

## **Adam Myers: A Conversation about the ARY and CHINS process**

### ***Handouts:***

ARY FAQs

CHINS FAQs

Guidelines for Courtroom Behavior

Sanction Possibilities

Violations of a Court Order

How many of you are familiar with or have heard of an at-risk youth (ARY) petition?

Using the at-risk youth process, parents can file a petition with the juvenile superior court for assistance in getting their child to do certain things like go to school, follow home rules, meet curfew, not be physically or verbally abusive, not use drugs or alcohol, and also to get their child involved in treatment services, such as for mental health or drug and alcohol issues.

People usually come to juvenile court when their child has done something on the criminal side. The at-risk youth and CHINS petition processes are on the civil side. Civil sanctions are totally different than criminal sanctions. Criminal sanctions are punitive. You do something wrong; we punish you for it, and that's that. On the civil side the sanctions are more coercive. We're trying to get the child to follow the court order.

The first step in the process is to get a family assessment through the Family Reconciliation Services (FRS) department at the Department of Social and Health Services (DSHS). [The phone number is on the front of the ARY FAQ handout, linked above.] When you request a family assessment through FRS, you sit down with the social worker who will talk to you and your child about what the issues are, about any interventions that you've tried, and what you'd like to see happen. They will then write up your conversation in a report form that you attach to your petition when you file it at juvenile court.

Once you file your petition, a hearing is generally set up for about two weeks. Your child will be assigned an attorney. The attorney will meet with your child and represent your child at the hearing. You're welcome to hire an attorney, but 99.9% of parents don't. The burden of proof is much less than on the criminal side. If your child is not attending school or following home rules; if there's any evidence of that kind of behavior or if the child admits to it, things are going to go pretty quickly. The child can either agree to the petition or you can have a full hearing, at which the court will take oral testimony from both sides.

After the fact-finding hearing, either by way of agreement or as a result of a hearing, you walk out with a court order. The court order is in effect for a minimum of six months. You will have a 30 day review after that first hearing. At that 30 day review, the court is going to want to know how well the order is working, and if you want any changes. So, that review is the time to say that the curfew isn't working, or some other things have come up and, for example, you want to ask for a drug or alcohol assessment.

For most parents, the rules that you're asking the court to enforce are rules we would typically ask our child to follow. You have some in-home sanctions that you can use. Over the years you try different methods to get your child to follow certain rules. Some of those rules come with sanctions that may or may not be effective. Our court can order a number of things. On the Sanctions Possibilities handout that I passed out you'll get an idea of things we can do at juvenile court. The court's sanctions are not limited to everything that's on the paper. You know

your child better than we do. This process is meant to coerce your child to follow the court order. You can present other ideas to the court.

I've given you a handout to refer to once the court order is in place: Violations of a Court Order. Typically you want to keep track of any violations. Usually I tell parents that in order to file a motion for contempt; the violation has to be a willful disregard of the court order, establishing a pattern. I'll give you an example of curfew violations. Say your child's curfew is 8 pm. Monday, your child comes in at 8 pm, Tuesday at 8:30 pm, Wednesday at 8 pm, and Thursday at 8 pm. There was a violation on Tuesday. Legally, you could file a motion for a contempt based on that one violation. But you have to think about what the court will do about that one day of violation. The child appears to have recovered from that one day of violation and got back on track. That wouldn't necessarily be considered a willful violation of the court order. It's a hiccup, in my opinion. But, if on Tuesday your child came home at 8:30 pm, Wednesday at 11 pm, and Thursday at 3:30 a.m., you've got a problem. You need to come in and file a motion for contempt. The only way the court can take action, legally, is to have that motion filed. You can't walk in at the 30-day review and say, "Things have been going horribly, and I want you to do something about it." The court's hands are tied unless you file that motion. The motion also needs to be filed at least five business days prior to your next hearing. You don't have to wait for that 30-day hearing to come to court. We can move that date up, but it would have to be at least five business days prior to the date that we set.

**Parent:** One of the biggest lessons I learned when I started the ARY process was the difference between a contempt hearing and a review hearing. At a review hearing, the judge doesn't do anything except review the original order. So, you really need to file a request for contempt if any activity has occurred.

**Adam:** Right. If you want the court to do something about it you've got to file that paperwork.

Before you file your motion for contempt, you've been noting your child's behavior that doesn't meet the court order at home in either a log or on an extra calendar or little sticky notes. You're going to want to let the court know you have personal knowledge about whatever is contained in that contempt motion. There are rules of evidence that apply in our court, and some of those rules involve hearsay. Here's a prime example of hearsay. You know your child has not been attending school. School's been calling every day; you get this automated recording, and they also send you an attendance report. So, you file a contempt based on your child not attending school. You walk into court and say, "Your honor, here's the evidence, right here. The school sent me this attendance report." However, it's hearsay. Who prepared the document? Is that person in court?

**Parent:** So, in order to have the right amount of evidence, would you have to have a school official come to court?

**Adam:** Which person in the school district would you bring? If you bring the attendance secretary who printed the sheet out and mailed it to you, it's probably not going to work. If you bring that person in, the court will ask her/him, "Did you prepare this document?" They would respond yes. Next question: "How do you know that this child was not in class on that day that you say they're unexcused?" So, you would have to have the teachers from each class the child was absent from. I've never seen this happen.

**Parent:** There have been times when parents have been able to submit the attendance report from school.

**Adam:** Nine times out of 10 the child's attorney will challenge it.

There are two ways to exhibit personal knowledge. If you see your child outside of school, when he/she should have been in school... maybe the child was lying in bed all day. You can say, I was there, I saw my child out of school... that's personal knowledge. The other way is if your child admits to you being out of school. "Um, I didn't go... we were at the mall... We were at the skate park" (or whatever), then you have personal knowledge. Either you saw your child out of school or your child admitted being out of school.

**Parent:** It's astonishing that the evidence from the school wouldn't be accepted.

**Adam:** That's because the defense attorney can't cross examine the attendance report so it's considered hearsay. If you have information from someone who's not in court, the defense attorney can't cross examine the source of that information.

**Parent:** I've heard of situations where parents have had police report numbers, and that's been challenged also.

**Adam:** Again, that's hearsay. The policeman that did the report or had the first-hand information is not in court to be cross-examined. These are the court's rules of evidence.

**Parent:** We did our ARY about three years ago and these rules are different than what we were dealing with. Have these rules evolved over time?

**Adam:** Yes. We get defense attorneys rotating in and out of our court. Some are a little more aggressive in representing their client (your child) than others. A lot of it depends on the day, the weather, how the attorney is feeling. Regardless of how the defense attorneys represent their client, they truly want the best for you and your child. Their job is to represent that child. There was a child a couple of years ago who went to their attorney and said, "I want a 4 am curfew." The attorney laughed. The attorney's job is to represent that child, but in no way are they going to go to court and ask for a 4 am curfew.

Court becomes more adversarial when the parents want one thing and the child wants something that's totally polar opposite, and there's no happy medium in between. There's no communication.

**Parent:** I have my fact-finding hearing on Tuesday. We had a hearing set almost 30 days ago, and the attorney filed for a continuance. She is claiming that the runaway that qualified for the ARY is an alleged runaway. My daughter was gone for 90-something hours. There was another adult present at the house when my daughter left who witnessed everything that transpired prior to that. Will a signed, notarized declaration by that individual that states what happened at that incident be accepted as evidence?

**Adam:** May or may not.

**Parent:** Does the other adult have to come to court with me for the fact-finding hearing?

**Adam:** He doesn't have to unless you're calling him as a witness, and his testimony would be crucial to your case in getting this court order. If you think this individual is going to be the hinge

pin in whether you get the court order, certainly call him. Notarized documents and sworn statements can't be cross-examined, and so the issue of hearsay may come up.

**Parent:** I think it will.

**Adam:** Has your child run away more than once?

**Parent:** Yes. Several times, with a gap in between. Now there's a new pattern that has started up again. The one that qualified her for the ARY was the one that's in question. The other ones were shorter ones, where she wasn't gone long enough to qualify for an ARY. She's been arrested several times. She's had drug addiction, and has been in treatment.

**Adam:** Has that been within the last three to six months?

**Parent:** No. There were nine months where she was behaving.

**Adam:** So, in the last three to six months, how have things been?

**Parent:** They've peaked again. She's been running away, but not for long periods of time.

**Adam:** And that's what the court will focus on.

When you get to your fact-finding hearing (the first hearing), the court will either through testimony or by agreement put the court order in place. If you are approached by your child's attorney, and asked for a continuance, the attorney has to give you a basis for that request. Generally the basis would be that interventions have not been tried prior to coming to court. That's a big one. Every now and then I'll get a parent who comes in and says, "My child is out of control. I need you to lock him up." That's not possible. But, I'll recommend to the parent that we try some other things to address the underlying issues (drug and alcohol, mental health, communication, abusive/assaultive behavior, etc). In order for the court to approve the petition for the ARY, to put the court order into place, you must try other interventions prior to coming to court.

If you are approached about a continuance, you have the legal right to say, "No, I would like a hearing." Then the judge will decide whether to grant a continuance, based on the attorney's motion. Generally a continuance is requested if the family assessment hasn't been completed or other interventions haven't been tried. Or, maybe other interventions have just been started. Family reconciliation services also has some free in-home counseling up to 12 hours (one hour per week or two hours for six weeks) in which they can provide some intensive family counseling in hopes to try to get your family back on track without going through the court process.

(FPS) Family preservation is 12 hours. IFPS (the intensive services) is six weeks. FPS is up to six months.

You must meet one of these three requirements to be granted an ARY:

- 1) Child has been gone from the home for more than 72 hours without parental permission
- 2) Child is beyond your control and their behavior is a danger to themselves or others
- 3) Child is using drugs or alcohol and there are no pending criminal violations

**Parent:** How can you prove in court that your child is drinking or using drugs? I'm assuming that the child is going to refuse to do a drug or alcohol assessment. The parent has smelled the alcohol on the child's breath, or the child is acting really strangely, or I found pot in his/her room. The pipe fell out of his backpack. Parents think they have to find the "smoking gun".

**Adam:** Right! And some of them bring that smoking gun to court!

**Parent:** So, how do you bring those issues to court?

**Adam:** Good question. It's a legal question and I can't give you any legal advice. However, typically a child who is using has other issues going on.

When it comes to drugs and alcohol, usually there are some other things associated with that behavior. A very small percentage (maybe 1-2% in the 14 years I've been in this role) are using drugs or alcohol and they're attending school every day and following house rules and the grades are good.

**Parent:** But you can't use those other things.

**Adam:** Certainly. If the child is using drugs or alcohol, I'm willing to bet something else is going on. Either the child isn't following the home rules or their behavior is so out of control that it endangers themselves or others. Marking multiple boxes on your ARY application is okay.

There is a very small portion of kids who will go in and say, "I'm not using, I haven't used, and my parents are losing their mind. They didn't find that in my room. That's a lie." They usually don't blow it up to that point. If they are using, at some point it will come out either through the hearing or by way of admission.

As far as evidence goes, you can bring in anything you want. We've seen pipes, bags of weed, you name it.

**Parent:** What about an illegal switchblade? Can you get that into court?

**Adam:** It's not needed. If a parent lists in their petition, my child is doing A through Z, usually when you come into court, your child is going to admit to some of that; one or two or more of those things. We've had pictures of knives filed along with the petition. You don't actually need to bring them in. We've had pictures of holes in the wall.

**Parent:** Parents ask me all the time: I went in my kid's room and I found this bag of pot. What do I do with it?

**Adam:** Good question.

**Parent:** I had a parent ask me, if I confiscate this illegal item, am I then in possession of something illegal?

**Adam:** Absolutely. I would dispose of it.

The house is your house. The child, theoretically, is leasing the room. They think it's theirs and they have their own privacy, and there are some laws around that. However, you're paying the mortgage and everything in the house belongs to you. So you go through the room and you find

liquor bottles, bong, bags of pot... in their room. Then you go into court and you say, "I found this in their room." Your child's attorney can say, "My client (child) didn't have it. It was in their room." You have to prove that the child was in possession of those materials. I had a parent say, "I found this in her purse, when she had just gotten out of the car. She got out of the car; I looked in her purse, and found it." That's closer to pinning it on her, but it's not in her possession.

**Parent:** What if my child says, "My friend is on probation, so I'm holding onto it for my friend?"

**Adam:** That's admission; that's admission of being in possession of. The court order says you can't be in possession of nonprescribed drugs or alcohol. Somewhere in that foggy grey line is also paraphernalia. Again, you have to prove that child is in possession of.

**Parents:** I see parents go in for ARY hearings and get sabotaged by the rules. So, should parents have an attorney? Parents can get slammed by a technicality, which as a non-attorney they have no way of knowing. Some parents get really frustrated and angry. I've had a lot of parents say I'm not going for an at-risk petition. How can we make it so that parents can see the value of the process?

**Adam:** I hope that what I'm doing will help... giving a better understanding of what the hearsay rules are and how to best prepare for going into court. The law is the law. We can't change it. We have to go by what the law requires, and so does the child's attorney. You have to look at what would it take for someone else to accuse you of something and for them to prove it. Going into your child's room and finding a bong doesn't necessarily mean your child was in possession of a bong. But if the child admits that it's theirs or they say that Johnny left it in their possession and they forgot to give it back... they're in possession of it.

**Parent:** So what if you go to court and your child says, "I never said that."

**Adam:** That rarely happens.

**Parent:** That's what is happening with my child. She has denied everything. She did it in meeting with her attorney in the little room at the courthouse. They ganged up on me. My daughter denied everything and said that I was lying. It turned into this mess, in that little room. I had no one there with me, and I had no attorney. It was not a good situation, and I left there very upset.

**Adam:** So, you didn't go before the court?

**Parent:** No.

**Adam:** That was your option.

**Parent:** They take you into this little room and they intimidate you. It's good to realize that you can say, "No. I don't want to do this. I want to have a hearing."

**Adam:** I'm telling you right now. This is not legal advice. This is what your options are. You can have a hearing or you can have an agreed order. That's your option.

**Parent:** The attorney first told me that the reason for the continuance was because my daughter wasn't assigned an attorney, and she had just gotten the case that day. The lawyer was going

through the stack of information and reading it all as we were talking. She told me that there were a number of names that were in the family services report and she had to contact her attorney firm to be sure that none of the attorneys had represented any of these other people. She said that the judge was going to grant a continuance on that basis. And then she was bringing up all of these other things (the alleged runaway). The meeting went on and on and on. I didn't feel as though I had an option.

**Adam:** In your particular case you didn't have an option if the attorney was just assigned or if she just found out about the case that day. If that happens the lawyer will motion the court for a continuance based on that situation. They are saying in good faith that they truly didn't get the case until that day. That is a grounds for continuance because they represent your child and they have to do that to the best of their ability. If they're not prepared they can't go forward.

**Parent:** Normally in Changes we would not encourage parents to confront their kids, but it sounds like it is a good option if you find evidence in their room that you ask them, "Where did this come from." We'll get some sort of answer to that we may be able to present to the court.

**Adam:** I would highly encourage every parent to do that. This is your house. How you ask the question is a different story. If your child is physically or verbally abusive, or blows up easily, there are delicate ways to handle that. Definitely ask them.

**Parent:** Can you tape their response if they know you are taping them?

**Adam:** That would be great evidence. It would not be considered hearsay. If you can get the child to do that I think you need to come out and talk to all of our parents. However, I wouldn't recommend approaching them with that method. In a 1:1 conversation you can say something like, "Hey. You didn't go to school last Thursday. I didn't know where you were. I'm really concerned." The child may say, "No. I was there. So and so saw me and will say I was there." Or, he may say, "Jamie just broke up with her boyfriend and I wanted to console her" or whatever.

**Parent:** Just so they don't change their mind after they've admitted it.

**Adam:** If you come into court with a child who's denying everything, the court is going to see through some of that. I have a motto that I live by and that's: Everybody can't always be wrong.

**Parent:** You've said that attorneys are appointed for the kids. Are they public defenders?

**Adam:** Yes. They are. The reason they are assigned a lawyer is that the child could be at risk of loss of liberty. That's the legal definition. At some point during this process your child could be placed either in secure detention or in an alternative to secure detention. Some of the sanctions are listed on your Sanctions Possibilities sheet. An alternative to secure detention would be the ankle bracelet.

This process is meant to really help get the family back on track. There is no court order that will make the child do what they're supposed to do. The child has to be at a point where they say I don't like the sanction the court issued to me, and I'm not going to do that again. We've had kids over the years that have straightened up just by seeing the hearing notice. Parents call me and say that they don't need to have a hearing because the child has changed his/her behavior. That's a wonderful feeling. We've had other kids who've been through every sanction on the grid and then some. Each child is different.

**Parent:** Parents are frustrated about this process because they are following it to the best of their ability, and no sanction is given. It becomes a mockery where the kids say, “Nothing’s going to happen.” Often it happens because of rotation of the commissioners. Each new commissioner wants to give the child another chance. Before you know it you’re done with the six months and there have been no sanctions.

**Adam:** Good point. Our court is assigned one juvenile court commissioner. A commissioner is just like a judge, but doesn’t have the title of judge. They have a lot of the same abilities.

I was a Renton school district truancy official for court for about five years. If I came into court on a contempt matter, and this was my 4<sup>th</sup>, 5<sup>th</sup>, or 6<sup>th</sup> contempt order for this child, I wanted the child to go into detention. I wouldn’t just stand up and say, “Your honor, I think the child should go to jail.” I had to lay down a pattern of willful disregard. Remember, that if you are filing a petition, you are driving the bus. This is your petition and your process. If you want something to happen, you need to let the court know. I would go in and say, “Your honor, we have been before you six times on contempt. My child didn’t do community service, didn’t do work crew. To be honest, it feels like my child is slapping the court in the face.” (I would say something like that to get the court’s attention.) “And I believe that this court needs to send the child a direct message that he/she cannot play around with this court order.” In my case, the child went to detention. I didn’t ask for detention; I asked the court to send a clear message.

A lot of it has to do with presentation. You need to lay out an outline for the court. “Your honor, this is our 6<sup>th</sup> contempt motion. The child has not followed anything. He continues to be in contempt. Nothing we’ve done has worked. I am hoping today that the court will take some drastic action to get this child’s attention.” You can provide your variation. This is your petition, your process. You’re driving the bus.

I said earlier that you know your child better than we do. You can recommend some of those creative things that you’ve done in the home or that you would like to do. No contact with certain individuals can be a big one. If you know someone else is influencing your child negatively, and you want them to stay away from them you can certainly have that court-ordered as well.

**Parent:** How would you bring a contempt on that?

**Adam:** How do you prove that? It never really gets to that point. It usually boils down to your personal knowledge.

**Parent:** The court may say the child has to attend drug and alcohol treatment or have an assessment and then follow the recommendations. If you’ve got something from the drug and alcohol agency that says your child hasn’t gone even once, and you have this piece of paper from the drug and alcohol agency saying that he has not shown up, is that evidence you can present in court?

**Adam:** That’s a start. If the evaluation hasn’t taken place, and you want the court to order an evaluation, once the court orders it the child has to follow the order to get an evaluation. If the evaluation has taken place and your child doesn’t follow the treatment recommendations, then they could be brought back in for contempt for not following the court order.

**Parent:** How do you show contempt for not following the court’s recommendations?

**Adam:** Either by way of admission, the child admits that he hasn't been attending or your personal knowledge. You saw your child at a day and time at which they should have been attending drug and alcohol treatment. If the court has ordered that the treatment provider provide an attendance record you can use that. The attendance record would have to be court ordered.

**Parent:** Could you do the same thing with school attendance?

**Adam:** The court's not going to ask for an attendance record from the school because they know the rules of evidence and hearsay apply. But, if the court has ordered an attendance record from a drug and alcohol treatment program, they'd be asking for the attendance record. They want to be sure that the drug and alcohol evaluation has been completed. They don't want the evaluation.

Let's say your child had a drug and alcohol evaluation, and was set up for treatment every Monday, Wednesday and Friday. Every Monday, Wednesday and Friday you saw your child at the skate park. That's personal knowledge.

**Parent:** But if you had the attendance report...

**Adam:** You wouldn't need it at that point. That's personal knowledge.

**Parent:** It's pretty hard. You don't want to be following your child around when they're supposed to be somewhere.

**Adam:** No. So you just ask him. Have conversations with your child. You could say, "I went to your treatment today and didn't see you there." Your child would be shocked and say, "What were you doing there? Did you really go?" At some point they'll admit if they didn't go.

**Parent:** You had given me some advice about if I disagree with what the court is setting up. For instance, a parent can disagree with a purge. We don't have to go along with the program that the court is recommending. We can say what we agree with and what we don't agree with. When a parent uses stronger language it does make a difference. We can explain that we've tried everything. We've tried discipline at home; we've tried the ARY and the kid's got 15 run reports documented with the police department. We have the evidence. It's time to request something more drastic.

**Parent:** To follow up on what another parent said, when the original rule by the court is set, the key to follow up on the drug and alcohol evaluation is to be sure that the request from the court includes a requirement to have an attendance report from the drug and alcohol agency. If that request is written in to the court order, then we can use that document as evidence.

**Adam:** Right. Otherwise you have to prove your case by personal knowledge.

**Parent:** So, the trick is for the parent to request that an attendance report be required from the drug and alcohol agency when the court order is written up.

**Adam:** Typically that will happen at a contempt stage. I'll give you an idea of how that works. The child is found in contempt and ordered to do an evaluation with treatment recommendations in order to purge the contempt. They do the evaluation, but they're not following the treatment recommendation, which includes intensive outpatient treatment. Three times a week they have

to go to class and attend a couple of other meetings. You can submit any documentation that says that they haven't been there. You would give one copy to the attorney and one to the court. Generally this starts the ball rolling whether the child is going to admit that they weren't there or deny it. When the attorney looks at the document from Lakeside Milam or Ryther, on their letterhead, they usually say... some part of this is true. At this stage (during the contempt) the court can order that the child get a progress report or attendance report, saying that they went to each class, signed by each teacher. Certainly you can ask for that at the contempt stage.

**Parent:** Isn't it common for the ARY rules to read "must attend school. No unexcused absences"?

**Adam:** Yes, but to prove that you have to have personal knowledge. If the court orders that under a contempt (since your child is not attending school and there are some discrepancies about whether they were there or not) they can put them on a daily sign-in sheet. The child needs to bring that completed sheet back to court with them at the next hearing. That would be put in the court order. Once it's court-ordered, then it comes in automatically.

**Parent:** So that would be ordered at a contempt hearing, not at a fact-finding hearing.

**Adam:** Correct.

**Parent:** And you can do the same thing with community service.

**Adam:** Absolutely.

**Parent:** Please expand a little more about if the child is not supposed to visit with a friend. Do you have to get a separate no-contact order or restraining order?

**Adam:** Our court can order the child not to contact certain individuals. That doesn't stop those individuals from trying to contact them. You would still have to prove that the child had contact with that individual. It's hard to do that.

**Parent:** The parent can't just say "I know this is where she's going. I know this is where she's hanging out?" Can I put a restraining order on the parent that's allowing the kid to hang out over there?

**Adam:** The parent issue is a different story. I would try this approach: Call the parent and say, "My child is on the run. I know my child is over there, and in fact, right now you're harboring a fugitive. You could go to jail for that." If that doesn't get a response from them, take the police over there. The police aren't going to kick in the door and do a search, but they'll know that you're dead serious about this process. If that doesn't work, then you can go down to Superior Court and say that you know your child is there and ask what you have to do to keep your child away from that residence and to get the parent to call you if the child shows up there. Our court can't order another person to do something; we have no jurisdiction for anyone else. We only have jurisdiction over your child.

**Parent:** My son is staying at his girl friend's house. The mom isn't doing anything bad, but she's not supporting me in trying to have my son adhere to a curfew. She's mainly being evasive.

**Adam:** It's time to have a conversation with the parent.

**Parent:** I've had conversations.

**Adam:** It's time to step it up. Send her a written document or hand it to her, saying, "At no point in time should my child be in your residence. If so, you could be charged with harboring a fugitive or with parental interference. Both of those are law violations." You have to make it very clear. Putting people on notice about your action lets them know you might try something different. If they want to continue down that path (and there are some people who don't care) then you have to take corrective action. Usually that's in legal form. You would go to Superior Court and explain the circumstances to get a no-contact order.

On our side, through the at-risk youth process, we can order the child not to be at that residence. You would have to prove that they are there. It can be an exhaustive, time-consuming process. A majority of that depends on how well your child is going to follow the court order. If the child is not following the order and you have to file contempt motions, or get a warrant issued for their arrest, that's time consuming.

**Parent:** When we had an ARY for our child, at one contempt hearing the commissioner would tell us that our proof wasn't adequate. At the next contempt hearing we'd bring better proof. We eventually brought the proof that suited the commissioner.

**Adam:** The court understands that you're coming in without counsel and you don't know all the rules of the court. The court generally works with parents in that process. It can't go so far as to go outside the bounds of the law to give you an opportunity to do something. They'll go right up to that line because they truly want the best for your family. None of us want to even see you in the building. But we're there to help in this process of providing a court order and some sanctions to try to make it work.

**Parent:** You have a lot of verbiage that could be very powerful in the court system. Where can we find the kind of verbiage that will really catch their attention?

**Adam:** I've been in and around the court for 14 years. That's given me a chance to know what works and what doesn't work. We recommend that parents sit down and either write out some bullet points or word topics to explain how you got to your current stage. With that in hand, when you get to court you can check your notes and be sure that you cover those points. Make sure that the court knows through your anger and frustration that you're at your limit. I had a father coming in who lost three jobs. He's a father of six kids and his wife couldn't work, and a couple of the kids were disabled. His teenage girl was giving him a hard time. He'd go through the process and he'd have to keep coming back to court to file contempt motions and he'd lose job after job after job. Finally he gave up on the process because it was more important to keep a roof over their heads. You get to that point. Every person has a point at which they say, "I've had enough. My blood pressure's up, or whatever the case might be. I wouldn't encourage anyone to give up, but to try a different approach.

**Parent:** But I want some verbiage that can help me be powerful from the beginning. This is too important to me to not be successful.

**Parent:** Your Changes team can help you with that.

**Adam:** I can't give you exact words of what to say. However, the most powerful thing you can say is how many times you've been there, how frustrated you are, and that nothing has worked. Also, offering suggestions to the court about what the court can order. If you offer a problem,

also offer a solution. I've given you some things on the Sanction Possibilities handout sheet. You know your child better than we do. As parents, you have to get to the point where you think about what really motivates your child.

Taking the computer away from a child who is not using the computer isn't going to work. Having them home on electronic monitoring when all they want to do is sit at home doesn't really work. We have to find out what works to get that child going in the right direction.

**Parent:** Whenever we impose our rules, our child punches holes in the wall. There is a drawback if we impose these rules. The behavior could accelerate.

**Adam:** Call the police. That's the next step. I'm with you when you drop your head and say, "I don't want to call the police on my child." Do you want to call the police on your child or do you want to walk through the house with holes in the wall?

**Parent:** It gets easier. After you've done it a few times, it gets easier.

**Adam:** It would be hard for anyone. I would use every available tool in the toolbox if it means helping my child. Our children didn't ask to be here. My job is to do everything that I can as a parent to help them become an adult. I'm not going to skip over something that I could have used just because it's tough.

**Parent:** Would you talk a little bit about the progression of consequences that commissioners give?

**Adam:** I'm glad you used the word progression. Giving sanctions has to be a progression. It's kind of like sending a 5<sup>th</sup> grader to the principal's office for writing on the chalkboard. They don't immediately expel this child from the district. The court uses progressive sanctions. Those sanctions are figured out by the legislature, saying we have to use the least restrictive environment or in this case, least restrictive sanctions. We have to use something along that continuum line that might get the child's attention. Why jump to detention when a couple of hours of community service might do the trick?

**Parent:** For example, we had filed the sixth contempt by the time we were looking at detention. The first contempt was a three-page paper and each progression was a bit stricter.

**Adam:** Those steps have to be taken. Start out with community service or writing a paper. You can move up to day reporting center somewhere in the facility or somewhere in the county. Work crew is an alternative. It's run by secure detention but it's not considered detention. Electronic home monitoring where the kids wear the ankle bracelet, is the next step, and then there's detention. The most severe sanction that our court can order is detention for up to seven days. We say "up to" because the legislature says that if you put a child in detention you also have to give them what's called keys to the jail... a way to get out should they want to get out earlier than the seven days. Usually they can write a paper, do a book report, set up an evaluation or have an intake with another program of some sort. Once that's completed then they can get out before the seven days, giving them, essentially, keys to the jail.

Understand that with an ARY your child is not going to go to jail for 30 days. This is not like the criminal side. This process is meant to be coercive.

**Parent:** Can you talk about the day reporting center?

**Adam:** Generally we use that in the south county. For juvenile court in our Seattle area it's usually Alder Academy, which is our day school; it's a day reporting school. This is usually for a case where your child is enrolled in school but not attending. If the child's not enrolled in school; they're running all the time, and you want to make sure the child is getting some education; you can ask that the child be ordered to go to day reporting.

**Parent:** But that's only in the south county?

**Adam:** No. We have a facility at the juvenile court in Seattle.

**Parent:** Is that only for the Seattle schools? What about Shoreline?

**Adam:** If you can get there you can be court-ordered to go.

**Parent:** The child can take the bus there.

**Adam:** Absolutely. And they have bus tokens too that they can give them.

If a child is not enrolled anywhere or can't be enrolled in their home district, they can be court-ordered to go to Alder Academy, the day reporting school. They have to come down to court every day and go to school.

**Parent:** When I went to file for the ARY, my daughter had not been attending school since November 10. When the lawyer filed for the continuance she built in that my daughter would be required within the 30 days to look into and enroll in an educational program. She opted for a GED program, and hasn't enrolled in anything. Our court date is just around the corner.

**Adam:** There should be a GED prep class.

**Parent:** There is, but she's not enrolled in it. Can I ask for the day reporting center?

**Adam:** Good question. I want to be sure everyone hears this answer. If you're thinking about asking for it, ASK! The worst thing that can happen is the court can say no. Always ask. I don't want to be the gatekeeper on what you should or shouldn't ask for.

**Parent:** In order to get assigned to the day reporting center, what do you have to have?

**Adam:** Usually ordering the child to attend the day reporting center occurs at a contempt stage at which the child has shown to the court that they have no intention of going to an educational program. Now in your particular case your daughter hasn't been court ordered to do anything other than what was in this temporary order because you haven't had your fact-finding yet. So, in order to hold this child in contempt, they have to be court-ordered to do something. What you can use in getting that court order is the fact that since you were in court last she hasn't done anything, giving you further evidence as to why you need that court order.

**Parent:** She got brochures. She went with the COORS counselor and they got the brochures together. That's all that happened.

**Adam:** If she has a COORS counselor, she should be doing a little bit better than those that don't have counselors.

**Parent:** How do we deal with the situation where a parent files for contempt and the child's behavior escalates between being served for that contempt hearing and when the hearing takes place? Your child has been missing school, and staying out late. You file for the contempt on Monday, March 1 and your hearing is for Tuesday, March 8, or later if a review is coming up. On Tues-Wed-Thurs-Fri of the first week, the child acts out horribly. What do you do?

**Adam:** I see you on Monday, right? Here's your contempt document. It outlines everything the child has been doing: not going to school, not following curfew, being verbally abusive. Between Monday and the court date you have a number of additional violations. In our world, we should be able to file for these additional violations. In the legal world, you can't stack up all these additional violations; that's "stacking contempts". You can't stack contempt motions. The law looks at a violation of contempt in the same way it looks at the violation of another law. If an individual shoots a person one time and kills them, and another individual shoots a different individual five times and kills them are the sanctions going to be different? The victim died in both cases.

It doesn't matter if it's one violation or 30 violations.

**Parent:** Do you have to have three overnights and two days out of school to file a contempt?

**Adam:** Let's say your child has a contempt hearing and is found in contempt. They are given three weeks to purge their contempt by enrolling in school. There is a three-week deadline. Between today and that three-week deadline the child continues to violate the court order. The child was found in contempt on X, Y and Z. If the child is still violating X, Y and Z, they're still in contempt. You can't file another contempt on what they're already in contempt for. If it's A, B, and C that they're now violating, you can file another motion for contempt.

**Parent:** So you can file for a different thing. What makes it different?

**Adam:** The violations are different. If they were found in contempt for staying out all night, but now they're not going to school, then not going to school is a separate violation from what they were found in contempt for. This has been debated by attorneys and the court. If the child is already in contempt, you can't be in more contempt on the same issue.

**Parent:** If you're still dealing with the same contempt, unfortunately sometimes you come back into court after the three weeks and you get another commissioner who gives the child another three weeks.

**Adam:** There's nothing that any of us in the room or any of the staff in the court can do to persuade that commissioner.

**Parent:** So the trick is how the order is done.

**Adam:** Presentation is everything.

**Parent:** A lot of times when the order comes back it doesn't necessarily reflect what they were expecting. The commissioner might have told the child you have to do X, Y and Z, but it's not in the order.

**Adam:** There's an issue right now in the court when you look at these court orders on contempt, there's an automatic checkmark on the contempt that says, "Obey all prior court orders."

**Parent:** What does that mean?

**Adam:** Good question. We have attorneys on both sides as well as the court trying to figure this out, whether they should have it in there or not. There's a general rule that says that because you've been found in contempt doesn't negate the fact that you still have to follow all these other court orders. However, if you don't follow these other court orders and it's something that you've already been found in contempt for you can't be held more in contempt. It would have to be a different violation; a different line in the original court order.

**Parent:** Say the child has been ordered to do something in three weeks, and they haven't accomplished what they were supposed to do. A different commissioner comes in and gives the child another three weeks....

**Adam:** You can say, "Your honor. I don't think that's appropriate."

**Parent:** And, can you say that my child has continued to violate the court order for these items, even though they're covered by the contempt.

**Adam:** You can say that, but it isn't going to be a basis for finding the child more in contempt. If you want the court to take additional action on those other violations, then you would have to file a separate motion for contempt... making sure that the new violations are different than what they've already been found in contempt for.

If you don't agree with what the commissioner decides, this is your process. You can say, "Your honor. I don't think detention is appropriate." (I haven't had a parent do that yet.) Although I've had parents come in and say that they think community service hours are appropriate and they commissioner sends the child to detention.

**Parent:** Sometimes my son will come home from the teen center and say, "Yeah, I smoked a little dope. They had some of the Kona Gold." And then he acts as though he was just showing off. So, he admitted smoking dope, but in reality he's just showing off.

**Adam:** You can use that as you want to use it. If you don't believe him, you can call him on it. "You know you weren't doing that, and I know you weren't doing that. Why are you saying so?" Then you can have a different conversation with your child about somebody noticing them for their positive attributes rather than the negative ones.

**Parent:** So what can we do to help a parent who makes an error? Maybe they stack contempts. Anyway, the attorney throws this huge intimidating brief at them and files it with the court. The parent is totally intimidated, frightened, worried, humiliated and they have no counsel to know that's not appropriate. This kind of situation discourages parents from using the process. We have people in our group who say, "I would never file an ARY petition because of these humiliating experiences that have happened."

**Adam:** Usually when a defense attorney files a brief like that and serves the parent, it's based on information that the court needs in order to make a decision, based on whatever motion they're providing. This usually is in the case of custody or guardianship.

**Parent:** So, outside the ARY, there may be other issues going on.

**Adam:** Right. Those issues may impact the ARY process. The biggest one would be guardianship, care and custody. The only person who can file an at-risk youth petition is the parent or legal guardian. So, if there is no parenting plan, or a divorce of some sort, or it's unclear who has care and custody and that issue is raised, then it's the attorney's job to seek out that information by whatever means. Usually that stack of information is asking for a mental health assessment that's been done that the parent has in their possession. The child may or may not be able to follow the court order. It may be clear to the attorney, but they have to prove this in court. Those cases aren't typical.

**Parent:** I know a parent who received a brief about stacking contempts. I understand that you just have to wait until the contempt is purged. You only have six months, and sometimes that can drag on for four, six, or eight weeks, while the child is doing really awful, risky behavior.

**Adam:** Let's say that next hearing is three weeks out. The child is going and coming at will--2, 3, 4 o'clock in the morning--and they haven't been found in contempt for doing that; this is different behavior. File another motion for contempt and instead of waiting three weeks, we could possibly move that up to eight days out.

**Parent:** Since it was going to take about six hearings to start getting the most serious consequences, we didn't wait until our son had 12 issues for contempt. He did something that broke the rule and we filed for a contempt.

**Adam:** There is no official gauge for you to use to determine which contempts to file when. The most severe sanctions will not happen early. There is no grid that you can go by to say, "Okay. On the sixth contempt we have to do *this*."

**Parent:** I have a question about the sanctions. What if you've tried a lot of these things already in your home and they haven't worked?

**Adam:** Explain that to the court. Let the court know what you've tried: I've taken the computer away; I've taken the phone away. We've tried these things. Nothing has worked with this child.

**Parent:** Most everyone who is trying an ARY is in that situation.

**Parent:** Our grandson has severe mental issues. There are five issues, including: autism, bipolar, aggressive defiant.... I have tried to enroll him in different programs to get help to learn how to control his anger. I tried a program at the University that cost \$2600 for 24 sessions. He would only go to nine sessions. There's a program, Learning Disabilities of Washington. It teaches anger management for the child. We've had the police out three or four times. He threatens my husband; he doesn't hit him but he comes close to it. He verbally assaults my husband, saying awful words. The police officer comes out and my grandson says, "That's freedom of speech. That's the first amendment; I can say anything I want." We've had family reconciliation for 12 hours and we're still seeing a counselor at our house. I could have the King County Sheriff testify or his therapist testify about my grandson's condition, and then it wouldn't be hearsay. The therapist has sent letters to the school saying that in order to reduce his anger and frustration at home his IEP has to be reevaluated so he doesn't have so much homework. He goes to school. He's not on drugs. The only problem is the mental issues. It's getting serious. He was in a residential treatment program in Texas because he tried to commit suicide. It doesn't look like this ARY would help us because even if the court ordered him to complete

the programs that we've initiated for him to get help, if he says no, the most they'll do is put him in detention for seven days, and he'd just laugh at that. He'd just say, Okay, I'll do that and I'm not going to do this other stuff. So, it doesn't seem that the ARY would help our situation.

**Adam:** You are correct. Based on the information you gave me it does not sound like he has the ability to follow the court order, making it a willful disregard of the court order due to his diagnosis.

**Parent:** Well, he is capable....

**Adam:** That would be up for debate. I can guarantee you that his defense attorney is going to question that.

**Parent:** It might be helpful if it would force him to complete these programs.

**Adam:** If you believe that, then by all means use all the tools you have available in your tool box. However, it sounds like there are different issues that can be dealt with in a different arena. We don't have mental health services in our court. We'd be putting you back out there with those professionals. The only difference would be that you would have a court order. Holding the child in contempt for something that the child may or may not be aware that they're doing, or have the ability to follow...our court wouldn't be able to do that.

**Parent:** Because the child may be mentally incompetent....

**Adam:** We've had that happen. We've had defense attorneys move to have a competency hearing. Now, I would encourage you to work with his mental health providers to come up with a plan. Get a team together. Project Team is no longer there, but they have this wraparound service which they're calling something else now. I can put you in touch with the person that can help. They will get together a team of individuals with your child; the mental health therapist, an educational person, whoever else, and they will come up with a total plan to focus on getting the child the help that they need. That's where I would start. Our court is not going to find that child in contempt based on behavior that they may or may not have control over. That would have to be a whole separate hearing process.

**Parent:** Even though he is endangering himself.... He tells us he's going to kill himself. We're getting used to it. We say, "Okay." He bangs his head against the wall. He's kicked holes in the wall.

**Adam:** I don't want to give you any advice in terms of what you should or shouldn't do, but whenever he says things like that, my response would never be "Okay," no matter how many times you've heard it. We feel like these are idle threats. They've said it before. But one day that could change. So, work diligently with the mental health therapists or other providers and say, "Whatever we're doing now is not working."

**Parent:** All the psychiatrist does is keep increasing his medication.

**Adam:** I would sit down and look at that again. Maybe those medications have to be looked at again in terms of what they're doing.

The other side of the At Risk Youth Process is the Child In Need of Services. It looks, feels, and acts, exactly like an At Risk Youth petition. The only difference is that it provides a temporary

out of home placement. This is for a case in which the child is physically or verbally abusive to the point that any time the child is in the house it's total chaos for everyone. The child needs to be removed from the home and placed in a temporary environment. This is usually a DSHS licensed facility; a foster home, group home, overnight bed of some sort or with another responsible adult that all parties agree upon. It could be an aunt or family friend. Those are the extreme cases in which any time the child is in the home it's so volatile that no one can function. That's the CHINS process in a nutshell. It looks and feels like the At Risk Youth process (with contempt motions).

**Parent:** Concerning a parent's presentation to the court: (1) What information should we present in writing to the court? (2) How much can they read? (3) How much does a new commissioner read when they come in? (4) How much familiarity do they have with what has happened?

**Adam:** You should write as much as you need to get the court's attention as to the level of the issues or number of contempts you have already filed. You can ask for a solution in what you write. They will read everything. Any documents you bring in on the day of the hearing will be read before your case is called. The court will not go forward until they have read them. They understand how important that information is to you. They want to make sure that they take time to read it. If you have a stack of information, I wouldn't suggest bringing it on the day of the hearing. Call me and say I need to come down and drop this information off to the court because I want them to read it prior to the hearing.

Concerning changing commissioners... they're not just sitting up there looking good in their robes. They're taking notes and writing them down in the social file so that the next person who comes along can see what's been happening. And, they have the court orders there. They can see what's happened and what the ruling was. They can look back over the court orders. They have a pretty good depth. They may not know the child unless they've had the child before then. We had a kid in the other day that was downstairs in our criminal court and the commissioner said, "Oh yes. I remember you from the other day." That information is not used to find a child in contempt, but it puts the child on notice. No matter where you go in this building, you may see me. Sometimes the commissioners will even talk to each other. For instance, "Hey, I've got this case coming up in two weeks. I want to make sure that you know that out of the hour and a half of testimony that I listened to here's the information I want you to have when you're covering for me.

**Parent:** I went into court thinking I had filed for contempt, and I looked at the list when I signed in, and it said, "Show cause." I wasn't prepared to be cross-examined. Is there a way that I could have been more prepared?

**Another parent:** What is show-cause?

**Adam:** Initially, you have a fact-finding hearing and an order is put in place. When you come in to file for a contempt, the legal language is that you are filing a "motion and order to set show cause for contempt". It's a motion, and you are asking the court to set a hearing for contempt. There are two levels of filing that motion for contempt. One you are asking for a hearing, or you're asking for a warrant for the child's arrest. You can come in and request a warrant for the child's arrest if the child is on the run for 24 hours or more if there is a court order in place... not a petition, you have to have a court order in place.

A contempt hearing is where you come in and present the information that your child is in violation of X, Y, and Z. You are requesting a hearing for the judge to decide if the child is in contempt. On the court docket, it may say set show cause for contempt or show cause for contempt, or just contempt. When you see contempt it's a hearing. At those hearings, the child may agree and say, "Yeah. I didn't come home one day." If it's one violation or five the child is going to be in contempt whether they agree or whether you have a hearing. Also, in that legal process you could be cross-examined if the child says, "I didn't do any of that. My parent is lying." That happens rarely, but it could. In that case the court will take testimony from both sides and the attorney gets to cross-examine you. You, of course, also get to ask your child questions. This puts you in the attorney role, but you are driving the bus. This is your process. If the child agrees, things go a lot faster.

**Parent:** It's my understanding that if the parent files a CHINS petition, they have to pay a great deal of money.

**Adam:** If you get to the point where you can't have your child in the home any longer, you need to file the CHINS. You can say that you've tried the at-risk youth process and police have been called several times. There are a couple of criminal matters that went to diversion, for instance holes in the wall. You can lay out that foundation.

Concerning finances, anytime we ask someone else to care for our child, there's some level of financial responsibility. The amount is determined by the state, and they do that based on a person's ability to pay.

**Parent:** What kind of dollars are we talking about?

**Adam:** It's based on individual income. Guidelines come from the state. I have no idea what they are.

If the child files the petition and the parent doesn't agree, the parent isn't responsible for payment.

**Parent:** How many CHINS petitions do you see?

**Adam:** I have only seen two that were not granted. They may not put that court order in place that day, but the child may be placed outside the home that day. Temporary out of home placement can happen as early as just filing the petition. When you file the petition, DSHS has the legal authority to place the child. It doesn't obligate them to place the child. The court is responsible for deciding if the child is to be placed. Where the child goes is not up to the court, it's up to DSHS.

**Parent:** It's my understanding that there are very limited beds. I was told not to file for a CHINS because there are no beds.

**Adam:** I would not regard what anyone else has to say about whether there are any beds. Don't let anyone else be the gatekeeper, including the social worker who's doing the family assessment. That person may tell you there are no beds. Just take that information in and have the assessment done. The court will decide whether there is a bed or not. DSHS has the authority to place a child outside the region. Placing a child outside the region may be disruptive to school and other services, but it may be an answer.

**Parent:** Must you have an ARY before you file for a CHINS?

**Adam:** Not necessarily. You have to have done some other form of intervention. If the level of volatility is so bad that you're calling the police weekly, holes are in the wall, furniture is cut up, and there aren't any criminal matters (or even if there are), and you need this child removed, then you should file. We don't want a parent to say I don't think I have enough to file because my child didn't do X, Y, and Z and we're waiting for that point, but in the meantime something drastic happens. Don't wait. The worst case scenario could be that the court says, no. They usually don't just say, "No," they'll say "No, and let's try something else."

Sometimes I'll have a parent call up and say, "My 9-year-old is out of control. I need an ARY." I'll respond, "Let's talk about it. Let's see what other interventions you have tried." Usually they don't need the court at 9." There isn't an age limit on filing. However, for 9, 10, and even 11-year-olds, I want to look at the other services in the community that exist to find out what the underlying issues are. You don't necessarily need the court's assistance. You just need to find out what motivates the child.

**Parent:** Let's say your child has been suspended for a long time from their school. Can they be required to attend the school that's onsite at the juvenile justice complex?

**Adam:** If you're at the contempt point, you can request it. If your child isn't being accepted in any school in your district, you have to look at a different district. No one can deny your child the right to an education. Even on a long-term suspension, the school district has a legal responsibility to provide an education to your child. If that's not happening, you need to call Team Child. They have a team of attorneys that can go in there and make the district do what they're supposed to do.

**Parent:** When your child signs a truancy contract with the school, is the parent released from financial responsibility for the truancy?

**Adam:** The Becca Bill covers At Risk Youth, CHINS and truancy. School districts must file a petition with the court if a child misses seven unexcused days in a month, or 10 unexcused days in a year. If they've done an attendance contract with the child and the child continues to miss days, the district must still file a petition. Concerning parents and the truancy fine: In the 14 years I've been in the court system, we've only issued contempts to two parents, and that was dismissed. The court will find some way to hold parents accountable who aren't trying to get their children to school. The law is there to catch parents who are out partying all night, not helping their child get to school, or providing an alarm clock or adequate nutrition. If you've shown that you're being proactive about getting your child to go to school, you are not going to be held liable.

**Parent:** What if you know your child has not been attending school and the school has not filed a report?

**Adam:** The statute also says that the parent can file a truancy petition. The biggest slap in the face that a parent can do to a school district is to go and file a truancy petition.

**Parent:** How do I do that?

**Adam:** I'll get you the information. The statute says that to be considered a truant day the child has to miss a majority of the school day. Your child may only be missing 1<sup>st</sup> and 2<sup>nd</sup> period. The school district will not count those as truant days. Tardies are the same way. Some school

districts say that five tardies equal one unexcused absence. If the school district isn't filing, you should contact the school truancy representative. Tell them that according to your records, your child has missed 16 unexcused days. Ask them where they are in filing the truancy petition so that you can get your child back in school. Some districts don't have the personnel to file for all the kids they need to report on. The districts are doing the best that they can.

**Parent:** I received a letter one day that my child was no longer enrolled.

**Adams:** After 20 consecutive days of nonattendance they have to drop them from the rolls because they're receiving state dollars. If the child isn't in the seat, and they're receiving state dollars, that's kind of like stealing.

**Parent:** I recently got a call from the police because my child had been picked up. I explained that although my child was welcome at home, I didn't want to pick her up from the police station. They told me that if I didn't pick her up I would be charged with abandonment. Can you tell me what my rights are?

**Adam:** You're bordering on requesting me to give you legal advice. In that case you have the option to pick up the child or not. If you don't and they refer it to DSHS for this elusive charge of abandonment, I think based on your efforts in court and out of court, they will probably dismiss that idea pretty quickly. I wouldn't worry about it too much. You have to determine at what level you're going to put a lot of this back on your child. You're basically saying, "My door is open. You need to get here." In my opinion, being a parent is the hardest job on the planet. Each child is totally different. One thing is constant. No matter how your child is acting out you still love them.