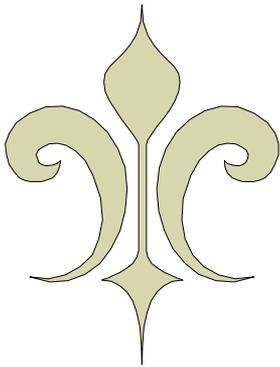


NEWSLETTER



Parental Defense Alliance of Utah, Inc.

Practice Guidelines: Reasonable Search For Relatives

By now, it should be fairly clear that “everything in the Practice Guidelines is expected to be implemented.” See, Fall 2006 Newsletter of the Parental Defense Alliance, R. Anderson, DCFS. One of the “things” in the Practice Guidelines to be implemented is the Reasonable search for relatives **prior to the shelter hearing**.

Sec. 500 of the Guidelines directs the Division’s obligations and expectations with respect to kinship placements. Sec. 503, Reasonable Search for Relatives obligates DCFS to conduct a “reasonable search” for relatives when children cannot safely remain with their parents.

DCFS adopted Sec.500 to carry out its obligation to place children with family whenever possible. See, U.C.A. 78-3a-307,

Shelter Hearing—Placement with a Non-Custodial Parent or Relative – DCFS Custody. **Prior to the shelter hearing**, DCFS is expected to “perform a reasonable search to locate relatives **by taking as many of the following steps as necessary to locate relatives**: Interview the parent to obtain the names, addresses and telephone numbers of all possible relatives who would be willing and appropriate to care for the children on a temporary or permanent basis. The non-custodial parent **needs to be given preference** for placement when it is determined that the non-custodial parent is fit and the placement is safe and appropriate in accordance with Utah Code Ann. 79-3a-307.

The Child and Family Services worker needs to contact the identified relatives by tele-

phone, disclosing only the information necessary to assess their interest in accepting placement of the child and to help identify additional relatives. The relative will be informed that the information disclosed



Child and Family Services

DCFS must conduct a reasonable search for relatives prior to the shelter hearing.

is confidential.

At the shelter hearing, or subsequent hearings, the Child and Family Services Worker needs

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Special points of interest:

- Everything in the DCFS Practice Guidelines is expected to be implemented
- DCFS must take steps “as necessary” to locate relatives for kinship placements
- DCFS workers failure to take steps as necessary provides another area to challenge “reasonable efforts”

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DRUG TEST COMMON TERMS

Every attorney representing parents in a DCFS action in juvenile court will, at some point, represent a parent with a drug addiction. Here are some definitions for common terms associated with understanding drug testing:

Adulterated specimen: A specimen that contains a substance not generally present in human urine, or a substance that is present but at a concentration higher than generally associated with human urine.

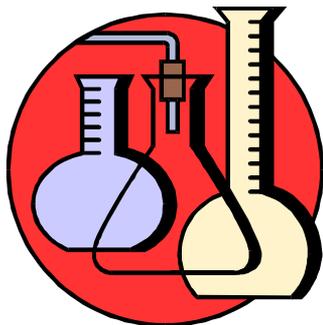
Creatinine: crystalline basic

compound formed from creatine, found in muscle, blood and urine.

Cutoff level (threshold) The defined concentration of a substance in a specimen at or above which the test is called

Continued p2.....

Drug Test Common Terms, continued...



Positive and below which it is called negative.

Dilute specimen A specimen with creatine and specific gravity values that are lower than expected for human urine.

Gas Chromatography A process in which the specimen is vaporized and injected into a stream of gas moving through a liquid or particulate solid which separates the specimen into its component compounds.

Immunoassay: A laboratory technique that makes use of the binding between an antigen and its antibody in order to identify and quantify the specific antigen or antibody in a

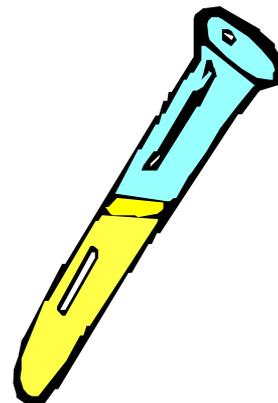
sample.

Invalid drug test The result of a drug test for a specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result

Mass Spectrometry Instrumental method used in conjunction with gas chromatography that provides accurate information about the molecular mass and structure of complex molecules, used to identify and quantify extremely small amounts of

Drugs or metabolites by their mass-fragment spectrum.

Metabolite A compound produced from the chemical changes of a drug in the body.



“Everything in our Practice Guidelines is expected to be implemented.”

Richard Anderson,
Director, Utah
Division of Child
and Family
Services



Practice Guidelines: Reasonable Search for Relatives, continued...

to provide the GAL, AAG, counsel for parents or parents if unrepresented, and the court, with a **written report detailing** the progress and results of the search and assessment for all relatives (the Practice Guidelines do not include the parents or counsel for parents as a recipient of the assessment, however, under the Rules of Civil Procedure, a party is obligated to serve all parties with copies of any documents provided to the court).

Following the shelter hearing, the Child and Family Services worker **will continue to search for relatives** if a long-term kinship placement has not been identified or if it is in the best interest of the child.

Why is this information important? Reasonable efforts...reasonable ef-

orts...reasonable efforts. Reasonable efforts must be challenged at every stage of the proceedings, beginning with an inquiry into the worker's efforts prior to removal, efforts to locate relatives prior to the shelter hearing, written documentation of those efforts at the shelter hearing, reasonable efforts during the period between disposition and the six-month review, and reasonable efforts prior to permanency.

Many times, the DCFS worker will respond to inquiries about their progress in identifying relatives with the comment, “the child is thriving in foster care...I don't want to move them.” This response is contrary to Practice Guideline requirements.

When a relative asserts an interest in the child within 120

days of the shelter hearing, DCFS **will assess relatives on their own merits and not in comparison with any other licensed provider.** This means the relative cannot be compared to the foster-adopt home the worker wants the child to live with. Sec. 504 Practice Guidelines, Assessment of Relatives for Kinship Care.

In some jurisdictions, the State has invoked federal legislation, commonly referred to as the “Adam Walsh bill” to delay placement with relatives. However, defense counsel should be prepared to argue that the federal database created by the act is not yet in place and arguably does not apply to kinship placements.



About....COCAINE

Cocaine was first used in the 1880s during eye, nose and throat surgeries as an anesthetic and for its ability to constrict blood vessels and limit bleeding. Cocaine's therapeutic applications have been rendered obsolete due to the development of "safer drugs." *Drug Facts*, United States Office of National Drug Control Policy, www.whitehousedrugpolicy.gov/drugfact/cocaine/index.html.

Cocaine is the "most potent stimulant of natural origin." *Id.* Cocaine can be snorted, smoked, or injected. When

snorted, the cocaine powder inhaled through the nose is absorbed into the bloodstream through nasal tissues. When injected, the drug is released directly into the bloodstream. Smoking cocaine vapor or smoke into lungs is absorbed into the bloodstream as rapidly as by injection. *Id.*

Crack is cocaine that has been processed from cocaine hydrochloride to a free base for smoking. Crack is processed with ammonia or baking soda and water. It is heated to remove the hydrochloride to form

the cocaine that can be smoked. *Id.*

According to the 2005 National Survey on Drug Use and Health, approximately **33.7 million** Americans ages 12 and older had tried cocaine at least once in their lifetimes, representing 13.8% of the population ages 12 and older. Approximately **5.5 million** Americans used cocaine within the past year. *Id.* Regardless of the frequency of use, cocaine users can experience heart attack, respiratory arrest, stroke, seizures and headaches.



Cocaine was once readily available as a pain reliever.

About....METHAMPHETAMINE

Methamphetamine is a highly addictive central nervous system stimulant that can be injected, snorted, smoked, or ingested orally. *Drug Facts*, United States Office of National Drug Control Policy, www.whitehousedrugpolicy.gov/drugfact/cocaine/index.html.

Methamphetamine users feel a short, yet intense "rush" when the drug is initially administered. The effects of meth include increased activity, de-

creased appetite, and a sense of well-being that can last from 20 minutes to 12 hours. The drug has limited medical uses for the treatment of narcolepsy, attention deficit disorders and obesity. *Id.*

According to the 2005 National Survey on Drug Use and Health an estimated 10.4 million Americans aged 12 or older used methamphetamine at least once in their lifetimes for nonmedical reasons, represent-

ing 4.3% of the U.S. population in that age group. 1.3 million Americans aged 12 or older used methamphetamine in the past year. *Id.*

Methamphetamine use may result in addiction, psychotic behavior, and brain damage. Meth is highly addictive and users trying to abstain from its use may suffer withdrawal symptoms including depression, anxiety, fatigue, paranoia, aggression and intense craving.

Almost TWO MILLION visits to hospital emergency departments in 2004 were drug related.

- Drug Facts

About....OXYCONTIN

OxyContin is a prescription painkiller used for moderate to high pain relief associated with injuries, bursitis, dislocation, fractures, neuralgia, arthritis, lower back pain and pain associated with cancer. *Drug Facts*, United States Office of National Drug Control Policy, www.whitehousedrugpolicy.gov/drugfact/cocaine/index.html.

OxyContin contains oxycodone,

the medication's active ingredient in a timed release tablet. *Id.*

OxyContin produces opiate-like effects and is sometimes used as a substitute for heroin. Most individuals who abuse this drug do so to gain euphoric effects, relieve pain, and to avoid withdrawal symptoms. Those who take the drug repeatedly can develop a tolerance or resistance to the drug's effects. *Id.*

During 2005, 1.8% of 8th graders, 3.2% of 10th graders, and 5.5% of 12th graders reported using OxyContin within the past year. *Id.*

According to the Drug Abuse Warning Network, 2002 Mortality Data, oxycodone ranked among the 10 most common drugs in major cities throughout the United States. *Id.*





“You can only protect your liberties
in this world by protecting the other
man’s freedom.”

-Clarence Darrow



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downloads and information:

www.parentaldefense.utah.gov



Notices

Parental Defense Conference.

The Annual Parental Defense Conference will be held in April 2007 at the Zermot Resort in Midway, Utah. Watch for the dates, which will coincide with the juvenile court judges conference, the AAG and Gal conferences. Have ideas for presentations? Give us a call.

Practice Guidelines. Unable to access the internet or print off the Practice Guidelines from the DCFS website? Contact John or Sharon and John will see that you get a copy of the guidelines, free of charge, provided to you by the Parental Defense Alliance of Utah, Inc.

Blue Binders If you have not

requested blue binders to help your clients track important court dates, appointments and attendance at services, contact Lisa Lokken today at llokken@l2law.com and request your copies today.

Family Advocates. In the right case, a family advocate can be helpful to clients as they work their way through services. Family advocates attend court hearings and explain matters in plain English to clients, they attend family team meetings for parents support, and they can act as a go-between when the caseworker fails to engage (a practice model term) with the family.

Potential Resource to Help indigent obtain prescription medications. Free Prescription Medication is available through Patient Assistance Programs sponsored by America's pharmaceutical companies. These prescription drug assistance programs bring much needed prescription assistance to those who lack prescription coverage. Millions of Americans are receiving free prescription medicine with a wholesale value of over 4 Billion dollars annually. Still, many who need this valuable prescription drug assistance are unable to receive the free medicine that is available due to the enormous amounts of red tape involved. Also, many who are eligible for these pre-

they even exist. As a result, millions of Americans must make the choice between taking their prescription medication or purchasing food or other basic necessities. Select Care Benefits Network's Patient Advocacy Team, in partnership for prescription assistance with you and your doctor make the process of receiving free medicine simple for everyone.

Contact the Select Care Benefits Network at 1-888-331-1002.

DISCLAIMER: Please be aware that PDA does not endorse the Select Care program, but provides information only as a potential starting point to access services for clients. Prudent investigation is warranted.