

Introduction

As a lawyer representing a parent in the child welfare system, you may feel like David facing Goliath. Courts often favor the child welfare agency position, and you often lack resources and assistance to adequately represent indigent clients with multiple problems. Representing parents in child protection cases requires expertise in child welfare practice and strong advocacy skills, both in and out of court. Representing noncustodial (i.e., nonresident) fathers is complex and presents unique factual and legal issues.

As a judge hearing a case where a father has not been located or is not engaged, you may feel that critical information and resources are missing. You may be concerned about fathers who have not played much of a role for their children. You may also struggle to engage them in meaningful ways.

This book is your guide to advocating for and engaging nonresident fathers whose children are in the child welfare system. These men are often a silent or missing party from child welfare courtrooms. Judges with hundreds of cases before them report that they remember vividly the nonresident fathers with whom they have placed children—because it rarely happens. Nonresident fathers are an underused resource in the child welfare system. Even if they can't or shouldn't assume physical custody of their child, they are important people in their children's lives. They can contribute in many ways, including opening the door to paternal family resources that may have been unknown, and influencing their future academic and employment success.

Unfortunately the child welfare system (by practice and sometimes policy) often shuts out nonresident fathers, even when they have never been accused of perpetrating abuse. Services are rarely offered or geared towards them. Child welfare agency case staffings or case plans rarely include them. In some jurisdictions, they may not assume custody without first proving they are fit parents.

Many noncustodial fathers fear any court system involvement, even if it means losing contact with their children. Some face personal obstacles, such as poverty, joblessness, or mental health or substance abuse issues that prevent them from fully participating in their children's lives. Some have prior criminal histories, or unfulfilled child support orders. They need strong and sustained advocacy from the beginning of their child's case through permanency, to ensure their voices are heard, and their goals of involvement with their children are met. Both can positively impact their child's case in terms of safety, permanency, and well-being.

Each chapter of this book is written by an expert in the field and gives you the tools to successfully incorporate fathers into child welfare cases.

- **Chapter 1:** Vivek Sankaran writes about Supreme Court precedent on this issue and how different states have interpreted it, while providing tips to lawyers on preserving fathers' rights.
- **Chapter 2:** Mark Kiselica explores how to establish a good working relationship with father clients and how to make men feel comfortable engaging in the child welfare system.
- **Chapter 3:** Richard Cozzola and Andrya Soprych detail how to advocate for father clients outside of court. The authors provide guidance on how to advocate for and counsel a father through agency case staffings to obtain needed assistance and develop and achieve case goals.
- **Chapter 4:** Andrew Cohen looks at how to help a father realize his goals through the court process. He shares strategies to use at adjudication, permanency hearings, and termination of parental rights hearings to help fathers maintain regular contact with their children.
- **Chapter 5:** Judge Leonard Edwards discusses how judges can better engage fathers at all stages of a child welfare case. He details effective engagement strategies and offers sample courtroom dialogues and court orders to foster engagement.
- **Chapter 6:** Andrew Cohen discusses how to address special issues that may interfere with a father's involvement in his child's case, including domestic violence, substance abuse, immigration issues, and mental health problems.
- **Chapter 7:** Daniel Hatcher shares strategies to ensure fathers' child support obligations do not prevent or scare them away from meaningfully engaging with their child and the child's court case.
- **Chapter 8:** Kathleen Creamer offers guidance on representing incarcerated fathers and explains how to help them maintain relationships with their children and participate in court proceedings, even if they can't attend in person.
- **Chapter 9:** Jennifer Renne describes common ethical dilemmas for lawyers representing nonresident fathers in child welfare proceedings. She also discusses potential conflicts of interest when representing multiple fathers and what it means to diligently and zealously represent a father.

Complimenting these chapters are:

- **Chapter checklists** highlighting key practice strategies for each chapter.
- **Shaine’s story** describing a nonresident father’s struggle to gain custody of his child through child welfare proceedings.
- **Sample questions** and a **lawyer’s checklist** to assess whether a father has established a constitutionally protected relationship with his child.
- **Interstate placement guidance** when the father lives out of state.
- **First meeting tips** offering guidance to lawyers when meeting a father for the first time.
- **Ten tips for working with your lawyer**, a handout to give father clients to foster the lawyer-client relationship.

Federal and state governments are starting to acknowledge the important roles fathers play in their children’s lives. This book is the first of its kind, focusing exclusively on representing and engaging nonresident fathers—a group who remain undervalued and underserved in the child welfare system. In addition to guiding lawyers and judges who work with these fathers, it seeks to promote increased father involvement in these cases to achieve better outcomes for children and families.

Jessica R. Kendall and Lisa Pilnik
ABA Center on Children and the Law