

# ALBUQUERQUE DIVORCE LAWYER BLOG

PUBLISHED BY

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## **New Mexico CYFD Involvement in Child Custody Case Not to be Taken Lightly!**

By Collins & Collins

July 14, 2011,

The New Mexico Department of Children, Youth and Families ("CYFD") is charged with investigating and preventing abuse and neglect of children, as well as providing a variety of other services to New Mexican families. Unfortunately, allegations of abuse or neglect, whether true or not, commonly arise during a or other child custody dispute and CYFD may become involved in investigating those allegations.

Parties should never be deterred from contacting the proper authorities, including CYFD, if they suspect that their child, or any other child, is being abused or neglected. In fact, certain people, such as education and health professionals may be legally or ethically bound to report suspected abuse or neglect to CYFD. However, it is important to realize that such reporting has serious consequences. CYFD is authorized under the Children's Code to testify as to the contents of their investigation at any district court divorce or custody hearing, however, they are also authorized to bring specialized court actions against parents to remove a child from their parent's home, or in extreme cases, to terminate parental rights.

Further, once a complaint has been made to CYFD, their investigation may not be limited to just the party about whom the complaint is made. Not every complaint to CYFD results in a full-blown investigation and, in fact, many are deemed unsubstantiated and quickly closed. However, if CYFD determines that more investigation is necessary, the CYFD case worker is allowed to speak: directly with a child, with or without a parent present; with both parents; with any other family members; and, with any other people involved in a child's life, including teachers, doctors or even neighbors. And, the testimony of CYFD investigators and case workers is given great weight by the Courts because the great responsibility given to them by the Children's Code. Thus, in a "he said/she said" situation between CYFD and a parent, or other caregiver, the Court will often side with CYFD even when CYFD's testimony may be based on hearsay or other evidence that is normally admissible.

Therefore, anyone thinking about using an invalid CYFD complaint to gain the upper hand in a custody battle should think twice before doing so because if the complaint results in a full-blown investigation both parents may be subject to in-depth scrutiny of every aspect of their lives. Further, once CYFD makes recommendations, much of the decision-making regarding the child may be taken out of the parties' hand, resulting in a custody determination that neither party likes. On the other hand, anyone who is subject to a CYFD investigation should consult a family law attorney immediately in order to ensure that they properly comply with CYFD while also protecting their parental rights. CYFD involvement in a custody case can very quickly complicate the legal process and having counsel involved early on in that process may help to prevent some of those complications.

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