

BEST INTERESTS OF THE CHILD

QUICK-REFERENCE GUIDE | 03

OVERVIEW

The court is required to make best interest findings at every stage of the dependency proceedings — from removal to post TPR reviews and including at change of placement hearings and before entering continuances. Whenever best interest determinations are required, the court shall consider and evaluate factors affecting the best interests of the child in the context of the child's age and developmental needs.

As the child's best interest advocate, the CASA volunteer must make a recommendation and be heard from every time the court makes a best interest finding — at every hearing. In determining a child's best interests, CASA is required to consider and evaluate the factors in the same manner as the judge. Unless the child has a GAL attorney appointed in addition to their other attorney, the CASA volunteer is the only individual the court recognizes as a disinterested advocate and that role never shifts.

What is in the best interest of the child is an expansive question deeply involving all the facts discovered by CASA during their assessment and all the evidence brought forward by the parties at each hearing. The factors can help objectify CASA's analysis and prevent opinions and biases from interfering with their advocacy.

BEST INTEREST FACTORS

- The child's physical safety and welfare, including food, shelter, health, and clothing;
- The love, affection, bonding, and emotional ties existing between the child and each parent or person available to care for the child;
- The love, affection, bonding, and emotional ties existing between the child and his siblings, half siblings, and stepsiblings and the residence of the other children;
- The child's need for permanence, including the child's need for stability and continuity of relationships with their parent, siblings, other relatives, and any other person who has provided significant care to the child;
- The child's sense of attachments, including their sense of security and familiarity and continuity of affection;
- The capacity and disposition of each parent or person available to care for the child to give him love, affection, and guidance and to continue their education and rearing;
- The home environment of each parent or person available to care for the child considering the promotion of the child's nurturance and safety rather than superficial or material factors;
- The stability of the family unit and the presence or absence of support systems within the community to benefit the child;

- The mental and physical health of all individuals involved;
- The home, school, and community record and history of the child, as well as any health or educational special needs;
- The child's community ties, including church, school, and friends;
- The child's background and ties, including familial, cultural, and religious;
- The least disruptive placement alternative for the child;
- The uniqueness of every family and child;
- The risks attendant to entering and being in substitute care;
- The child's wishes and longterm goals;
- The preferences of the persons available to care for the child;
- Any evidence of family violence, substance abuse, criminal history, or sexual, mental, or physical child abuse in any current, past, or considered home;
- Any recommendation by a court appointed custody evaluator or guardian ad litem; and
- Any other factors considered by the court to be relevant and proper to its determination.

ADDITIONAL FACTORS AT TPR

When a statutory ground for termination of parental rights has been met, the court considers whether termination is in the best interests of the child, including the factors listed above, and considering additional factors:

- Any benefit to the child of being integrated into a stable and permanent home and the likely effect of delaying the integration into a stable and permanent home environment;
- Detrimental impact of the lack of a stable and permanent home environment on the child's safety, wellbeing, or physical, mental, or emotional health;
- Child's future physical, mental, moral, or emotional wellbeing; and
- Any other factors by the court to be relevant and proper to its determination.



PRACTICE POINTS

- After conducting an assessment, use the best interest factors to formulate objective recommendations. The factors can help check opinions or biases and ensure impartiality.
- Use the language of the factors to support recommendations contained in the written court report. For example, a recommendation to increase family time might read, *"In order to support the child's need for permanence and strengthen the bonding and emotional ties between the child and his parents, visitation should be increased to twice a week."*
- Keep the list of best interest factors accessible when drafting the report and while in court, and be prepared to highlight the best interest perspective at every hearing. CASA recommendations should be stated on the record.