SYLLABUS

Children and the Law (and all that Jazz)
Professor Steven H. Hobbs
Spring 2011

Class Meets: Wednesday 3:30 p.m. – 5:20 p.m.
Room 276

Texts: * Who Speaks for America’s Children? The Role of Child Advocates in Public Policy, eds. DeVita and Mosher-Williams
* ABA Standard of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases
* Alabama Juvenile Justice Act
Children and the Law in a Nutshell, by Abrams and Ramsey, 3rd ed. (recommended)

Office Hours: Room 310, Wednesday, 10:00 a.m. – 12:00 p.m.

Course Requirements: * One 20 – 25 page research paper on a topic of your choice concerning children and the law.
* Field Trips
* Participation in “Doing What Matters for Alabama’s Children Conference”

Computer Use: Computers should only be used as an aid to the classroom process.

Grade Determination: Your final grade will be based on class participation and the final research paper.

SEMINAR DESCRIPTION

This seminar is designed to consider how the law impacts the lives of children. Society, through law, shapes how children make the transition from birth to adulthood. Law’s most important mission is to offer protection to children from abuse, neglect and dependency and to promote their best welfare. However, children are not in a position, developmentally or legally, to voice their needs and concerns. Therefore, the theme of this seminar is “Who Speaks for America’s Children?” Our primary task is to explore the many ways that lawyers can be instrumental in advocating for the rights, welfare and protection of children.

The seminar requires that each student write a 20 – 25 page paper on a topic of his or her choosing that focuses on a legal concern impacting the lives of children. Paper is DUE on APRIL 29.

READING ASSIGNMENTS (subject to change with sufficient advanced notice)

January 12: Introduction, (pp. 3-39) - Who Speaks…
January 19: Voices for Alabama Children, (pp. 39-80)
January 26: Abuse & Neglect - The Role of the Child’s Attorney
MEMORANDUM OF THE ROLE OF THE CHILD’S ATTORNEY (In-Class Assignment.)

A partner in your firm has asked you to write a memorandum based on the facts below. Your memo should be about eight pages in length and should follow this format: heading, questions presented, brief answer, statement of facts, discussion and conclusion. You should use proper citation form for an office memo.

Your memo should be based on class readings, the ABA Standard of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (available at www.ABAnet.org/child/childrep.html) and the Model Rules are identical to the ethics code that has been adopted in your state. Assume that the Standards have just been adopted by the ABA and have not been discussed by your bar association. Assume there is no helpful case law. You do not need to do any research beyond the class readings, the Model Rules and the Standards.

A partner in your firm has been appointed to represent an 8-year-old girl, Mary, in an abuse and neglect proceeding. The state law under which the appointment was made requires that an attorney be appointed as “a guardian ad litem to represent the child in all abuse and neglect cases. The law requiring attorneys for children in these proceedings has been on the books for a while, but there has been no case law development defining the role and there is a fair amount of disagreement about the role.

The partner would like a general explanation of the role and would like particular advice on the following issues. Should the partner interview the child, or would an interview be harmful on these facts? What should be the interviews purpose if one is conducted? Should the attorney keep the child’s statements confidential or should the attorney tell the court or parents what the
child says? How much weight should the attorney put on the recommendation of the Department of Social Services social worker in charge of the investigation of the case?

The facts of the case that she knows so far are these:

Mary was a student in the 3rd grade at a local elementary school. Her teacher had noticed that she changed from being an attractive and outgoing child to being withdrawn and quiet. She no longer wanted to go out with her friends at recess and seemed moody and depressed. The teacher referred Mary to the school counselor. In talking with the counselor Mary mentioned that her stepfather had hurt her and in response to additional questions she eventually told the counselor that her stepfather had touched her down there and pointed to the vaginal area. The counselor reported the matter to the Department of Social Services which followed up with an investigation. The investigating social worker interviewed Mary’s mother and stepfather. Both denied that any abuse had occurred and had no explanation for Mary’s behavior change. The social worker learned from the department records that Mary’s older sister, now age 17, had been removed from the home five years earlier and placed with a relative because of sexual abuse by her father. Mary’s mother divorced her father two years ago and remarried last year.

A physical exam of Mary was inconclusive about whether any sexual abuse had occurred, but the physician did note that Mary had some bruises. The social worker felt that the parents were hiding something, and that there was a high likelihood that sexual abuse had occurred. Mary was removed from the home and placed in foster care. During her first week in foster care, she was evaluated by a court appointed child psychologist who reported that Mary said that her stepfather had fondled her on several occasions and that just recently he had twice come into her room at night nude, had gotten into bed with her and had kept rubbing up against her.

The social worker had met with Mary after her first week in foster care and reported that Mary missed her mother and 3-year-old brother and wanted to go home. Mary said her mother and brother needed her because her mother could not handle her brother all by herself. Mary’s mother and stepfather wanted her back home and still say that there is no basis for her abuse claim. They said Mary may have gotten her ideas from an older cousin whose parents let her
watch dirty movies and that Mary was angry at her stepfather forspanking her when she talked back to her mother. The hearing on the abuse petition is scheduled for next week.