having to present the case in court, but every case must be prepared as if the workers were going to have to testify.

It is understandable if they have fear and anxiety related to testifying in court. It can be intimidating to sit in the witness chair with a group of people looking at you while you are expected to answer difficult questions about the safety and well-being of a child as a direct result of the behavior of a parent. Child Welfare Professionals must understand that based on their testimony and the testimony of others, a judge will make a determination that may have significant implications for a family.

Show the court scene in the **Video (The Yarn Princess)**. Set up the video by noting the following:

Trainees should be told that this video is about Margaret and Jake Thomas, who are the parents of 6 sons. Margaret is cognitively challenged and Jake is diagnosed with schizophrenia. The family has been referred to CY5 for general protective services after the father loses his job and Margaret goes to the welfare office to apply for benefits. The Child Welfare Professional makes diligent efforts to assist Margaret to learn how to manage the household money, buy groceries, and cook. The Child Welfare Professional and Margaret have a good working relationship. At some point, two of the boys, James and Daniel, call the Child Welfare Professional and tell her that they can't stand living at home anymore and want to be placed in foster care.

The Child Welfare Professional's supervisor insists that the Child Welfare Professional honor the boy's request (the Child Welfare Professional wants to continue to work with the family) and court proceedings begin. The tape begins with Margaret Thomas meeting with her attorney.

**Step 6: (10 minutes)**

**Large Group Discussion:**

- ✓ Ask participants what Interactional Skills they observed in the **Video (The Yarn Princess)**?
  1. The Child Welfare Professional was grimacing (Tuning in to Self) as she listened to the judge's ruling and (Tuning in to Others) as she watched Margaret agonize as the judge ruled.
- ✓ How did the relationship between the Child Welfare Professional and the client change after the hearing from the way it was before the hearing?
  1. Mother said "I trusted you" "I thought you were my friend".
  2. Child Welfare Professional to Margaret: "I had to do my job"
- ✓ What might the Child Welfare Professional have done to help preserve the good relationship she had with the client before the court hearing?
  1. The Child Welfare Professional should have prepared the mother as to what the possible outcomes of the hearing might be.
  2. The Child Welfare Professional should have explained the court process to the mother so that the mother would better understand the process

Tell participants that the training in this module will help them to understand the court process and the necessary steps they must take to prepare a case for court.

# **Module 12: The Court Process**

## **Section II: The Basis for Legal Intervention**

### **Estimated Length of Time:**

1 hour, 10 minutes

### **Learning Objectives:**

Participants will be able to:

- ✓ Explain the role of Juvenile Court as outlined in the Juvenile Act, the Child Protective Services Act, and Indian Child Welfare Act, and the Adoption and Safe Families Act.
- ✓ Explain the definitions of a dependent child and aggravated circumstances as defined in the Juvenile Act

### **Methods of Presentation:**

Lecture, Small Group Activity, Large Group Discussion

### **Materials Needed:**

- ✓ 2 Flip Chart stands
- ✓ 2 blank flip chart pads
- ✓ Colored Markers
- ✓ Reference Book for Charting the Course towards Permanency for Children in Pennsylvania
- ✓ **Handout #3 (ASFA: The Adoption & Safe Families Act)**
- ✓ **Handout #4 (Aggravated Circumstances)**
- ✓ **Handout #5 (Definition of Dependent Child)**
- ✓ **Handout #6 (Name that Law)**

### **Outline of Presentation:**

- Review the role of Juvenile Court
- Review the federal and state laws and regulations as they relate to Court

## Section II: The Basis for Legal Intervention

**Step 1:** (25 minutes)

### Large Group Activity

Explain to the participants that in order to make decisions about what they can and cannot do in their efforts to work with families and keep children safe, they must know the role of Juvenile Court and the legal basis for intervening into family's lives.

As a large group, discuss the following: How does the Juvenile Court process assist Children and Youth in doing the following?

- ✓ Provide oversight of in-home cases
- ✓ Provide oversight of placement cases

**Trainer Note:** For the following questions, list the participant's responses on a flip chart. Make several pre-made flip charts entitled: The Juvenile Act, The Child Protective Services Law, The Indian Child Welfare Act, and The Adoption and Safe Families Act.

- 1) As a large group, discuss the role of Juvenile Court as an authoritative body in families' lives.
  - The Court can put a child into protective custody
  - The Court can adjudicate a child dependent and/or delinquent
  - The Court can mandate services for the child
  - The Court can mandate continued placement of the child
  - The Court can order Children and Youth Services to pursue termination of parental rights and permanency for the child
- 2) As a large group, discuss provisions of the following laws as to how they provide Juvenile Court with the authority to intervene in families' lives in regard to the care of children. Record the responses on a pre-made flip chart.
  - The Juvenile Act:
    1. Defines dependency and delinquency
    2. Provides for guardian ad litem for child
    3. Defines where a child can be detained (licensed foster or kinship home, a facility licensed by DPW)
    4. Sets specific timeframes for juvenile hearings (shelter, adjudication, disposition, permanency and permanency reviews)
    5. Outlines elements of a juvenile petition
    6. Defines aggravated circumstances in Pennsylvania
  - The Child Protective Services Law: Chapter 63
    1. Defines child abuse: physical, sexual, mental, serious physical neglect
    2. Release of information (guardian ad litem, court of common pleas)
    3. Outlines the steps of taking child into protective custody
    4. Explains the initiation of Court proceedings (6370)
  - The Indian Child Welfare Act
    1. Court must place an Indian child in foster or adoptive home in accordance

- with ICWA
- 2. Case may need to be transferred to a tribal Court
- Adoption and Safe Families Act:
  1. Puts a 12 month time limit for permanency hearings
  2. Puts in place time limits for filing for termination of parental rights (if reasonable efforts to reunite family are to be made, child in placement 15 out of the last 22 months. If no reasonable efforts to reunite family will be made, 60 days after court decision)
  3. Defines aggravated circumstances
  4. Establishes new permanency goal of permanent legal custodian

**Trainer Note:** Encourage participants to read all of these laws in their entirety.

**Step 2:** (25 minutes)  
**Lecture**

**Trainer Note:** The participants have been exposed to these laws in prior modules of Charting the Course. Therefore, only a brief review of the information is necessary.

The trainer should discuss the following: the Adoption Assistance and Child Welfare Act of 1980 is a federal statute. It was passed in order to reduce unnecessary placement of children and ensure case reviews. The Adoption Assistance and Child Welfare Act of 1980 established the requirement that a case plan be developed for each child as well as stipulates a six-month time interval in which all cases must be reviewed by the court. The Adoption Assistance and Child Welfare Act of 1980 also established a requirement that agencies document that reasonable efforts were made to prevent placement into foster care and to promote reunification if a child is already in placement. Reasonable efforts must be recorded in both the petition and the subsequent court orders.

Point out that prior to 1980, there were no formal Family Service Plans and review hearings may or may not have occurred with any regularity. Many children were placed in out-of-home placement and stayed there for years with no further Court action, including adoption by the foster parents.

Distribute **Handout #3 (ASFA: The Adoption and Safe Families Act)** as a guide to explain the key components of ASFA.

The Adoption and Safe Families Act of 1997 re-emphasized the priorities for children in the Child Welfare system based on safety, permanency, well-being and timeliness. The following are the major provisions of this statute:

- The incorporation of safety assessments into all aspects of casework, including case planning and review requirements.
- The establishment of certain circumstances under which a court can direct an agency to not make reasonable efforts to reunify a family when a child is in placement. These are known as *aggravated circumstances*.

- The establishment of permanency hearings in place of review hearings.
- The requirement that agencies file a termination of parental rights in the majority of circumstances if a child has been in placement for 15 out of the most recent 22 months.
- The establishment of a new permanency goal called Permanent Legal Custodianship.

Use **Handout #4 (Aggravated Circumstances)** to explain the legal definition of Aggravated Circumstances.

According to section 6302 of the Pennsylvania Juvenile Act, aggravated circumstances may exist when any of the following apply:

(1) The child is in the custody of a county agency and either:

(i) 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

(ii) 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:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) a felony under 18 Pa C.S. § 2702 (relating to aggravated assault), 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to

(ii) involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under 18 Pa C.S. § 3126 (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

Using **Handout #5 (Definition of Dependent Child)**, explain the definition of a dependent child.

Inform participants that The Pennsylvania Juvenile Act as amended in 2005 defines a dependent child as a child (under the age of 18 years except in certain circumstances) 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 is 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 formally 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); or
9. Has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is ungovernable in paragraph (6);
10. Is born to a parent whose parental rights with regard to another child have been involuntarily terminated (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.

When filing a petition with the court, the petitioner must set forth the facts which bring the child within the jurisdiction of the court as they pertain to one or more of these ten bases.

Inform participants that the definition of a child is somewhat different in the Juvenile Act than in the CPSL.

In the CPSL Section 6303 definition of child abuse and Chapter 3490.4 Definitions, a child must be someone under age 18. However, that can be extended under certain conditions utilizing the Juvenile Act section 6302 definition of a “child”. According to the Juvenile Act, a child includes someone who was found to be dependent before age 18 and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event past age 21. This allows a foster child, for example, to remain in placement until they complete high school.

Delinquent child - A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

Point out that this review of legislation is brief and emphasizes only the major point of the laws as they pertain to Child Welfare Services/Court. Advise the group that oftentimes several different laws and regulations address the same issues such as aggravated circumstances, reasonable efforts, definitions of a child, etc. Strongly encourage the participants to read these laws in their entirety and to constantly use them as a foundation for all their interventions.

**Step 3: (20 minutes)**  
**Small Group Activity**

Distribute **Handout #6 (Name That Law)**. Working in small groups (or individually), direct participants to name the law, or laws, and its applicability to each of the situations described on the handout.

Remind participants to use their reference materials, including the CPSL which they have reviewed several times throughout the Charting the Course modules. There may be more than one law referenced in each scenario and they may state “the penal code” to indicate that the criminal laws may be applicable.

<p><b>Trainer Note:</b> The trainer(s) should circulate around to the groups and be sure that the participants know how to find information from the various laws.</p>
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In a large group format, discuss the six situations on **Handout #6 (Name That Law)**, covering the following information:

1. A child has been in foster care for 15 out of the last 22 months. The mother has an addiction problem for which she continues to refuse treatment.

- Adoption and Safe Families Act of 1997: termination of parental rights and adoption of child (Section 103)
  - Juvenile Act: dependent child
  - Adoption Assistance and Child Welfare Act of 1980: reasonable efforts
2. A child was sexually abused by his mother's husband and evidence indicates that the mother would allow her husband back into the home to live.
    - CPSL: investigation (6362)
    - CPSL: Rehabilitative services (6365)
    - CPSL: Definition of alleged perpetrator (6302-definitions-pg. 3: perpetrator and person responsible for the child)
    - Juvenile Act: finding of dependency, possible removal of child (6302-pg. 7- definition of dependent child)
    - Pennsylvania Criminal Code
  3. A child was allegedly abused while at the day care center.
    - CPSL: investigation (6362)
    - CPSL: Definition of alleged perpetrator (6302-definitions-pg. 3: perpetrator and person responsible for the child)
    - CPSL: rehabilitative services (6365)
    - Pennsylvania Criminal Code
  4. A child was sexually assaulted by her mother's paramour. The mother welcomes the intervention and assistance of Child Welfare.
    - CPSL: investigation (6362)
    - CPSL: Rehabilitative services (6365)
    - Pennsylvania Criminal Code
  5. Three children are found living in a home with open garbage all over, a constant smell of urine, the presence of innumerable animals and their odors, and general disarray and dirtiness constituting a health hazard.
    - Juvenile Act: finding of dependency and possible placement (6302-pg. 7- definition of dependent child)
    - Pennsylvania Criminal Code
  6. Children have been placed in care due to a mother's lack of ability to maintain employment and provide adequate shelter for her children. The agency believes that reunification can realistically be achieved within 6-8 months based on the family service plan developed.
    - Adoption Assistance and Child Welfare Act of 1980: agency must develop a case plan and make reasonable efforts to reunite the family.
    - The Juvenile Act: Dependent Child (6302-pg. 7-definition of dependent child).

Again, reinforce to the participants that it is imperative that they use the laws and mandates as their guide for all casework intervention.

# **Module 12: The Court Process**

## **Section III: Decision Making and the Pre-Court Process**

### **Estimated Length of Time:**

2 hours, 10 minutes

### **Learning Objectives:**

Participants will be able to:

- ✓ Explain the definition of reasonable efforts and protective custody
- ✓ Recognize the elements necessary to compose a valid juvenile petition

### **Methods of Presentation:**

Lecture, Small Group Activity, Large Group Discussions

### **Materials Needed:**

- ✓ 2 Flip Chart stands
- ✓ 2 blank flip chart pads
- ✓ Colored Markers
- ✓ Overhead projector and screen
- ✓ Reference Book for Charting the Course towards Permanency for Children in Pennsylvania
- ✓ Pennsylvania Standards for Child Welfare Practice
- ✓ **Handout #3 (ASFA: The Adoption & Safe Families Act) (revisited)**
- ✓ **Handout #4 (Aggravated Circumstances) (revisited)**
- ✓ **Handout #5 (Definition of Dependent Child) (revisited)**
- ✓ **Handout #7 (When to Petition Juvenile Court)**
- ✓ **Handout #8 (Reasonable Efforts)**
- ✓ **Handout #9 (Emergency Placement Facilities for Dependent Children)**
- ✓ **Handout #10 (Four Case Studies)**
- ✓ **Handout #11 (Elements of a Juvenile Petition)**
- ✓ **Handout #12 (Additional Questions for Four Case Studies)**
- ✓ **Handout #13 (The Juvenile Petition)**
- ✓ **Handout #14 (Practice Activity Information)**
- ✓ **Overhead #3 (When to Petition Juvenile Court)**
- ✓ **Overhead #4 (Reasonable Efforts)**
- ✓ **Overhead #5 (Protective Custody)**
- ✓ **Overhead #6 (Emergency Placement Facilities for Dependent Children)**
- ✓ **Overhead #7 (Juvenile Court Petition)**
- ✓ **Overhead #8 (Petition Information)**

### **Outline of Presentation:**

- Review the purpose and function of Juvenile Court
- Review when and how to complete a juvenile petition
- Review protective custody
- Review four case studies

## Section III: Decision Making and the Pre-Court Process

### Step 1: (10 minutes)

#### Lecture

Ask participants to locate Standard IIIJ in the Pennsylvania Standards for Child Welfare Practice book. Ask one participant to read the standard and Staff Responsibilities (k) and Strategies (h). Explain to participants that this standard will be discussed throughout the remainder of Module 12.

Explain to the participants that there are many factors to consider when deciding whether or not to petition Juvenile Court. Ensuring child safety is the primary factor. The next part of this day will be spent learning the purpose and function of the Juvenile Court and how to complete a petition to the Juvenile Court.

Court action is usually initiated when the parents or other custodians are unable to or refuse the Child Welfare agency intervention and services in situations where the child is in imminent danger of being harmed under the present conditions.

**Trainer Note:** The Rules of Dependency were amended in February of 2007 to change who may file a petition. Without court permission, only a CYS agency can file a petition. Anyone else must first notify the agency of their concern and give the agency an opportunity to file the petition. If the agency does not, the individual must then petition the Court for permission to be granted to file a juvenile petition.

Ask participants to raise their hands if they have petitioned Juvenile Court. If so, what were the risk factors that led them to initiate a petition? How did they determine that it was necessary to file a petition? How did their supervisors guide them in the process?

After the discussion, present the following information using **Overhead #3 (When to Petition Juvenile Court)** to review factors that determine when to petition Juvenile Court. Participants may follow along using **Handout #7 (When to Petition Juvenile Court)**.

The following factors should be considered in determining whether to petition the court for court jurisdiction and temporary custody, protective supervision and/or services:

- The child's need for emergency care and transfer of custody from the parents due to conditions which jeopardize the child's safety and voluntary placement cannot be secured.
- The unwillingness or inability of the parents or other custodians to accept the help offered to change the situation. Court action is sometimes used as a leverage to achieve rehabilitative ends. The parent may be willing to accept treatment to avoid separation from his/her child if it becomes apparent that the Court will be asked to consider removal of the child from their care.

- The possibility of further abuse continuing in the home is greater than the benefits to the child derived from continued placement at home without judicial intervention.
- Abandonment or desertion of the child.

In situations when the agency is requesting custody of a child, the Adoption and Safe Families Act of 1997 and Section 6351 (b) (2) of the Juvenile Act mandate that the agency clearly outline reasonable efforts to prevent removal of a child from her parents'/caretakers' custody.

This may be a good time to break for lunch.

**Step 2: (5 minutes)**  
**Lecture**

Explain that when the agency must intervene on behalf of abused and neglected children, it is not enough to protect them from immediate harm. When the agency is deciding whether to place children outside the home, it must take into account not only the children's safety, but also the emotional impact of separation. Throughout its involvement, the agency must strive to ensure that children are brought up in stable, safe, permanent families, rather than in temporary and unstable foster placements.

As discussed earlier, the need to provide permanent homes in a timely manner for abused or neglected children is the fundamental principle behind the Adoption and Safe Families Act of 1997.

Using **Overhead #4 (Reasonable Efforts)** explain that statutory provisions designed to achieve permanency for abused or neglected children are based on several principles of child development.

In determining whether the agency met the reasonable efforts requirement, the court must find that:

- Reasonable efforts were made to prevent or eliminate the need for removal of the child from his home; or
- If 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.

The intention of reasonable efforts is that Child Welfare agencies offer a full range of services as an alternative to placement. These include services such as counseling, parent education, homemaker services, and daycare service. Additionally, within 60

days of a child's actual removal from the home, the court must find that the agency made reasonable efforts to prevent the child's removal from home. The court must also find that the agency made efforts to finalize the permanency plan, which may be to reunify the family or secure a new permanent home for the child.

With reasonable efforts determinations, the burden of proof is on the agency. The requirements are a matter of law, and federal funds are denied if this standard is not met. Additionally, it is important that reasonable efforts be documented in the Court Order, case notes, and subsequent case plans.

For healthy physical and emotional growth, children need stability in their lives. The purpose of "reasonable efforts" is to provide the services a family needs to assure safety and well-being of the child. The following describe the basis for making these efforts:

- Many mental health professionals believe that stable and continuous caregivers for children are very important to normal emotional growth. According to these authorities, children need secure and uninterrupted emotional relationships with adults who are responsible for their care. Repeatedly disrupted placements and relationships can interfere with a child's ability to form close emotional relationships after reaching maturity.
- If it is important that children be raised in stable and secure families, it follows that the agency should, when possible, protect the child without removing the child from home. Preventing unnecessary removal also helps to preserve the constitutional right of families to be free from unwarranted state interference.
- To prevent unnecessary removal of children from their homes, the agency must take strong, affirmative steps to assist families. Toward this end, except in cases where the court finds that due to the emergency nature of the placement reasonable efforts are not necessary, Child Welfare agencies are required to make reasonable efforts to prevent the necessity of placement.

Explain that a critical component of providing reasonable efforts is the documentation phase of casework. Clear, descriptive documentation provides a history of all the reasonable efforts that were provided by the agency. Reasonable effort documentation requires information related to the availability of services, family's participation in the service plan, and progress made by the parent/caretaker to assure safety of the child in the family home.

If there is not proper documentation, it is as if no services (reasonable efforts) were provided by the agency. Further, clear documentation assists the agency in making a decision regarding the care of children and in preparation of court documents.

**Step 3: (10 minutes)**  
**Small Group Activity**

Display page 1 of **Overhead #4 (Reasonable Efforts)**. In their small groups, give participants five minutes to make a list of services to families which would be considered reasonable efforts. Remind participants that they are Child Welfare Professionals and any service/intervention they provide to a family is considered a reasonable effort to prevent placement. It is important that they maintain an awareness and document of all the efforts they provide to support a child in their home and/or to reunify a child with his/her family.

After their lists are completed, have the various groups, without repetition, read their lists of reasonable efforts. After the activity is completed, give participants **Handout #8 (Reasonable Efforts)** and instruct them to complete the list already provided. Emphasize that their efforts to keep children connected to their community and extended family is key to achieving permanency and well-being outcomes. In addition to those reasonable efforts listed on the handout, other reasonable efforts interventions may be:

1. Voluntary placement (can be a maximum of 30 days, parents must sign an agreement in which they give temporary custody to Children and Youth, and parents may revoke it at any time)
2. Family preservation services
3. CYS protective services

Explain to participants that due to the nature of Child Welfare, it is not always possible to plan legal intervention. When a child is at-risk of immediate harm, it is necessary to take emergency protective custody. It is extremely important that reasonable efforts to prevent placement, although they may be minimal or non-existent, must be documented in the case record in emergency protective custody situations as well as non-emergency cases.

Trainer should read the following to the participants as an example of case documentation regarding reasonable efforts:

1/5/05 Visit to Smith home:

The purpose of the scheduled home visit was to inquire of Ms. Smith as to why she had not been cooperative with the Family Preservation worker who had been assigned to assist Ms. Smith with housekeeping issues, meal preparation and setting up medical care for the children. Present were Ms. Smith and her 3 children, CYS Child Welfare Professional Mary Jones, and casework intern Sam Ray.

When CYS arrived at the home for the scheduled visit at 10:30 a.m., they were admitted to the home by Johnny Smith, age 6. He explained that he was not in school because his mother could not be awakened to help him to get ready for school. Additionally, Johnny was concerned about who would look after his younger sibling, ages 3 and 16

months, if he went to school. The caseworker noted that the house was in total disarray with dirty dishes, moldy food, and dog feces on the floor throughout the living space. There were 6 empty beer bottles on the end table and a “roach” of a marijuana cigarette was in an ashtray. The 16-month-old baby was naked except for a soiled, saturated diaper and the 3 year old was climbing around on the kitchen counters.

Caseworker Jones attempted to awaken Ms. Smith who was sleeping on a couch in the living room. After several minutes, Ms. Smith awoke and appeared to be disoriented and confused and could not immediately recognize the caseworker. When confronted about the condition of the house and Johnny’s absence from school, she began to yell at Johnny for not tidying up the house and going to school. She attempted to get up off the couch and fell onto the floor.

Caseworker Jones made the decision that in her present condition, Ms. Smith was unable to safely care for her 3 children. The caseworker followed the proper procedure for taking custody of the children (this procedure differs somewhat from county to county).

All reasonable efforts were made to prevent the placement of the Jones children. The mother was offered and failed to cooperate with Family Preservation Services and on 1/5/05, she appeared to be under the influence of drugs and/or alcohol and could not be awakened. The children were without adult supervision and the home was in an unsafe condition for 3 young children. The continuation of the children in the home would be contrary to the welfare, safety, and health of the children.

#### **Step 4: (5 minutes)**

##### **Lecture**

Explain to participants that both the CPSL and Juvenile Act address the requirements for taking a child into custody. Using **Overhead #5 (Protective Custody)** explain the following:

As mandated by the CPSL, a child can be taken into protective custody:

- As provided by the Juvenile Act, or
- By a physician examining or treating the child (limited to 24 hours, after which a court order is needed), or
- By the director or designee of a hospital or medical institution (limited to 24 hours, after which a court order is needed).

This action may be taken if it is immediately necessary to protect the child.

As mandated by the 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.

The criteria are:

- 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.

Display **Overhead #6 (Emergency Placement Facilities for Dependent Children)**, explain that when a child is placed in the protective custody of Juvenile Court, the child may only reside in an approved facility. An approved facility is:

- 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 place or facility.

Participants may follow along using **Handout #9 (Emergency Placement Facilities for Dependent Children)**.

**Step 5: (45 minutes)**  
**Small Group Activity**

Inform participants that now that they have learned about the laws as they pertain to dependent children, they will have a chance to practice applying their knowledge to situations.

Assign each small group a case scenario-there are 4 scenarios. If you have fewer than 4 groups, the trainer may demonstrate how to do the activity by presenting the first case scenario.

Distribute **Handout #10 (Four Case Studies)**.

Explain to participants that they are going to review a case situation and critically analyze the information to determine if it is appropriate to petition Juvenile Court for supervision of the children. Refer participants to their handouts as reference materials: **Handout #5 (Definition of Dependent Child)**, **Handout #3 (ASFA: The Adoption & Safe Families Act)**, **Handout #4 (Aggravated Circumstances)** and **Handout #8 (Reasonable Efforts)**.

Instruct each group to record their answers on pieces of flip chart paper that they will post on the wall. They will present the case as if they were explaining the details to their supervisors. The spokesperson for each group must relate the facts of their case and the reasons for their answers.

Allow participants 20 minutes to complete this exercise and 10 minutes to present their answers. With some slight variation, the answers to the questions should be as follows:

Case Questions:

1. Given the facts of this case, could a petition alleging dependency be filed in Juvenile Court? Why or why not?
2. Under what provision of the Juvenile Act is dependency alleged?
3. Are there aggravated circumstances?
4. If so, under what provision of ASFA are there aggravated circumstances?
5. Is emergency protective custody necessary? Why or why not?
6. Has the agency provided any services as reasonable efforts to prevent placement? If so what efforts have been provided?

Smith Family:

1. Given the facts of this case, could a petition alleging dependency be filed in Juvenile Court? Yes, dependency on both children.
2. Under what provision of the Juvenile Act is dependency alleged?  
(1) Children are without proper parental care or control necessary for their physical, mental, or emotional health or morals.
3. Are there aggravated circumstances? No
4. If so, under what provision of ASFA are there aggravated circumstances? N/A
5. Is emergency protective custody necessary? Why or why not? Yes, because the children had no adult supervision and no suitable relative or other adult could be located.

Jones Family:

1. Given the facts of this case, could a petition alleging dependency be filed in Juvenile Court? Yes
2. Under what provision of the Juvenile Act is dependency alleged? (5) While subject to compulsory school attendance is habitually truant and without justification truant from school
3. Are there aggravated circumstances? No
4. If so, under what provision of ASFA are there aggravated circumstances? N/A
5. Is emergency protective custody necessary? Why or why not? This could go either way.

In order to get Levona into school immediately, protective custody or a voluntary placement could be considered. She and her mother have had services before and currently have in-home services, all to no avail. On the other hand, a petition could be filed and CYS attempt to provide services until the Court hearing at which time the Court would decide Levona's destiny. Levona is in no danger and there are no immediate safety concerns. This varies from county to county.

**Trainer Note:** Trainer should ask participants how their counties handle truancy cases.

Billy D. Williams:

1. Given the facts of this case, could a petition alleging dependency be filed in Juvenile Court? Yes
2. Under what provision of the Juvenile Act is dependency alleged? (7) Is under the age of 10 years and has committed a delinquent act

3. Are there aggravated circumstances? No
4. If so, under what provision of ASFA are there aggravated circumstances? N/A
5. Is emergency protective custody necessary? Why or why not? No, there is no safety issues concerning Billy

The Rose Family:

1. Given the facts of this case, could a petition alleging dependency be filed in Juvenile Court? Yes
2. Under what provision of the Juvenile Act is dependency alleged?  
(1) The child is without proper parental care or control necessary for their physical, mental, or emotional health or morals and a determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent that places the health, safety or welfare of the child at risk, including evidence of the parent's use of alcohol or a controlled substance that places the health, safety or welfare of the child at-risk. Additionally, Abby Rose is an abused child in that she suffered serious bodily injury which created a substantial risk of death or which caused serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ (CPSL).
3. Are there aggravated circumstances? Yes: (2) the child has been subject to serious bodily injury (Pennsylvania Standard for Aggravated Circumstances)
4. If so, under what provision of ASFA are there aggravated circumstances?  
A situation is so egregious that a child's safety may be in serious jeopardy, and even with services, it is unlikely that safety can be assured.
5. Is emergency protective custody necessary? Why or why not? Yes, serious bodily injury, mother's apparent D&A problem

The trainer states that since the decision has been made that all of these cases, for various reasons, need to go to Juvenile Court, the Child Welfare Professional needs to know that there is more work to be done before the case actually gets to court.

**Step 6:** (10 minutes)

**Lecture**

**Trainer Note:** Transfer of Learning activity: Remind participants that they were asked to bring a copy of a completed Juvenile Court Petition from their agency. Ask them to refer to it during the discussion identifying where the required information is located on the completed petition form.

Display **Overhead #7 (Juvenile Court Petition)** explain that a Juvenile Court Petition is used to initiate court proceedings. It is a legal document that requests the court to respond to the situation that is presented.

All petitions must be filed by citing a section of the Juvenile Act. They may also cite the Child Protective Services Act when the agency is alleging abuse of the child.

Hence, a child may be alleged to be dependent, or alleged to be dependent and

abused, but cannot be solely alleged to be abused. So all petitions filed in dependency cases must at least meet the minimum requirements for dependency according to the Juvenile Act **Handout #5 (Definition of Dependent Child.)**

A petition can be filed whether or not a child is in protective custody. According to Section 6331 of the Juvenile Act, if protective custody of a child has been taken under the Juvenile Act, a petition must be filed with the court within 24 hours or the next business day of the admission of the child to detention or shelter care. If the child is taken into protective custody under the provisions of the CPSL and is alleged to be an abused child, in accordance with 3490.57 (a), the agency must file a petition within 48 hours of the informal hearing. The trainer should advise participants to check with and follow their county's procedures for protective custody and filing a petition with the Court.

If protective custody of the child has not been taken, the agency may file a petition with the court whenever it determines that the action is indicated.

Procedures for filing a petition vary among agencies. In some agencies, it is the responsibility of the worker to complete and file the petition. In others, a special court liaison or the agency solicitor may complete the document. Regardless of the method, the family worker is the key person to identify the important case facts that need to be included in the petition.

Most, if not all, agencies have a standard format that is used for the petition. These forms often include all of the language required in a petition as well as sections to add discrete information to a particular family. While some agencies may use a "bullet" style to list the allegations, other may use a paragraph style.

**Trainer Note:** Effective 2/1/07, the Rules of Juvenile Dependency were amended to add new information that must be added on the Juvenile Petition. They are: (1) current placement of the child, (2) where the child last resided, (3) if the parents address is unknown, the name and address of the closest relative, (4) whether the child is of native American descent, (5) the specific section of dependency being alleged.

In addition to the above information, use **Overhead #8 (Petition Information)** to explain that, per the Juvenile Act and Rules of Juvenile Dependency, all petitions must include the following information:

- The facts which bring the child within the jurisdiction of the court. These case-specific facts must support the definition of dependency or dependency and abuse. So, the petitioner looks to the definition of dependency (and abuse if relevant) and puts forth the facts that support it. The petition sets the limits of evidence to be admitted in court by telling the parties what the issues are, and what the petitioner is trying to prove.

The petitioner must include all relevant facts needed to prove the allegation.

Failure to include all relevant facts in the petition serves to exclude their consideration at the adjudicatory hearing. However, only facts that can be proven should be included.

For example, if the petition alleges abuse based on inadequate supervision, evidence of cigarette burns cannot be admitted. Similarly, events occurring after the filing of the petition may not be admissible to prove the original allegations. An amended petition can be filed to include new information.

- A statement that it is in the best interest of the child and the public that court intervention is needed.
- The name, age, and residence address of the child.
- The names and addresses of the parents, guardian, or custodian of the child and of the spouse, if any, of the child. If the parent or guardian's address is unknown, the petitioner must use the name and address of the nearest relative.
- Whether or not the child is in custody. If the child is in custody, you must provide the place of his/her detention and the time he/she was taken into custody.
- The 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.
- If appropriate, facts the County agency or the child's attorney intends to present to support an allegation of aggravated circumstances. The county agency or the child's attorney should also be prepared to make recommendations to the court regarding reasonable efforts to reunify the family should the court not find aggravated circumstances.

**Trainer Note:** Inform trainees that to complete this module their TOL assignment will be to become familiar with their agency's procedures for filing and the format of their agencies petitions.

**Step 7: (45 minutes)**  
**Small Group Activity**

Inform participants that now that they have learned the elements of a petition for Juvenile Court, they will practice using their knowledge to develop a Juvenile Court Petition. Distribute **Handout #11 (Elements of a Juvenile Petition)** as reference material.

Distribute **Handout #12 (Additional Questions for the Four Case Studies)** and inform

the participants that they are going to continue working with the case scenarios they were assigned for the last activity. For this activity they will complete a Juvenile Court Petition and answer the questions on **Handout #12 (Additional Questions for the Four Case Studies)** on their own. Then, as a large group, the correct response for each scenario will be reviewed.

Ask participants to use their blank agency Juvenile Court Petition form that they brought as part of their pre-work for Module 12 for this activity. If they do not have their agency form **Handout #13 (The Juvenile Petition)** is available.

Give participants 15 –20 minutes to write a petition, based on their case facts.

1. How should the text of the petition read?
2. Who could be summoned as witnesses for the hearing, and what key testimony/reports could they present?
3. What further information might the Caseworker need to explore before the hearing?
4. Who else could be interviewed?
5. If placement occurred, what reasonable efforts were made to prevent the placement?

As a large group, discuss the contents of each petition.

#### Case #1: The Smith Family

1. Petition:

On or about March 3, 2004, Bobby Smith (age 2) was seen wearing only a diaper on the roof of his house. Further investigation by the police department determined that Bobby was home alone. A short time later, Bobby's sister, Joyce (age 7) returned to the home with a loaf of bread and a jar of peanut butter that she had stolen from the corner store. There was no food in the Smith home. Joyce explained to the police that she had not seen her mother since she came home from school the day before and did not know where her mother was. Neither of the children has contact with their fathers' and no other adult could be located to keep the children until the mother, Evelyn Smith, was located. As such, Joyce/Bobby Smith is a dependent child in that she/he is without proper parental care or control necessary for their physical, mental, or emotional health or morals. This action is in the best interest of the child and reasonable efforts were not made. Due to the necessity of an emergency placement, the lack of such services was reasonable under the circumstances.

2. Who could be summoned as witnesses for the hearing and what testimony/reports could they present?
  - The passerby who saw Bobby on the roof
  - The police officer who was on the scene
3. What further information might the Child Welfare Professional explore before the

hearing?

- Interview Joyce to find out how often they are left home alone
  - Have both of the children examined by a physician to ascertain their physical health
  - Look for suitable relatives who may be able to take the children
  - Begin a search for the children's fathers.
4. Who else could be interviewed?
    - Personnel at Joyce's school
    - Neighbors to determine if other neglect is present in the home
  5. If placement occurred, were reasonable efforts made to prevent the placement?
    - Yes, reasonable efforts were made to locate a suitable adult to take the children

Case #2: The Jones Family:

1. Petition:

On or about October, 2004, the McKain St. Middle School reported to CYS that Levona Jones had missed 17 out of the first 32 days of school. In the 2003-04 school year, Levona had missed 96 out of 180 days of school. Efforts by the school to engage the mother to solve this truancy problem have been unsuccessful. Over the past five years and at present, CYS has provided multiple in-home services in an effort to get Levona to school. As such, Levona Jones is a dependent child as she is habitually truant and without justification truant from school. This action is in the best interest of the child.
2. Who could be summoned as witnesses for the hearing and what testimony/reports could they present?
  - School attendance officer: Attendance records
  - Child Welfare Professionals and service providers who have worked with the family in the past: family cooperation, progress of family
3. What further information might the Child Welfare Professional explore before the hearing?
  - Get copies of school attendance records
4. Who else could be interviewed?
  - Child Welfare Professionals and service providers who have worked with the family in the past
  - School personnel who may be working with Levona
5. If placement occurred, were reasonable efforts made to prevent the placement?

This could go either way. In order to get Levona into school immediately, protective custody or a voluntary placement could be considered. Reasonable efforts must be considered. She and her mother have had services before and

currently have services, all to no avail. On the other hand, a petition could be filed and CYS attempt to provide services until the Court hearing. This varies from county to county.

#### Case #3: Billy D. Williams

1. Petition:

On or about October 31, 2004, Billy D. Williams did throw eggs, smash mailboxes, and soap windows at neighboring homes. Additionally, Billy D.

Williams did throw a brick through a neighbor's picture window, causing the window and a vase valued at \$1,500 to break. As such, Billy D. Williams is a dependent child in that he is under the age of 10 years and has committed a delinquent act. This action is in the best interest of the child.

2. Who could be summoned as witnesses for the hearing and what key testimony/reports could they present?

- The neighbor who saw Billy throw the brick
- The police officer to whom Billy confessed

3. What further information might the Child Welfare Professional explore before the hearing?

- Where were Billy's parents when Billy was vandalizing the neighborhood?

4. Who else could be interviewed?

- Billy's school: grades, attendance records could be reviewed.

5. If placement occurred, were reasonable efforts made to prevent the placement?

N/A

#### Case #4: The Rose Family

1. Petition:

On or about February 5, 2004, Children's Hospital of Pittsburgh called CYS to report that they had 2-year-old Abby Rose in the ER. The initial examination revealed that Abby Rose had a fractured left tibia, which was not explained satisfactorily as accidental. Further examination, including a full set of skeletal X-Rays, revealed that Abby Rose had a healed fracture of her right ulna and healing rib fractures on both sides of her chest. The mother, Monica Rose, could provide no reasonable explanation for these injuries. Additionally, the hospital staff reported that the child winces whenever her mother approaches her and that the mother has a strong odor of alcohol on her breath and seems "out of it". The child's father, Robert Iman, is currently incarcerated for 2-4 years at Western Penitentiary after his 2<sup>nd</sup> conviction for possession of crack cocaine. He has never lived with Abby Rose and has not paid support. As such, Abby Rose is a dependent and abused child as she is without proper parental care and control necessary for her physical, mental, or emotional health or morals AND a determination that there is a lack of proper parental care or control may be based

upon evidence of conduct by the parent that places the health, safety or welfare of the child at risk, including evidence of the parent's use of alcohol or a controlled substance that places the health, safety or welfare of the child at-risk.

Additionally, Abby Rose is an abused child in that she suffered serious bodily injury which created a substantial risk of death or which caused serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ (CPSL). This action is in the best interest of the child. Due to the serious nature of Abby's injuries and the mother's lack of explanation, preventative services were not offered.

Due to the necessity of an emergency placement, the lack of such services was reasonable under the circumstances. By this document, CYS is putting Monica Rose on notice that CYS intends to prove that the injuries suffered by Abby Rose present aggravated circumstances in that the injuries are so egregious that a child's safety may be in serious jeopardy, and even with services, it is unlikely that Abby's safety can be assured.

2. Who could be summoned as witnesses for the hearing and what key testimony/reports could they present?
  - The attending physician: expert medical opinion
  - The hospital staff who noticed that mother smelled of alcohol and was "out of it"
3. What further information might the Child Welfare Professional explore before the hearing?
  - Get child's records from her pediatrician
4. Who else could be interviewed?
  - Neighbors
  - Relatives
  - Other hospital personnel who interacted with mother
5. If placement occurred, were reasonable efforts made to prevent the placement? Due to the serious nature of Abby's injuries and the mother's lack of explanation, preventative services were not offered. Due to the necessity of an emergency placement, the lack of such services was reasonable under the circumstances.

After participants have completed their petitions, distribute **Handout #14 (Practice Activity Information)**.

To complete this section explain that now that the pre-work for Juvenile Court has been completed, the Child Welfare Professional must prepare for the actual court hearing that will occur. Section IV will delineate the types of juvenile hearings and their purposes.

# **Module 12: The Court Process**

## **Section IV: Juvenile Court**

### **Estimated Length of Time:**

1 hour, 20 minutes

### **Learning Objectives:**

Participants will be able to:

- ✓ Explain the various types of proceedings and hearings conducted in the Juvenile Court process
- ✓ Explain the various participants in the Juvenile Court process.

### **Methods of Presentation:**

Lecture, Small Group Discussion, Large Group Discussion, Small Group Exercise

### **Materials needed:**

- ✓ 2 Flip chart stands
- ✓ 2 blank flip chart pads
- ✓ Colored markers
- ✓ Overhead projector and screen
- ✓ Reference Book for Charting the Course towards Permanency for Children in Pennsylvania
- ✓ **Handout #15 (Types of Hearings)**
- ✓ **Handout #16 (Juvenile Court Disposition Options)**
- ✓ **Handout #17(Permanency Hearing Intervals)**
- ✓ **Handout #18 (Items Discussed at Permanency Hearings)**
- ✓ **Handout #19 (How To Be A Good Witness)**
- ✓ **Overhead #9 (Basic Rights)**
- ✓ **Overhead #10 (Participants in the Juvenile Court Process)**
- ✓ **Overhead #11 (Permanency Options)**
- ✓ **Overhead #12 (Exceptions to Filing Termination of Parental Rights Petitions)**

### **Outline of Presentation:**

- Discuss pre-hearing conferences
- Review who is present and a participant in Juvenile Court proceedings
- Review the types of juvenile hearings and permanency options

## Section IV: Juvenile Court

### Step 1: (5 minutes)

#### Lecture

Explain to participants now that they have completed the Juvenile Court Petition they will learn about preparing for the court hearing. Again, it is critical that they know that all court actions are guided by legal mandates. The legal mandates ensure the rights of children and their parents/guardians are protected.

Use **Overhead #9 (Basic Rights)** to explain that The Juvenile Act specifically cites basic rights of the parties in a dependency proceeding:

- The parents and child have a right to counsel. If they do not have the financial resources to employ counsel, the court must provide it.

Various counties have different procedures for how this is accomplished. The agency, generally, will give notice to the parents that they have a right to counsel and how they can secure representation if they cannot afford a private attorney. At times, this notice is a part of the petition. In some areas, free representation is available through legal services, and/or the court may make other provisions for the counsel. Similarly, counties have various methods for providing counsel for the child/ren. This may include appointment of a particular attorney to represent children in all cases (guardian ad litem), or a pool of attorneys who are appointed on a rotating basis. The worker may or may not be involved in arranging for counsel. Workers who are unfamiliar with their county's procedures should check with their supervisors for further information.

- The parties are entitled to the opportunity to introduce evidence and otherwise be heard in their own behalf and to cross-examine witnesses.

Due process protections include:

- Putting people on notice of the allegations. This occurs through the petition, which has already been addressed.
- Opportunity to a fair hearing, which will be addressed soon.
- Right to an impartial trier of fact.
- The right to family integrity, which is addressed through reasonable efforts.

Failure to make provisions for any of these rights may interrupt or delay the judicial process. At the extreme, it may cause a child to be released from protective custody prematurely.

### Step 2: (5 minutes)

#### Lecture

Explain the role and purpose of pre-hearing conferences. Rather than proceed with an actual hearing, some courts may first schedule a pre-hearing conference. At the conference, the parties and their attorneys come together to discuss their positions in the case. Some courts may expect certain written reports for this proceeding, such as a social summary prepared by the family's Child Welfare Professional. This is a less formal process and may lead to an agreement of the parties, thus eliminating the necessity for a more formal hearing. These agreements are often desirable since they can reduce the adversarial nature of the proceeding, can eliminate the need for a child to testify in court, and can save the time and expense of a full presentation of evidence.

The attorneys for the parties may engage in negotiations to settle the matter through an agreement rather than a court decree. These discussions may occur at a pre-hearing conference or at any other point of the process. In order to bind the parties, a stipulation must be in writing or made on the record in court. The judge will generally incorporate the stipulation into a court order, which has the same force as an order resulting from a hearing.

**Step 3: (5 minutes)**  
**Large Group Discussion**

Ask the whole group which, if any, of the 4 cases that were discussed earlier might be resolved through the use of a Pre-hearing Conference; why or why not a Pre-hearing Conference might be an acceptable way to resolve the case.

- No to Joyce and Bobby Smith: no food in house, leaving children alone, police charges pending
- Maybe Levona although not recommended as she and her mother have failed to cooperate with CYD in the past
- Yes to Billy D. Williams if parents agree to restitution and sign a FSP
- Absolutely no to Abby Rose

**Step 4: (10 minutes)**  
**Lecture**

Use **Overhead #10 (Participants in the Juvenile Court Process)**, to explain there are various key participants in the Juvenile Court process.

The parties are the persons concerned with or actively taking part in the proceeding. They have the right to present evidence, cross-examine witnesses, and appeal decisions of the court. In dependency matters, the parties are the petitioner, the respondents (usually the parents or guardians), and the child.

- The petitioner is usually the Child Welfare Agency, although, as addressed earlier, it can be any interested person. Actual court appearances are usually made by the family's Child Welfare Professional, although procedures may vary in individual counties.
- It is important that all parents and other custodians be made part of the court

matter. Non-custodial parents and involved putative fathers should be included. If the child cannot be returned to the custodial parent immediately, it might be possible to place the child with the other parent rather than in agency care.

Putative fathers who have not previously been involved in the child's life should also be included in the court process. Timely resolution of paternity issues is both in the best interests of the child, and important to further case processing.

When parents do not have custody, according to the Juvenile Act Section 6336.1, the child's foster parent, pre-adoptive parent or relative providing care for the child must be provided timely notice of hearings by the agency, and the court must provide them with the opportunity to be heard at any hearing. This however, does not give the foster parent, pre-adoptive parent or relative providing care legal standing in the matter being heard. These individuals should be available to be present in court since the best decision may be to leave the child in their home, at least temporarily, and since they often have vital information about the child and family.

- The child is the subject of the Juvenile Court proceeding. Children should often be present at hearings, but their attendance can depend upon many factors including their age, their physical and emotional condition, and the degree that requiring them to be present might traumatize them. Regardless of the decision made regarding the child's inclusion, the child should be accessible in the event the court determines that the child's presence is necessary. The child's guardian ad litem should be consulted if the child is not to be present so they may talk to the child ahead of time, if appropriate.
- A judge presides over the hearings and is responsible for making the required decisions. There are no juries in dependency matters, so the judge is responsible for determining facts as well as the law. The judge's involvement also requires rulings on motions, ensuring that appropriate procedural rules are followed, and determining whether evidence is admissible. Additionally, the judge must read and decide on filings, such as petitions and stipulations.

Hearings may be conducted by a master rather than a judge. A master must be a member of the bar and is generally appointed by the court. The master must inform the parties of their right to appear before a judge. If there is no objection, the master hears the case and sends written findings and disposition recommendations to the judge. If the judge does not order a rehearing, the master's findings and recommendations become the order of the court, and are confirmed in writing by the judge.

- The attorney for the petitioner are often the agency solicitor. This individual is employed by the Child Welfare agency to represent the agency in court and provide other legal advice.
- The attorney(s) for the parents are required to protect the interests of the parents. If there is a conflict of interest between the parents, each parent may have their own attorney. Because it is often the parent(s) who are suspected of neglecting (and abusing) the child/ren, the parents will typically want to be represented by legal counsel in the Juvenile Court proceedings.

- Both the Juvenile Act and CPSL specify the child's right to legal representation.

The Juvenile Act clearly mandates appointment of counsel to advocate for the child.

The CPSL mandates the appointment of a guardian ad litem for the child in cases in which abuse has been alleged. The guardian ad litem must represent the best interests of the child at every stage of the proceeding. The CPSL mandates that the guardian ad litem make further investigation necessary to ascertain the facts, interview witnesses, examine and cross-examine witnesses, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the child. The CPSL further dictates that, when it is appropriate because of the age or mental and emotional condition of the child, the guardian ad litem shall also determine the wishes of the child about the proceedings and communicate the information to the court.

- In cases in which a stipulation cannot be reached and a court hearing will take place, witnesses, beyond the parties, may be needed to help prove the allegations contained in the petition.

To ensure the appearance of a witness in court, a subpoena may be served to compel the person to appear and present evidence at the hearing. The subpoena may also direct the person to bring documents or exhibits that are in their possession. Subpoenas should be served upon any witness that the Child Welfare Professional believes may not appear in court voluntarily and is necessary for the proper presentation of the case to the court. In some cases, voluntary witnesses may request a subpoena because their employers require a subpoena in order to give the employee time off to attend the juvenile hearing or to release the contents of their records.

### **Step 5: (10 minutes)**

#### **Lecture**

Types of Hearing: Distribute **Handout #15 (Types of Hearings)**.

- Petition (must be filed within 24 hours after taking protective custody or on the next court business day in cases of dependency, or within 48 hours after the informal hearing under provisions of the CPSL)
- Informal Hearing/Detention Hearing/Shelter Hearing (must be held within 72 hours of taking protective custody)
- Adjudicatory Hearing (held within 10 days of the informal hearing if protective custody has been taken)
- Disposition Hearing (scheduled immediately or within 20 days after the adjudicatory hearing)
- Permanency Hearing (within six months of the child's removal from the child's parent, guardian, or custodian and within 6 months of each previous permanency hearing until the child is returned to the child's parent, guardian, or custodian or within 30 days of an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or

custodian or to preserve and reunify the family need not be made or continue to be made)

**Trainer Note:** The above information may change slightly in cases where aggravated circumstances have been found by the court. The federal ASFA legislation (P.L 105-89), when describing the processes to be used when aggravated circumstances are alleged and found does not specify that Courts must hold a disposition hearing in these cases. According to the Juvenile Act Section 6351.(3) (ii) (B), if a disposition hearing is not held, the court should move directly to a permanency hearing within 30 days of an adjudication of dependency at which time the court determines that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parents or to preserve and reunify the family need not be made or continue to be made.

**Trainer Note:** The types and timeframes for all juvenile hearings are described in the Juvenile Act and/or the CPSL.

Informal Hearing/Detention Hearing/Shelter Hearing:

Both the Juvenile Act and the CPSL call for an informal hearing to be held within 72 hours of taking protective custody of a child. Other terms used for the hearing include shelter care hearing, 72-hour hearing, and detention hearing. However, the law refers to it as the informal hearing.

At this hearing, the court reviews the initial decision to place the child/ren in protective custody, and determines whether continued placement outside the home is required. The main issue is whether or not the child can be immediately and safely returned home.

To evaluate the likelihood and severity of harm if the child is returned home, the court takes into account not only the facts and circumstances that gave rise to the original removal of the child, but also what might be done to safeguard the child in the home. In other words, consideration is given to the current danger to the child as well as how the danger can or cannot be eliminated.

The outcome of the hearing is a decision on whether the child should be returned home immediately or remain in placement pending further court action.

In the case of dependency, the petition would have most likely been filed before the informal hearing. If protective custody was taken under the CPSL and the child remains in placement pursuant to the informal hearing, the agency has 48 hours from the hearing to file the petition.

Adjudicatory Hearing:

The adjudicatory hearing is held within ten days of the informal hearing. If protective

custody has not been taken, but a petition has been filed, the first hearing is the adjudicatory hearing, held when the court schedule allows.

Adjudication means the pronouncement of a judgment based on the evidence. Except for the burden of proof, this proceeding would be akin to a trial in criminal court. So, this hearing is established to determine the truth or falsity of the allegations contained in the petition. There are two questions to be answered (the first always applies, the second applies only in certain situations):

1. Whether the facts at the hearing lead to the conclusion that the child is either dependent or dependent and abused as defined by the Juvenile Act, and also the CPSL in the case of the latter.
2. If dependency is found by the court, *and* aggravated circumstances are being alleged by the agency or the child's attorney, whether the facts presented substantiate aggravated circumstances. Note: Alleged aggravated circumstances can only be ruled on by the court if a child has been found to be dependent.

The burden of proof is on the party asserting the neglect and/or abuse, which, in most cases, is the agency. This means that the agency has the duty to substantiate the issues raised in the petition in order to convince the court of the truth of the claims and hence prevail in the case.

The standard of proof refers to the level of certainty by which the judge must be convinced that the allegations in the petition are true. In Juvenile Court, the standard is clear and convincing evidence. The clear and convincing standard requires proving that it is highly probable that the existence of the facts is true. The judge, in essence, must have a firm belief in the facts. The standard of proof for a court to determine that aggravated circumstances exist is also clear and convincing evidence.

The result of the hearing is to determine whether the child is dependent or dependent and abused. If the case is not proven and the child is not adjudicated dependent, the involvement of the Juvenile Court is ended.

The case is dismissed and all conditions or restrictions are discharged. If the child is found to be dependent, the adjudication hearing is completed and the court moves to the next phase of the process.

### Dispositional Hearing

The dispositional hearing is the stage of the Juvenile Court process in which, after finding that the child is within the jurisdiction of the court and is dependent, the court determines who shall have custody and control of the child and what the permanency plan for the child is. The court may also set additional conditions concerning the child's placement and may issue certain directives to the parties. In some counties, the Dispositional Hearing is combined with the adjudicatory hearing.

## Distribute **Handout #16 (Juvenile Court Disposition Options)**.

Under the Juvenile Act, the court has several options of disposition and orders the one best suited to the protection and physical, mental, and moral welfare of the child:

- The court may permit the child to remain with his/her parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes. This may include supervision as directed by the court for the protection of the child.
- Alternatively, the court may set conditions and limitations and transfer temporary legal custody to any of the following:
- Any individual within or without Pennsylvania, including any relative, who, after study, is found by the court to be qualified to receive and care for the child.
- An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
- Or, a public agency authorized by law to receive and provide care for the child.

### **Step 6: (15 Minutes)**

#### **Large Group Discussion**

During the disposition phase of the court process, CYS presents their recommended plan for the custody and care of the child. The names of documents might vary from county to county.

**Trainer Note:** Participants must be reminded that the preparation of certain documents must be done within the timelines established by DPW: The county agency shall prepare, within 60 days of accepting a family for service, a written family service plan for each family receiving services through the county agency. Additionally, if the child is in out of home placement, a Permanency Plan must be developed within 30 days of placement: These timelines are in effect regardless of when the Court hearings are scheduled.

**Trainer Note:** Prepare a flip chart with the following statements: (1) If the child is in placement, should the child be returned home? (2) What elements, for both the parents and the child, would be in your plan? (3) Why did you choose that particular plan and those elements?

For the sake of this discussion, the group should assume that all of the children in our case studies have been adjudicated dependent. The individual groups may decide that if their children are in out-of-home placement, they could return home with services or remain in placement. The trainer must have the participants decide what elements would be in their plan that they would present to the Court at the disposition phase. Some of the justification for the various “elements” can be found in the intake/screening and investigation records and the risk and safety assessments. With the aid of the prepared flip chart questions, the trainer should go to each group in a round robin fashion and ask them what would be in the “plan” they would present to the Court.

Some possible elements of a “plan” for each family might be:

Case #1 The Smith Family:

- A drug and alcohol evaluation and follow the recommendations for mom
- Parenting classes for mom
- Family Reunification Services

Case #2: The Jones Family:

- Teen parenting classes for mom
- Continue Big Sister for Levona
- Joint counseling for mom and Levona

Case #3: Billy D. Williams:

- Billy must make restitution to the families whose property he damaged
- Community service work
- Individual and/or family counseling

Case #4: The Rose Family:

- In this case, the Agency will be alleging the aggravated circumstances exist. With the Court’s approval, the agency is under no obligation to make a plan for reunification. However, they still need to do a plan to address Abby Rose’s physical health needs and care.

**Step 7: (10 minutes)**

### **Lecture**

Once a child has been adjudicated a ward of the Juvenile Court, the court retains jurisdiction or control over the child until the child either reaches age 18 (or in some cases age 21), or until the jurisdictional status is otherwise terminated by the court. This jurisdiction is maintained through periodic reviews which measure the progress of the case in terms of the orders dictating the conduct of the parties, and determine the need to modify previous orders.

Once a child has been adjudicated dependent and is subsequently placed outside the home, the Adoption and Safe Families Act requires that the court conduct permanency hearings in which specific information regarding the child's welfare is presented. To accomplish these reviews, the agency files a petition with the court, and includes a copy of the family service plan and the child's permanency plan.

Use **Handout #17 (Permanency Hearings Intervals)** to explain that time intervals for Permanency Hearings must be conducted at the following intervals:

Within six months of:

- The removal of a child from the home;
- Each previous permanency hearing until the child is returned home or removed from the jurisdiction of the court.

Within 30 days of:

- An adjudication of dependency at which time the court determinations that aggravated circumstances exist and that reasonable efforts to reunify the family or prevent placement do *not* need to be made;
- A permanency hearing at which the Court determined that aggravated circumstances exist and that reasonable efforts to reunify the family or prevent placement do *not* need to be made or continue to be made;
- When an agency (at some point beyond the initial intervention of the agency) discovers that aggravated circumstances may exist for a child already adjudicated dependent;
- A petition alleging that a hearing is necessary to protect the physical, mental or moral welfare of a dependent child.

Use **Handout #18 (Items Discussed at Permanency Hearings)** and review the following items to be discussed at a permanency hearing:

- The continuing need for and appropriateness of the placement;
- The appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child;
- The extent of progress made toward alleviating the circumstances which required placement;
- The appropriateness and feasibility of the current placement goal for the child;
- The likely date by which the goal for the child might be achieved;
- Whether the child is safe;
- If the child has been placed outside of Pennsylvania, whether the placement continues to be best suited to the protection and physical, mental and moral welfare of the child;
- If a child is 16 years of age or older, determine what services are needed to assist the child in making the transition to independent living;
- If aggravated circumstances exist OR if a child has been in placement for at least 15 out of the last 22 months, determine whether the county agency has:
  1. Filed a petition to terminate parental rights.
  2. Identified, recruited, processed and approved a qualified family to adopt the child.

On the basis of the above determinations, and all relevant evidence presented during a permanency hearing, the court shall determine the permanency goal for the child. The trainer must display **Overhead #11 (Permanency Options)** and discuss those options:

Permanency Options:

1. Return the child to the parents, guardian or other custodian.
2. Place the child for adoption (termination of parental rights filed by agency).
3. Place the child with a legal custodian.
4. Allow the child to remain in another living arrangement intended to be permanent in nature.

- Must be court-approved
- Agency must document a compelling reason why options 1 through 3 are not suitable before this option can be exercised.

The trainer must note that there are three exceptions for which an agency is *not required* to file a petition to terminate parental rights. Trainer must display **Overhead #12 (Exceptions to Filing Termination of Parental Rights Petitions)**. Those exceptions are that:

1. The child is being cared for by a relative best suited to the welfare of the child.
2. The agency has documented a compelling reason why the termination of parental rights would not be in the best interest of the child.
3. The child's family has not been provided with the necessary services set forth in the permanency plan.

At the discretion of the court, permanency hearings do not need to be conducted if:

- A child has been placed in a court-approved living arrangement that is intended to be permanent in nature;
- A child has been placed in an adoptive home;
- A child has been placed with a permanent legal custodian appointed by the court.

Inform participants that more will be discussed about Permanency Hearings in Module 13.

**Step 8:** (20 minutes)

**Lecture**

Distribute and review **Handout #19 (How to be a Good Witness)** with the group.

# **Module 12: The Court Process**

## **Section V: Self-Assessment and Transfer of Learning**

### **Estimated Length of Time:**

30 minutes

### **Learning Objectives:**

Participants will be able to:

- ✓ Complete a self assessment and a plan for the successful transfer of learning to the workplace.

### **Methods of Presentation:**

Individual activity, Lecture

### **Materials Needed:**

- ✓ Handout #20 (Self Assessment for Module 12)
- ✓ Handout #21 (Transfer of Learning Activities for Module 12)
- ✓ Trainer Evaluation Forms

### **Outline of Presentation:**

- Presenter facilitates trainer self-assessments and transfer of learning plans
- Trainees complete trainer evaluations

## Section V: Self-Assessment and Transfer of Learning

**Trainer Note:** This is a critical section and will need the entire 30 minutes assigned.

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

**Step 1:** (5 minutes)

### Lecture

The trainer advises the group that they have reached the stage of the training that requires a transfer of learning plan to implement upon return to their agencies. The plan is their key to transferring what they learned to their work behavior.

Distribute **Handout #20 (Self-Assessment for Module 12)**, and review the learning objectives of the training day. Note these are the same as the self-assessment of knowledge and skill categories.

**Step 2:** (10 minutes)

### Individual Activity

The trainer refers participants again to **Handout #20 (Self-Assessment for Module 12)** instructing participant to complete the Self-Assessment Transfer of Learning Plan. Inform the participants that it is important that they accurately assess their ability. It is not expected at this stage of training to have mastered all the areas of training. It is through their recognition of a need to continue to grow that they take the steps necessary to improve their knowledge and skills. For each item, participants list who, will do what, by when. Participants should not feel limited by the prescribed numbers and should list additional items if they choose.

The trainer then asks participants to individually complete their plans.

**Step 3:** (5 minutes)

### Lecture

Using **Handout #21 (Transfer of Learning Activities for Module 12)** remind participants of their next day of training and their required pre-work responsibilities.

Ask trainees to complete the Training Program evaluation, encouraging them to include written comments in addition to the feedback scores. Tell them that the comments are usually the most useful information for us in improving the curriculum and presentation.

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Commonwealth of Pennsylvania. (2000). Pennsylvania standards for Child Welfare Practice.

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