

BETTER FOR FAMILIES STATEWIDE SYSTEM REFORM PROGRAM

Judicial Approach to Child Welfare Cases Containing Substance Use Disorder

PURPOSE

To offer strategies for addressing families who appear in court as a result of child abuse and or neglect related to substance use.

DESIGN

The bench card provides specific inquires that may be made at each of the various court appearances as well as practice tips to make the most effective use of the process.

These inquiries are meant to be layered upon the best practices and legal requirements already in place.

▶ **Indicates a Practice tip**

❓ Indicates a Question to Ask

INITIAL APPEARANCE

Are these protocols triggered

- ❓ Was a screening done of the respondent(s)? What were the results?
- ❓ Was an SUD assessment done of the respondent(s)? What were the results?

Engaging Parents

- ▶ **Speak directly to respondents and address them using their last names.**
- ❓ Mr. or Ms. _____, do you understand that the petition contains allegations of substance use?
- ▶ **If petition doesn't allege substance use and there is objection to the services based upon the petition consider directing an amended petition be filed.**
- ❓ Do you understand that you are being asked to undergo a substance abuse assessment?

OR

- ❓ Do you understand that you are being asked to go to treatment?
- ❓ Are you in agreement with that request?

Identification of Services

- ▶ **The following inquires relate to the substance abuse services that might be needed to keep the child at home or to achieve the permanency goal. The substance abuse service should be in addition to other relevant services the family may need.**
- ▶ **Services should be tailored to the needs of the family, not guided by a standard checklist**
- ❓ What if any services have been referred at this time?
- ▶ **If the parties consent, issue an order directing the respondents(s) to complete a SUD assessment and sign releases authorizing the results and recommendations be sent directly to the court.**

OR

- ▶ **If the parties consent, issue an order directing the respondent to follow the recommendations from the SUD assessment, begin treatment, and sign all necessary releases.**

Where Removal is Requested, Efforts to Prevent Removal

- ❓ Were substance use related services offered which would allow the child/ren to remain at home?
- ❓ How are these services related to the safety factors which place the children in immediate danger of serious harm?
- ❓ Was a safety plan developed that satisfied the substance use related safety threat and allowed the child to remain at home prior to court involvement?
- ❓ If services and or a safety plan were in place previously, what has since occurred that requires court involvement?

Return of a Child Previously Removed

- ❓ What is preventing the child from returning safely home today? Is the current and immediate safety threat related to the substance use allegations? If so, how?
- ❓ Can a safety plan be developed, including an order of protection, which would allow the child to return home today?
 - Do the substance abuse issues specifically prevent the respondents from being able to provide the minimally adequate standard of care to protect the child?
 - Will the removal from or addition of any person to the home allow the child to be safe and be placed back in the home?
- ❓ If the child cannot be returned to the home, have the conditions for return been conveyed to the parents, family and child, and do they understand the conditions?

Set fact finding date within 90 days

TWO-WEEK AND MONTHLY APPEARANCES

Process Questions (All appearances, as appropriate)

- ▶ **When speaking to respondents, address them by their last names. If the respondent has not consented to a SUD assessment or any other service, use the two week appearances to engage the respondent.**
 - ▶ **If the child is placed, remind respondents that the county must file a TPR when a child is in care for 15 of the most recent 22 months, they can file at 12 months, and if there is no contact at all with the child for 6 months, TPR can be filed on the basis of abandonment.**
 - ▶ **If the respondent has made efforts to or has completed the SUD evaluation, be sure to recognize their positive efforts**
- ❓ Has the respondent(s) completed their substance use treatment assessment?
 - ❓ Have the parties and/or attorneys reviewed all reports and assessments?
 - ❓ Has a resolution or any settlement offer been discussed? Does the court need to schedule a settlement conference?
- ▶ **If applicable, consider FTC for cases that present as high risk/high need**

Status of Substance Abuse Services

- ▶ **During the 2 week appearances, focus should be on the treatment plan/recommendations. Discuss any barriers and potential solutions to overcome those barriers.**
 - ▶ **Monthly appearances center on ongoing progress in treatment. Progress in services should relate to demonstrated behavioral changes and how they impact the permanency goal.**
 - ▶ **Special attention should be given to their sober time, step-downs in level of care, etc. If there has been a setback, speak directly to the respondent about what happened to establish accountability.**
- ❓ What steps can be taken to avoid similar behavior in the future?
- ▶ **Keep encouraging them to work towards their goals.**
- ❓ Has the respondent(s) been drug tested? If so, when, how often and what were the results? If not, why not, and what is being done to ensure appropriate drug testing regimen?
 - ❓ Is the respondent(s) involved in self-help/sober support groups?

Family Time (All appearances, as appropriate)

- ❓ What is the frequency, duration and level of supervision of the visits?
 - ❓ What is the overall quality of the visitation? What are the strengths of the parent during the visit? What parenting issues need to be worked on and or developed during the visit?
- ▶ **As the case progresses, discussions around visitation should focus on behavioral changes and growth. Extra care should be given to the level of engagement between parent and child. Continue to highlight strengths and offer encouragement around areas that could improve.**
- ❓ If applicable, is the current level of supervision still necessary?
 - ❓ If applicable, are Orders of Protection still necessary?
 - ❓ If visitation is not occurring, what are the barriers? Is there a plan in place to overcome those barriers?

Review of Placement (If applicable)

- ▶ **It is important to keep the safety issues that brought the child into care front and center at each court appearance. When thinking about the following questions, behavioral changes, improvements in parenting and successes in treatment and other related services should be emphasized.**
- ❓ What is preventing the child from returning home today?
 - ❓ Have the factors which placed the children in immediate danger of serious harm been ameliorated? If so, how? If not, what needs to change?
 - Does SUD continue to prevent the respondent from being able to provide the minimally adequate standard of care to protect the child?
 - ❓ Can a safety plan be developed that would allow the child to return home?

If appropriate, orders should be modified to reflect changes in services, placement and or visitation

BETTER FOR FAMILIES

STATEWIDE SYSTEM
REFORM PROGRAM



Office of Children
and Family Services



NEW YORK STATE UNIFIED COURT SYSTEM
CHILD WELFARE COURT IMPROVEMENT PROJECT



Office of Alcoholism and
Substance Abuse Services