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INTRODUCTION TO MINI-SYMPOSIUM ON JUVENILE LAW

Judge Read Ambler*

For most of the twenty years since *In re Gault*,¹ the principal modifications in the California juvenile court law have affected minors petitioned under Welfare and Institutions Code section 602 as alleged delinquents. Almost all of the procedural safeguards accorded criminal defendants have now been made available to juveniles in section 602 cases, with the notable exceptions of the right to jury trial² and the right to bail.³ In this Issue, Professor John L. Roche, of the University of San Diego School of Law, proposes a further elaboration on these themes: imposition of an enforceable duty on counsel defending such minors to submit alternative dispositional plans in writing. The author reasons that imposition of this duty is necessary to fully inform even the most able and diligent juvenile court judge of the range and propriety of various dispositional options.

Funding is sparse for social worker assistants to public defenders, who constitute the majority of juvenile law practitioners in California, and private attorneys rarely engage such experts to develop private probation reports in either juvenile or criminal cases. Imposition of a duty to file written alternative dispositional plans⁴ would tend to encourage employment of such experts and improve the administration of juvenile justice.

The traditional attention to the legal needs of delinquent minors has been increasingly eclipsed in the last several years by the other business of the juvenile court, cases of minors petitioned under Wel-

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¹ 1987 by The Honorable Read Ambler
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1. 387 U.S. 1 (1967).
4. Statements in mitigation in criminal cases should be compared to the imposition of a duty to file written alternative dispositional plans.
fare and Institutions Code section 300 as alleged dependent children, particularly as victims of child abuse. A constellation of complex legal and practical problems surrounds these cases, which often entail multiple, frequently simultaneous, legal proceedings in criminal, civil, family and juvenile courts.

In a provocative article, Dean William Wesley Patton of the Whittier College School of Law discusses how the astonishing recent increase in the number of child abuse petitions has glutted the juvenile court in California. The expedited procedures mandated in 1982 by California Senate Bill 14 and the almost total lack of funds for mandated reunification services have added greatly to the stress within the entire juvenile court system. In this rather hostile environment, Dean Patton is concerned about: 1) the preservation and strengthening of parents' legal rights in dependency and parental-rights termination cases; 2) the "relaxed" evidentiary rules applicable; 3) the increasing rights of foster parents and the specter of "social engineering"; and 4) the inherent conflict between the fifth amendment privilege of parents and the pressures parents face in today's accelerated, child-oriented juvenile court proceedings.

Juvenile and family law practitioners and judges will be greatly aided by the informational and intellectual weight of Judge Leonard P. Edwards' examination of the relationship of family and juvenile courts in child abuse cases. In some less populous counties the juvenile and family court functions are performed by a single judge (who may also handle a variety of other cases). However, in most metropolitan areas highly discrete family and juvenile law divisions have developed, and with them, great expertise at the trial court level in dealing separately with both fields of law. But family court judges may lack experience in juvenile court, and vice versa. This is also

5. Judge Leonard P. Edwards discusses similar statistics in footnote 5 of his article in this issue.
6. Judge Edwards discusses the bill in footnote 211 of his article.
7. CAL. CIV. CODE § 232 (West Supp. 1987). The court in Adoption of D.S.C., 93 Cal. App. 3d 14, 22-24, 155 Cal. Rptr. 406, 410-12 (1979), held "the right of parenting is not to be subordinated to the best interests of the child." Id.
8. Judge Edwards is almost uniquely qualified to address the many concerns which today confront not only family and juvenile court judges, but also attorneys and other related professionals whose work surrounds the lives of children who have been abused, neglected or who are the objects of bitter custody or visitation fights. As an attorney, Judge Edwards was well-known as an expert in juvenile law. When he first came to the Santa Clara County Superior Court Bench, he quickly established himself as an expert in family law of statewide repute. He is now the Supervising Judge of the Juvenile Court. For many years, he has taught juvenile law at Santa Clara Law School. His remarkable article is thus the product of extensive experience, consideration and research.
true, to a greater degree, with family law attorneys (even Certified Family Law Specialists) and the relatively small group of attorneys who practice regularly in the juvenile court. A great need exists, therefore, for interdisciplinary action and coordination. Yet, except for scattered local rules of court, many of the logical and desirable procedural suggestions made by Judge Edwards to correlate the work of the family and juvenile courts are either novel or, if in practice anywhere, are embodied primarily in oral history.

Judge Edwards carefully examines the philosophical, substantive and procedural distinctions between family and juvenile court laws dealing with children. Family court judges lack some powers available in juvenile court to intervene effectively on behalf of children whose parents, for example, need psychiatric or other services. The family court is also virtually unable to enforce its own orders, relying primarily on the litigants and their counsel to bring transgressions to the court’s attention. In contrast, the juvenile court judge has professional agents and an array of institutions and services, albeit insufficient, by which to implement its orders. Wise selection of the appropriate court by the parties, counsel, and other individuals, institutions and agencies investigating child abuse allegations is essential to achieve maximum protection of children. Careful consideration between courts with overlapping jurisdiction could well be guided by the general philosophies embodied in the Uniform Child Custody Jurisdiction Act, which was enacted to avoid jurisdictional competition, and to promote cooperation, exchange of information, and other forms of mutual assistance between courts — all for the well-being of children.

These important articles represent a significant analysis of the rights of parents and children in selected family and juvenile court proceedings in California.

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10. CAL. CIV. CODE § 5150 (West Supp. 1987). The UCCJA is applicable only between states; but as reflected in Appendix B to Judge Edwards’ article, “Los Angeles Procedures for Coordination and Consolidation of Multiple Child Custody Proceedings,” its concepts are capable of much wider applicability.