

Newsletter

Child Developmental Milestones—Infants and Toddlers

Developmental milestones are functional skills or age-specific tasks that most children do at a particular age. Developmental Milestones, U of Mich., <http://www.med.umich.edu/llibr/yourchild/devmile.htm>.

Infancy is regarded as a time of 'extraordinary growth across developmental domains.' Harden,B "Safety and Stability for Foster Children: A Developmental Perspective," Children, Families and Foster Care, Vol 14 no. 1. (Devel. Perspect). The significant developmental milestones for infants include attachment to a primary caregiver and the emergency of the autonomous self (exploration of goals away from the primary caregiver. Id.

"Attachment" has been defined as the enduring emotional

bond that exists between a child and primary caregiver." Harden,B "Safety and Stability for Foster Children" p. 5.

By age 2, children show affection to familiar adults, suffer mild to severe anxiety when separated from their parent, and are apprehensive about strangers. They ask specifically for mommy and daddy and like to imitate their parents. Develop. Milestones, infra. During this age, children demonstrate a preference for their caregiver over others. Amer. Acad. Pediatrics, Developmental Milestones, <http://www.aap.org>. They begin testing parental responses, and they experience fear, shyness and anxiety with strangers. Id.

Through the first two years of life, children develop trust, secu-

rity and a "basic optimism" or hope. <http://www.childdevelopment.nfo.com/development/erickson.shtml>

The National Survey of Child and Adolescent Well-Being, published April 2005 (the Report), is a study conducted by the Children's Bureau of the Administration on Children, Youth and Families, U.S. Department of Health and Human Services. The Report provides information about the characteristics of children and families involved with the child welfare system. National Survey of Child and Adolescent Well Being, 2005, p 19, US Dept. Health and Human Services, http://www.acf.hhs.gov/programs/opre/abuse_neglect/nscaw/reports/cps_sample/cps_re

Continued, page 2.....

Federal Laws And State Child Welfare Intervention

Parents defense counsel must have an understanding of the state and federal law guiding DCFS involvement in Utah's families. Here's a brief summary of federal legislation impacting Utah families:

Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). Requires states to establish programs and procedures to

support abused and neglected children and their families, in their homes, and to facilitate reunification following removal.

Family Preservation and Support Services Program, Omnibus Budget Reconciliation Act of 1993 (PL 103-6) Provides funding and for prevention and support for families at risk of maltreatment and family preser-

vation services for families experiencing crisis that might lead to out of home placement.

Adoption and Safe Families Act (ASFA) of 1997 (PL 105-89). Promotes the safety, permanency and well-being of abused and neglected children. Includes Promoting Safe and Stable Families (PSSF) which expands the *continued...page 2*

Parental Defense Alliance of Utah

Special points of interest:

- > By age 2, children suffer mild to severe anxiety when separated from their parent

In this issue

Child Development	1,2
Federal Laws	1,2
Family Centered Practice	3
Expert Testimony	3
Allegation Categories	4



Infants and toddlers in foster care are separated from their families at a time when critical development occurs

Child Developmental Milestones—Infants and Toddlers

port_revised_090105.pdf. According to the Report, children involved in child welfare services (CWS) under the age of 2 were more likely than children in other age groups to be in foster care than in kinship care or group home. Id. At 20.

The Reports findings that children under the age of 2 in out of home placements were more likely to be in foster care than with kinship is significant given the developmental milestones for children in that age group. Infants and children in foster care experience fear and anxiety

at the separation from their parents. More often than not, DCFS and their contract “experts” attribute the foster child’s behaviors to poor parenting rather than to the emotional turmoil resulting from their separation from family, and despite the lack of reliable scientific evidence to show the child’s developmental state is the result of poor parenting or a result of the emotional stress and disruption in normal development resulting from the removal.

The Merriam Webster Dictionary defines “family” to include

the individuals with whom they “share a common ancestry,” or “deriving from a common stock,” or are “united by certain convictions or a common affiliation.”

Infants and toddlers in foster care due to neglect suffer additional disruption during a critical developmental period and further development occurs out of the presence of their biological family, away from the individuals with whom they share a common ancestry or common stock, and with whom they are supposed to be united by certain convictions or a common affiliation.

Federal Laws, continued...

The Act reaffirms the importance of making reasonable efforts to preserve and reunify families, provides circumstances under which reunification need not be undertaken, and tightens time frames for permanency and promotes adoption initiatives.

Child Abuse Prevention and Enforcement Act of 2000 (PL 106-177). Improves ability of criminal justice system to provide criminal record information to child welfare agencies.

Child Abuse Prevention and Treatment Act (CAPTA) of 1974 (PL 93-247). Established to ensure that abused and neglected children are identified and reported to authorities. Amended in 1996 (PL 104-235), provides minimum standards for definitions and reports of abuse.

Strengthening Abuse and Neglect Courts Act of 2000 (PL 106-314). Designed to improve the administrative efficiency and effectiveness of courts handling abuse and neglect proceedings.

Promoting Safe and Stable Families Program Reauthorization of 2002 (PL 107-133). Builds upon ASFA, reauthorized PSSF, and included programs for children aging out of foster care and mentoring programs for children whose parents are incarcerated.

A number of federal grants are available to states meeting eligibility requirements. Grants include:

Basic state grants provide funds for states to enhance CPS systems and develop child abuse prevention programs;

Community-based Family Re-

source and Support Program supports the development of community based prevention focused family resource and support programs.

Children’s Justice Act helps states develop and operate programs designed to improve investigation and prosecution of child abuse and neglect cases.

Child Welfare Services helps states deliver child welfare services, including preventive interventions, alternative placements, and reunification services, with the goal of keeping families together.

Promoting Safe and Stable Families Program provides funds to states to provide family support, family preservation, time-limited family reunification services, and services to support adoptions.



Family Centered Practice

“Family Centered Practice” in child welfare terms, engages the family system to improve their ability to provide for the safety of their children. In a family centered practice, The family is the focus of intervention to improve child well-being and safety.

In the family centered practice for child welfare intervention, relatives play an important role in planning for and ensuring permanence for children. Family Centered Practice takes advantage of the tradition of extended family caring for children when

parents are unable to which is prevalent in all cultures.

The core principles of a family centered practice include:

- preservation of the family whenever possible . When it is not possible for children to remain with their parents, then connections with kin, culture and community are preserved;
- when children must be removed, interaction with parents occurs as frequently as possible;
- work with both the child and

family;

-work from a strengths perspective;

-ensure that services are directed to teach the family skills to function independently;

To learn more about a family centered practice, read The Family Centered Assessment Guidebook, http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/tools/family_centered_assessment_guidebook.pdf.



Utah Standard for Admissibility for Expert Testimony

Most child welfare cases will involve the consideration of opinions from state “experts.” Doctors opinions about the “cause” of physical injuries, the bond or attachment between parent and child, or the psychological effects of parent time on children... review by defense counsel of at least one expert—or perhaps all three—expert opinions will be warranted during the course of parents representation. What is the Utah standard for the use and admissibility for expert testimony?

Expert witnesses are covered under Rule 702 of the Utah Rules of Evidence. That rule defines an expert as one qualified “by knowledge, skill, experience, training or education.” Expertise can be

obtained by working in a particular field or from limited or informal education. If the fact-finder cannot properly make a decision without the help of an expert’s specialized knowledge, the court will require that expert testimony be presented. Kimball, E, Boyce, R., Utah Evidence Law 2d., 2004, citing, Virginia S v Salt Lake Care Center, 741 P.2d 969, 971 (responsibility to protect handicapped girl against rape does not require expert testimony); Id., citing Collins v. Utah State Devel. Ctr, 992 P.2d 492 (Ut App 1999) (error to dismiss for absence of expert testimony case raising only ordinary negligence).

Not every expert opinion is relevant, however. The rule requires that the expert’s

knowledge will be helpful to the trier of fact, that it will “assist the trier of fact to understand the evidence or to determine a fact in issue.” Id. (citations omitted). The key consideration—the expert’s information must be *helpful*.

It is inappropriate for an expert to testify to matters of common sense. Id., citing State v. Payne, 964 P.2d 327 (Ut App 1998) (differences in videotaped interview and oral report of interview are readily understood by jury without expert help); Highland Const. Co v. Union Pacific R.R., 683 P.2d 1042 (Utah 1984) (no error to exclude expert testimony of self-evident outcome). In juvenile court child welfare proceedings, the initial inquiry for defense counsel

“It is inappropriate for an expert to testify to matters of common sense.”

Kimball and Boyce, Utah Evidence Law 2nd ed.

Utah Standard for Admissibility for Expert Testimony

acquired expertise in the area at issue. If so, is the expert's knowledge helpful to the trier of fact or is the matter one of common sense? If the information is one based upon common sense, defense counsel should move to exclude the expert's information.

A witness may have "expertise in an area helpful to the fact finder and still be disqualified to testify as an expert due to inadequate facts upon which to base their opinion." *Id.*, citing dissent of Justice Stewart in *State v. Bullock*, 791 P2d 155 (Utah 1989) (decided on other grounds) social worker expert should not have been allowed to testify to child abuse when it was clear she had not

acted as a neutral investigator but had begun coercive questioning with an assumption that abuse had occurred. Or, if a "witness merely summarizes or serves as a conduit for information provided by others, without adding significant value by application of special skills, the testimony should be inadmissible as far as Rule 702 is concerned." Kimball, E. Boyce, R. Utah Evidence Law, 2nd ed. 2004.

Finally, expert evidence that is "prejudice-inducing or confusing may be excluded under either Rule 702 as not helpful" or "under Rule 402 as having probative value substantially outweighed by confusion or prejudice." *Id.*

Evidentiary questions in child welfare proceedings may seem elementary, but when vigorously raised, they may mean the difference between reunification or termination.

John Norman 1-801-718-6468
Email: john@parentaldefense.org

Sharon S. Sipes 1-801-394-7870
Email:
Sharon@parentaldefense.org

Mike Thompson 1-801-623-0004
Email mike@parentaldefense.org



Allegation Categories for Abuse, Practice Guidelines 201.9

ABUSE includes

Domestic Violence Related Child Abuse: **Potential** for or actual injury to a child /youth during a domestic violence episode, or violent physical and/or verbal altercation between adults witnessed by a child/youth.

Physical abuse, general
(including but not limited to)

A. Non-accidental injury that may or may not be visible;

B. Unexplained injuries to a child/youth;

C. Unexplained injuries to a disabled or nonverbal child/youth.

Emotional Maltreatment: General emotional maltreatment includes a pattern of, or severe isolated incident of demeaning or derogatory remarks, parental alienation causing emotional distress to the child, perception of or actual threatened harm, teaching the child/youth illegal behavior, severe or chronic role reversal where child/youth assumes the majority of adult or caregiver responsibilities, custody disputes leading to multiple

false reports to CPS, multiple unnecessary physical examinations.

Child Endangerment: Cited DUI with child/youth in the vehicle, homes where drug paraphernalia, chemicals for manufacturing illegal drugs, access to illegal drugs, distribution of illegal drugs in the presence of the child/youth, giving children illegal drugs or prescription drugs not intended for the child/youth, involving the child/youth in the commission of crimes such as shoplifting.

We're on the web:
www.parentaldefense.org