

**9th Circuit Osceola County
Attorney Monthly Call
Manifest Best Interests Agenda**

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39.810 Manifest best interests of the child.—In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

MBI (Research Summary)

Project Description

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39.810. Manifest best interests of the child
FL ST § 39.810

Department of Children and Family Services v. M.J.
Fla.App. 4 Dist. | December 22, 2004 | 889 So.2d 986

FAMILY LAW - Child Protection. Evidence was sufficient to support termination of mother's parental rights.

Document Notes



Annotated by Andrea Bose

Note:

CHILD'S WISHES In this case the fact that some of the children were against termination did not amount to competent substantial evidence, in light of the findings of the trial court that the father's sexual deviancy places the children at extreme risk and the mother refuses to protect the children from him.

J.P. v. Florida Dept. of Children and Families
Fla.App. 1 Dist. | January 15, 2016 | 183 So.3d 1198

FAMILY LAW - Child Protection. Termination of parental rights of child who had nephrotic syndrome after mother could not supply an appropriate diet was warranted.

Document Notes



Annotated by Andrea Bose

Note:

WEIGHT OF INDIVIDUAL FACTORS Trial court does not need to include the weight it assigned to each factor in the ruling.

In re A.L.R.
Fla.App. 2 Dist. | January 18, 2006 | 918 So.2d 395

MBI (Research Summary)

FAMILY LAW - Child Protection. Trial court could not terminate father's parental rights based on the length of his prison term for abusing stepdaughters.

Document Notes



Annotated by Andrea Bose

Note:

LACK OF SUFFICIENT FINDINGS BY TRIAL COURT The trial court discussed the best interests of the child and there was some testimony in this regard, but the court never made reference to section 39.810, Florida Statutes (2002), or the "manifest best interests" factors listed in that statute.

R.W. v. Department of Children and Families
Fla.App. 5 Dist. | March 31, 2006 | 925 So.2d 424

FAMILY LAW - Child Protection. Trial court's order terminating mother's parental rights was supported with clear and convincing evidence.

Document Notes



Annotated by Andrea Bose

Note:

CAPACITY TO CARE FOR CHILD WITH SERIOUS MEDICAL CONDITIONS Given the child's multiple serious medical conditions, and the mother's repeated incapacity to provide the necessary care required, together with the mother's demonstrated inability to complete the agreed upon case plans and to care adequately for the child, the termination of parental rights was clearly necessary to safeguard the health and safety of the child.

T.P. v. Department of Children and Family Services
Fla.App. 3 Dist. | August 09, 2006 | 935 So.2d 621

FAMILY LAW - Child Protection. Competent evidence supported court's findings that egregious abuse as to twins established risk of harm to all children.

Document Notes



Annotated by Andrea Bose

Note:

SIBLINGS OF ABUSED CHILDREN Termination of parental rights was in the manifest best interests of an older sibling of egregiously abused infant twins. The older child was present in the home at the time the father committed the egregious abuse on the twins and she became hysterical when the twins were separated from her to attend supervised family visits. Finally, the father's statements regarding how he shook the infant twins showed a lack of regard to their well-being, which supports a finding that he poses a substantial risk of significant harm to the older child.

C.M. v. Department of Children and Family Services

Fla.App. 4 Dist. | September 03, 2003 | 854 So.2d 777

FAMILY LAW - Child Protection. Failure to appoint guardian ad litem in termination case was not fundamental error.

Document Notes



Annotated by Andrea Bose

Note:

FINDINGS REQUIRED Termination of parental rights process involves a two step process: (1) the court must find by clear and convincing evidence that one of the statutory grounds has been proven, and (2) the court must determine what outcome is in the manifest best interest of the children.

C.B. v. Department of Children & Families

Fla.App. 4 Dist. | August 04, 2004 | 879 So.2d 82

FAMILY LAW - Child Protection. Prospective abuse warranted termination of parental rights.

Document Notes



Annotated by Andrea Bose

Note:

LACK OF CAPACITY, BOND WITH CURRENT PLACEMENT, CONCERNS WITH RELATIVE PLACEMENT Termination of mother's parental rights, based on prospective abuse, was in child's best interest; mother did not have capacity to safely

MBI (Research Summary)


care for the child, child had bonded with his current caregivers and siblings and there was little likelihood child would remain in long term foster care, and even if suitable relatives were available...in the past other relatives had given little credence to court orders to allow mother only supervised visits with the child.

 In re K.A.

Fla.App. 2 Dist. | April 28, 2004 | 880 So.2d 705

FAMILY LAW - Child Protection. Evidence that parents engaged in egregious conduct with infant child warranted termination of parental rights.

Document Notes

 Annotated by Andrea Bose

Note:


SPECIFIC FINDINGS REQUIRED FOR EACH CHILD In cases with more than one child, the court cannot treat the children as an amorphous group in which the best interests of one will meet the interests of all. The court must determine whether the termination of parental rights to each child is in that child's manifest best interests. (Note: negative treatment in B.F. concerns nexus, not requirement to make individual findings)

B.K. v. Department of Children and Families

Fla.App. 4 Dist. | May 20, 2015 | 166 So.3d 866

FAMILY LAW - Child Custody. Evidence supported ruling that termination of incarcerated father's parental rights was in child's manifest best interests.

Document Notes

 Annotated by Andrea Bose

Note:

INCARCERATED PARENT Father was incarcerated when his child was five months old and would not be released until child is nine years old. The father tried to keep contact with his child by sending letters and through phone calls. While she enjoyed receiving cards and letters from the father she did not know who he was. The child knew the concept of father but not who he was and therefore there was no bond. The child was doing very well in her present placement, which included her siblings, and

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it was desirable to maintain that stability and connection with her brothers. She had bonded with her foster parents, who wished to adopt all three children.

E.S. v. Department of Children and Families

Fla.App. 1 Dist. | October 17, 2003 | 856 So.2d 1093

In these consolidated cases, E.S., the natural mother of D.H. and C.F., challenges orders (1) adjudicating D.H. and C.F. dependent and ratifying the finding of the general master that the mother engaged in egregious conduct, but rejecting the general master's finding that termination of the mother's parental rights is in the best interests of the children and instead finding that termination is not in the manifest interests of the children, and (2) approving the report of the general master on the disposition hearing and acceptance of a case plan. The Department of Children and Families (DCF) cross-appeals, arguing that the trial court erred in finding that the manifest interests of the children did not support termination. The orders on appeal were entered after DCF sought termination of the mother's parental rights following a period of dependency. This dependency commenced when the children were placed in shelter care after one of the children, D.H.,...

Document Notes



Annotated by Andrea Bose

Note:

GROUNDS BUT NOT MBI Mother's boyfriend placed child in scalding hot water and mother delayed medical treatment. The Court found that the mother committed egregious abuse but denied termination of parental rights based on manifest best interests. (Case does not include specific information regarding manifest best interest testimony)

T.O. v. L.S.

Fla.App. 1 Dist. | April 26, 2007 | 954 So.2d 737

The mother appeals from an order terminating her parental rights. It appears sufficient proof was presented to support a determination that the parental rights of the mother should be terminated. We cannot, however, conduct appropriate appellate review because the statutory factors enumerated in section 39.810, Florida Statutes (2005), are not addressed in either the order or the transcript. We therefore reverse the order terminating parental rights and remand for entry of an order containing the necessary findings of fact. See *I.M. v. Florida Dep't Of Health & Rehabilitative Serv.*, 668 So.2d 275 (Fla. 1st DCA 1996); *In Interest of C.M.P.*, 608 So.2d 568 (Fla. 1st DCA 1992).

Document Notes



Annotated by Andrea Bose

Note:

LACK OF SUFFICIENT FINDINGS BY TRIAL COURT Court found mother had abandoned child, but failed to make any findings regarding manifest best interests.

Guardian Ad Litem Program v. T.R.

Fla.App. 1 Dist. | August 15, 2008 | 987 So.2d 1269

FAMILY LAW - Child Protection. Available placement with relative was insufficient to support denial of petition to terminate mother's parental rights.

Document Notes



Annotated by Andrea Bose

Note:

AVAILABILITY OF RELATIVE PLACEMENT In this case, although the trial court's order demonstrates its focus was appropriately on the best interests of the child, we read the order under review as stating that the trial court based its finding that termination of parental rights was not in the child's best interests solely on the availability of a relative placement, in direct contravention of section 39.810(1). Accordingly, we reverse and remand for further proceedings consistent with this opinion.

Department Of Children And Families v. P.K.

Fla.App. 5 Dist. | February 18, 2005 | 893 So.2d 678

FAMILY LAW - Child Protection. Order denying petition to terminate parental rights was not abuse of discretion.

Document Notes



Annotated by Andrea Bose

Note:

SPECIFIC FINDING FOR EACH CHILD The trial court denied termination of parental rights of four children, finding that "the love, affection and other emotional ties existent between the children and their mother ... is great. The court believes that there would

MBI (Research Summary)

be no harm to the children that would arise from the termination of parental rights and duties. The court requested that DCF allow the mother visitation with the children after adoption in order to grant a termination of the mother's rights, however, DCF could not find legal authority to do so." The appellate court remanded for individual findings, noting that the trial court failed to address each child individually in the final judgment even though each child presents different characteristics and an individual situation. Thus, we reverse and remand

C.F. v. Department of Children and Families

Fla.App. 5 Dist. | May 30, 2008 | 982 So.2d 1249

FAMILY LAW - Child Protection. Evidence supported trial court's decision terminating mother's parental rights

Document Notes



Annotated by Andrea Bose

Note:

RELATIVE PLACEMENT DCF worked with both the mother and grandmother in an effort to reunite this family but for many reasons, unnecessary to detail here, the trial court concluded that reunification with the mother or long-term relative placement with the grandmother would not be in the manifest best interest of the children.

M.B.T. v. Department of Children and Families

Fla.App. 5 Dist. | February 25, 2008 | 976 So.2d 623

FAMILY LAW - Child Protection. Evidence that termination of mother's parental rights was in best interests of her children supported termination order.

Document Notes



Annotated by Andrea Bose

Note:

SUFFICIENT FINDINGS In its final order, the trial court properly demonstrated its application of the provisions of the statute to the facts presented, noting that termination of the mother's parental rights was in the manifest best interests of the children because placement with a relative was not available and the mother is devoid of any ability or disposition to provide the children with food, clothing, medical care or to meet their physical, mental and emotional needs. The court further found that it was


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unlikely that the children would remain in foster care for a long time because they were all young in age.

B.S. v. Department of Children and Families
Fla.App. 5 Dist. | December 05, 2003 | 860 So.2d 1038

FAMILY LAW - Child Protection. Clear and convincing evidence existed that relative's residence was not suitable placement.

Document Notes

 Annotated by Andrea Bose


Note:

SPECIAL NEEDS. AND LONG TERM FOSTER CARE Children with severe emotional and behavior problems would not linger in foster care, based on expert testimony of children's therapist and family counselor. Also evidence indicated they had formed a bond with their caregivers and they had improved in their current placement.

K.M. v. Department of Children & Families
Fla.App. 5 Dist. | October 05, 2001 | 795 So.2d 1129

FAMILY LAW - Child Protection. Trial court's failure to consider factors relevant to best interests of the child analysis constituted reversible error.

Document Notes

 Annotated by Andrea Bose

Note:

LACK OF SUFFICIENT FINDINGS AND RELIANCE ON HEARSAY The court below had no information about the child except that she was adoptable; this lack of information was due in part to the fact that the state's case was predicated on multi-layered hearsay and on the testimony of a case worker who was unfamiliar with the case, not having been assigned the case until after the decision to seek termination had been made.

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA**

GUARDIAN AD LITEM REPORT TO THE COURT

CASE #: 2011-DP-109

IN THE INTEREST OF:

Jane Smith **DOB: 10/24/2007**

John Smith **DOB: 10/09/2008**

Minor Child(ren)
_____ /

GUARDIAN AD LITEM REPORT TO THE COURT

HEARING: Manifest Best Interest

GUARDIAN AD LITEM: Betsy John

DOCKET DATE: 02/21/2012

The Guardian ad Litem respectfully makes the following recommendations:

The parental rights of the parents should be terminated. In reaching this recommendation the following factors were considered by this Guardian.

1. Any suitable permanent custody arrangement with a relative of the child.

Jane and John were placed with the maternal grandmother, Mary Smith, in September 2011. They seem to be doing well in this placement and Mary has expressed an interest in adopting them.

2. The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

The mother, Lynn Marie Smith, was in a car accident in April 2009 and subsequently passed away due to her injuries from the car accident. The father, John Williams, has moved out of state and is currently residing in West Virginia.

The father, John Williams, has not provided the children with food, clothing, medical care or other remedial care. The father has completely disregarded his parental duties and has not provided Jane and John with any emotional or financial support.

3. The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental and emotional health will not be endangered upon the child's return home.

The father, John Williams, has not demonstrated the capacity to care for the children to the extent that the child's safety, well-being, and physical, mental and emotional health will not be endangered.

During an interview with law enforcement the father, John Williams, admitted that "a few days ago he lost control and smacked the children around...while smacking Jane on the face with the back of his hand and caused several injuries to her face as well as to her nose." The father also admitted he has held the children by their throat.

The father, John Williams has a criminal history that includes sexual assault, domestic violence, felony domestic battery and failure to register as a sexual offender. The department has prior reports on the family that includes allegations of substance abuse, inadequate supervision and sexual molestation.

4. The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

On September 23, 2011, the Child Protective Team performed a physical examination on 4 year old John Smith and some of the injuries that were noted in the report are as follows:

- Contusion with bump to center of forehead.
- Laceration that is not approximated, but fully healed, to hairline on forehead.
- Abrasions to neckline and left upper arm.
- Faded backward "C" pattern to mid back regions.
- Abrasions with scabbing to inner aspect of left upper arm.
- Red bruise to area above right nipple.
- Thinning patch of hair on top of head.
- Well healed laceration to outer aspect of eye
- Bruise to lower back.

On September 23, 2011, the Child Protective Team performed a physical examination on 3 year old Jane Smith and some of the injuries that were noted in the report are as follows:

- Face with obvious disfigurement and fracture to the nose. Swelling bridge of nose extending to the sides of nose and eyes.
- Numerous lacerations that are in various stages of healing including ones to: nose, chin, left outer aspect of eye, right eyebrow, above right eye and to head.
- Right shoulder with abrasions, bruise to right shoulder.
- Both arms with indentions that appears permanent.
- Abrasion to right greater toe, healing blister with peeling skin to bottom of right great toe.
- Bruise to right knee, bruise behind left knee
- Bite marks to neck
- Thinning hair, to back of head with patchy area. Thinning hair to top of head with areas of missing hair.

Due to the injuries that the children sustained due to the severity of the physical abuse suffered from their father, John Williams, the children were evaluated by All Aboard Therapy in Vero Beach, Fl. It was recommended that both John and Jane need the following services: speech therapy, physical therapy and to see a neurologist. The grandmother has reported to this GAL that she is following up with services for the children. Services are to begin in 2 to 3 weeks. She has ensured this GAL that she will continue with all the services that Jane and John are in need of.

5. The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

In this GAL's opinion there would be no degree of harm to John and Jane if parental rights were terminated. At the father's arraignment, he had indicated that it was his wish to surrender his parental rights at that time. The father, John Williams, did not appear for his Settlement Conference, Settlement Conference Review or the Pre-Trial hearing on 02/02/2012. The father defaulted at his trial that was scheduled on 02/09/2012.

6. The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

There is no likelihood of the children remaining in foster care long-term as they are both in the care of the maternal grandmother, Mary Smith. Their grandmother, Mary Smith, has expressed a desire to adopt Jane and John should the rights of Mr. John Williams be terminated.

7. The child's ability to form a significant relationship with a parental

substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

Both children seem to have bonded with their grandmother and other relatives, the great grandmother "Gigi" and the grandmother's ex- husband who they call "Pop Pop".

The children, John and Jane, have formed a significant relationship with their grandmother, Mary Smith, which demonstrates their ability to form relationships with a parental substitute. It is the opinion of this GAL that they will enter into a safer, more stable and permanent home with their grandmother as a result of termination of parental rights and duties.

8. The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

The children have been in this stable, satisfactory environment since approximately 09/23/2011. This GAL recommends that this placement continue in the best interests of the children.

9. The depth of the relationship existing between the child and the present custodian.

The children have bonded with their grandmother extremely well. Mary Smith, the grand-mother, does keep their mother's memory alive with pictures and stories and requested the children call her "Grandmom" explaining they have only one mom.

10. The reasonable preference and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

John and Jane, due to their ages, are unable to express their desire, but they do have a tremendous bond with their maternal grandmother, Mary Smith.

11. The recommendations for the child provided by the child's guardian ad litem or legal representative.

It is the recommendation of this Guardian ad Litem that it is the best interest to terminate the parental rights of John Williams. It will give the children the opportunity for a secure, happy permanent home. They deserve the love and continuing care of the grandmother in their lives. However, if their current caregiver could not adopt, this GAL still recommends termination of parental rights.

Respectfully submitted,

Betsy John
Guardian ad Litem 19th Judicial Circuit
Volunteer

Manifest Best Interest § 39.810 Chart

February 2007

*Court must make specific finding that TPR is in **each child's** Manifest Best Interest*

Manifest Best Interest (MBI) <i>Not a comparison between parents and placement; must consider factors including but not limited to:</i>	Possible Proof – Evidence Examples	What Information GAL has / needs
<p>Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights. § 39.810(1)</p>	<p>Testimony that DCF and GAL have inquired about and investigated potential relatives</p> <p>Relatives are willing to adopt, thus this element is inapplicable</p> <p>At shelter, the court is required to inquire of the parents whether the parents have any relatives who might be a placement for the child and the parents are required to provide identification and location information regarding these relatives. This is a CONTINUING DUTY of the parents §39.402(17)</p> <p>Distinction between relatives that are willing to adopt verses relatives that only willing to keep the child in a Permanent Guardianship or Long-Term Relative Placement</p>	
<p>The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child. § 39.810(2)</p>	<p>GAL testimony that they talked to providers, described continued troubling behavior (be careful of hearsay)</p> <p>Testimony about parents employment, housing</p> <p>What the GAL has observed</p> <p>Parents unwillingness to assume responsibilities</p>	
<p>The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home. § 39.810(3)</p>	<p>Testimony of service worker - services offered, services completed, issues that led to dependency been resolved, consistency & concerns re: visitation</p> <p>Expert testimony – psychological evaluations, diagnosis, opinion of parents ability to parent, opinion if child would be at risk if returned</p>	
<p>The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child. § 39.810(4)</p>	<p>Expert testimony – diagnosis of child, how parent's conduct emotionally affected child</p> <p>GAL testimony that they have observed child's abilities, disabilities and needs</p> <p>Testimony regarding services being provided by the custodian or the department</p> <p>If needs expected to continue</p>	
<p>The love, affection, and other emotional ties existing between the child and the child's parent or parents,</p>	<p>Testimony – GAL observation of visits</p> <p>Behavior before and after placement</p>	

<p>siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties. § 39.810(5)</p>	<p>Behavior before and after visitation Statement of child</p>	
<p>The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child. § 39.810(6)</p>	<p>Child is receiving services Child will continue to receive services Behavioral and emotional issues will or will not continue – expert testimony</p>	
<p>The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties. § 39.810(7)</p>	<p>GAL testimony Length of time child been in placement GAL witnessed interaction between the child and the custodians Observation of visitation as to each child (stories of attachment) This is a home that will lead to permanency</p>	
<p>The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity. § 39.810(8)</p>	<p>GAL testimony, service worker testimony Length of time on case Length of time child with the present custodian Permanency Therapist testimony</p>	
<p>The depth of the relationship existing between the child and the present custodian. § 39.810(9)</p>	<p>GAL testimony, service worker testimony, expert testimony Length of time on the case Child's adjustment to foster care Observation of the child with the present custodian How child gets along with the present custodian, and other children in the home Length of time child been with the present custodian Child's opinion regarding adoption Harm to child if placement is disrupted</p>	
<p>The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference. § 39.810(10)</p>	<p>GAL Testimony Child's wishes</p>	
<p>The recommendations for the child provided by the child's guardian ad litem or legal representative. § 39.810(11)</p>	<p>GAL Testimony (reviewed dependency file, length of time on the case, met with child, discussed with child, discussed the possibility of adoption, how GAL came to their recommendations)</p>	

FLORIDA'S DEPENDENCY BENCHBOOK - MANIFEST BEST INTERESTS COLLOQUY

Introductory remarks.

- Will everyone please identify themselves for the record?
- Will all witnesses please raise their right hands and be sworn?
- Before we proceed with manifest best interest testimony, is there anything the department wishes to present to the court?
- Do the GAL, the parents, or the child have anything they wish to present?
- Are there any other matters that need to be addressed before the court hears testimony on manifest best interests?

Testimony and evidence.

- The department may call its first witness.
- [Hear all of the department's witnesses and receive all of the department's evidence.]
- Does the department have any additional evidence it wishes to present?
- The GAL program may call its first witness.
- [Hear all of the GAL's witnesses and receive all of the GAL's evidence.]
- Does the GAL program have any additional evidence it wishes to present?
- The mother may call her first witness.
- [Hear all of the mother's witnesses and receive all of the mother's evidence.]
- Does the mother have any additional evidence she wishes to present?
- The father, Mr. _____, may call his first witness.
- [Hear all of the Mr. _____'s witnesses and receive all of Mr. _____'s evidence.]
- [Repeat for each of the fathers in the case.]
- [If the child is represented by an attorney ad litem]The child may now call witnesses.
- [If applicable, hear all of the child's witnesses and receive all of the child's evidence.]
- [If applicable]Does the child have any additional evidence to present?
- Do any of the parties have any rebuttal or other evidence to present?

Argument.

- With no further evidence to be presented, the court will now hear argument from counsel.
- Counsel for the department may proceed.
- [Hear argument by the department.]

- Counsel for the GAL program may proceed.
- [Hear argument by the GAL program.]
- Counsel for the mother may proceed.
- [Hear argument by the mother.]
- Counsel for the father, Mr. _____ may proceed.
- [Hear argument by the father, Mr. _____.]
- [Repeat for each of the fathers in the case.]
- [If applicable]Counsel for the child may proceed.
- [Hear argument by the child.]
- Is there any further argument to be presented to the court?

Manifest best interests.

- There being no further evidence or argument, the court is prepared to make findings on manifest best interests.
- The court has considered and evaluated all relevant factors, including the statutory factors set forth in section 39.810, Florida Statutes.
- The court finds, by clear and convincing evidence, as follows:
 - The court has received evidence as to any suitable permanency custody arrangement with a relative of the child. The court finds that _____. The court has not given greater consideration to the availability of a nonadoptive placement with a relative than any other factor weighing on the manifest best interest of the child. Nor has the court considered it as a ground to deny termination of parental rights.
 - The court has received evidence as to the ability and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child. The court finds that _____.
 - The court has received evidence as to the capacity of the parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home. The court finds that _____.
 - The court has received evidence as to the present mental and physical health needs of the child to the extent that such future needs can be ascertained based on the present condition of the child. The court finds that _____.
 - The court has received evidence as to the love, affection, and other emotional ties existing between the child and the child's parents, siblings, and other relatives,

and the degree of harm to the child that would arise from the termination of parental rights and duties. The court finds that _____.

- The court has received evidence as to the likelihood of this child, age _____, remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child. The court finds that _____.
- The court has received evidence as to the child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties. The court finds that _____.
- The court has received evidence as to the length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity. The court finds that _____.
- The court has received evidence as to the depth of the relationship existing between the child and the present custodian. The court finds that _____.
- The court has received evidence as to the reasonable preferences and wishes of the child and [deems/does not deem] the child to be of sufficient intelligence, understanding, and experience to express a preference. The court finds that _____.
- The court has received evidence as to the recommendations for the child provided by the child's guardian ad litem or legal representative. The court finds that _____.
- In addition to the statutory factors set forth in section 39.810, the court has also received evidence as to additional, non-statutory factors and finds that _____.

➤ Based on these findings, the court finds that it is in the manifest best interests to terminate parental rights.

Termination of parental rights.

- The court has already found, by clear and convincing evidence, the following grounds to terminate the parental rights of the mother: _____.
- The court has already found, by clear and convincing evidence, the following grounds to terminate the parental rights of the father, Mr. _____:
_____.
- [Repeat for each of the fathers in the case.]
- The court finds that reunification of the child with the parent poses a substantial risk of significant harm to the child.

- The court finds that termination of parental rights is the least restrictive means of protecting the child from harm.
- [CHOOSE EITHER “A” OR “B” ALONG WITH ALL APPLICABLE CIRCUMSTANCES BELOW]
 - [A: The court terminates the parental rights of one parent, _____, without terminating the parental rights of the other parent, _____, due to the following circumstances pursuant to section 39.811(6), Florida Statutes:]
 - [B: Even though the court is not currently terminating the parental rights of one parent without terminating the parental rights of the other parent, pursuant to 39.811(6), Florida Statutes and J.T. v. Department of Children and Families, 908 So. 2d 568 (Fla. 2nd DCA 2005), the court finds the following circumstances to be applicable in the event that termination of only one parent’s rights is reversed on appeal.]
 - The child has only one surviving parent.
 - The identity of a prospective parent has been established as unknown after sworn testimony.
 - The parent whose rights are being terminated became a parent through a single-parent adoption.
 - The protection of the child demands termination of the rights of a single parent.
 - The parent whose rights are being terminated meets the criteria specified in section 39.806(1)(d) and (f)-(m), Florida Statutes. [state specific criteria]
- The child is placed in the permanent care and custody of the department for subsequent adoption.
- Do any of the parties request that the court make any further findings of fact on the record?

Visitation.

- [The court finds that continued visitation by the grandparents is not in the best interests of the child or would interfere with the permanency goal for the child.]
- [The following parents, siblings, or relatives of the parent whose rights are being terminated shall be allowed the communication or contact with the child because it is in the child’s best interests. Such communication or contact will be set forth in this court’s written order and will be reviewed on the motion of any party or an identified prospective adoptive parent. When the child is placed for adoption, the nature of frequency of the communication or contact will be reviewed by the court at the time the child is placed for adoption.]
- [The parents shall be permitted to have one “goodbye” visit with the child to occur as follows: _____.]

Additional issues.

- The parents have 30 days from the entry of the termination of parental rights judgment to appeal. In addition to the right to appeal termination of their parental rights, the parents also have the right to file a motion in the circuit court alleging that appointed counsel provided constitutionally ineffective assistance of counsel.
- [The court has previously found the parents to be indigent and eligible for appointed trial counsel. The court finds the parents to be indigent and eligible for appointed appellate counsel.]

Next hearings.

- This matter shall be heard on [date within 30 days] to amend the case plan and identify a permanency goal.
- The next judicial review hearing is [already] scheduled for _____.
- Court is adjourned.