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To: Travis County CPS Counsels and CPS Court System Participants

From: Judge Darlene Byrne, 126th District Court

Date: September 14, 2011

Re: **New Docketing Procedure and Guideline for Contested Hearings and De Novos in Keeping with One-Judge-One-Family (Effective Oct. 1, 2011)**

Dear CPS Counsels and CPS Court System Participants:

As you know, until now, it has been our local practice that contested hearings were typically set directly before me, regardless of whether they were on my Monday CPS docket, the Friday CPS docket or the Wednesday CPS docket. This practice, however, has not been in keeping with the goal of One-Judge-One-Family (also known as "Direct Calendaring"). This goal is a practice recommendation endorsed by the NCJFCJ and described in the Resource Guidelines¹, which states:

Direct calendaring enables judges or judicial officers to become thoroughly familiar with the needs of children and families, the efforts over time made to address those needs, and the complexities of each family's situation. A unique judicial perspective is developed by a single judge hearing all matters related to a single family's court experience. Knowledge gained of family circumstances and responses to court orders may increase the quality of government's response to family crises. This long-term perspective identifies patterns of behavior exhibited over time by all parties involved in a case, preventing a judge from too heavy a reliance on social service agency recommendations. (Resource Guidelines, p. 19)

¹ RESOURCE GUIDELINES -Improving Court Practice in Child Abuse and Neglect Cases, published by the National Council of Juvenile and Family Court Judges, Reno, Nevada – available online at: <http://www.ncjfcj.org/images/stories/dept/ppcd/pdf/resguide.pdf>

Viewed from this perspective, I believe it is important that these contested hearings, some of the most in-depth hearings on our dockets, should be heard by whichever judge is routinely responsible for that family's CPS case, regardless of whether that is an Associate Judge or District Judge. The Resource Guidelines also suggests that, when Associate Judges handle CPS matters, they should still be primarily responsible for those cases:

When judge-supervised judicial officers are employed, the principle of one family-one judge must still be maintained. Cases should not be shifted between judges and hearing officers at different stages of the proceedings. If cases can be appealed from the hearing officer to the judge, they should not be retried by the judge. Rather, the judge should promptly review a tape or transcript of the hearing. Retrials waste judicial time, delay case decisions, and undermine the principle of one family one judge. (Resource Guidelines, p. 21)

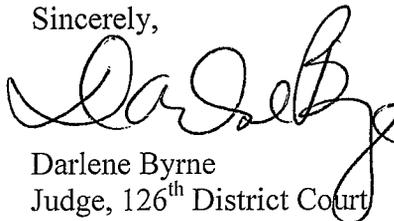
This new guideline is further necessitated in order to jointly manage the CPS docket and the Juvenile Court docket in an orderly and expeditious manner in keeping with the inherent powers and duties of the Court as authorized by Tex. Gov't Code section 21.001(b).

Accordingly, effective October 1, 2011 our local practice in Travis County will change to require contested hearings and contested matters of all types to be set and held in their entirety before the responsible judge for that family's CPS case, including Associate Judges. In the event that a party believes it is necessary to request a De Novo review of Associate Judge's ruling as permitted under the Family Code, they may do so by specifying the findings and conclusions of the associate judge to which the party objects and the basis for the objections as required by the Family Code. In accordance with Texas Family Code 201.015(b), the De Novo review will be limited to the specific objections raised.

As a practical matter, all De Novo reviews will be held by me primarily via submission of written documents. The party will file their request for de novo hearing in accordance with the law and it is imperative that they also send a courtesy copy directly to my attention at the 126th District Court. If the request is proper and allowed to proceed, the Court will obtain the written or otherwise recorded record of the proceeding from the Court Reporter. The Court will issue a submission schedule and allow all parties, if they choose, to submit a short brief highlighting matters they feel are relevant to the de novo review. A hearing may be allowed if a party requests same. In addition, if a party believes that a hearing is necessary to present evidence or witnesses in relation to the issue(s) raised in the De Novo appeal, the party should provide a specific explanation as to why the hearing is necessary and the review cannot be accomplished via submission of written documents and judicial review of the record.

Thank you for your attention to this matter.

Sincerely,



Darlene Byrne
Judge, 126th District Court