

Dependency Court Gets Social Science Perspective With New Judicial Guide

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2011-08-24 12:00:00 AM

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"The question for me was, 'What would be best for the kids?' And the answer was that I didn't have the slightest idea," Baer said.

Baer realized that his predicament was not uncommon among dependency court judges and he decided to develop a dependency benchbook with the help of a committee of trial judges and the Office of Children and Families in the Courts. The original benchbook, written by judges for judges, was published in July 2010 and was, Baer said in an interview, "born out of frustration."

On July 28 of this year, Baer and the Supreme Court issued a new, 800-page judicial guide for dependency cases meant to serve as a supplement, or a "science companion," as Baer dubbed it, to last year's benchbook, according to a press release.

Sandy Moore, the administrator for the OCFC within the Administrative Office of Pennsylvania Courts, said that the purpose of the new judicial guide is "to provide judges who work in dependency matters with a resource at their fingertips regarding the social science aspect of the work that they do."

"Judges are lawyers; they go through all the elements they need to know about the law," Moore explained. "But in child welfare [court], there's a whole social science component that you typically don't get in law school."

Baer oversaw the effort to develop the social scientific resource guide. Lackawanna County Court of Common Pleas Judge Chester Harhut chaired the initiative with the help of Moore and the OCFC.

The idea for the new document, Moore said, originated from a state roundtable, which she leads with Baer and Cathy Utz of the Pennsylvania Office of Children, Youth and Families within the Department of Welfare. "It

grew out of that group but was designed and developed by our benchbook committee, composed of 15 trial court judges and one appellate judge, led by Judge Harhut," Moore added. "Everything came together with support from my office."

Baer deemed "both [the dependency benchbook and the new judicial guide] absolutely essential but completely different."

"The benchbook goes through the law, the processes; it's the A to B to C to D," Baer said. The new companion, however, helps to "enhance [judges'] ability to handle the complex social, developmental and interpersonal issues inherent in court dependency cases," the press release stated.

The new judicial guide addresses 14 social science issues that judges commonly encounter in dependency court: child attachment and bonding; child development; domestic violence; grief and loss; individual case planning; mental health; neglect and deprivation; physical, sexual and emotional abuse; placement; safety and risk; substance abuse; transitioning youth; trauma; and visitation.

To compile the guide, the judges on the committee divided themselves into subgroups, which chose the topics that they were interested in researching. Each subgroup then selected several articles on its topic for review by the entire committee, and the committee chose about two items for each section, both Moore and Harhut confirmed.

"The judges really went through and read the articles; they selected ones that were not solely academic but that answered, from a judge's perspective, 'What do I need to know?'" Moore said.

"The committee completely believed that any judge in dependency court needed to read those [final two] articles. They also provided titles of supplemental articles" for reference at the end of each chapter or subject, Moore added. "It really saves other judges time. [The committee] read through hundreds of articles."

When necessary, the judges and the OCFC consulted experts in various fields, including pediatric psychology and foster care, according to the press release.

Harhut highlighted the idea that multiple chapters of the new guide can be used for one case. For example, a judge could refer to the trauma, safety and risk, mental health, placement, and abuse chapters for a case involving the sexual molestation of a child.

Harhut said: "We don't appreciate it, as pretty normal people, what trauma these kids suffer. We bounce them around into juvenile systems; if the kids do something wrong, we take them out of the home, force discipline on them, lock them up. After we've trained them, they do what they have to do ... but it'll all just get them back into court."

Moore agreed. "If dependency courts are their most effective, it really reduces every other type of court hearing we have," Moore said, pointing to the benchbook and guide's service to the justice system as a whole.

"If we help abused and neglected children into permanent homes, the likelihood that these children will have [encounters] with delinquency and other courts will be dramatically reduced," Moore continued. "The mission first of all is to help these kids and families, but another benefit is that [success in dependency court] helps every other caseload."

As previously reported in *The Legal*, the rate of children in foster care in Pennsylvania has fallen since 2006 as a result of the effort made by the state's courts and child welfare organizations to reform the system and

dependency court proceedings.

The release of the new companion to the dependency benchbook is a continuance of the same initiative, Baer said.

Harhut's view corresponded with Baer's.

"I think we judges really aren't too anxious to do this kind of work; we avoid it because it is so difficult, and we don't teach it in our law schools. We don't have questions related to these issues like family dynamics and child development on our bar exam," Harhut said. "So, most judges that come into this system have no idea what it's about."

"The book is an aide that gives you some comfort in knowing what is beyond it," Harhut said. "The more we know and the more we understand about family dynamics and child development and the associated issues, the better job we'll do."

Prior to the benchbook's publication and the resource guide's development, "there was no legal framework that I could pull out and apply to my decision, which is typically what a lawyer or attorney does" in such cases, Baer explained.

Baer said he understood from experience that the decisions a judge faces in dependency cases are far reaching — they can permanently alter a child's life and the lives of his or her family members.

The children who come through dependency court are the judicial system's "most vulnerable, at-risk citizens" who may, as adults, commit crimes, abuse drugs, experience mental health problems or commit suicide, Baer said.

"What's at stake here is generation after generation after generation. It's not too great to say that what's at stake here is our society," Baer stressed.

"[These kids are] not old enough to see that in the blink of an eye, they're going to be 17, and every single moment of their lives depended on what happened in the courtroom that day," Baer concluded. "One road leads to prosperity and one to disaster, and the fork in the road exists right there in the courtroom."

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