Psychological Consultation in Parental Rights Cases

Chapter 42 Board of Psychological Examiners

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Minors' Rights to Confidentiality, When Parents Want to Consult a Psychologist

This practical volume delineates legal and clinical guidelines for practitioners involved as expert witnesses in parental rights cases. Authoritative coverage of relevant statutes, case law, and psychological theory and research to help readers conduct defensible, scientifically based consultation and testimony.

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Matthew B. Johnson's general interest involves how psychology informs due process. His scholarship and research have focused on the area of investigation and evidence, along with criminal, mental health, and legal psychology. His work often involves interactions with law enforcement agencies, courts, and corrections.

The Supreme Court's Parental Rights Doctrine

The Supreme Court's Parental Rights Doctrine is the set of legal principles associated with the right of parents to direct the upbringing and control the welfare of their children. This doctrine has been developed and refined over the years through judicial decisions and statutory enactments. The doctrine is grounded in the principle that the state has a compelling interest in protecting the welfare of children and that this interest can warrant the government's intervention in the parent-child relationship. However, the doctrine also recognizes the fundamental right of parents to make decisions about the upbringing and care of their children.

The doctrine is based on the assumption that parents have a unique understanding of their children's needs and best interests, and that they are in the best position to make decisions about their children's care and upbringing. This assumption is reflected in the Supreme Court's decisions, which have emphasized the importance of parental involvement in the care and upbringing of their children. For example, in the case of Troxel v. Granville, the Court held that a state's decision to terminate a parent's rights is a serious and potentially irreversible event that must be carefully weighed against the state's interest in protecting the welfare of the child.

The Supreme Court's Parental Rights Doctrine has been applied in various contexts, including cases involving grandparents, stepparents, and other relatives who are seeking custody or visitation rights. The doctrine has also been applied in cases involving adoption, guardianship, and other forms of child protection.

Relatives who seek to become the child's legal guardian must demonstrate that the child's best interests will be served by the transfer of guardianship to them. This requires a careful balancing of the state's interest in protecting the welfare of the child against the child's best interests. The Supreme Court has emphasized that the best interests of the child are the paramount consideration in cases involving termination of parental rights. However, the Court has also emphasized that the state's interest in protecting the welfare of the child must be balanced against the parent's constitutional right to due process.

Parents may have numerous resources at their disposal, including psychotherapy, counseling, consultation, mediation, and legal representation. It is important for parents to seek out these resources and to engage in effective advocacy to ensure that their rights are protected.

In summary, the Supreme Court's Parental Rights Doctrine is a complex and evolving body of law that balances the state's interest in protecting the welfare of children with the constitutional rights of parents. The doctrine has been applied in various contexts and has been subject to ongoing judicial interpretation and statutory development.

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Psychologists consult ethical standards and guidelines for practice, and they have a strong foundation in theories and research regarding the impact of psychological...