



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20201

December 4, 2020

Dear Colleagues:

I want to thank you for your ongoing efforts on behalf of children and families during this difficult time. We have heard that, due to the COVID-19 pandemic, some agencies and families have experienced service interruptions; limited access to, and availability of, services; restrictions on family time; and other challenges. As I have previously written, lack of, or inability to access, critical services due to provider closures during the pandemic should not be interpreted as a lack of parental compliance, and might indicate an agency's failure to make reasonable efforts. Agencies must continue to make reasonable efforts, as required by statute, to prevent removals and to facilitate reunification and other permanency goals.

I am writing this letter to urge agencies and courts to continue working together, to ensure that critical court hearings occur, and to give thoughtful consideration to how these concerns affect the safety, permanency, and well-being of the children and families we serve, and the decisions we make.

On March 27, 2020, the Children's Bureau (CB) issued a letter to child welfare legal and judicial leaders emphasizing the critical importance of continued judicial oversight of dependency cases, and provided guidance on the requirements to hold hearings and reviews and to make mandatory judicial determinations pursuant to title IV-E of the Social Security Act. On April 14, 2020, we issued additional encouragement to Chief Justices and State Court Administrators urging courts that had closed physical buildings and/or suspended dependency proceedings to expeditiously begin conducting remote hearings, and clarified that Court Improvement Program (CIP) funds can be used to support such efforts.

We are pleased to report that considerable progress has been made nationally in ensuring essential court operations and judicial oversight of child welfare proceedings; prioritizing child welfare hearings and reviews; use of virtual technology to allow for participation in hearings; ensuring ongoing attorney contact with parents, children, and young people; and supporting continued access to family time.

Despite this progress, we also continue to hear of limitations—in some areas—on access to justice in courts across the country, lack of opportunity for family time, and greatly restricted access to, and availability of, critical services and supports for parents with children in foster care. We are aware that access often varies by locality.

I am writing again to strongly urge agencies and courts to take immediate action to protect critical due process rights for children, youth, and parents. Consistent with this goal, I also strongly urge agencies and courts to take immediate action to ensure that quality hearings and

reviews include a full opportunity to participate, occur timely, and are consistent with federal civil rights obligations. Finally, I strongly urge agencies and courts to ensure that critical services and supports—especially family time—be provided to parents, children, and young people involved with the child welfare system.

As previously communicated in March, we strongly encourage all child welfare agencies to consider decisions thoughtfully regarding whether to file for termination of parental rights in instances where services and supports have been interrupted or have been less available, where family time has been inadequate, or where court operations are unable to offer hearings of needed breadth and depth. Such decisions should always be made on a child-by-child basis and include thoughtful review of the unique circumstances affecting the child and family. A child welfare agency may choose not to file a petition for termination of parental rights if the agency documents a compelling reason for determining it is not in the best interest of the individual child, including instances where there are less restrictive alternatives such as guardianship, or if a child is being cared for by a relative. The consistency and availability of services, supports, and family time—and how such availabilities impact parents, children and their relationship—are important factors in decision making. The effectiveness of service delivery may have added relevance in a time when many services are delivered virtually rather than in person.

We realize that child welfare work is very challenging right now, but call upon everyone to act urgently to prevent unnecessary family separation; to expedite reunification where children have been removed from their families, and there is not a present danger; and to continue to make the reasonable efforts as required by law.

We are aware of strong examples of jurisdictions that are doing all of the above – and that demonstrate that, despite the current challenges, it is possible to ensure that families have access to the justice system. Our national partners at the National Center for State Courts (NCSC) and the National Council of Juvenile and Family Court Judges (NCJFCJ) have been working diligently to support dependency courts across the country throughout the pandemic. We recommend all courts and CIPs become familiar with the following resources produced by the Conference of Chief Justice and Conference of State Court Administrators Rapid Response Teams:

- [Adoption and Permanency](#)
- [Child Welfare: Addressing Backlog](#)
- [Children, Family, and Elders Case Processing Overview](#)

NCJFCJ and CB's National Child Welfare Capacity Building Center for Courts (CBCC) have also been supporting and compiling examples of effective uses of technology and virtual hearings nationally. As we continue to navigate these difficult times, we ask all to keep in mind the additional stresses all families are facing, especially families with children in foster care, and the impact that unnecessary or prolonged separation has on the lives and healthy development of children. We must do all we can to prevent additional trauma.

Thank you for continuing to answer the call for children and families. Your work has never been more important.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Milner". The signature is fluid and cursive, with the first name "Jerry" and last name "Milner" clearly distinguishable.

Jerry Milner
Associate Commissioner
Children's Bureau

Resources

Conducting Effective Remote Hearings

https://www.acf.hhs.gov/sites/default/files/cb/covid19_conducting_effective_hearings.pdf

Remote Parent-Child Visitation: <https://cbcc.adobeconnect.com/ptrifg09lu35/>

Problem-Solving Courts During the Pandemic: <https://cbcc.adobeconnect.com/pinl7hm988bh/>

Planning for the Post-Pandemic Future: <https://cbcc.adobeconnect.com/px0ivz208nkm/>

Access to Justice During the Pandemic: <https://cbcc.adobeconnect.com/pjf0sykbsnzb/>

Impact of the Pandemic on Federal Grants and Programs: <https://cbcc.adobeconnect.com/pzd39vnh2mng/>

Re-Opening Courts: <https://cbcc.adobeconnect.com/pqhaju35770x/>