

# A Collaborative Approach to Dependency Cases

BY SAIRA HASEEBULLAH, ESQ.

**Dependency courts oversee specialized dockets to address the custody of children who are removed from their parents or legal guardians due to unsafe circumstances in their home. Handling dependency cases requires knowledge of federal timelines, criminal proceedings, custody, and child support authority, in addition to an intimate knowledge of Nevada Revised Statute (NRS) 432B, the statutory and guiding authority over dependency cases in Nevada. A case in a dependency courtroom gives practitioners the unique opportunity to start with a collaborative approach, coordinating with children’s attorneys, social workers, service providers, case managers, and of course, parents and guardians, to reunify families.**

Dependency courts deal with parents who engage in behaviors that put the welfare of their child at risk, including drug use or domestic violence, as well as parents who are unable to care for their children, due to mental health issues, incarceration or deportation proceedings, and/or parents who are not able to provide a safe living environment for their children.

Additionally, in some cases, parents may face a petition for abuse or neglect if they are unable or unwilling to address their child’s specialized behaviors or needs, including mental health issues, extreme aggression, or a medical diagnosis requiring specific care that is not being addressed. These children are removed from their parents’ care, and then proceed through the dependency process with the anticipation that the safety concerns will be corrected, and parents will be reunified with their children.<sup>1</sup>

Dependency court is unique in that the end goal for all parties at the outset of the case is identical: to return children to safe caregivers who can provide a stable home for their children. In criminal court, the accused is found innocent or guilty; in family court, one party wins custody over the other. In dependency court, the

primary goal at the outset of the case is reunification, meaning children will be returned to their home and reunified with their family once the safety concerns are mitigated. The reunification process is facilitated by a team of professionals who work together to support the parents in achieving that goal, utilizing a collaborative effort to get children back to their parents safely.<sup>2</sup>

From the time Child Protective Services initiates an investigation, through the time of case closure, the process is intended to be collaborative, with parents or caregivers utilizing a team, including counsel, service providers, and case workers, to address the issues that led to the agency's, and ultimately the court's, involvement. The team's objective is to assist the parents in achieving stability by providing resources or services that parents need to mitigate safety concerns, rectifying whatever behaviors led to the removal in the first place so that children can be safely returned to their home. Services may include mental health treatment, substance abuse interventions and/or drug testing, and/or referrals to assist the parents with housing, medical care, or other resources to provide a safe and secure home for their children.

The uniqueness of collaboration in dependency cases begins shortly after a case opens. Initially, Child Protective Services receives a report of abuse or neglect and conducts an investigation, which may result in the removal of children from the care of a parent or guardian. Within 72 hours of removal, a Preliminary Protective Hearing is required to be set before the court, in order for the court to assess whether there is reasonable cause to believe that it is contrary to the welfare of the children to remain in the home or if the children can be returned to the care of their parents/guardians. *See NRS 432B.470.* If the court determines that the children should remain in the protective custody of the Department of Family Services, the court will identify the specific safety concerns preventing the return of the children and will appoint counsel to qualifying parents or legal guardians. Following the Preliminary Protective hearing, the State will file a Petition for Child Protection and the matter will be set for

an adjudicatory plea hearing to allow parents to work with their appointed counsel to respond to the State's petition.

The interim period between the removal of a child from their home and the adjudicatory plea hearing gives counsel the first opportunity to utilize a collaborative approach to address the needs of the children and the rights of the parents. Specifically, upon the removal of children and the involvement of Child Protective Services, the court and the agency are required to continually consider what safety measures can be implemented to allow the children to safely be placed back with their parents/guardians. *See NRS 432B.393.* In fact, at all times throughout the life of the case, the agency has an ongoing obligation to assess the parents for safety. By working in tandem with the agency to determine what resources or services can be utilized to mitigate safety concerns, counsel can assist in strategizing ways to preserve the family unit or have children placed back in the home.

The efficient nature of a collaborative approach in dependency cases starts immediately upon the filing of a Petition for Child Protection. Specifically, after the filing of a petition, but prior to setting a trial or initiating litigation, an informal pre-hearing conference can and should be arranged. These conferences invite parents or guardians and their counsel, along with Child Protective Services and their counsel, to meet and discuss why the children were removed, what barriers exist to the children's return to the home, what services the parents are able and willing to engage in to address those barriers, and whether an "in home safety plan" can be adopted for return of the children to the home. While traditional litigation invites an outright denial of an allegation, a collaborative approach is designed to recognize the impact of the safety concern on the child and encourage parents or guardians to offer

their child a better environment.

These informal conferences are not designed to be litigious, but to be an open conversation where parties can discuss the reality of the situation and determine the most efficient route to secure the return of a child to their home. As is standard practice, the disclosures made by the parents during the pre-trial conferences are confidential, allowing both parents and the agency to have an open discussion about the identified safety concerns. Finally, counsel can and should utilize pre-trial conferences to discuss alternatives to litigation, including stayed adjudications, which allow parents to engage in services to address mental health, substance abuse, or domestic violence to mitigate the safety concerns, with the possibility that the Petition for Child Protection will be dismissed upon completion of services.

While reunification of the family is the primary goal for the majority of all child protection cases, it may still be necessary to proceed to an adjudicatory trial if the allegations in the Petition for Child Protection do not accurately reflect a parent's substance use, mental health issues, domestic violence, and/or their criminal record and/or other factors

impacting the safety of the children in the home. Parents often express concern with any sort of collaborative approach, questioning how they can trust an agency who took their children from their care. Likewise, if an agency removed children from their care, how can they trust them to help in securing their children's return? These collaborative pretrial meetings can contribute to more than just resolving procedural matters. Rather, initiating the meeting by clearly noting the goal of the case, allows parents to be encouraged that their children will be returning home. Likewise, clearly stating this goal allows counsel to remind the agency of their responsibilities and required efforts in pursuing this goal.

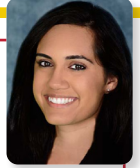
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Often these meet-and-confers establish and reinforce to both parents and the agency that the goal of dependency cases is to reunify children with their parents in a safe home. As parent’s counsel, practitioners have the unique ability to advocate for parent’s rights and ensure their role as parents is protected, while working collaboratively with the agency to assist parents to get their children home as soon as possible. These collaborative conferences allow parents to see a path forward to get their children home, encouraging them to work with the department to address the concerns that exist and strategizing on how quickly safety measures can be implemented.

The ability to collaborate in dependency cases is one of the most unique and beneficial opportunities in the family court system. In very few other situations does every party to an action have the same desired outcome. While dependency court can be fraught with tension, as counsel, we can utilize windows, such as pretrial conferences, to set the tone for a case and allow our clients to reap the benefits of the uniquely cooperative nature of this specialty court.



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#### ENDNOTES:

1. Understanding Dependency Cases in Family Court: Pickard, M. and Gibson, D.
2. *Creating and Sustaining Cross-System Collaboration to Support Families in Child Welfare with Co-Occurring Issues: An Administrator’s Handbook*. (n.d.). [https://capacity.childwelfare.gov/sites/default/files/media\\_pdf/cross-system-collaboration-cp-00071.pdf](https://capacity.childwelfare.gov/sites/default/files/media_pdf/cross-system-collaboration-cp-00071.pdf)

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