

Hello and welcome to the second video in the South Dakota Unified Judicial System video series. In this video, we will be focusing on your role in an abuse and neglect case.

One thing to keep in mind when working with a child is that although it may seem like things are moving along quickly for you in the court system, a child's sense of time is different.

The child may be removed from his or her parents and living with a relative foster family, or in a treatment facility. They are likely scared and confused. Therefore, it's your obligation to ensure all actions and procedures are carried out to the fullest extent of the law, yet move along as quickly as possible.

According to the Adoption and Safe Families Act, or ASFA, an abuse and neglect case should not extend beyond the period of 12 months until final disposition.

While this is the expectation, there has been a history of cases extending well beyond this time frame. Although there are many factors beyond your control, the intent of this training series is to make you aware of the deadline so you can remind the court and other parties of this time frame when decisions affecting the best interest of the child are being made.

It is important to remind everyone involved that to a child, every day living without permanency may seem like a lifetime. An abuse and neglect situation can change the life of a person in an instant.

That said, we need to take a closer look at our current system. In South Dakota, the number of abuse and neglect reports made each year increases.

The expected length of a case should not take longer than 12 months. However, far too many cases go well beyond 12 months. This is a situation that you can help to change

In addition to cases extending beyond the expected 12-month period. The system can add further stress and disarray to a child's life by making it less stable and familiar.

As you take on abuse and neglect cases, please take it upon yourself to know how the system works in South Dakota and how your work can improve outcomes for the youth, children, and parents in the child welfare system.

So what exactly is your role in representing a child in an abuse and neglect case? There are many factors at play, but above all, your role is to focus on the outcome that is in the best interest of the child.

The term best interest can be a gray area, given the fact that the abuse and neglect cases are not based solely on legal principles. These cases also depend on the psychological, emotional, or mental health of the child, the culture of the child, the education and social welfare of the

child, and the physical health of the child. You must assess if the child has any special needs or disabilities.

After an abuse or neglect case is assigned to you, it is vitally important that you meet with the child. There is no law that requires this, but if the best interest of the child is to be carried out, and given the fact that these cases encompass more than just factual evidence, a face-to-face meeting will help assess the best course of action. As stated, a face-to-face meeting is best, and it is advised that it be somewhere comfortable in the community. This will help establish a feeling of trust between you and the child. The more the child begins to trust you, the more you can draw from them and assess his or her best interest. Also, to improve upon this trust, it is important to explain your role in detail to the child.

At this time, you should assess the culture of the child and be aware of child-rearing practices and communication barriers that you may encounter. In addition, you must assess if the Indian Child Welfare Act, or ICWA, applies, which will be explained in video five of the series. In addition, the age of the child is important. You should review the Department of Social Services reports and school and medical records to understand what circumstances led to the removal of the child from their home.

You should become familiar with the child's past, either by way of interviews with the child, family service specialists, counselors, teachers, or others familiar with the child. If a court-appointed special advocate, or CASA, is available and assigned to your case, they are a good resource to connect with.

After this initial interview and assessment is complete, you should expect to do the following throughout the case.

Make cases involving abuse and neglect a priority over all other cases. Obtain and review all discovery material, specifically the files of the Department of Social Services, pertaining to the family. Interview all prospective witnesses prior to hearings. Protect the child's best interest while maintaining due process rights of the parents. A more detailed description of best interest will be explained in video three of the series. Advocate for a speedy resolution through adjudication and disposition. Protect the child from testifying in court, as proceedings may be a significantly traumatic event that harms the child. Monitor deadlines and notice requirements and advocate for compliance. Take an active role in all proceedings affecting the child or parents, including presenting evidence at the adjudicatory hearing. Recommend removal from the home only upon a showing that there is substantial risk of harm to the child that cannot be eliminated through family strengthening services.

In representing parents in an abuse and neglect case. It's important to know the best interest of your client and advocate for the client's goal. But also to be mindful of the child's best interest and timeliness of the case.

It's important to cooperate and communicate regularly with other professionals in the case. Be aware of any unique issue a parent might face, such as incarceration, missing or absent, mental health, physical health, addiction and recovery status.

Be prepared to assess whether a parent can assist with the case. You should conduct a thorough and independent investigation at every stage of the proceedings by interviewing your client before each hearing. Review the child welfare case file and documents along with other service providers reports and records. Engage in case planning and advocate for appropriate social services. Encourage your client to participate in case planning as well.

If the parents in your case have pending criminal proceedings, you can still assist in moving the abuse and neglect case forward by reminding the court that the abuse and neglect action is separate from the criminal matter, and both case law and statute state that the abuse and neglect action is a priority to all other matters before the circuit court.

In abuse and neglect cases. The judge ultimately determines the least restrictive alternative and the best interest of the child. Child welfare professionals do play an important role, but the judge will base his or her decision on the quality and quantity of all the information provided. Therefore, as the child's attorney, it is vitally important that you ensure this information is presented to the judge along with your recommendation, so that the best interest of the child can be carried out.

Please refer to the resources page on the UJS website for additional information.