



ADVOCACY FOR CHILDREN IN FOSTER CARE

May 21, 2025
11:30AM-1:30PM

Sponsored by the HCBA Trial & Litigation Section



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Today's Agenda

- I. Introduction to Dependency Law and Crossroads for Florida Kids
- II. What is ILS (Independent Living Services)?
- III. Client Counseling for Dependent Clients
 - Tips & Tricks for Building Rapport with Clients

What is Dependency Law?

- an area of Florida law dedicated to protecting children from abuse, abandonment and neglect.
- a dependent child is one who is found to have been “abandoned, abused or neglected by the child’s parent or parents or legal custodians” or is at “substantial risk of imminent abuse, abandonment, or neglect.” Fla. Stat. §39.01(15)

What are the statutes and rules governing dependency law?

STATUTE

CHAPTER 39,
FLORIDA STATUTES

RULES

FLORIDA RULES OF
JUVENILE PROCEDURE

Who are the parties in a dependency case?

[Fla. Stat. §39.01\(61\)](#)

**Child/
Teen**

**State
Children's
Legal
Services
(CLS)**

**Guardian
Ad Litem
(GAL)
Program**

Parent(s)



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Why is a Crossroads attorney being appointed?



- The child/teen is a party to the dependency proceeding
- Sometimes an older child will have an extraordinary need or express wishes different from those of the state, the parents, and even the Guardian Ad Litem (GAL) Program.

What is the difference between an Attorney Ad Litem and a Guardian Ad Litem?

GUARDIAN AD LITEM

- Represents the child's "best interest."

[Fla. Stat. §39.822\(1\)](#)

ATTORNEY AD LITEM

- Represents a child's expressed interests

Ethical Issues When Representing Children/Teens



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Do clients who are minors have attorney-client privilege?

yes!

YES. Children/Minors are NOT exempt from Rule 4-1.6 in the Rules of Professional Conduct.

The Rules go a step further and consider Minors in Rule 4-1.14.



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Can I financially assist my Crossroads client?

NO

Rule of Professional Conduct 4-1.8(e)
Financial Assistance to Client.

A lawyer is prohibited from providing financial assistance to a client in connection with pending or contemplated litigation, except that: (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

OTHERWISE, YES

Crossroads has available grant money specifically for “client needs” such as food, clothing, transportation, school supplies, phones, personal hygiene products, and any other means to support their individual talents or goals.

Purchases for client needs by Crossroads attorneys will be reimbursed by submitting a receipt to the Executive Director. Please ask before making any larger purchases.



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Can I meet privately with my AAL client?



Yes, in a safe place, preferably with staff. Crossroads recommends meeting a client in his/her placement. If client does not have a placement, attorney can meet at the courthouse or at the Case Manager's office. If client is in a detention facility, consider taking another attorney there for the initial visit.

What if my client makes me feel uncomfortable?

- Ask questions and listen.
- If you cannot answer a client's question, say that you will have to research that issue.
- Seek out guidance from another AAL.
- Build rapport in a genuine way.
- If you are not able to serve as a zealous advocate, another attorney can be appointed.

Do I have to disclose if my client is going to run away?



If a client discloses to a lawyer an intention to run away, the lawyer is not obligated to disclose the information. However, if a juvenile client reveals the intention to run away and SPECIFICALLY TELLS the lawyer NOT TO DISCLOSE THE INFORMATION, the lawyer is specifically required to keep the client's confidence, even if the lawyer believes it is not in the client's best interest.

Rule 4-1.6(c)(1); *RLR v. State*



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Do I have to disclose my client's location when he/she does run away?

STILL NO!

In *RLR v. State*, the AAL asserted that R.L.R. disclosed his location to them in confidence, in connection with their ongoing representation of him in his dependency proceedings, and his disclosures to them were encompassed by the attorney-client privilege. The lower court entered the order requiring the AAL to disclose the information but stayed rendition of the order so that the AAL could appeal the issue. The Third DCA reversed saying, “We are mindful of the lower court’s, DCF’s and the GAL’s commitment to the safety and well-being of children within DCF’s care; there is no exception, however, statutory or otherwise, to the attorney-client privilege under the facts presented in this case.” *RLR v. State*, 116 So. 3d 570, 572 (Fla. 3d DCA 2013)



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Do I have to disclose if my client wants to harm him/herself?

YES!

“Rule 4-1.6(b)(2) provides a mandatory exception to the confidentiality rule and requires a lawyer to reveal information to the extent the lawyer reasonably believes necessary to prevent a death or substantial bodily harm to another. Thus, if the client does not consent to disclosure, the lawyer may have a mandatory obligation to disclose the client’s intent if the lawyer reasonably that disclosure is necessary to prevent the client from taking his or her own life. The question whether the disclosure is necessary to prevent death or substantially bodily harm is fact specific, but such harm may be reasonably certain to occur ‘if it will be suffered immediately or if there is a present and substantial threat that the person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat.’ Illinois Ethics Opinion 17-01 (discussing Illinois’ mandatory disclosure requirement, which is similar to Florida’s mandatory exception under the confidentiality rule).” [What Are a Lawyer’s Obligations to a Suicidal Client?](#)



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My client thinks he/she needs to be on psychotropic medications, how can I get an evaluation?

- In Florida, only a psychiatrist or a PA/ARNP working under the supervision of a psychiatrist can prescribe medication. A psychologist/therapist cannot prescribe.
- The Crossroads attorney should ask the Case Manager if a Comprehensive Behavioral Health Assessment (CBHA) has been completed. All children in foster care are required to have a CBHA. If the CBHA recommends a psychiatric evaluation, request a court-order that a psychiatric evaluation be done within 30 days.
- If a CBHA was not done or does not recommend a psychiatric evaluation, any party can file a Motion for a Psychiatric Evaluation.

My client is prescribed psychotropic medications. They need a refill, but the Case Manager is not answering the phone. What do I do?

- Call the Case Manager. The supervisor and assistant Program Director's phone number are usually given in the voicemail greeting. Contact them.
- Contact the CLS attorney.
- Contact the prescribing physician listed on the bottle of medication.

My client does not wish to continue taking the psychotropic medications that are prescribed?

- Get as much information as possible regarding why. Side effects? Ineffective? Worried about stigma associated with medication?
- Has Pharmacogenomics testing been done?
- If these things do not apply, the Crossroads attorney can file a motion to discontinue the psychotropic medications.

My client seems depressed. What can I do to help?



- Ask lots of questions. Take an interest. Do lots of listening.
- Ask if it is okay to discuss with Case Manager or caregiver what you discuss.
- Encourage therapy or medication.

My client does not wish to engage in therapy. What should I do?

- Listen first.
- Ask if another type of therapy seems more appealing? *For example: art therapy, equine therapy, music therapy.*
- If there is something else like sports or church that the client does enjoy, see if that can be an outlet.
- If the client has to do community service pursuant to a delinquency case, ask if therapy can count towards those service hours.

My client is placed on a night-to-night basis. What does that mean?

Night-to-Night (N2N) is a practice when there are not available foster homes that accepts children in the evening, allows the teen to go to the home just to sleep and be out in the morning. It does not guarantee a spot from one day to the next.

How do I help a client who wants to live with a friend?

The AAL can request a home study on a relative or friend of the child. Most effective way is to send the proposed caregiver's name and telephone number to the CLS attorney and request a home study. The home study is not a guarantee of placement, it is simply the first step in the process of placing the client. Once a home study and background check are approved, a Motion for Modification of Placement can be filed.

Do caregivers need to be background checked?



Yes, caregivers and any other adults in the home must be fingerprinted and have a state and national background check.

What would disqualify a proposed caregiver from placement?

Fla. Stat. §39.0138(3): “The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has been convicted of any felony that falls within any of the following categories:

- (a) Child abuse, abandonment, or neglect;
- (b) Domestic violence;
- (c) Child pornography or other felony in which a child was a victim of the offense; or
- (d) Homicide, sexual batter, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery, or resisting arrest with violence.



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More specific disqualifications of a caregiver

Fla. Stat. §39.0138(4): “The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has, within the previous 5 years, been convicted of a felony that falls within any of the following categories:

- (a) Assault;
- (b) Battery;
- (c) A drug-related offense; or
- (d) Resisting arrest with violence.



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What do I do if the proposed caregiver cannot pass a background check?

- Request a copy of the denied home study and ask what specifically about the backgrounds lead to the denial.
- If good cause can be shown that the placement would be appropriate and safe, file a Motion to Modify Placement.
- State the reason for the denial.
- State any mitigating factors or circumstances that would convince the Court to override the home study and place the teen in the home.



II. What is Independent Living Services (ILS)?

ILS are for young adults who spend time in foster care.

**Options for
Young Adults
who turn 18
in foster
care**

**Ethical
Issues When
Representing
ILS Clients**

**Mental
Health and
Representing
Teens**



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Options for Young Adults After Foster Care

- Extended Foster Care (EFC)
- Post-Secondary Education Services and Support (PESS)
- Aftercare

What is Extended Foster Care (EFC)?

EFC allows a child who is in licensed foster care at the age of 18 to remain under the supervision of the dependency court and have assistance from the Court and the Department in exchange for participation in a qualifying activity.

[Fla. Stat. §39.6251](#)



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How long does EFC last?

Age 21 or 22 (with a documented disability).

A document disability is not defined in Chapter 39. It is not limited to a developmental disability or limited to a disability defined by the Individuals with Disabilities Education Act (IDEA).

What is a qualifying activity?

- Attending high school/GED program
- Enrolled in college or vocational education program
- Employed at least 80 hours per month
- Participating in a program designed to promote or eliminate barriers to employment
- Have a diagnosed and documented disability that would prevent the client from participating in a qualifying activity
- Licensed Foster Home or Licensed Group Home



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What choices does a teen in EFC have for living arrangements?

Living arrangements must be approved by the Department. They can include:

Licensed
Foster Home
or Licensed
Group Home

Transitional
Living
Program

Assisted
Living
Facility

Shared
Housing
(with a
roommate)
or Shared
Housing in a
Host Home

Individual
Housing

Placement is ultimately up to the Court!



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What happens if a client is not enrolled in a Qualifying Activity? How long do they have to re-enrolled or find a different activity?

- Young adults are given an opportunity to find a new qualifying activity
- Since EFC keeps the cases under the jurisdiction of the dependency court, the Court has discretion.

My client wishes to get back into EFC. What are the steps?

- Complete an Extended Foster Care Voluntary Placement Agreement.
- Submit it to Camelot Community Care, Inc.

What is the law regarding PESS?

[Fla. Stat. §409.1451](#)

- Eligibility
- Amount
- Payment

AGE LIMITS:

- **21 years old:** the initial application for these funds must be received before the client's 21st birthday
- **28 years old:** program is available until the client reaches 28.

Who is eligible for PESS?

- Youth must have earned a High School Diploma or a GED

AND

- Youth turned 18 while in the legal custody of the Department and have spent a total of at least six months in licensed out-of-home care before turning 18

OR

- Youth is at least 18 and was adopted after the age of 16 from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption.

How much money will a client receive if they are enrolled in PESS?

Eligible youth may receive a monthly financial payment of \$1,720. The financial award is to secure housing, utilities, and assist with cost of living while attending a Florida Bright Futures-eligible postsecondary educational institution.

Can my client attend trade school with PESS?

Yes! PESS is not just for traditional college students.



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What about tuition costs?

Tuition and Fee Exemption are available at Florida public colleges and universities.

Fee exemptions are offered to students who:

- reached age 18 in the custody of the Department of Children and Families;
- were adopted from the Department of Children and Families after May 5, 1997;
- reached 18 in the custody of a relative or non-relative pursuant to Fla. Stat. §39.5085
- spent at least 18 months in out-of-home placement after age 14 but was subsequently reunified with a parent.
- placed in permanent guardianship by the court after spending at least 6 months in the custody of the department after reaching 16 years of age.

****The exemption remains valid until the student reaches 28 years of age.**

[Fla. Stat. §1009.25\(1\)\(c\)](#)



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What are Bright Futures-Eligible Institutions?

Local Institutions include:

- Arizona College of Nursing-Tampa
- Aveda Institute
- Concorde Career Institute
- Florida College
- Schiller International University
- Hillsborough Community College (HCC)
- University of South Florida (USF)
- University of Tampa (UT)

What if a school is not Bright Futures-Eligible?

If a school the client is attending is NOT a Florida Bright Futures-Eligible School, the client is NOT eligible for PESS.

However, the client may be eligible to receive ETV funding.

What is Aftercare?

Fla. Stat. §409.1451(3): Aftercare Services—

(a)1. Aftercare services are available to a young adult who has reached 18 years of age but is not yet 23 years of age and is:

- a. Not in foster care.
- b. Not receiving PESS or ETV.

What can a client receive in Aftercare?

Aftercare services include, but are not limited to the following:

1. Mentoring and tutoring;
2. Mental health services and substance abuse counseling;
3. Life skills classes, including credit management and preventative health activities;
4. Parenting classes;
5. Job and career skills training;
6. Counselor consultations;
7. Temporary financial assistance for necessities, including, but not limited to, education supplies, transportation expenses, security deposits for rent and utilities, furnishings, household goods, and other basic living expenses.
8. Temporary financial assistance to address emergency situations, including, but not limited to automobile repairs or large medical expenses.
9. Financial literacy skills training under Fla. Stat. §39.6035(1)(c)

*Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

My client signed an opt-out form without me present. What do I do?

- Bring this to the Court's attention. The attorney should be involved when the client signs the opt-out form.
- Be sure to express the benefits of ILS and most of all, express that the client can opt back in.
- The Department still has a duty to help all children reach permanency.

How do I best serve my young adult client?

- Ask lots of questions. Take an interest. Do lots of listening.
- Attend Staffings. Email the Case Manager and ask to be invited to every Staffing. The Case Manager is not represented by an attorney.
- Ensure client has all documents.
- Ensure client understands the rules and expectations of living arrangement.

Will my client continue to receive Medicaid?

- Youth who turn 18 while in foster care will receive Medicaid until they are 26. They automatically receive Medicaid until they are 21.
- Once the young adult reaches 21, he/she must apply for Medicaid, but will be eligible until age 26.
- Ensure client has shelter order or placement order or Judicial Review order.

What does Medicaid cover?

- Primary and Specialty Care
- Birth Control
- Prenatal Care
- Dental
- Therapeutic Services

III. Client Counseling for Dependent Children

- 10 Tips & Tricks for Building Rapport with dependent child clients

REMEMBER TO BE

1. Sincere
2. Succinct
3. Secret (Remind client that communication is confidential)

III. Client Counseling for Dependent Children

- 10 Tips & Tricks for Building Rapport with dependent child clients:

4. Simple

5. Safe

6. Sage

III. Client Counseling for Dependent Children

- 10 Tips & Tricks for Building Rapport with dependent child clients:

7. Sensible

8. Stylish

9. Skilled

10. Strong

Questions for Presenters

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