

Why Appeals Matter

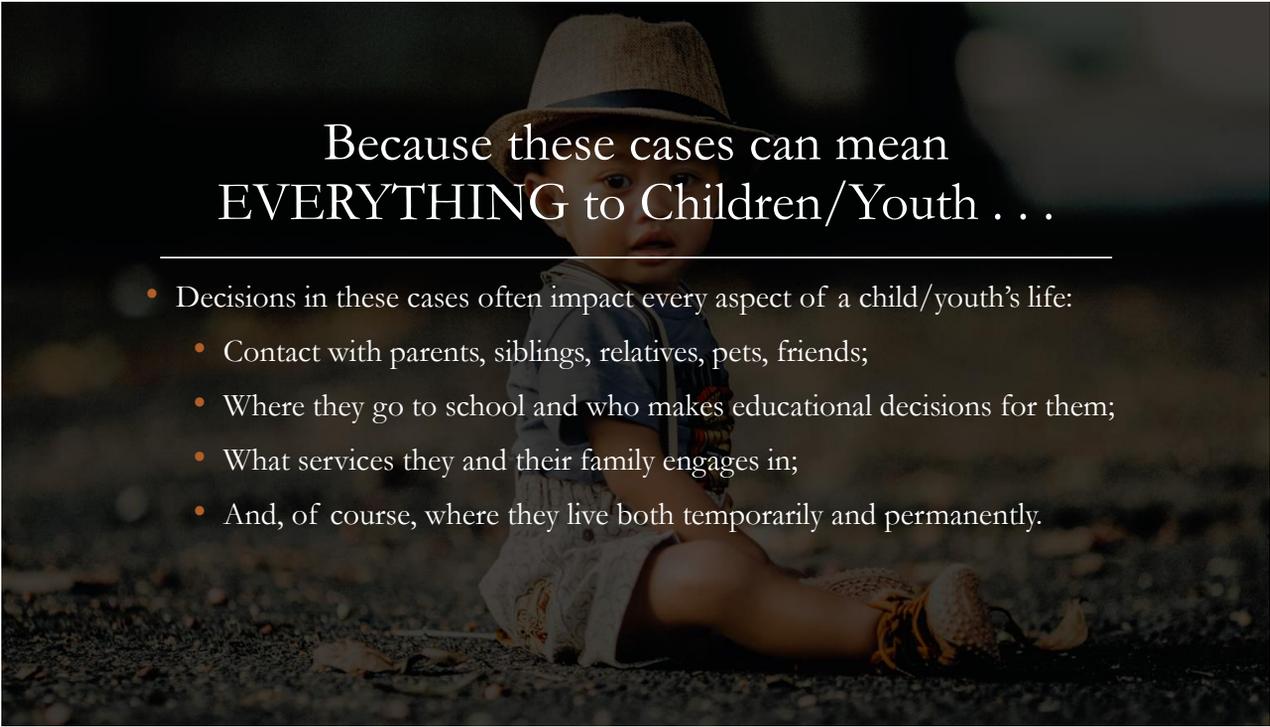
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To Children and Youth?

Because Children and Youth are the  
REASON  
for the case . . .

- Purposes of Children's Code are child-centered. C.R.S. § 19-1-102
- Reasonable efforts should focus on health & safety of child. C.R.S. § 19-3-100.5(2)
  - Goal of all placement decisions is safety of child. *Id.*
- "[T]he primary and controlling issue, even where parental rights are at stake, is the determination of what will best serve the interests and welfare of the child." *People in Interest of M.M.*, 520 P.2d 123, 131 (Colo. 1974).



A young child wearing a hat is sitting on a beach. The child is looking towards the camera with a neutral expression. The background is a soft-focus beach scene with sand and some foliage.

## Because these cases can mean EVERYTHING to Children/Youth . . .

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- Decisions in these cases often impact every aspect of a child/youth's life:
  - Contact with parents, siblings, relatives, pets, friends;
  - Where they go to school and who makes educational decisions for them;
  - What services they and their family engages in;
  - And, of course, where they live both temporarily and permanently.

## Because Children and Youth are PARTIES to these cases

...

- All children/youth are **parties** to D&N proceedings and have the right to attend & fully participate in all hearings C.R.S. § 19-3-502(4.5).
- Youth 12 and up entitled to client-directed representation throughout the proceeding. *Id.* § 19-3-203(2).
- Children under 12 appointed a GAL who provides best interest representation. C.R.S. 19-3-203(1).
- Both GALs and CFY required to ensure that children/youths' interests are represented on appeal. CJD 04-06(V)(D)(5)



## HB 22-1038

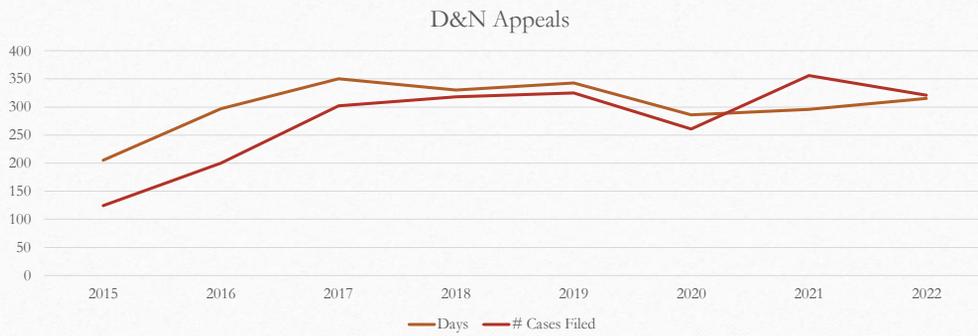
# Legislative Declaration

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The general assembly finds and declares:

- (a) Every child or youth has a *liberty interest* in the child's or youth's own health, safety, well-being, and family relationships, which may be directly impacted by dependency and neglect proceedings;
- (b) A child or youth *deserves to have a voice* when *important and life-altering* decisions are made about the child's or youth's life;
- (c) A child or youth has the *right* to high-quality legal representation, to attend court proceedings, and *to participate in dependency and neglect proceedings*;
- (d) Every child or youth deserves an attorney throughout the pendency of the court proceedings. Every child or youth twelve years of age or older deserves an attorney who will consider the child's or youth's position and reasons for the position, provide independent counsel and independent investigation to inform those positions, and *represent the child's or youth's position diligently* both inside and outside of court; and
- (e) When a child or youth believes the child's or youth's position has been effectively advocated, *procedural fairness* and *justice* enhance the child's or youth's acceptance of the proceedings and the decisions made.

## Because appeals impact on children/youth's PERMANENCY . . .



## Permanency Matters . . .

### Developmentally

- Research is Clear:
  - Stable attachments are a crucial building block of child development*
- Both are important:
  - *Legal Permanence* = child's relationship with a parenting adult that is recognized by law
  - *Relational Permanence* = important long-term relationships that help child feel loved and connected.
- Children do better when they:
  - Know their family histories
  - Stay connected to important adults and relationships
  - Have at least one adult committed to being their lifelong parent

*Annie E. Casey Foundation, What is Permanency (Feb. 6, 2012),*  
<https://www.aecf.org/blog/what-is-permanency>

- Colorado Children's Codes cites to this social science: C.R.S. § 19-1-102(1.5)(a)(III) and C.R.S. § 19-3-100.5

### Legally

- Adoption and Safe Families Act, P.L. 105-89 (1997) ("ASFA") promotes timely permanency and placement for children in foster care with focus on children's safety and well-being
- Fostering Connections to Success and Increasing Adoptions Act, P.L. 110-351 ("Fostering Connections") increases connection and support for relative caregivers, improve outcomes for children in foster care, improve incentives for adoptions etc.
- Purpose of Colorado Children's Code:
  - Proceed with "all possible speed" to resolution that serves child's best interest. C.R.S. § 19-1-102(1)(c)
  - Best interest of child removed from home to have the assurance of long-term permanency planning. *Id.* § 19-1-102(1.5)(a)(III)
  - Expedited placement procedures appropriate for children under 6 who have been removed from homes. *Id.* § 19-1-102(1.6); *see also* C.R.S. § 19-1-123
- Children in foster care need continuity with primary attachment figure and sense of permanence. C.R.S. § 19-3-100.5(4)(a)(I).
- Permanency hearings required to provide stable, permanent home to every child or youth placed out of home in as short a time as possible. C.R.S. § 19-3-702(1)(a)

Because children share with their  
parents a  
**VITAL INTEREST**  
in preventing erroneous  
termination of parental rights  
...



- At the fact-finding stage, “the interests of the child and his natural parents coincide to favor the use of error-reducing procedures.” *Santosky v. Kramer*, 455 U.S. 745, 761 (1982)
- Like parents, children have an interest “in a continuing family relationship,” as well as an interest “in a permanent, secure, stable, and loving environment.” *People in Interest of C.A.K.*, 652 P.2d 603, 607 (Colo. 1982)
- Due process requires the state to provide parties with fundamentally fair process in D&N proceedings. See *Santosky*, 455 U.S. at 753-54; *People in Interest of J.A.S.*, 160 P.3d 257, 262 (Colo. App. 2007); *People in Interest of A.M.D.*, 648 P.2d 625, 636 (Colo. 1982).



### *Closing Thoughts*

“From the moment the child welfare system intervenes in a child’s life, everything is at stake—their home, their bonds with their parents and siblings, their education, their community, their belongings. In sum: their future.”

*NACC letter in support of HB 22-1038*

“It’s our lives. We know our story best. It may be a GAL’s or a caseworker’s job, but it’s our lives.”

“It’s our case. It is about us.”

“The more we participate, the more we know how to have a voice.”

*OCR’s Engaging & Empowering Youth Paper at 28, 29.*