

Family Law Cases

DEALING WITH SUBSTANCE ABUSE

Family law matters — known for being complicated and messy — are even more challenging when one or both parties have substance abuse issues. Family courts and family law attorneys often lack the knowledge to identify and address substance abuse matters, but the legal system provides many tools that can help individuals and families recover.

Family Code Section 3190 requires courts to act in the best interest of children. The primary focus should therefore be whether substance abuse substantially affects a person's ability to effectively parent. The law gives judges many tools for identifying and dealing with substance issues, including ordering testing if there is evidence of "habitual, frequent, or continual use" of illegal controlled substances or alcohol abuse, as well as the use of SoberLink or medically assisted treatments such as Vivitrol or other medications that block opiate receptors.

Judges may also order child custody evaluations, investigations, and assessments to assist with determining the health, safety, welfare, and best interests of children, and they may appoint counsel to represent minor children in custody and visitation proceedings when appropriate. The professionals who interact with the parties in these cases must be specially qualified to deal with substance abuse issues.

California Rules of Court Standard 5.20 lays out requirements that apply to "all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency." Among other things, those who supervise visitations must be trained in "issues relating to substance abuse, child abuse, sexual abuse, and domestic violence" and must have "basic knowledge of family and juvenile law." California Rules of Court Standard 5.225 specifies licensing, education, training, and experience requirements for evaluators who are appointed to conduct full or partial child custody evaluations under the Family Code, Evidence Code, and Code of Civil Procedure.

Beyond protecting children, the legal system can provide a path out of drug dependency for those who are ready to reclaim their lives. Today's drugs are far more potent and prolific than they were 20 years ago, but support is available from professionals who are trained and knowledgeable



about substance abuse. Individuals who attend drug court must undergo counseling, get jobs, attend weekly court and support meetings such as Alcoholics Anonymous, and maintain their sobriety. At the end of the program — anywhere from two to six years — they graduate without probation, fines or arrest warrants.

Substance abuse destroys lives and families; family court is often the place where abusers finally confront their inner demons and begin to take back control of their lives. A parent facing the prospect of never seeing their children again may be willing to do whatever it takes to change the picture. The legal system, and the professionals working within that system, can help.

Hon. Harry Powazek (Ret.) is a neutral with Signature Resolution who served almost three decades as a family law judge in San Diego Superior Court.

