

GLOSSARY

A

ABANDONMENT: the conscious disregard of parental responsibilities by failure to provide reasonable support, maintain regular contact, or provide normal supervision. Also includes failure to participate in a reunification plan or child protection proceedings.

ABUSE: maltreatment of a child that causes or threatens to cause physical or mental harm to a child.

ACTIVE EFFORTS: under the Indian Child Welfare Act, the state must make active efforts to provide remedial services and rehabilitation programs designed to prevent breakup of the Indian family. The social worker must actively help the parent through the steps of the plan and help the parent develop the skills necessary to retain custody.

ADJUDICATION: judge's decision about whether the facts in the CINA petition are true and whether the child is A Child In Need of Aid, as defined by statute.

ADJUDICATION HEARING: court proceeding to determine whether the allegations of the CINA petition are supported.

ADOPTION: a legal proceeding in which an adult becomes the legal parent of a child who is not the adult's biological offspring.

AFFIDAVIT: sworn written statement signed in the presence of a Notary Public.

ALLEGATION: a statement made by a person in the case who claims it can be proved as a fact.

ANNUAL REVIEW: for a child placed in a parent's custody, a court review is held one year after disposition. This review determines whether

the child continues to be a child in need of aid, what progress is being made, and whether continued supervision is necessary.

APPEAL: the legal procedure by which a party asks a higher court to review the decision of a lower court.

APPELLATE COURT: a court that reviews decisions made by a lower court on questions of law and procedure. The appellate court can affirm, reverse, or remand the original decision for more proceedings. CINA appeals are heard by the Alaska Supreme Court.

ATTACHMENT: the psychological connection between people that permits them to have significance to each other. A strong and enduring bond of love that develops between a child and the people he/she interacts with most frequently.

ATTORNEY: a graduate of a law school, admitted to practice before the courts of a jurisdiction. The attorney advises, represents, and acts for the client.

ATTORNEY GENERAL: the chief lawyer for the State of Alaska, Department of Law. Assistant attorneys general and district attorneys represent OCS in CINA proceedings.

B

BEST INTEREST OF A CHILD: a standard that the CASA/GAL uses in choosing a course of advocacy.

BEYOND A REASONABLE DOUBT: proof so conclusive as to remove all reasonable doubts. The highest burden of proof required.

BONDING: the psychological attachment between a caregiver and a child, which develops during and immediately following childbirth.

BRIEF: a written statement of the facts and legal arguments governing an issue, presented from the perspective of one party.

BURDEN OF PROOF: the responsibility for proving the facts that are in dispute in a case. For instance, at adjudication, OCS has the burden of proving the allegations in its CINA petition.

C

CALENDAR: a daily list of cases to appear before the court. Some courts call this list a docket. At “calendar call”, the court sets trial dates for a large number of cases.

CARETAKER: any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting.

CASA: Court-Appointed Special Advocate. A volunteer trained to investigate and report on child abuse and neglect matters, focusing on the best interests of the child. CASAs work with a small number of families and children, under the supervision of a guardian ad litem.

CASE PLAN: the written plan of care and treatment for a child in OCS custody, along with the goals and outcomes necessary to achieve. The case plan is collaboratively developed by the OCS case worker, the child’s parents, and tribal members.

CHILD: an unmarried person who is under age 18 when a CINA action is filed.

CHILD ABUSE OR NEGLECT: physical injury or neglect, mental injury, sexual abuse or exploitation, or maltreatment of a child that harms or threatens the child’s health or welfare.

CHILD IN NEED OF AID (CINA): the legal term for a child who comes within the jurisdiction of state court because of child abuse or neglect, as defined by one or more of the 12 circumstances described in state statutes. Pronounced “China”.

CHILD PROTECTIVE SERVICES (CPS): CPS in Alaska is known as the Office of Children’s Services (OCS).

CHILD PROTECTION SYSTEM: the combination of social workers, courts, and legal agencies that act collectively to prevent child abuse and neglect, to intervene in families to protect children from harm, and to find new homes if necessary.

CITIZEN’S FOSTER CARE REVIEW BOARD: in 1990, the state legislature created a statewide panel of citizens to help make recommendations about CINA policy, as well as local panels to review individual cases. A local panel operated in Anchorage for a while, but the legislature ended funding for all panels in 1999.

CLEAR AND CONVINCING EVIDENCE: the level of proof required to grant emergency custody or to terminate parental rights (except ICWA cases). The burden of proof is higher than “preponderance of evidence”, but less than “beyond a reasonable doubt”.

CONCURRENT PLANNING: identifies alternative plans for permanent placement of a child by addressing both reunification and legal permanency with a new parent or caregiver if reunification efforts fail.

CONFIDENTIALITY: protection from public scrutiny of information that must be kept confidential. The CASA volunteer has access to all records pertaining to the child (unless federally protected). However, the

CASA volunteer may only release such information to other parties by court order.

CONTINUANCE: the postponement of legal proceedings until some future time or date.

CORPORAL PUNISHMENT: physical punishment inflicted directly on the body as a penalty for unwanted behavior, includes slapping, punching, pulling, etc. Corporal punishment is prohibited with foster children.

COURT: a room where trials and other judicial hearings take place. A judge presides over the court. Sometimes “the court” refers to the judge rather than to the room or building.

COURT CLERK: an individual who keeps a record of court proceedings each day and records future dates for the judge’s calendar. This person takes charge of all case files, tapes, and paperwork each day.

COURT ORDER: a directive issued by the court and enforceable by law.

CREDIBILITY: the believability of a person, especially of a witness.

CROSS-EXAMINATION: questioning of an opposing party’s witness brought up during direct examination.

CUSTODY: legal authority to determine the care and supervision of a child, including the ability to decide where a child will be physically placed, and the duty of providing food, shelter, medical care, and education.

CUSTODIAN: an adult to whom a parent has transferred temporary care, custody, and control of a child.

D

DELINQUENT: a child found guilty of violating criminal law

DEPOSITION: sworn testimony taken from a witness outside of court, usually transcribed or taped.

DEVELOPMENTAL DISABILITY: general term used for any significant handicap appearing in childhood/adolescence, which will continue for the life of the individual.

DISCOVERY: pre-trial procedures to reveal the evidence that will be offered by the parties.

DISPOSITION: court hearing at which the judge decides who should have custody and control of a child in need of aid, under what conditions, and whether the state has made reasonable and/or active efforts to help the family.

DISPOSITION HEARING: a court proceeding to determine the legal resolution of the case after adjudication, such as appropriate placement for the child, and treatments and services needed.

DOMESTIC VIOLENCE: physical abuse, sexual abuse, threats, or stalking; done by a present or former spouse, sexual partner, household member, or relative.

DUE PROCESS OF LAW: the constitutional and common law principles that protect fairness and justice in the courts.

E

EMANCIPATION: a legal proceeding where a child of 16 or older receives the duties, privileges, and responsibility of adulthood.

EMERGENCY CUSTODY: physical custody taken to protect a child from abandonment, immediate physical harm, or sexual abuse. Emergency custody lasts only until a court hearing can be held.

EMERGENCY CUSTODY HEARING: determines if the child's immediate welfare demands continued placement out of the home.

EVIDENCE: information offered to the court to prove something. Evidence often takes the form of physical objects, documents, witness testimony, and expert testimony.

EXCLUSION OF WITNESSES: an order requiring witnesses to stay out of the courtroom until they are called to testify.

EXHIBIT: physical evidence used in court, such as photographs and medical records.

EX PARTE: a judicial proceeding or action that involves only one of the parties in a case.

EXPERT TESTIMONY: evidence given in relation to some scientific, technical, or professional matter by a qualified person. Experts are asked to testify on matters that are beyond the experience of ordinary citizens.

F

FELONY: in Alaska, any criminal offense that carries a possible sentence of more than one year in jail.

FETAL ALCOHOL SPECTRUM DISORDERS (FASD): an umbrella term used to describe the range of effects associated with prenatal exposure to alcohol.

FILING: submitting a document to court to become part of the official record.

FOSTER CARE: care provided by a person or household for children not living with their own families. The care is licensed, paid for, and supervised by the state. Some tribes also handle foster care.

G

GUARDIAN: a natural person who is legally appointed to have most of the rights and responsibilities for a child or a legally incapacitated person.

GUARDIAN AD LITEM (GAL): a lawyer or layperson who represents a child in juvenile or family court. Usually this person considers the 'best interest' of the child and may perform a variety of roles, including those of independent investigator, advocate, and advisor.

GUARDIANSHIP: legal proceeding in which an adult is given most of the rights and responsibilities of a parent to a child; the guardianship can be overturned if it is in the best interests of the child to do so.

GROUP HOME: a residential placement in a non-family living arrangement, especially for children with special/behavioral needs.

H

HEARING: a court proceeding presided over by a judge, master, or magistrate.

HEARSAY: evidence not based upon a witness's personal knowledge, but on information the witness got from someone else. Hearsay evidence often is admissible in CINA cases.

I

INDIAN: any member of an Indian tribe, or any Alaska Native who is a member of an ANCSA regional corporation.

INDIAN CHILD: an unmarried person under the age of 18 who is a member of an Indian tribe, or is eligible for membership and is the biological child of a member.

INDIAN CHILD WELFARE ACT

(ICWA): a federal law governing how states handle child protection cases, guardianships, and adoptions of Indian children.

INDIAN CUSTODIAN: an Indian person with legal custody of a child under tribal law, under state law, or to whom temporary custody has been given by the parent.

INDIAN TRIBE: any Indian tribe or other organized Indian community recognized as eligible for services by the US Department of the Interior, including recognized Alaska Native villages.

INDIGENT: a person who cannot afford an attorney. The State of Alaska has set income and asset limitations to identify which litigants are entitled to a court-appointed lawyer at public expense.

INDIVIDUALIZED EDUCATION PLAN

(IEP): a written plan developed in a team meeting for all students identified as needing special education services.

INTAKE: a process occurring early in children's matters, when an OCS intake worker gathers information and decides how to proceed with the case.

INTERSTATE COMPACT: agreement between all 50 states governing out-of-state placements of children. It defines financial and supervisory responsibilities and requires that the court secure a home study from the local child welfare agency where placement is being considered.

INTERVENTION: the process for allowing additional parties to participate in a case; for instance, an Indian child's tribe has a right to intervene in a CINA case. Intervention can also describe the decision to become involved with a family to protect a child.

J

JUDGE: a public official appointed to hear and decide cases in a court of law.

JURISDICTION: the legal authority of a court over the parties or the subject matter of the dispute. Also, the legal authority of a government for the people of the area.

K

KINSHIP CARE: formal child placement by the court and child welfare agency in the home of a child's relative.

L

LEAST RESTRICTIVE ALTERNATIVE: consideration of placement outside the home should start at the least restrictive level: other

family members, then foster home, and then institutional placement as the most restrictive.

M

MAGISTRATE: a judicial officer with less authority than a judge. Magistrates may hold emergency CINA and delinquency hearings, and may be appointed to act as masters in children’s matters, domestic relations, and probate matters.

MASTER: an attorney appointed in children’s cases and other proceedings to hear the facts of a case and make recommendations to the judge.

MEDIATION: a process where a trained neutral person assists all of the parties to identify issues, discuss their interests, and reach an agreement about some or all of the issues.

MENTAL INJURY: serious injury evidenced by an observable and substantial impairment in the child’s ability to function in a developmentally appropriate manner.

MOTION: written oral request that the judge take some action.

N

NEGLECT: failure to provide necessary food, care, clothing, shelter, education, or medical attention for a child, by a person responsible for the child’s welfare, despite having or offered the means to do so.

NOTICE: an official notification of a court proceeding.

O

OBJECTION: opposition to a question asked or evidence offered by opposing council.

OPINION OF THE COURT: a written or oral statement by a judge explaining the reasons for a decision.

ORDER: a written or oral direction of a judge.

OVERRULED: the term used when a judge denies a point raised by one of the parties.

P

PARENT: a biological or adoptive parent whose parental rights have not been terminated. For Indian children, parent means any biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal laws or custom.

PARTY: a person legally entitled to participate in a case. In a CINA case, parties include the child, parents, guardian, guardian ad litem, OCS, intervening tribes, and intervening Indian custodians.

PATERNITY: identification of who a child’s biological father is.

PERMANENCY HEARING: a hearing at which the best plan for permanent placement of a child and the future direction of the case are decided.

PERSON RESPONSIBLE FOR A CHILD’S WELFARE: the child’s parent, guardian, custodian, Indian custodian, foster parent, person responsible at the time of the abuse or neglect, or person responsible at a residential care institution.

PETITION: document setting out allegations and requesting court action. Also, a type of appeal to the supreme court from temporary orders of the superior court.

PHYSICAL INJURY: a physical pain or an impairment of physical condition.

PHYSICAL HARM: when a negligent act or omission by a parent, guardian, or custodian causes substantial risk of injury to a child, or when assault, attempted murder, kidnapping, sexual

abuse of a minor, or endangering the welfare of a child occurs as a result of parental conduct or conditions created by the parent.

PLACEMENT: where a child is physically placed by the adult or agency having legal custody of the child.

PREPONDERANCE OF THE EVIDENCE: proof that would lead a judge to find that the existence of a contested fact is more probable than not.

PROBABLE CAUSE: the legal standard of proof that asks whether the state has presented reasonably trustworthy information that would justify a prudent person's belief that a child has been abused or neglected as defined by Alaska law. Probable cause is the standard that justifies the early stages of the state's intervention in the case. It requires only a fair probability or substantial chance that the child is in need of aid.

PUBLIC ADVOCATE: works at the Office of Public Advocacy. This office provides guardians ad litem and CASAs in CINA cases. The office also contracts with private GALs and contracts with private attorneys to represent indigent parents.

PUBLIC DEFENDER: an attorney working for the Public Defender Agency who represents indigent parents or children.

Q

QUALIFIED EXPERT WITNESS: in ICWA cases, a person with expertise in a specialty, or a person with extensive knowledge about cultural standards and childrearing practices within the child's tribe or ethnic group.

QUESTION OF FACT: a fact about which the parties disagree. The judge in a CINA case decides whether the parties have proven the fact.

QUESTION OF LAW: a legal question about which the parties disagree. The judge decides the proper interpretation of the law in the case.

R

REASONABLE EFFORTS: OCS's efforts to provide family support services designed to make the home safer and reunify the family. Reasonable efforts must be made consistently, but for a limited period of time.

RELINQUISHMENT: voluntarily giving up parental rights to a child.

S

SEXUAL ABUSE OF A MINOR: sexual conduct by an adult with a child.

SEXUAL EXPLOITATION: allowing or encouraging a child to participate in child pornography or prostitution by a person responsible for the child's welfare.

STANDARD OF PROOF: degree of proof required in a specific legal proceeding. Includes from highest to lowest: "beyond a reasonable doubt", "clear and convincing evidence", "preponderance of the evidence", and "probable cause".

STATUTE: a law passed by the state legislature or US Congress.

STIPULATION: an agreement by the parties in a case about facts or procedures. It does not bind any party unless that party agrees and the judge approves it.

SUBPEONA: a court order requiring a witness to appear and give testimony before the judge.

SUMMONS: a written order from a judge telling a person to appear at a certain time and place to answer a petition.

T

TEMPORARY CUSTODY: legal custody of a child from the first court hearing until disposition or other court order.

TERMINATION OF PARENTAL RIGHTS: a legal proceeding that involuntarily ends a parent's rights to a child and frees the child for adoption without the parent's consent.

TESTIMONY: evidence given by a witness who took an oath to tell the truth.

TRIAL: a formal judicial proceeding through which the court decides a civil or criminal dispute.

TRIBE: any Indian tribe recognized by the US Department of the Interior, including recognized Alaska Native villages.

V

VENUE: the city or court where a court case can be brought, depending on where the events occurred. Venue can be changed if more convenient for the parties and witnesses.

W

WAIVER: the intentional and voluntary giving up of a known right, such as the right to an attorney or the right to remain silent during police questioning. A person can waive a right by agreeing to give it up, or the judge can infer the waiver from circumstances.

WITNESS: person called upon to testify in a court proceeding; a person who has seen or heard something.