SWAN Legal Services Initiative

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Legal Training Team

Division Manager
Rachel Meaker, Esq.

Training Specialists
Alyssa Cowan, Esq.
Ilene Dubin, Esq.
Lauren Peters, Esq.
Alyssa H. Holstay, Esq.

Contact the team:
lsiwarmline@diakon-swan.org

471 JPLwick Drive
P.O. Box 4560
Harrisburg, PA 17111

www.diakon-swan.org

PENNSYLVANIA SUPERIOR COURT

In the Interest of J.J.L., a Minor[1]

Date of Decision: November 15, 2016
Cite: 412 MDA 2016

Holding:

Superior Court affirmed the decree granting the petition of Dauphin County Children and Youth Services Agency ("the Agency") involuntarily terminating the parental rights of B.B.L., Mother of J.J.L., and held that the Americans with Disabilities Act (ADA) is not applicable to a proceeding regarding the termination of parental rights under the Adoption Act. Application of the ADA would impermissibly require the Trial Court to shift its attention from the needs of the child to those of the parent.

Facts and Procedural Posture:

B.B.L. ("Mother") became involved with the Agency following a referral related to concerns about her ability to adequately care for the basic needs (including repeated instruction on how to hold, diaper, and feed) of her infant son, J.J.L., as well as concerns regarding her intellectual disabilities and the mental health of both Mother and father. A Safety Plan was developed by the Agency wherein Mother and father would reside with paternal grandparents, who became 24-hour caretakers to assist them in caring for J.J.L. A Petition for Dependency was filed after the Agency's parent educator worked with Mother for approximately five hours and concluded that it would not be possible for Mother to learn the skills necessary to care for J.J.L. within the time constraints of the expiration of the Safety Plan. J.J.L. was adjudicated dependent and placed in a foster home through the care and custody of the Agency. Approximately 15 months later, the Agency filed a Petition for Involuntary Termination of Parental Rights under 23 Pa.C.S.A. §2511(a)(2), §2511(a)(5), §2511(a)(8), and §2511(b), which was subsequently granted by the Trial Court. Mother then filed a Motion for Disqualification and Recusal of the Trial Court judge, which was granted; following a hearing on the petition by a different judge, a decree was entered terminating Mother's parental rights.

Issue(s):

Whether the Trial Court abused its discretion or committed an error of law by ordering termination of Mother's parental rights, despite the Agency's failure to modify its policies, practices, and procedures to accommodate Mother's intellectual disability in contravention of the ADA.

Whether the Trial Court abused its discretion or committed an error of law by ordering termination of Mother's parental rights despite the Agency's failure to make

[1] This case was previously unpublished, and was featured as an Unpublished Opinion in the October 2016 Unpublished Case Report.

Rationale:

The Superior Court began by noting that though they had previously held that the ADA is not applicable to a dispositional review proceeding under the Juvenile Act (specifically, 42 Pa.C.S.A. §6351(e))(*see* In re A.P., 728 A.2d 375, 378-380) (Pa. Super. 1999)), applicability of the ADA to the Adoption Act had not been previously examined. In the analysis of applicability under the Juvenile Act in A.P., the Court reasoned that in assuming a parent falls within the ADA's definition of a "qualified individual with a disability,"

> … the relevant inquiry would become whether CYS provided her with reasonable accommodations to allow her to participate and receive the benefits from the services offered on an equal footing with persons who are not disabled… [to apply the ADA to a dispositional review under the Juvenile Act] would require [the Court] to ignore the best interests of the child and focus instead on the needs of the Mother. Id. at 378-379.

The court also examined the intent of the ADA and noted that while it was enacted to eliminate discrimination, they did not believe that in enacting the ADA Congress intended to change the obligations imposed by unrelated statutes. Id.

The Superior Court reached the same conclusion in the instant matter by using the same rationale as that in A.P.; namely, that application of the ADA to the Adoption Act would require the court to put needs of the parent ahead of the best interest of the child, which would be in direct contravention to the intent and obligations under the Adoption Act. The court additionally noted that even assuming applicability of the ADA, the Agency had adequately provided reasonable accommodations to Mother to allow her to participate and receive the benefits from the services offered on an equal footing with persons who are not disabled; the Agency's parent educator worked one-on-one with Mother for approximately five hours, the caseworker spent two hours reviewing the family service plan with Mother, the Agency consulted outside agencies for assistance in "simplify[ing] the language," and the caseworker and a special education teacher met with and reviewed Mother's family service plan and goals with her. With respect to Mother's claim regarding reasonable efforts, the court explained that §6351(f) of the Adoption Act does not preclude termination of parental rights as a consequence of an Agency's failure to provide reasonable efforts (*see* In re D.C.D., 105 A.3d 662, 673-74 (Pa. Super. 2014)), and, therefore, declined to address the issue. Termination of Mother's parental rights affirmed.

Commonwealth of Pennsylvania v. A.R.C.

Date of Decision: November 1, 2016
Cite: 1296 WDA 2015

Holding:

Superior Court vacated judgment of sentence and discharged A.R.C. following her conviction of Endangering the Welfare of a Child (EWOC) and Recklessly Endangering Another Person (REAP) as a result of injuries sustained by her two-month-old daughter, M.S.; Commonwealth failed to prove, beyond a reasonable doubt, that A.R.C. engaged in reckless conduct that placed her child in danger of serious bodily injury or that she violated her parental duty of care to M.S.

Facts and Procedural Posture:

The victim, M.S., is the infant daughter of A.R.C. and her boyfriend, B.S. A timeline of relevant facts was presented as follows. When M.S. was approximately two months old, A.R.C. returned to work, and B.S. became the primary caretaker for M.S. During the first two months of M.S.'s life, A.R.C. took the infant to all regularly scheduled doctor appointments; no positive findings of abuse nor serious medical issues were ever noted by her physicians. On the evening of the incident, B.S. left the infant on the bed unattended while he went to the bathroom. Upon his return, he saw the couple's dog on the bed near the baby, and in his attempt to remove the dog from the

bed, fell onto M.S., who cried out. A.R.C. , who was sleeping in the bed, awoke, half asleep, and suggested that B.S. give the baby a bottle, then fell back to sleep. The next evening upon A.R.C.'s return home from work, she observed that the child's leg was red and swollen. The couple immediately took the child to the hospital, where M.S. was diagnosed with a newly fractured femur; however, during the full body x-ray, 17 additional fractures were discovered, including, but not limited to, broken ribs and limbs—some of which were healing. Doctors determined that some of these other injuries had occurred within the previous three weeks. B.S. admitted to falling on the baby the prior evening, as well as dropping her out of her infant seat when she was just weeks old. As a result, B.S. was charged with Recklessly Endangering Another Person (REAP), Endangering the Welfare of a Child (EWOC), Simple Assault, and Aggravated Assault[2]. A.R.C. was charged with REAP, EWOC, and Simple Assault.

Issue[3]:

Whether the evidence at trial was insufficient to establish beyond a reasonable doubt the specific intent and *actus reus* elements of the crimes charged.

Rationale:

The specific intent required for EWOC is a "knowing violation of a duty of care." Commonwealth v. Cardwell, 515 A.2d 311, 313 (Pa. Super. 1986). In Cardwell, the court concluded that omissions to act, as well as acts, can constitute a violation of the duty of care. Here, the Superior Court noted that there was nothing in the record to prove beyond a reasonable doubt that A.R.C. either recklessly endangered M.S. or acted in such a way that her neglect endangered the welfare of M.S. where A.R.C. took M.S. to every regularly scheduled doctor's appointment, complied with the doctor's recommendations regarding any necessary follow-up treatment or care, and had no idea that M.S. had sustained any injuries (both before the hospital visit the evening of the related incident, as well as the night of the incident, as A.R.C. was "half asleep" when it occurred). Additionally, before the night of the incident, none of M.S.'s healthcare providers suspected or discovered any of the infant's extensive injuries; doctors testified that M.S. was a healthy, thriving baby girl at all of her visits. Under these facts, in addition to other facts testified to at trial, the Superior Court determined that the Commonwealth did not prove beyond a reasonable doubt that A.R.C. violated a duty of care or protection, so her conviction for EWOC must be vacated.

The *mens rea* required for the crime of REAP, "recklessly," is defined as a conscious disregard of a known risk of death or great bodily harm to another person. Commonwealth v. Chapman, 763 A.2d 895 (Pa. Super. 2000). As with EWOC, both acts of commission or omission by parents towards their children may create a substantial risk of death or great bodily injury. Commonwealth v. Cottam, 616 A.2d 988 (Pa. Super. 1992). For the same factual reasons discussed with regards to her conviction for EWOC, the court determined that the Commonwealth also failed to present sufficient evidence to prove that A.R.C. had acted recklessly. The Court clearly and unequivocally stated that while this was an unusual case, in that no one had been able to account for how M.S. sustained 17 of her 18 undisputed, non-accidental fractures, "just because those injuries were not traceable to a specific person or event, criminal liability is not automatically imputed to a parent."

[2] In a separate proceeding, B.S. had entered a plea of guilty to REAP, EWOC, and Simple Assault, and was serving a prison sentence at the time of A.R.C's trial.

[3] A.R.C. listed a total of five issues for appellate review; the issue reviewed in this publication is limited to that issue of greatest relevance.

Kelley v. Pittman

Date of Decision: November 4, 2016
Cite: 384 MDA 2016

Holding:

Superior Court held that the Trial Court committed an abuse of discretion in ordering Appellant, Pittman, to comply with a discovery request in a civil suit and disclose confidential mental health records of nonparties and/or confidential information related to nonparties in contravention of the Child Protective Services Law (CPSL).

Facts and Procedural Posture:

The root of this case is a "drawn out and procedurally tortuous divorce and custody action between the Appellee (plaintiff, Mark Kelley) and Jessica Kelley." Through the divorce and custody matter, Jessica Kelley retained the professional services of Appellant (defendant, Laurie S. Pittman, Ph.D.) for a custody evaluation. Said evaluation was performed by Appellant without the consent and/or participation of Appellee, and was conducted by way of one-day interviews of Ms. Kelley and her children, as well as review of documentary evidence provided by Ms. Kelley. While Appellant was originally retained to perform a traditional custody evaluation, during the course of her evaluation, allegations of physical and psychological abuse by Appellee were made by Ms. Kelley and her children. The completed custody evaluation totaled approximately 40 pages and contained Appellant's recommendations regarding custody arrangements, as well as a recommendation that Appellee undergo therapy. The custody evaluation was entered into evidence (over the objection of Appellee), and was discussed and dissected through the testimony of Appellant.

Following the introduction of the evaluation into evidence and the testimony provided by Appellant, Appellee filed a separate civil complaint against Appellant alleging Defamation of Character (through both the report and dissemination of said report to other mental health professionals as well as dissemination through the court) and Professional Negligence (related to her preparation of the report without his input). The instant appeal before the court arose as a result of Appellee's filing of a Motion to Compel Supplemental Discovery and the court's subsequent granting of said motion, ordering Appellant to disclose all documents and records reviewed in preparation of her expert custody evaluation report, as well as copies of texts completed by Ms. Kelley and her children.

Issue[4]:

Whether the Trial Court erred by granting the Motion to Compel, thereby ordering disclosure of mental health records of nonparties in violation of the psychologist/patient privilege, the Health Insurance Portability and Accountability Act (HIPAA), and statutory prohibitions against the release of confidential records of an abuse counselor.

Rationale:

The Superior Court first noted that typically, discovery orders are not considered "final" orders, and as such are unable to be immediately reviewed on appeal; however, the instant matter constituted a "collateral order"; therefore, the court could examine the issues of privilege without analyzing the underlying claims of Defamation and Professional Negligence.

In regard to the merits of the appeal, Appellant argued that despite being retained to conduct a custody evaluation, when Ms. Kelley and her children alleged that Appellee was physically and psychologically abusive, she could no longer remain neutral, as she effectively became an abuse counselor with a legal obligation under the CPSL (23 Pa. C.S.A. §6311) to inform the authorities and the Trial Court of the suspected abuse to protect the kids and their mother. Therefore, Appellant asserted that any and all interview notes concerning the reported instances of abuse are statutorily protected under 23 Pa.C.S.A. §5366(b)(2) (concerning confidential communications to psychiatrists or licensed

[4] Appellant listed a number of issues for appellate review; the issue reviewed in this publication is limited to that issue of greatest relevance.

prohibiting disclosure and dissemination of confidential treatment records of nonparties in contravention of 42 Pa.C.S.A. §5944. Appellee countered that the seeking of services from Appellant as a custody evaluator resulted in a waiver of any potential privileges that arose during the course of the evaluation. The Trial Court agreed with Appellee, and reasoned that because Appellant completed the evaluation (after hearing and discussing the allegations of abuse), and submitted it along with her custody recommendation, she was neither serving as an abuse counselor nor as a fact witness, and determined that as Appellant was clearly functioning as a child custody evaluator, any applicable privileges were waived by the act of Ms. Kelley engaging Appellant to provide a custody evaluation for litigation purposes.

The Superior Court determined that the information sought to be disclosed was confidential information protected from disclosure by the CPSL. They reasoned that while Appellant initially came into contact with Ms. Kelley and her children as a neutral third party in connection with a custody evaluation, when she obtained information concerning their abuse, she became a mandatory reporter under the CPSL. The court noted that revelation of information pertaining to children and other nonparties who have not given their consent and revelation of personal, identifying information pertaining to a mandatory reporter which may jeopardize privacy and safety are not aimed at furthering the purpose of the CPSL, and that the protection and rehabilitation of victims of abuse is of superior importance to Appellee's interest in advancing his lawsuit. Since the court determined that the information sought was not only irrelevant to the underling matter, and its disclosure was prohibited by the CPSL, they did not need to address disclosure under HIPAA, the psychologist/patient privilege, or statutes related to the release of confidential records of an abuse counselor. Reversed and remanded to the Trial Court.

COMMONWEALTH COURT

J.P. v. Department of Human Services

Date of Decision: November 21, 2016
Cite: 720 CD 2016

Holding:

The Commonwealth Court held that the basic due process requirement of notice was not satisfied where the only notice sent to the alleged perpetrator was addressed to the attention of her paramour and the alleged perpetrator had no opportunity to be heard in the judicial proceeding forming the basis for a "founded" report.

Facts and Procedural History:

Appellant J.P., (Father's paramour), was named as the alleged perpetrator of physical abuse upon Father's child. Upon completion of the investigation, Lycoming County Children and Youth Services (CYS) filed the report as "indicated." J.P. filed an expunction appeal to her being listed as a perpetrator on the ChildLine and Abuse Registry (ChildLine Registry). Following J.P.'s filing of the expunction appeal, a finding was made (on the same facts giving rise to the ChildLine report) by a juvenile master in a related dependency proceeding that J.P. caused physical abuse to the child. This finding was then affirmed by the Trial Court. Subsequently, CYS filed a Motion to Dismiss J.P.'s expunction appeal, arguing that the status of the report changed from "indicated" to "founded" based upon the Trial Court's finding. In compliance with a Rule to Show Cause, J.P. argued that since she was not a party to the Juvenile Court matter, the Juvenile Court's finding of abuse did not apply to her. Following a hearing, the administrative law judge (ALJ) concluded that because J.P. had read Father (her paramour)'s notice prior to the juvenile hearing, and understood that CYS' allegation of abuse would be at issue during the hearing, her failure to take part in the hearing justified dismissal of her expunction appeal of the ChildLine report. The Bureau of Hearings and Appeals (BHA) adopted the recommendation of the ALJ. J.P.'s appeal from the Department of Human Services BHA decision followed.

Issue(s):

Whether notice to J.P.'s paramour (Father of the child in a dependency action) provided reasonable notice and an opportunity to be heard on allegations that she abused the child.

Whether the status of the report was properly changed from "indicated" to "founded"[5].

Rationale:

The Commonwealth Court began review of this matter by discussing the due process requirements for a "founded" report of abuse. They noted that,

> A founded report of child abuse is an adjudication and that, under Section 504 of the Administrative Agency Law, '[n]o adjudication of a Commonwealth agency shall be valid as to any party **unless he shall have been afforded reasonable notice of a hearing and an opportunity to be heard**'. 22 Pa.C.S.A. §504 (emphasis added).

The Commonwealth Court disagreed with the ALJ's conclusion that J.P. was afforded reasonable notice of the Juvenile Court hearing. Specifically, they stated that, "Due process of law requires notice to be given **to the respondent** so that [s]he may adequately prepare h[er] defense…" Straw v. Pa. Human Relations Comm'n, 308 A.2d 619, 621 (Pa. Cmwlth. 1973)(emphasis added). J.P. testified before the ALJ that she never received notice of the Juvenile Court proceeding, her name was not listed on the letter that Father received, she was not provided with a copy of the master's decision by either the master or CYS, and she didn't appeal the master's decision because she did not know that she was **allowed** to appeal the master's decision. Moreover, J.P. had been specifically told by CYS that she was not to ask questions regarding any matter that pertained to the child. The Commonwealth Court concluded that as it was uncontested that the only notice provided regarding the Dependency proceeding was that provided to Father, J.P.'s paramour, and in addition to those facts as noted, J.P. did not receive notice prior to the adjudication and did not receive the requisite due process for a valid adjudication. The matter was remanded to BHA to provide J.P. with a hearing on her expunction appeal.

D.C. v. Department of Human Services

Date of Decision: November 23, 2016
Cite: 2336 CD 2014

Holding:

A person whose name is entered into the ChildLine Registry as a perpetrator of child abuse is entitled to clear and unequivocal notice of the post-deprivation hearing as a matter of due process; equivocal and confusing language in the notice is a defect which constituted a breakdown in the administrative process and warranted the grant of a *nunc pro tunc* appeal.

Facts and Procedural Posture:

The Commonwealth Court reversed Department of Human Services (DHS) Bureau of Hearings and Appeals (BHA) adoption of Administrative Law Judge's (ALJ) denial of D.C.'s request for an expunction hearing *nunc pro tunc*. At the time D.C. received notice from DHS confirming receipt of the "indicated" report and information about their maintaining the report on the ChildLine Registry, he was under criminal investigation and the threat of criminal charges stemming from the same incident that gave rise to the factual basis for the indicated report. D.C. could only afford counsel for one of the two matters, and chose to retain counsel to assist with the pending criminal investigation. Once the criminal investigation had concluded (with no charges filed), D.C. requested a hearing on the indicated report. As his request was outside of the 45-day window in which he had to challenge the finding, the ALJ conducted a telephone hearing to determine whether or not to accept D.C.'s untimely appeal *nunc pro tunc*. The ALJ acknowledged that DHS's notice was presented in equivocal terms[6], but reasoned that

[5]The Commonwealth Court did not address this issue in its opinion.
[6] Specifically, the equivocal terminology used in the DHS' notice read as follows: "If your request is late, you **may** be on the child abuse register forever. (emphasis added).

the equivocal language was justified. DHS retains the name of a perpetrator "forever" only where the perpetrator's date of birth or Social Security number is known; therefore, the ALJ reasoned that the word "may" in the notice covered exceptional circumstances. BHA adopted the ALJ's recommendation to dismiss D.C.'s appeal and D.C. requested reconsideration from the Secretary of DHS. The appeal to this court followed the Secretary's denial of D.C.'s request for reconsideration.

Issue:

Whether the notice given by DHS was inadequate (and therefore constituted a breakdown in the administrative process providing justification for a *nunc pro tunc* appeal) because it did not state that a hearing request would not be accepted after 45 days.

Whether the threat of criminal charges was a non-negligent circumstance beyond D.C.'s control and therefore justified his delay in a request for a hearing.

Rationale:

The Commonwealth Court noted that "Inadequate notice is exactly the type of breakdown in the administrative process that satisfies the standard for a *nunc pro tunc* appeal." Beaver County Children and Youth Services v. Department of Public Welfare, 68 A.3d 44, 48 (Pa. Cmwlth. 2013. The Commonwealth Court determined that DHS's notice was inadequate in that it was equivocal and confusing as it did not state, simply and directly that if a hearing was not requested within 45 days of receiving the notice, the hearing would not take place, ever[7]. Rather, the notice advised that "you may be on the child abuse register forever." The court further pointed out that DHSs notice departs from the actual statutory language in 23 Pa.C.S.A. §6338 governing notice given to perpetrators. The Commonwealth Court then determined that D.C. satisfied the other legal standards for a *nunc pro tunc* appeal as well in that he filed his appeal shortly after learning of and having the opportunity to address his untimeliness, the untimeliness was of a short duration, and the DHS had not asserted nor shown any prejudice by the delay. H.D., 751 A.2d at 1219. For these reasons, the matter was reversed and remanded with instruction to provide D.C. with a hearing.

While not directly at issue in this case, it is important to note that the Commonwealth Court engaged in an approximately a five-page discussion regarding its concerns related to the lack of availability of a hearing **prior** to a perpetrator's name and information being placed on the ChildLine Registry. The court noted that the lack of a **pre**-deprivation hearing raises a serious due process question, and referenced a recent Missouri Supreme Court decision, Jamison v. State of Missouri, Department of Social Services, 218 S.W.3d 399 (Mo. 2007), in which the Missouri Supreme Court declared the Missouri version of our CPSL unconstitutional on this very basis.

[7] The CPSL was amended effective December 31, 2014 (after D.C. filed his appeal). The amendment provides another avenue for perpetrators to challenge an indicated report on the ChildLine Registry, namely, at *any* time upon good cause shown; it also now provides a 90-day time period in which to request administrative review of or appeal and request for a hearing on an indicated report. 23 Pa.C.S.A. §6341(a)(1) and §6341(a)(2).

LEGISLATIVE UPDATES

Act 122 of 2016: (Formerly House Bill 1699) Signed by Governor November 2, 2016.
Prohibits a health care practitioner from prescribing more than seven days of an opioid drug product in a hospital emergency department or urgent care facility unless certain medical conditions warrant more than a seven-day supply. Effective January 1, 2017.

Act 125 of 2016: (Formerly Senate Bill 1367) Signed by the Governor November 2, 2016.
Amends Title 35 (Health and Safety), adding a chapter regarding prescribing opioids to minors. Effective in part upon publication of notice; remainder effective immediately.

Act 126 of 2016: (Formerly Senate Bill 1368). Signed by Governor November 2, 2016.
Amends Title 35 (Health and Safety), adding chapters regarding safe opioid prescription and a patient voluntary non-opioid directive. Effective immediately.

Act 127 of 2016: (Formerly House Bill 162) Signed by the Governor November 3, 2016.
Amends the Domestic Relations statute, 23 Pa.C.S.A. §§2911 and 2937. Allows an adoptee or adoptee's descendant to obtain a summary/noncertified copy of the original birth record (containing only the names and ages of the birth parents, the date and county of the birth of the child, and the name given to the child at birth) through the Department of Health. Additionally, required the Department of Health to provide birth parents with a contact preference form and a medical history form; birth parents must fill out the medical history form if choosing no contact/redaction. Effective in part in one year; remainder effective immediately.

Act 138 of 2016: (Formerly House Bill 1907) Signed by the Governor November 3, 2016.
Amends the Public School Code (P.L.30, No.14). Defines truancy and habitual truancy, clarifies what schools must do when children are truant, provides greater discrepancy to judges when determining penalties for truancy, and standardizes truancy policies for charter and cyber charter schools. Effective immediately, but the act shall apply to the 2017-2018 school year.

Act 153 of 2016: (Formerly Senate Bill 613) Signed by the Governor November 4, 2016.
Amends the Human Services Code, 62 P.S. §§ 1401-B - 1410-B. Expands the Human Services Block Grant, allowing an automatic carry forward of 5 percent, and makes changes to funding for dependent and delinquent children. Effective in part immediately; remainder effective July 1, 2017.

AMENDED RULES

AMENDED: Pa. R. Juv. P. 380: On August 12, 2016, The Supreme Court of Pennsylvania adopted amendments to the Pennsylvania Rules of Judicial Administration related to court reporting and transcripts (*See* Pa.R.J.A. Nos. 4001-4016). Amending these rules necessitated technical amendments to other Pennsylvania Court rules, such as the Rules of Juvenile Procedure, so as to ensure no conflict arose between a reading of the rules. Pa. R. Juv. P. 380 governs the preservation of testimony after commencement of proceedings in delinquency actions. The technical amendment to this rule was made on November 16, 2016, to the "Comments" section of the rule in order to correctly cross-reference to the August amendment of the related rule of Judicial Administration. Effective January 1, 2017.

AMENDED: Pa. R. Juv. P. 1380: On August 12, 2016, The Supreme Court of Pennsylvania adopted amendments to the Pennsylvania Rules of Judicial Administration related to court reporting and transcripts (*See* Pa.R.J.A. Nos. 4001-4016). Amending these rules necessitated technical amendments to other Pennsylvania Court rules, such as the Rules of Juvenile Procedure, so as to ensure no conflict arose between a reading of the rules. Pa. R. Juv. P. 1380 governs the preservation of testimony after commencement of proceedings in dependency actions. The technical amendment to this rule was made on November 16, 2016, to the "Comments" section of the rule in order to correctly cross-reference to the August amendment of the related rule of Judicial Administration. Effective January 1, 2017.

MORE EXCITING NEWS

As we have previously reported, The Every Student Succeeds Act (ESSA) was signed by President Obama on December 10, 2015. This act is the reauthorization of the Elementary and Secondary Education Act, a key federal law governing education, originally signed into law in 1965 and last reauthorized as No Child Left Behind in 2002. The ESSA is the first major overhaul of federal education law in over a decade. Among many new provisions, the law now requires states to ensure certain protections for vulnerable youth in the foster care and juvenile justice systems. The 2016–17 school year is being considered a "transitional period" prior to the Act's full implementation in the education system in the 2017–18 school year. As such, Guidance on the Act and its application and interpretation has been issued by both The Federal Department of Education as well as the State of Pennsylvania. For more information, the complete Act can be found here.