OPD OFFICE OF THE PARENT DEFENDER

TUESDAY'S TIP #6

Welcome to a new feature on our listserv – Tuesday's Tip. Each Tuesday, our office will share a tip that you can apply to your cases right now. I encourage you to save each tip in a folder so that if you're faced with the same situation in a future case, you have this handy resource available to you. These will also be available on our website as a counsel resource.

Situation: Your client (who is indigent), is forced to pay child support.

The Problem: Our clients are already poor. They frequently have co-pays for services they need to reunify with their children. Financial insecurity caused by having to pay child support impedes, rather than helps, reunification. Failure to pay child support can result in termination of a parent's rights.

Law: NCGS § 7B-904(d) allows a judge to order child support that conforms with Child Support Guidelines. NCGS § 7B-1111(a)(3) allows a court to terminate parental rights for the willful failure to pay child support for 6 months preceding the filing of the termination action. Our appellate courts have held that failure to pay some sum greater than zero is sufficient. *In re T.D.P.,* N.C. App. 287, 290 (2004), *aff'd*, 359 N.C. 405 (2005).

Action Steps:

1. If your client is incarcerated, have your client send a letter to CSE asking to pay child support if they have no prior order. They will receive a letter saying that CSE does not collect from incarcerated parents. Save that letter in case of a TPR.
2. If your client is incarcerated and has a child support order in place, send them the forms to ask to for their child support payments to be suspended while they're incarcerated. (Send them AOC-CV-600.) They will need to ask the clerk to have them writted in since you don't represent them in that action.
3. If the case plan is reunification, ask the judge to enter an order indicating that child support will not be ordered so that the family can use their limited income to effectuate reunification.
4. Show DSS the new ACF policy that asks them not to refer parents to CSE.

Conclusion:

Don't let your clients be referred to child support. Argue for them to keep their limited resources to successfully reunify with their children.

Is this something that you can implement? Feel free to email me directly with requests/suggestions for future Tuesday's Tip!