



Ellington lawyer wins battle for DCF mini Miranda - Journal Inquirer (Manchester, CT) - August 23, 2011 - page 1
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Starting in October, social workers investigating possible child abuse or neglect for the state Department of Children and Families will have to give parents a written notice of their rights, roughly comparable to the famous **Miranda** warnings that police give to crime suspects.

"Even sophisticated people believe they must speak to DCF," said Ellington lawyer Michael H. Agranoff, whose office drafted the new law and advocated it for a decade.

Agranoff, who specializes in representing adults in DCF-related cases, calls the new law the "DCF mini-**Miranda**" and "the Magna Carta of parents' rights in Connecticut."

Gov. Dannel P. Malloy signed the bill into law July 8.

It passed both houses of the legislature this year after DCF dropped its longstanding opposition to such a measure, according to Agranoff. He praised Malloy's DCF commissioner, Joette Katz, a former state Supreme Court justice who was a public defender earlier in her career, for taking that stance.

Although parents and guardians aren't required to talk to DCF social workers, there is an important qualification on that right, which also will be explained in the written notice:

Failure to speak to DCF can have "serious consequences," such as the department filing a petition in juvenile court to remove a child from the home. As a result, the notice will say, it is in the best interests of the parent or guardian either to speak with DCF or to seek immediately the advice of a qualified lawyer.

Written notice

The DCF rights notification will be given to parents or guardians in writing and will advise them of the following:

- * They don't have to let DCF workers into their homes.
- * They don't have to speak to the DCF worker immediately.

- * They have the rights to seek legal representation and to have a lawyer present when being questioned by a DCF worker.
- * Any statement made by a parent or other family member can be used against the parent or guardian in an administrative or court proceeding.
- * The DCF worker isn't a lawyer and can't provide legal advice.
- * They aren't required to sign any document presented by a DCF worker and are entitled to have a lawyer review such a document before signing it.

Parents or guardians who decide to seek legal advice during a DCF investigation will have to find a way to pay for it on their own, at least until DCF files an abuse or neglect petition in court. At that point they can seek a court-appointed lawyer.

Unannounced visitors

Agranoff said in written testimony submitted to the legislature's Judiciary Committee that, in his nearly 20 years of DCF practice, he has seen hundreds of parents and others "pressured into making damaging statements that came back to haunt them for years and which in no way protected the children."

"DCF has a habit of knocking on doors, unannounced, and implying that if people do not let them in or talk to them, they will seize the child," he continued. "Sometimes DCF convinces a police officer that the parent is dangerous and asks the police officer to stand beside them at the door. This further intimidates the parent into thinking that he or she must talk to DCF and let them in the door."

Moreover, Agranoff said, DCF workers don't record their conversations electronically. Rather, he said, they make notes and may rewrite them at the office. When there is a dispute as to what was said, he continued, the judge "invariably believes the worker." This is one reason a lawyer should be present during a DCF interview, he argues.

As to the service agreements, safety plans, and releases that DCF workers ask parents to sign, he said, "the parent seldom fully understands what he or she is signing and virtually never understands the legal implications.

"A lawyer, of course, not only reads and explains the document but may offer corrections if there is a problem," he continued. "The result is better cooperation, not less."

An issue concerning the new law is whether DCF should give parents a separate notification of the rights it lists or incorporate them into an existing pamphlet, entitled "A Parent's Right to Know."

DCF spokesman Gary Kleeblatt said the department plans to put the language required by the new law on the front cover of the pamphlet.

Agranoff argues, however, that there should be a separate notification form, similar to the **Miranda** warning forms used by police. He has drafted a proposed version of such a form. It is 250 words long, compared with the more than 2,300 words in the existing version of the DCF pamphlet.

Agranoff argues strongly that the new law won't endanger children.

"If DCF sees an immediate problem, it can easily get a 96-hour hold to seize the child," he told the Judiciary Committee. "This requires nothing more than the verbal authorization of a DCF program supervisor."

After explaining the procedures for getting a longer-term order of temporary custody, he said, "Children in danger can always be taken, and no advisement of rights will prevent this."

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