



MAKING REASONABLE EFFORTS FROM INTAKE THROUGH INITIAL REVIEW HEARING

MD CANI: THE FIRST 75 DAYS

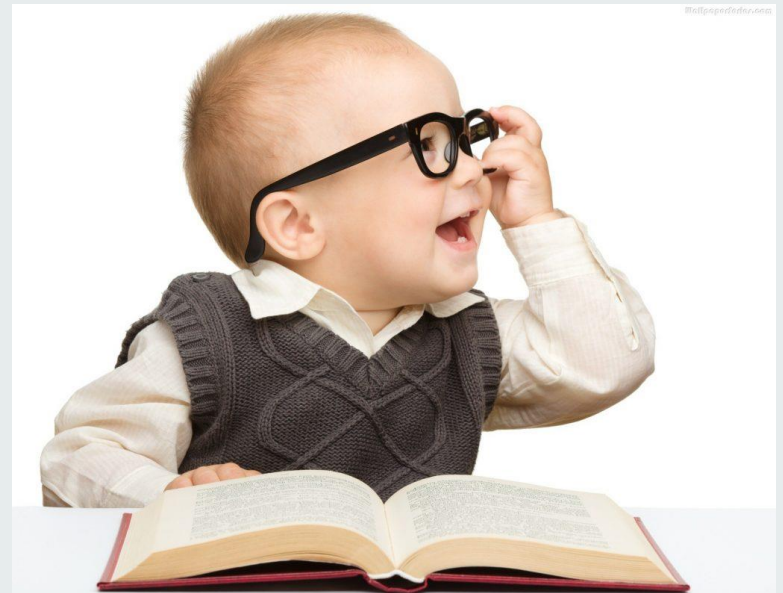
PRESENTED BY JUDGE R. MICHAEL KEY
TROUP COUNTY, GEORGIA JUVENILE COURT



2021

LEARNING OBJECTIVES

- Examine the scope of judge's responsibility to determine the adequacy of reasonable efforts at various stages of dependency proceedings.
- Discuss and “define” reasonable efforts.
- Explore some best practices in making reasonable efforts.



This not the time to press
the



Be difficult!

It should be hard to take or
keep a six-day old baby girl
away from her mother!

REASONABLE EFFORTS - THREE OVERARCHING GOALS

- To keep families together;
- To (timely) reunite families when they have to be separated; and
- To (timely) achieve an alternative plan for permanency for children when they can't go back home.



THREE LAYERS OF LAWS AND REGULATIONS

Federal and state statutory framework →



← Federal and state regulations

State and United States →
Constitutions



WHAT'S THE OBJECTIVE?

- To ensure that every child that should be in care is in care, but ***not a single child more***; and
- To ensure that every child that is in care is in a safe, nurturing placement that is supportive of the permanency plan for the child, and ensures the child's wellbeing.



THE COURT'S ROLE: JUDICIAL OVERSIGHT

The Court holding the child welfare agency accountable for making reasonable or active efforts is not just a best practice.

It's the law!



CONGRESSIONAL INTENT FOR JUDICIAL OVERSIGHT

- Prevent unnecessary removals
- Act as a safeguard against potential inappropriate agency action
- Not become a mere pro forma exercise in paper shuffling to obtain Federal funding
- Unwilling to accept as a general proposition that the judiciaries of the states would so lightly treat a responsibility placed upon them by federal statute for the protection of children



WHAT JUDICIAL OVERSIGHT IS **NOT!**

- Out of 1200 judges, less than 4% had ever made a no reasonable efforts finding
- 90.4% of judges stated that they either rarely or never made a no reasonable efforts finding
- 40.5% of judges reported making reasonable efforts findings even when the the agency had not made reasonable efforts
- Reasons given for not making no reasonable efforts findings: insufficient information and funding concerns

RECENT SURVEY - BETTER BUT NO CIGAR

- 27.27% have made reasonable efforts when evidence did not support that finding
- 89.7% reported having not made or seldom made a no reasonable efforts find in the last year
- Reasons given for not making no reasonable efforts findings: potential loss of funding and/or services (51.61%) and insufficient information (33.87%)
- Most common no reasonable findings made as to reunification (55.22%)
- A lot of work needs to be done about parent and child attorney advocacy around reasonable efforts

CONSEQUENCES

- Failure to make contrary to the welfare finding
- Failure to make reasonable efforts to avoid removal
- Failure to make reasonable efforts to reunify
- Failure to make reasonable efforts to time achieve permanency through an alternative plan

- (a) Loss of funding for sixty days
- (b) Loss of funding for entire episode in care
- (c) Loss of funding until reasonable efforts are found to have been made
- (d) Only a reprimand from the judge
- (e) Nothing

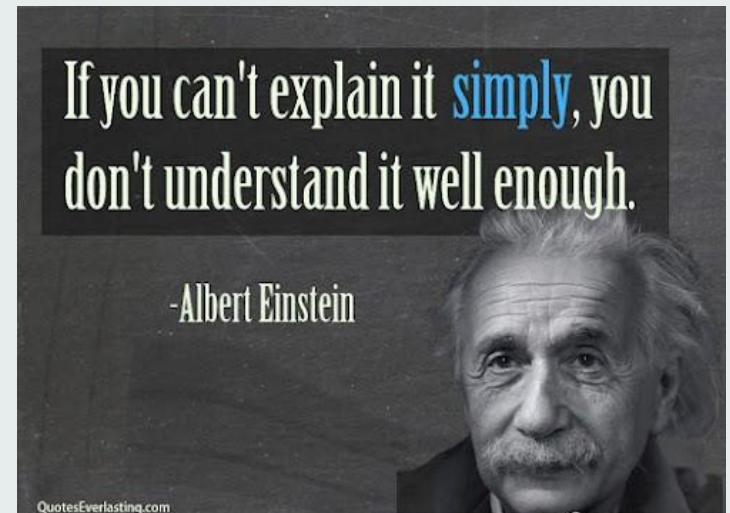
MOST IMPORTANT CONSEQUENCE

A close-up photograph of a young child with light brown hair, looking directly at the camera with a sad or pouting expression. The child is wearing a white short-sleeved shirt under a green vest. The background is a blurred outdoor setting with greenery and a building.

Children and families suffer!

JUDGES NEED TO SET CLEAR EXPECTATIONS/DRAW THE LINE

- It is important for judges to have a structured decision-making process around reasonable efforts findings that is sufficiently developed so that they can articulate that process. And they should consistently maintain fidelity to that process while still making individualized decisions.
- This decision-making process is what was Congress referred to as a “meticulous and impartial decision-making procedure” to prevent overreaching by state agencies.



JUDGE KEY'S DEFINITION

Doing for children and families we serve that which we would want others to do for us and our families if we found ourselves in like circumstance.



JUDGE KEY'S STRUCTURED DECISION-MAKING MODEL

If it is not unreasonable to expect a certain thing to be done in order to keep families together, to reunite the family, or to achieve an alternative permanency goal, then it is reasonable, and the failure to do that thing is a failure to make reasonable efforts.

Factors to consider:

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Factors to consider:

- All appropriate
- Culturally appropriate
- Adequate
- Availability and accessibility
- Tier Two reasonable efforts if services are not available
- Evidence-based
- Likelihood of success
- Willingness to participate
- Duration of service
- Cost
- Timely

WHERE DO WE START?

If you do the **right** things

for the **right** people

in the **right** way

at the **right** time,

You get the **right** results.



TWO TIERS OF REASONABLE EFFORTS

- Tier One Reasonable Efforts
 - Reasonable efforts made in each individual case
- Tier Two Reasonable Efforts
 - Reasonable efforts to track needs and develop services to meet the needs

Making Reasonable Efforts: A Permanent Home for Every Child



TIER ONE REASONABLE EFFORTS

- Assess the family situation
- Determine if any available services will work
- Consider alternative ways other than removal
- Inform family about available services
- Offer services most likely to work
- Give family an opportunity to request other services
- Provide a means for review of agency's failure to provide the services the family believes will work
- Develop an appropriate case plan
- Visitation
- Permanency hearings

TIER TWO REASONABLE EFFORTS

- Assess need
- Comprehensive plan for prevention and reunification
- Provide all services
- Structure service delivery to keep families together
- Conduct training
- Establish appropriate criteria for services
- Develop written guidelines, procedures and protocols

Making Reasonable Efforts: A Permanent Home for Every Child

MOVING FROM LAW TO PRACTICE

- Conduct a thorough investigation
- Assess and articulate safety threat as immediate, significant and clearly observable
- Consider and articulate vulnerability
- Look for and articulate controlling interventions
- Identify and be able to articulate the specific harm that might come to a child if the child remains in the home

MOVING FROM LAW TO PRACTICE

- Consider all risk mitigation services
- Seek short term safety and ask for expedited hearing
- It is more than just knowing the questions to ask – it is the persistent pursuit of the answers to the questions
- Can the child go home safely today?
- Would you remove the child today?
- Family time is critical

MOVING FROM LAW TO PRACTICE

- Make the equivalent of active efforts
- Hold one another accountable for reasonable efforts and for making reasonable efforts findings
- Demonstrate a true sense of urgency



REMEMBER THE KIDS WE SERVE ...



- Their belongings in a bag, their hearts on a sleeve, or tucked securely away,
- Their futures not their own, but held in the hands of those who do not know them.
- Their worlds asunder; insecurity and mistrust their constant companions.
- They come to us looking for answers, for understanding, for hope, for resolution.
- What we give them will determine who they are and who they will forever be.
- Equally as important, what they become because of their having passed our way, will define our lives and our place in history.

Hon. R. Michael Key, September 24, 2005

QUESTIONS

