



# Safety v Risk

*How do we tell the difference between “troubling” and “unsafe” parenting?*

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# 14<sup>th</sup> Amendment

## Constitutional Right to Family Integrity

Parent's right to "care, custody, and control"

Due Process Clause provides substantive and procedural protection against state interference in family life.





# Foundational Parent's Rights Cases:

These 3 cases set up the legal relationship parameters between parents and the state.

## **Meyer v. Nebraska** (1923)

Due process clause protects right to “establish a home and bring up children”

## **Pierce v. Society of Sisters** (1925)

Parents' liberty interest to direct child's upbringing and education

## **Prince v. Massachusetts** (1944)

BUT limits on those rights – *Parens Patriae*







# Federal Funding Statutes (Reasonable Efforts)

## Adoption and Safe Families Act of 1997

- **REASONABLE EFFORTS** – added the provision that the child’s health and safety shall be the paramount concern
  - To the extent reunification is not the permanency goal, ASFA also requires reasonable efforts to obtain permanency (adoption, guardianship, etc.)











## In the absence of clearly defined legal standards, along with insufficient evidence, we tend to fill in the blanks.

- **Reasonable grounds to believe** not in **BIOC** – 38-2232
- “determine if **circumstances warrant** filing a petition – 38-2233
- “child is **likely to sustain harm**” – 38-2242
  - “harm” = **physical or psychological injury or damage** – 38-2202
- “**probable cause... health or welfare may be endangered** without further care” – 38-2243
  - “**Sustain harm**” “**contrary to the welfare**” “**Best Interests of the child**” and “**reasonable efforts**”

*All at or before the temp custody hearing.*

- **Conditions of decision-making**
  - **Implicit biases**
  - **Priming**
  - **Social Judgability**
  - **Confirmation bias**





# Iowa 7 Judges, 4 Questions

1. What can we do to remove the danger instead of the child?
2. Can someone the child or family knows move into the home to remove the danger?
3. Can the caregiver and child go live with a relative or fictive kin?
4. Could the child move temporarily to live with a relative or fictive kin.

# Iowa 7 Judges, 4 Questions

- Reduction of removals by half during study period
  - Increase in relative placement
  - Increase in fictive kin placement
  - Decrease in shelter placement
  - Rate of foster care placement remained same
- Subsequent to the study – drop in removal requests
- Project part of Round 3 PIP – now moving statewide





# Safety Planning

**Actions or Services to Control or Manage Threats – immediately**



**In-Home**

Assume threat is ongoing

- Sufficient
- Feasible
- Sustainable

Assessing Reasonable Efforts



## Safety Plan – In Home:

- In order to address the threat of \_\_\_\_\_,
- circumstances in the home need to change as follows: \_\_\_\_\_,
- and the specific action that will control the threat will be: \_\_\_\_\_.







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