

WHAT IS THE BENCHBOOK?

This benchbook is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases.

Dependency Court Improvement Program grants from the United States Department of Health and Human Services, Administration for Children and Families, support this project.

WHY USE THE BENCHBOOK?

WHY USE THE BENCHBOOK? REASON #1: As a result of reading and using this benchbook, judges and magistrates will apply federal and state law, Florida rules of court, and case law to their dependency cases.

WHY USE THE BENCHBOOK? REASON #2: As a result of reading and using this benchbook, judges and magistrates will hone courtroom practice and decision making, informed by state-of-the-art science, best practices used nationwide, and child welfare knowledge.

Whether one is a new judge, an experienced judge who is newly assigned to the dependency bench, or an experienced dependency judge, this benchbook is important reading. Florida's dependency law is a complex mixture of federal requirements, state regulations, and ever-developing case law. In addition, research, dialogue, and system reforms are constantly unfolding. All of this must be expertly considered to address the safety, permanency, and well-being of children.

Child and Family Services Review (CFSR) and the Quality Improvement Plan. Federal funding for foster care is directly linked to compliance with federal guidelines. **Florida's next federal review will occur in 2016.** The previous CFSR, conducted in 2008, assessed the quality of Florida's performance on a variety of outcomes and systemic factors related to safety, permanency, and well-being. After the next round has concluded, failure to complete the quality improvement plan and achieve negotiated levels of improvement could result in financial penalties amounting to a loss of millions of dollars from Florida's Title IV-B and IV-E funds.

Family-centered practice. The goal of family-centered practice is engagement with the family as soon as practicable. It includes engagement with parents, children, fictive kin, relative caregivers, non-relative caregivers, and foster parents. It focuses on the needs and welfare of children within the context of their family, culture, networks, and community and recognizes the strengths of family relationships. Families help to define problems and identify solutions through the strengths of their own stories and are actively involved as team

members in the case planning process. Children and their families are actively engaged in the assessment, planning, and delivery and coordination of services when it is safe and in the best interests of the child for his or her family to do so. Family-centered practice promotes the building of protective factors (such as social connections and parent/child attachment) with the desired outcome of mitigating risk factors.

Family-centered practices from the bench include:

- Conduct an inquiry to ensure that diligent searches comply with all statutory and due process requirements; ask about extra steps taken in the search.
- Verify that reasonable efforts were made to avoid removal and ask for a description of which specific services, if available, could prevent the need for removal or continued removal from the home.
- Ask about relatives as soon as possible.
- Ask “who is the team surrounding the family, how are they working together, and is the family fully engaged with the team?”
- Involve children in court.
- Involve caregivers in court.
- Make child specific decisions and findings.
- Ensure that parents and children are actively involved with case plan development.
- Use concurrent case planning.
- Ask about placement and ongoing connections with siblings.
- Name family strengths during court proceedings.

Family-centered practice and family court principles. The family-centered practice framework is harmonious with the principles of family court. Consider the family court principles from the May 2001 opinion:

- All persons, whether children or adults, should be treated with objectivity, sensitivity, dignity and respect.
- Cases involving interrelated family law issues should be consolidated or coordinated to maximize use of court resources to avoid conflicting decisions and to minimize inconvenience to the families.
- A key part of the family court process should be establishment of processes that attempt to address the family’s interrelated legal and non-legal problems to produce results that improve the family’s functioning. The process should empower families through skills development, assist them to resolve their own disputes, provide access to appropriate services, and offer a variety of dispute resolution forums where the family can resolve problems without additional emotional trauma.
- The court is responsible for managing its cases with due consideration of the needs of the family, the litigants, and the issues presented by the case.

- Whenever possible, parties and their attorneys should be empowered to select processes for addressing issues in their cases that are compatible with the family's needs, financial circumstances, and legal requirements.

Examples of family-centered questions for judges to ask.

Model the expectations for case workers around family-centered practice.

- What have you learned about the strengths of this child and parent?
- Who is the team of people who will be working with each other to help this child and family succeed?
- Can I count on these team members to communicate with each other and build consensus with this parent as to what is working and not working?

Model expectations for engaging children (as age appropriate) in meaningful discussion.

For children at home:

- What is your understanding about what people are doing to help your family?
- How do you think it's working?
- All children worry about some things. Can you share with me what your worries are right now?

For children placed out of the home:

- Are you getting to visit the people who are important to you?
- How does that work?
- Is there anyone else you would like to be visiting with?

Model the expectations for engaging parents in respectful ways.

For reasonable efforts to prevent removal:

- What do you believe it will take to help you tackle the problem (substance use, domestic violence, mental health issues) and keep your child safe at home?
- Have staff involved you in developing this case plan?

For diligent search questions:

- Have you shared the names of persons in your family who care about your children?
- If the answer is no, "What makes this difficult to do? What would make it possible for you to do this?"

For identifying needs of children:

- What do feel your child needs during this difficult time?
- How do think those needs should be addressed?

Judicial leadership and collaboration. Because problems within families are usually complex and multifaceted, interventions need to be approached by and offered from a multidisciplinary team. Judicial leadership brings both credibility and stakeholders to the effort. The National Council of Juvenile and Family Court Judges includes collaboration in the

Key Principles for Permanency Planning for Children (see all ten principles at the end of this section). The key principles call for judges to be conveners, to encourage cross-training, and to appear regularly in the community. (See also *Building a Better Collaboration 9* [http://www.ncjfcj.org/sites/default/files/Building 20a 20Better 20Collaboration.pdf](http://www.ncjfcj.org/sites/default/files/Building%20a%20Better%20Collaboration.pdf))- National Council of Juvenile and Family Court Judges.) Over the past few decades, the Florida court system has made robust efforts to collaborate with stakeholders involved in family-related cases. At a statewide level, the Supreme Court Steering Committee on Families and Children in Court and the statewide Dependency Court Improvement Panel model a collaborative approach to family-related issues in court. Locally, Family Law Advisory Groups, councils, and advisory boards provide multidisciplinary guidance to court processes.

HOW TO USE THE BENCHBOOK

STEP 1: Re-read the previous section, *Why Use the Benchbook?* to fully understand the current context and culture of dependency court.

STEP 2: Read *Dependency Cases in the Context of Family Court* and read through the family court toolkits provided on the www.flcourts.org website. This section also features vital information regarding paternity actions, determining child support, delinquency issues, and the effects of domestic violence on children.

The citations in this benchbook have been abbreviated to improve the flow of the text. A citation for § 39.01(1), Florida Statutes (2016) will appear as § 39.01(1), and a citation to Florida Rules of Juvenile Procedure 8.350 will appear as Rule 8.350.

STEP 3: Read *Family-Centered Practice, Trauma and Child Development* and *Service and Treatment Considerations*. These sections enhance the hearing benchcards and provide detailed checklists regarding children in court, family time (visitation) protocols, engaging fathers, a concurrent planning model, a guide for assessing safety, and well-being checklists.

STEP 4: Read the summaries of the significant federal legislation affecting dependency proceedings. Recent legislation made additional changes to the system. Also, read the section regarding the general legal issues relevant to dependency court.

STEP 5: The *Hearings* section is the core of the benchbook. It contains benchcards for the most common dependency hearings as well as supplemental hearing information. In the benchcards, the reader will find references to tabbed subsections in the first sections of this benchbook. These sections provide more detailed information on a variety of topics. The benchcards are detailed, comprehensive, and contain both legal and non-legal considerations (based on science-informed and promising practices). Legal requirements are in bold font.

STEP 6: Implement the benchcards. The size and content of the benchcards can be daunting. Many of the considerations listed in the benchcards are aimed at learning pieces of

information about the family for better decision making. Much of the information will be presented to the court without the judge needing to ask for it. However, while first implementing the benchcards, judges may need to ask the attorneys for the information, prompting them to advise the court.

The benchcards advise judges to:

- Take evidence.
- Find facts.
- Apply legal authorities (federal law, Florida state statute, case law, Florida Supreme Court opinions, and the rules of court).
- Consider the child welfare backdrop (federal Child and Families Services Review, family-centered practice, guiding principles, five protective factors, promising practices, science-informed practices, broad-based local and state child welfare collaboration).

STEP 7: Implement other aspects of this benchbook with the assistance of a local collaborative team.

- Conduct a self-assessment with stakeholders, and review available data to determine the strengths and challenges in your circuit.
- Review the local circuit child abuse prevention and permanency plan.
- Review the interagency agreement on the coordination of educational services for foster children.
- Review local trauma-informed care plan.
- Review interagency agreements between the Department of Children and Families and the Department of Juvenile Justice.
- Conduct brownbag luncheons focusing on prioritized areas.
- Hold service provider fairs to learn about local referral sources.

RESOURCES:

Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases and Adoption and Permanency Guidelines (http://www.ncjfcj.org/sites/default/files/resguide_0.pdf), National Council of Juvenile and Family Court Judges