

Best Interest Principle

The Supreme Court of United States has ordered that, before a child's best interest is considered for purposes of termination of parental rights, a parent's fitness must be proven by clear and convincing evidence.

In contrast to the above, the role of the CASA is to make recommendations and provide information that supports the child's best interest without compromise to statute and case law concerning parental fitness or what the law presumes to be in the best interest of child.

When making your recommendations, it is important to formulate them with the child's best interests at the forefront. Your recommendations should not become a compromise of what you think are the needs of others involved. For example, if the child needs a winter coat, but the social worker has already told you that there is no money available, you should still inform the court of the need and recommend that the court order the provision of a winter coat. The child's best interests are always at the center of what you do.

Of course, there are rules and laws that the court must follow while acting in the best interest of the child. Often, the law forces a certain action or order from the court. In this instance, it is as if the law presumes that a certain course of action is in a child's best interests. For example, when the court removes a child from his or her parent, the law presumes that it is in the child's best interests to return home unless further detriment can be proven. Thus, the court must do so, even if there are second thoughts or concerns expressed by other parties. Even so, your recommendation should still be made for what you believe, based on the facts, is in the best interest of the child regardless of what may be an inevitable action by the court.

Determining best interest is subjective and may take into account a near limitless number of factors. What follows are to help you think about the child's best interest, but you are not limited to the items listed.

Best Interest Determinations

- The importance of keeping the family together and preference for avoiding removal of the child from his/her home
- The health, safety, and/or protection of the child
- The importance of timely permanency
- The assurance that a child removed from his/her home will be given care, treatment, and guidance that will assist the child in developing into a self-sufficient adult

Best Interest Factors

- The emotional ties and relationships between the child and his or her parents, siblings, family and household members, or other caregivers
- The capacity of the parents to provide a safe home and adequate food, clothing, and medical care- minimum sufficient level of care (MSL)
- The mental and physical health needs of the child
- The mental and physical health of the parent
- The presence of domestic violence in the home
- law provides a list of the factors that, within the context of the child's age and developmental needs, "shall be considered" in determining best interests
- Child's Wishes
- The Importance of maintaining sibling groups
- Educational needs /Special needs

Questions to Ask When Best Interest:

- Is the child safe?
- What are the special needs of the child?
Is the child's sense of time of being honored?
- Is the child receiving the emotional nurturing necessary for the healthy brain development?
- Is the parent providing or willing and able to provide basic physical, emotional, and developmental support?
- Is the parent's behavior within or outside of commonly accepted child-rearing practices in our society?
- Can this speak for himself/herself?
- Should the child be present in court?

State of Missouri Statute on Best Interest:

Ann. Stat. § 211.443 The provisions of this section shall be construed to promote the best interests and welfare of the child as determined by the juvenile court in consideration of the following:

- The recognition and protection of the constitutional rights of all parties in the proceedings
- The recognition and protection of the birth family relationship, when possible and appropriate
- The entitlement of every child to a permanent and stable home

“The role of the child advocate is to ensure that the child’s voice is heard and considered and that relevant evidence about the child’s best interest with regard to safety and well-being is provided to all members of the child welfare system with the ability to make decisions about the child

