

Legislative History for Connecticut Act

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Bill Number: 7238
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2007

VOL. 50
PART 16
5071-5415

005162

slr

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Senate

June 4, 2007

Moving to Calendar Page 15, Calendar 501, House Bill 7217, Mr. President, would move to place this item on the Consent Calendar.

THE CHAIR:

Hearing and seeing no objections, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 524, PR.

Calendar 534, marked Go.

Calendar 536, Passed Temporarily.

Calendar 541, House Bill 7238, Mr. President, would move to place this item on the Consent Calendar.

THE CHAIR:

Hearing and seeing no objections, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 547, PR.

Moving to Calendar Page 16, Calendar 556, PR.

Calendar 561, Senate Bill 1440, Mr. President, would move to place this item on the Consent Calendar.

THE CHAIR:

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Senate

June 4, 2007

An immediate roll call has been ordered in the
Senate on the Consent Calendar. Will all Senators
please return to the Chamber.

Mr. President, those items previously placed on
the first Consent Calendar begin on Calendar Page 4,
Calendar 629, Substitute for House Bill 5273.

Calendar 635, House Bill 6893.

Calendar Page 5, Calendar 641, House Bill 7116.

Calendar Page 6, Calendar 649, Substitute for
House Bill 6856.

Calendar 651, House Bill 7167.

Calendar Page 10, Calendar 244, Senate Bill 74.

Calendar Page 11, Calendar 320, Substitute for
Senate Bill 1396.

Calendar Page 14, Calendar 407, Substitute for
Senate Bill 1311.

Calendar Page 15, Calendar 501, Substitute for
House Bill 7217.

Calendar 541, Substitute for House Bill 7238.

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Calendar Page 16, Calendar 561, Substitute for
Senate Bill 1440.

Calendar 575, Substitute for Senate Bill 940.

Calendar Page 17, Calendar 614, Substitute for
House Bill 6209.

Calendar Page 18, Calendar 98, Senate Bill 1172.

Calendar Page 19, Calendar 197, Substitute for
Senate Bill 1315.

Calendar 251, Substitute for Senate Bill 1066.

Calendar Page 20, Calendar 413, Substitute for
Senate Bill 1270.

Calendar 576, Substitute for Senate Bill 977.

Calendar Page 21, Calendar 667, Senate Resolution
70.

Mr. President, that completes those items
previously placed on the first Consent Calendar.

THE CHAIR:

If you will please call the roll again, the
machine will be open.

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Senate

June 4, 2007

THE CLERK:

An immediate roll call has been ordered in the
Senate on the Consent Calendar. Will all Senators
please return to the Chamber.

An immediate roll call has been ordered in the
Senate on the Consent Calendar. Will all Senators
please return to the Chamber.

THE CHAIR:

Have all Senators Voted? If all Senators have
voted, the machine will be locked. The Clerk will
call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.
Total number voting, 36; necessary for adoption,
19. Those voting "yea", 36; those voting "nay", 0.
Those absent and not voting, 0.

THE CHAIR:

Consent Calendar No. 1 passes. Senator Looney.

SEN. LOONEY:

H-990

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002230

sae
House of Representatives

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May 1, 2007

On Page 10, Calendar Number 476, Substitute for
House Bill Number 7238, AN ACT CONCERNING THE
COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD
PROTECTION ATTORNEY, Favorable Report by the Committee
on Judiciary.

DEPUTY SPEAKER GODFREY:

The gentlewoman from East Hampton, Representative
Hamm.

REP. HAMM: (34th)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Would
you explain the bill, please, Madam.

REP. HAMM: (34th)

Very briefly, this is one of two bills this year
from the Commission on Child Protection, which as all
of you know, replaced the Judicial Branch in
appointment for indigent children and parents in our
juvenile courts.

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House of Representatives

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May 1, 2007

This bill is primarily technical by nature. It conforms everything to current practice. It designates the standards and how appointments are actually made. I move adoption, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Will you remark further on this bill? Will you remark further on this bill? If not, staff and guests please come to the Well of the House. Members take their seats. The machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is taking a Roll Call Vote. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? Have all the Members voted? Is your vote properly recorded? If so, the machine will be locked, and the Clerk will take the tally. And the Clerk will announce the tally.

CLERK:

House Bill Number 7238.

Total Number Voting 137

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House of Representatives

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May 1, 2007

Necessary for Passage	69
Those voting Yea	137
Those voting Nay	0
Those absent and not voting	14

DEPUTY SPEAKER GODFREY:

The bill is passed. Mr. Clerk, Calendar Number
152.

CLERK:

On Page 21, Calendar Number 152, House Bill
Number 5108, AN ACT CONCERNING REPORTING REQUIREMENTS
RELATED TO THE CHILD POVERTY AND PREVENTION COUNCIL,
Favorable Report on the Committee on Legislative
Management.

DEPUTY SPEAKER GODFREY:

The distinguished Chair of the Children's
Committee, Representative McMahon. Please press your
button, Representative McMahon. Thank you. Please
proceed.

REP. MCMAHON: (15th)

JOINT
STANDING
COMMITTEE
HEARINGS

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PART 8
2293-2651

2007

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SEN. MCDONALD: So next is Jeanne Milstein. You're a different version of Jeanne Milstein.

CHRISTINA GHIO: Good afternoon, Senator McDonald, Representative Lawlor, and Members of the Committee.

My name is Christina Ghio. I am an attorney and Assistant Child Advocate for the Office for the Advocate. Jeanne Milstein couldn't be here. And, so, I am here on behalf of the Office.

And I want to thank you for the opportunity to testify in support of Senate Bill 7238, AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD PROTECTION ATTORNEY.

I actually was before you last week talking about the bill to allow access to Juvenile Courts, and at that time said, that one of the most important things this Legislature can do to improve accountability and outcomes for children whose families are involved with DCF, is to ensure that all attorneys appointed to represent children and indigent parents provide the highest quality of legal representation.

And I am really here to reiterate that point because it really cannot be emphasized enough. Lawyers that provide good representation hold DCF and judges accountable by investigating the facts, researching the law, filing motions, making good records, and filing appeals if necessary.

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They challenge other attorneys to do the same. And most importantly, they meet with their clients, they keep their clients informed, keep themselves and the court informed about the needs of their client and the status of the case and take timely action on behalf of their client.

They make a difference in the lives of children by preventing unnecessary placement disruptions and ensuring the DCF provides appropriate services in a timely way which in turn enhances their chances to grow up safe and healthy in permanent stable homes.

Last year, the Legislature took a big step toward towards improving the quality of legal representation by creating the Commission on Child Protection.

And while the Chief Child Protection attorney, Carolyn Signorelli, who I think is on the list to speak a little it later, is working very hard to establish training requirements and practice standards.

The Commission really has insufficient resources to provide true quality assurance and to restructure the compensation system to attract and retain highly skilled attorneys.

The bill does a number of things that would really provide a foundation for beginning to improve the quality of legal representation, and I list three things in the testimony, but I am actually going to comment on four very briefly.

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The first thing is that it requires initial and in-service trainings to be mandatory and comprehensive. The law that was passed last year essentially said the Commission should establish a training program.

This would make it mandatory so that every attorney that takes a contract does, in fact, continue to get training, and we would hope has that training as a requirement prior to actually getting a contract and taking a case.

The second thing that it does is establish an hourly rate of pay for attorneys. This is really important. I know last year there was a lot of testimony about the fact that it is \$350 a case.

It's gone up a little bit, the flat rate has, but the reality is that it's still a very low amount of money. And, using a flat rate is an incentive for attorneys to take on as many cases as the Commission will allow them to.

Prior to the Commission, attorneys were taking as many as 300 cases. The Commission really isn't allowing that anymore and that may affect their ability to retain attorneys.

But the bottom line is, there just is no way attorneys can provide good quality legal representation in these kinds of cases when they are taking 300 cases a year, and these cases go on for years and years, and they fluctuate in terms of intensity as they move through the system.

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The third thing the bill does is establish a rate for non-attorney professionals, which was not done previously. And this is really, it's really critical. Again, these cases are very challenging.

The law is complex, but the children also have many unmet needs, and attorneys need to have expertise in a number of backgrounds, and really being able to work in tandem with skilled professionals would make a big difference in their ability to identify the needs of the family and the child, and then to advocate for appropriate evaluations and appropriate services.

The fourth thing that I do want to mention is quality assurance. There is a section in the bill that talks about accountability and allowing the Commission to ensure accountability in the contracts.

And I just want to say, I think children are really unique consumers of legal assistance. Really, they're the only consumer of legal assistance that cannot speak up if there is a problem, would not know if there were a problem with their legal representation.

And many, many of these children, unfortunately, don't even know they have attorneys. And so, it is very important for the Commission to have the resources to be able to do their own quality assurance and to follow up when they're initiating contracts to make sure that the attorneys are doing all of the

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things they need to do, and to be able to take contracts away if attorneys are not providing appropriate legal representation.

I'd be happy to answer any questions, and thank you for the opportunity to testify.

SEN. MCDONALD: Thank you very much. Are there any questions from Members of the Committee? If not, thank you very much.

CHRISTINA GHIO: Thank you.

SEN. MCDONALD: Next is Dr. Robert Painter. Good afternoon.

DR. ROBERT PAINTER: Good afternoon. Thank you, Senator McDonald, and thank you, Representative Lawlor and Members of the Judiciary Committee for giving me opportunity to present my views on House Bill 6715, the PALLIATIVE USE OF MARIJUANA.

My name is Dr. Robert Painter. I'm a former chairman and Director of the Department of Surgery at St. Francis, and presently, I'm the Minority Leader on the Hartford City Council.

Whenever you raise the issue of marijuana, you also raise a lot of red flags because people are afraid of drug abuse or drug use, particularly when it comes to the matter of their children, and many are hostile to the idea of someone who would come in and recommend an expansion in any way of the use of any kind of presently illegal drugs.

CAROLYN SIGNORELLI: Good afternoon. Goodbye, Senator McDonald. Good afternoon, Representative Lawlor and Committee Members. My name is Carolyn Signorelli, and I am the Chief Child Protection Attorney for the State of Connecticut.

And I would like to thank you for the opportunity to speak in support of Raised House Bill 7238, AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHILD PROTECTION ATTORNEY.

Christina Ghio from the Child Advocate's Office sort of did my job for me today, so I'm not going to repeat verbatim everything that she said only say that I agree with what she presented to you today regarding the bill and what it will accomplish and what it will help accomplish.

So I'll just be brief to make a couple of points for the Committee to think about in determining whether or not to continue with this bill and support this bill.

The United States Supreme Court has recognized that the right to family integrity belongs to both parents and children, and that this right has Constitutional significance pursuant to the privacy interest found in the 9th Amendment, warranting protection under the due process clause and equal protection clauses of the 14th Amendment.

In recognition of the importance of these rights, Connecticut has statutorily granted parents and children the rights of counsel in child protection proceedings in Juvenile Court.

Although we have yet address whether there is a corresponding right to effective assistance of counsel, it stands to reason that due process rights in such profoundly important and often complicated cases are meaningless without representation from competent, zealous attorneys.

At minimum, the state is obligated to provide attorneys who consistently meet the requirements of our professional rules of conduct. Currently, the state is not consistently meeting that obligation, and I'd like to just state a caveat here.

There are some attorneys in the child protection field who are extremely devoted and do this for reasons other than money or they don't, for whatever reason, don't need to be able to support themselves or a family.

But basing it on those handful of devoted altruistic folks, basing the system on that, is not sufficient and we're not meeting our obligations by doing that.

Raised House Bill 7238 is a clear step in the right direction to render the due process to 40 families faced with the awesome power of the state to disrupt and sever their ties to each other forever meaningful.

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Competent attorneys in Child Protection matters are vital to a system of justice that is accountable to its constituents and functions as it is intended. Without knowledgeable and zealous advocates in juvenile matters, our child welfare system does function properly.

For the children subject to the protection proceedings because the voices of the children and the positions of the parents are not adequately presented to the judges hearing the cases.

We recognize that it is crucial to the proper functioning of our criminal justice system that those accused of crimes no matter how heinous their acts and no matter how clear their guilt may seem to be, are entitled to zealous, competent attorneys who are capable of ensuring the state can meet its burden to prove guilt beyond a reasonable doubt.

Yet when it comes to parents and children, the parents, many of whom do not commit purposeful acts of neglect or abuse, but are struggling with the effects of poverty and past abuse themselves, we don't believe they are entitled to the same level of protection from state interference with the rights that have been deemed essential in basic civil rights.

The importance of competent legal representation is magnified in child protection proceedings because the state's burden of proof is lower than in a criminal proceeding.

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As a result, it is easier for the state to interfere with the family's integrity, especially if the court is not hearing equally from all parties through the proceedings.

Children in the system, of course, need protection on so many fronts. Sometimes from abusive and neglectful parents, oftentimes from bureaucratic failures that plague the Child Welfare system.

And, in some cases from overprotective child protection workers whose assessment of risk is flawed due to the pressure that possibly making a fatal mistake places upon them.

Lack of professionalism, skill, and zealousness on the part of attorneys for parents and children short changes their clients and leads to unproductive hearings, wasteful continuances, ignorance of entitlement statutes and available programs, complacency in the face of DCF and court delays and drawn out trials due to the lack of skill on the part of the attorneys.

All of these problems have a devastating impact upon the System and its ability to achieve positive outcomes and permanency for children.

I would ask that this Committee support Raised House Bill 7238 as it is an important positive step to addressing these problems and giving the parents and children that are brought into court by the State their due process.

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If there are any questions, I'd be happy to answer them.

REP. LAWLOR: Thank you very much, Attorney Signorelli. Are there any questions? Yes.

DEBRA LEE: Thank you, Mr. Chairman. Hello Carolyn.

CAROLYN SIGNORELLI: Hello.

REP. HOVEY: Just to kind of get some things out here so that there's a little broader scope on this particular bill, Carolyn, I just wanted to inquire about a couple of things.

CAROLYN SIGNORELLI: Sure.

REP. HOVEY: Just for the benefit of this Committee, you have testified before Appropriations and before Education, right?

CAROLYN SIGNORELLI: Select Committee on Children--

REP. HOVEY: --Select Committee on Children, and you've been around the block. But I wanted to just make sure that everyone understands.

This bill is being raised and the Governor's bill did not cover you both financially as far as your rate for your attorneys and also did not give you the number of attorneys that you believe to be necessary to do the job appropriately?

CAROLYN SIGNORELLI: Well, to clarify, currently we contract with independent contract attorneys and the issue is definitely their rate. We ask

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for a budget that would allow us to pay attorneys \$60 per hour.

That would raise what they're currently being paid which averages out at the flat rate fee based upon what the average case takes in hours to \$25 per hour.

And the reason we're asking for more money is because at \$25 an hour, it is very difficult to attract the level of competence and commitment and diligence and to maintain those attorneys in this field.

The child protection field is extremely complicated. It requires knowledge in a vast area of not only the law but in social Welfare issues, and just understanding families who are facing issues of domestic violence, substance abuse [Gap in testimony. Changing from Tape 2A to Tape 2B.]

--attorneys to the field.

REP. HOVEY: Do you know what the average wage of attorneys in Connecticut is?

CAROLYN SIGNORELLI: Well, it's my understanding from talking to attorneys who practice in private practice, that even an attorney out of law school is billing at the rate of \$175 to \$225 per hour.

The special defenders who represent criminal defendants on felonies receive \$65 an hour. So what we're paying our child protection attorneys is vastly lower than any market rate

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or anything that's been deemed fair in any other arenas.

REP. HOVEY: Well there's a huge difference between \$25 an hour for someone who has the kind of education that an attorney would have and the commitment that they've made, student loans and all of that. They probably can barely afford to live.

The other question that I had is in several committees I've heard a lot of testimony about children languishing in the system.

And is it part of your role and part of the Commission's role to assure that children do not languish in that system?

CAROLYN SIGNORELLI: That's a key part of our role, and any attorney who's representing a child or representing a parent who has a child in the system for that matter, to make sure that that child is receiving whatever services that are appropriate to meet their needs, to make sure that their separation from their family is absolutely essential.

Otherwise, that attorney should be working to get them back with their family. And making sure that their family is getting the services it needs, so that they can have their children in their care.

And that if a child does need to remain in the department's care, that the department is appropriately meeting their needs in establishing an appropriate permanent placement

for them as opposed to moving from foster home and one inappropriate placement to another. That's the attorney's job, to make sure that that is not happening.

REP. HOVEY: Thank you. And the last thing is, that we've had a lot of discussion as a Legislature this year around accountability of our different groups. Accountability, I'm sure that someone has spoken to you about a level of accountability.

Within your own Commission, and in fact, Judge Lavery was singing your praises, because you've instituted several systems for real accountability within your department as a fledgling department.

And I guess the point that I'm trying to get to is that when we're looking at accountability, it's hard to hold a Commission accountable when we haven't given them the tools nor given their attorneys the tools that they need to do the job. And so, I thank you for your testimony today.

REP. LAWLOR: Thank you. Are there further questions? If not, thanks very much.

CAROLYN SIGNORELLI: Thank you very much.

REP. LAWLOR: Next is Tim O'Keefe. And as Mr. O'Keefe comes up, I know Judge Gruendel had to leave, but are you still going to testify Steve? Oh, okay. Please go ahead.

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In fact, he woke up in the morning with a cup of tea and marijuana. And he died at a very old age. But the thing of it is, that's not the case.

I feel that if it helps anybody that has a debilitating sickness and can do nothing about curing it, but it can alleviate some of the pain that they will have, I think that it's worthwhile using. Thank you.

JOSEPH SPENG: Thank you very much, Sir.

SEN. MCDONALD: Next is John Kelley. Followed by Tony Natale. And we have a couple dozen more people who are interested in speaking. So I would ask everybody to try to be cognizant of the time limits.

We try to give a little accommodation to folks, but if you could try to keep your testimony as crisp and tight as possible I would appreciate it. Please proceed sir. [Gap in testimony. Changing from Tape 2B to Tape 3A.]

JOHN KELLEY: --of Raised House Bill 7238. I'm an attorney. I work for a non-profit organization that provides guardian items in the Juvenile Court system.

I have worked in the Juvenile Court system in a variety of different positions. As a legal service lawyer, as a private bar attorney and as the principal attorney for the Department of Children and Families.

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I have also, in my present job, visited every single Juvenile Court and have been involved in many hearings in many of the Juvenile Courts in Connecticut. So I'm very aware of the system of representation that is presently in place.

And I have to say that it is broken and needs to be repaired by the passage of this bill. I have also served as the American Bar Association Rule of Law liaison in Albania, and as the Army liaison to the Regime Crimes Liaison Office, where we provided assistance to the Iraqi high tribunal.

And I recently returned from the Office of the Judge Advocate in D.C. where I was the officer in charge of the Central Criminal Court of Iraq. So I've also been involved with system improvements to both the Albanian legal system and the Iraqi legal system.

So I'm coming at this bill from two different directions. As both somebody involved in rule of law improvements, both in Albania and in Iraq and also as somebody who has served in a variety of different positions in the child protection system.

I would like to address just a couple of aspects of this bill. Primarily the first one and the most important one is the compensation aspect.

We have to go away from the flat rate system to a \$60 an hour system. The flat rate system really makes no sense whatsoever. It also

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provides very little accountability for the attorneys that are practicing in the system.

Basically what they do is they get their \$500 check. And then it depends on how good an attorney they are as to how much they're going to work off of that \$500. Because everything that they do will come out of that \$500.

So we in effect have a system where the more they work, the less we pay them. I think that makes absolutely no sense to the extremely vulnerable children and parents that are in this system as it is.

The other thing that I think is very important is that the payment for non-attorney professionals. Right now the cards are stacked very much against the families and children in this system. DCF is a \$900 million plus organization.

They have provided with experts including social workers, on all of their cases. The attorneys that are opposing them have no professional support at this time. And that clearly is from a due process standpoint, a problem.

And then quickly, just quickly, I think it's vital that we provide increased funding for the Chief Child Protection Attorney, in order for them to continue their magnificent achievements they need to have more staff. And that is particularly important for training and quality assurance.

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SEN. MCDONALD: Thank you very much, Sir. Are there any questions? Senator Meyer.

SEN. MEYER: Mr. Kelly, I'm Chair of the Children's Committee and we've had a bill in front of us that relates to attorney compensation, trying to improve the compensation in DCF cases. I'm just wondering, have you seen that bill?

JOHN KELLEY: I have, Senator.

SEN. MEYER: And this is obviously very much the same kind of concept, as I understand it.

JOHN KELLEY: That's my understanding as well, Sir.

SEN. MEYER: And I gather you would be supportive of the bill on compensation for attorneys in DCF matters?

JOHN KELLEY: I would.

SEN. MEYER: As well. But this bill, just to be sure I understand, I'm looking at Section 1, seems to relate to custody, primarily to custody cases or child support cases, custody, visitation and child support cases?

JOHN KELLEY: I think it's primarily geared towards cases in the Juvenile Court system. Because actually, as it stands now, there is a system of compensation in child custody and visitation cases which I believe is significantly better.

The \$500 flat rate fee applies only to the Juvenile Court attorneys. So if you've got a family matter or a magistrate's matter for

support, it's a different payment method. And frankly, I'm not sure what it is, but I do know it's better.

SEN. MEYER: Okay, because the court would have broad discretion with respect to counsel fee awards, in an ordinary child support or child custody or visitation case.

JOHN KELLEY: That's correct.

SEN. MEYER: So this relates to juvenile proceedings?

JOHN KELLEY: I think it's primarily geared to juvenile proceedings. Because the flat rate fee right now is only applied to Juvenile Court proceedings on the child protection side.

SEN. MEYER: Okay. And what you're trying to improve is the \$500 flat fee no matter how many hours the attorney works?

JOHN KELLEY: No. I would strongly argue on behalf of a \$60-an-hour rate where they bill for an hourly rate, because, first of all, the American Bar Association is in favor of that as well.

But primarily that I think allows for both quality assurance, and it also allows for a practitioner to really work hard on an individual case that demands it and bill on that individual case.

And then, if there's another case that does not demand that type of work, then they bill out

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obviously for two or three hours on a case that they've only spent a short period of time on.

SEN. MEYER: Okay, I apologize for my ignorance about this. But the Chief Child Protection Attorney is just one attorney.

JOHN KELLEY: That's correct.

SEN. MEYER: And that attorney has the power to retain other attorneys to protect children?

JOHN KELLEY: That's correct. As it stands now, the Chief Child Protection Attorney makes the appointments for the attorneys that represent parents and children in Juvenile Court. So that is made through her office.

SEN. MEYER: So it's akin to a public defender then for children?

JOHN KELLEY: Somewhat akin. Although they actually get paid much less than the public defenders do. And with no benefits. But it's somewhat akin to that.

And basically the Chief Child Protection Attorney in her office provides at this point, the training, the support and also the appointments to the attorneys that are now in the system.

However, it's a small office. They've only got six staff. And then the Chief Child Protection Attorney. And they're overseeing at this point every single one of the 13 Juvenile Courts and all the attorneys in that court.

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So their ability to practice quality assurance and to make sure that these attorneys are really doing everything they need to do is really quite limited because they just don't have the staff at this point for that.

SEN. MEYER: We have a bill coming before the Childrens Committee tomorrow which I'm sure will eventually end up here, in this Committee, Judiciary. That would significantly affect this bill that we're talking about right now.

The bill that we have would make the offenders at the ages of 16 and 17 subject to juvenile proceedings instead of adult proceedings with the exception of serious felony cases.

And so this could be a very substantial bill with considerable monetary repercussions if the Legislature passes and the Governor signs what we call the Age Bill. Have you thought about that?

JOHN KELLEY: I have. And in fact it's somewhat concerning to me.

Because it's really, although a lot of the children that do end up being involved on the delinquency side of the court have in fact been in the child protection side as well, I think it's important to recognize that we're really dealing with two different systems.

That the child protection attorneys who represent the children and that parents in the

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child protection proceedings are really working on a different, in a different arena.

And the attorneys that will be representing these delinquencies should the bill pass, these 16 and 17 year olds in the delinquency proceedings, those could be special public defenders or public defenders. But they may not be the same contract attorneys.

So the net effect of the raising the age really will not have an effect on the compensation of these contract attorneys. Many of whom do not practice on the delinquency side.

SEN. MCDONALD: Anything further? If not, thank you very much.

JOHN KELLEY: Thank you.

SEN. MCDONALD: Next is Tony Natale. Followed by John Emra.

TONY NATALE: Good evening, good afternoon. Thank you, Senator McDonald. My name is Tony Natale, and I'm here to testify in support of section one of Raised House Bill 7236.

I am a partner in the law firm of Pepe and Hazid, and I have been admitted to the Bar of the State of Connecticut since December of 1990.

First, I'd like to thank this Committee for affording me the opportunity to speak on what I think is a very important bill. And I'd also like to thank this Committee for raising in the

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SEN. MCDONALD: Next is Valeria Caldwell-Gaines. Valeria Caldwell-Gaines. Michael Perez. And after Mr. Perez, Dan Schubert, is Dan Schubert here? Just one second, Mr. Perez. Houston Putnam Lawry was here and apparently has left. Dawn Fuller-Ball? She's coming back? So okay. Go ahead, Mr. Perez.

MICHAEL PEREZ: Thank you. And good evening, Senator McDonald, Representative Lawlor, esteemed Members of the Judiciary Committee. My name is Attorney Michael Perez. I'm a solo practitioner.

I began contracting with the state to represent juveniles and indigent parents in child protection matters back in November of 2005. I urge you to support House Bill 7238, which as you know proposes TO INCREASE THE LEVEL OF COMPENSATION TO ATTORNEYS WITH CHILD PROTECTION CONTRACTS.

The Commission on Child Protection needs additional resources to attract and retain attorneys with the specialized skills necessary for this type of work.

We need to provide a greater incentive to attract and recruit minority attorneys into this field. Roughly one half of the open DCF cases are regarding minority children.

I estimate there to be hundreds of children and parents in these cases who do not speak English.

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The Commission on Child Protection needs the resources to go out and recruit qualified minorities, especially Spanish-speaking attorneys.

And just to give you a couple of examples of the existing demographics. For the approximately 200 contract attorneys that are currently serving, out of those 200 there are only 15 minority contract attorneys.

In some urban centers there are no minority contract attorneys serving. This holds true for Willimantic, Waterford, Waterbury, Torrington, Rockville. In New Haven, a large city, there's only one minority contract attorney, an African American male.

New Britain only has two minority contract attorneys. Hartford does have five contract attorneys assigned to its juvenile matters court. However, only one is Hispanic and is bilingual.

As you all may know, our child protection system is layered with intricate procedures stemming from of course, state statutes, a large section of the practice book, agency regs and a constantly evolving case law.

And in order for any attorney to provide competent representation in such cases his or here knowledge also has to encompass a comprehensive understanding of other things.

Such as educational advocacy, child psychology, child develop, substance abuse treatment,

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mental health treatment, domestic violence. And the myriad of social programs tailored to these issues.

Such an attorney, above all else, has to be a competent and skilled litigator. Not just at the trial level, but also at the appellate level when necessary.

This area of law is so complex and is so intermingled with other professional disciplines that only a specialist, really. An attorney that specializes in child protection litigation can provide truly effective representation to children and parents in these matters.

And to put it shortly, we're not going to be able to attract or retain attorneys who are willing to spend the extra time educating and training themselves in order to enter our contract system with the rate of compensation where it is today.

Help give the Commission on Child Protection the resources it needs to improve our system. Please support House Bill 7238. Thank you.

REP. LAWLOR: Thanks very much, Mr. Perez. Is this the principal focus of your practice, representing children in these matters?

MICHAEL PEREZ: It is the principal focus. It's about 80% of the work I do, is on these child protection cases.

REP. LAWLOR: And how long you've been doing this?

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MICHAEL PEREZ: Since November of 2005. So it's about a year and maybe four months.

REP. LAWLOR: Okay. Thanks very much. Are there questions from other Members of the Committee? If not, all set. Thank you very much. Dan Schubert is not here is that right? And Houston Lawry is not here. Dawn Fuller-Ball is not here. Gabriel Sayeigh. And as you come up, can I ask, is Arnold Bernstein here? You're here? Okay, you'll be next, sir.

And Linda Blowsy? Is she still here? She took off. How about Ray Soucy I think already testified. John Clopp still here? He left? Oh, is that you, Mr. Clopp? No. Is that you? Okay. You'll be up third.

Is Todd Ford still here? Okay. Mary Sanders? Okay. Mark BRONSTEIN?

MARK BRONSTEIN: That's me now, taking Gabriel's HB 6715 place.

REP. LAWLOR: Got it. Mark are you the one that's been here before testifying?

MARK BRONSTEIN: Several times.

REP. LAWLOR: Librarian guy, right?

MARK BRONSTEIN: That's right. I heard a rumor you spoke about me earlier.

REP. LAWLOR: That's right. Okay.

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MARK BRONSTEIN: Behind my back.

REP. LAWLOR: I'm sorry about that. But I think yours is the best example of what's wrong with the current law.

MARK BRONSTEIN: All right.

REP. LAWLOR: But Andy Grauer still here? Dr. Kraus is here I can see him. Dr. Wyatt is here. Doug Monaghan, still here. Dan Cornelious I think. Is there anybody else who wants to testify I didn't call? Okay. Sorry. Go ahead.

MARK BRONSTEIN: All right. I'm here in support of House Bill 6715. My Name is Mark Bronstein. I'm 55 years old. I'm also a volunteer on the staff of Efficacy. A fairly well known group in Connecticut advocating drug law reform.

In 1990, I had a spinal cord injury. The symptoms are very similar to multiple sclerosis. Because very often in terms of marijuana use you hear more often multiple sclerosis, MS. That's why I mention that.

Two of the symptoms that are identical for both are spasms, uncontrollable spasms in muscles you normally don't have control in and also the accompanying pain from those spasms.

Since 1990, for the past 17 years I've maintained a full-time job. I have published two books. I've published many nature photographs and also many articles. I'm

totally self-supporting and also self-sufficient.

For instance this morning I shoveled the snow off of my walkway and my ramp. I'm also strict vegan since 1970. I don't eat white flour or white sugar. I don't use alcohol, caffeine, any other kind of pharmaceutical drugs or recreational drugs except for marijuana.

I don't use any of the tranquilizers that paraplegics normally use to suppress the spasms. And in the most extreme cases that could be Dantrium and valium.

I've never tried any of narcotics, the opiate-based ones that most paraplegics and quadriplegics use to suppress the pain that accompanies the spasms. In the most extreme cases that could be codeine, morphine or Demerol.

I've never tried any of them. Instead I've used marijuana which is in its natural form, grows very nicely on little plants.

As a vegetarian, it fits right in with my diet. I've been using it for the first seven years discreetly and for the past 10 years very publicly.

1997 was when I first testified before the Public Health Committee. I testified once more since to them. And also this is, I've lost count. Either my third or my fourth time before the Judiciary Committee.

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But actually I'm not here on my behalf. Because the fact is I have been using it whether it's illegal or not. And I will continue to use it whether it's illegal or not.

So if it's anyone's behalf I'm here testifying on, it's yours, Members of the Judiciary Committee. Because while you're not very likely to contract a spinal cord injury or suffer multiple sclerosis, or AIDS, the chances are very likely, statistically speaking.

Let's see one, two, three, four, five, six, seven, eight people still here at 7:30 p.m. The chances are very great that two or three of you are going to have cancer in your lifetimes.

And although the rate of fatalities in terminal illness is decreased markedly over the past 20-30 years, still we get cancer more often than ever before. The cancer that you two or three of you may contract will very likely lead you to chemotherapy, which will very likely lead you to nausea which may or may not be helped by the legal pharmaceutical drugs. But we all know very certainly may be helped by marijuana.

Well that's 10 or 20 years from now. But right now here we have this bill in front of us. You all know, two years ago it passed the Senate without enough time to go on to the House for a vote.

Three years ago it passed the House without enough time to on to the Senate for a vote. It seems to me that paralysis is something that's

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Doctor. Next is Douglas Monaghan. Good evening, sir.

DOUGLAS MONAGHAN: Good evening, Senator McDonald, Representative Lawlor, Members of the Committee. This will be quiet. Hopefully quick.

SEN. MCDONALD: And we appreciate your patience in waiting so long.

DOUGLAS MONAGHAN: Senator McDonald, you and I sat next to each other on a forum back in November on the issue that I want to talk about.

I'm here to testify in support of the House Bill 7238, which is the ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD PROTECTION ATTORNEY.

And someone else said that the Chief Child Protection Attorney had been around the block. This is also my fourth testimony this month.

As a matter of fact, I was in front of appropriations last Tuesday at about ten of 9:00 so I'm getting used to being the last to testify.

But I think it's important. This issue deals with what I think is the most important court that we have in the superior court system, the Juvenile Court.

The reason I say that is, you know you heard the testimony earlier of the, concerning the general contractors and the subcontractors.

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Those issues in courts where we're dealing with things that happened in the past.

Personal injury cases, criminal cases. The Juvenile Court, we're talking about a living court. We're talking about crises that are ongoing and need attention ongoing. So that's why I insist that this is a very important issue.

I've heard this thing about results based accounting lately. And I think when you're considering the issue, I'm asking you to endorse the Chief Child Protection Attorneys request to increase monies paid to lawyers who do Juvenile Court work.

And I think if you look at the data she supplied there's an argument that if you pay us more money you will in effect hopefully pay less money through the Department of Children and Families.

Because if you have effective counsel, we're going to get families reunified more quickly. We're going to cut down the length of time the kids spend in foster care. So therefore, there's sort of a results based accounting pitch here that I'm trying to make.

Why you should pay lawyers more money. This is a great subject, right? Paying lawyers more money. But I mean the reality is, the Chief Child Protection Attorneys told you, we're getting \$25 an hour on average.

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I said this before. You can't get the Maytag repairman to come to your house for less than \$50-75 an hour. And actually a more fair rate of compensation would be \$90 an hour.

I'm not asking you for that. I'm asking you to do what the Chief Child Protection Attorney's ask, pay us \$60 an hour.

You know, I was here in 2005 testifying in support of the creation of the Child Protection Commission. And I appreciate the fact that you created that Commission.

And I think that Chief Child Protection Attorney has done a great job with what she's done. But you've only done half the job. You've created this Commission. There's a lot of improvements that have been made. She's created standard practice for lawyers.

But the bill is coming due again. You need to pay us more money. Now I do want to say that she said something about the sum of the, you know there's a small group of good lawyers who are altruistic.

Well, you know it's my vocation to be a lawyer. There's something more than being a businessman. But it's not altruism. I love doing this work. But I also want to be compensated.

I also disagree with Mr. Kelley's testimony. He said the system is broken. The system is not broken. In a way unfortunately because too

many lawyers are continuing to work for \$25 an hour. The system is not broke.

In New York there was a lawsuit brought by the New York County Lawyers Association. It resulted because the Legislature didn't act. And a judge finally got disgusted, threw up his hands and said, you know, we're going to pay these people \$90 an hour.

But the problem there was they didn't have, they couldn't get lawyers to work. Here we have lawyers. We're in the trenches. We're doing this.

But you can't keep us doing this for this much longer because we'll have to go back to court. We'll have to ask a judge. If you won't do. It's your job as legislators to pay this bill. To fund this. And if you don't, at \$25 an hour, I'm telling you, we're going to have to find some way to go back to court.

So I urge you to please support the Chief Child Protection Attorney both in her budget requests which the Governor saw fit apparently to cut down and pass this legislation.

SEN. MCDONALD: Thank you very much, Mr. Monaghan. And you know, I for one have absolutely no problem with the concept. I think frankly, even at \$60 an hour the State's getting a great bargain. And it's really indefensible to have it at \$25 an hour.

I suspect if I can, all of us will probably, all of those who are remaining at least will be

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on the same page I suspect. But we will also be talking to our friends on the Appropriations Committee where many of these decisions are ultimately going to be made.

Are there any questions for Mr. Monaghan? If not, thank you very much.

DOUGLAS MONAGHAN: Thank you very much.

SEN. MCDONALD: Dan Cornelious. Is there anybody after Mr. Cornelious who would like to testify? You, as they say, have the last word.

DANIEL CORNELIOUS: Good evening, Mr. Chairman and Members of Judiciary Committee. My name is Daniel Lee Cornelious, Jr. I'm a resident of the town of Norwich and a student at the University of Connecticut, Storrs.

As a former legislative intern, under Representative Adam (inaudible) during the 2005 legislative session, as an intern to the Governor's Constituent Service Office, being in this room brings up a sense of nostalgia.

I would like to take this opportunity to commend you for the hard work and dedication you put forth.

I'm here to testify today in opposition to House Bill 7219, AN ACT CONCERNING THE TRIAL OF DRUG DEPENDENT PERSONS.

This bill, as you may well know, would establish a mandatory minimum sentence of no less than five years and up to a maximum of

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TESTIMONY OF DOUGLAS J. MONAGHAN, ESQ.
IN SUPPORT OF RAISED H.B. NO. 7238
AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION
AND THE CHIEF CHILD PROTECTION ATTORNEY

I am a solo practitioner with an office in Groton, Connecticut, in the practice of law for 26 years. I concentrate my practice in juvenile matters, primarily child protection cases. I serve as the secretary of the board of directors of the Juvenile Matters Trial Lawyers Association (JMTLA), with members who practice in every Superior Court for Juvenile Matters (SCJM) across the state. I am also a member of the Connecticut Bar Association, a member of its Committee on Children and the Law and a member of the New London County Bar Association.

I am here to urge the passage of Raised H. B. 7238, chiefly with respect to the increase in the hourly rate of compensation of contract lawyers to \$60 per hour. I have also testified recently before the Select Committee on Children in support of Raised S.B. 1203, which is very similar to 7238.

Based upon data compiled by the Chief Child Protection Attorney (CCPA), contract lawyers who labor in the Superior Court for Juvenile Matters currently average approximately \$25 per hour. This is simply an unacceptably low rate of compensation, which "threaten[s] the adversarial process by creating an unacceptable tension between adherence to professional standards and the financial burden an attorney assumes when serving on an 18-B panel." *New York County Lawyers' Assn v. State of New York*, 294 A.D.2d 69 at ___, 742 N.Y.S.2d 16 (N.Y. App.Div. 2003).

The compensation scheme for juvenile court lawyers has for years operated as a substantial disincentive to perform the professional tasks required by filing an appearance in a case. I have attached to this testimony an exhibit which is the first page of the Judicial Department's fee schedule effective 10/01/86. You don't need to be an economist to see that contract lawyers in SCJM are paid less now than they were more than 20 years ago.

You cannot get a craftsman or tradesperson to work on your television, your car or your washing machine for less than \$50 - \$75 per hour. What is the hourly rate you pay your computer geek to come fix your computer? And yet what you currently pay lawyers who need to be schooled in the law, in psychology, child development, in educational issues, in substance abuse and its treatment, and a plethora of other issues, is a mere \$25 per hour.

DCF is represented in court by lawyers called Assistant Attorneys General. The salaries and benefits of these lawyers come from the budget of the Attorney General, not DCF. Entry level salaries begin at \$59,793 per year and include vacations, health care insurance and so forth. Their overhead is paid by the state. If I'm reading DCF and DAS information correctly, even DCF Social

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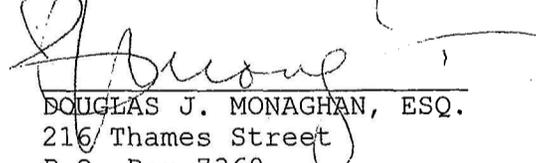
Workers start at \$55,237 per year.

In her written testimony, the CCPA noted that the lowest rates of private attorneys are between \$175 to \$225 per hour. Does anyone recall that lawyers representing John Rowland and others during the fun last days of his administration were charging \$500 to \$600 per hour? In fact, columnist Michele Jacklin reported in a commentary in The Hartford Courant in July 2004 that the chief impeachment counsel's firm billed the state \$1,365 per hour! The CCPA is asking that you increase the hourly rate from \$25 per hour to \$60 per hour. I needed to repeat those figures because it is frankly an almost shocking level of compensation. Frankly, \$90 per hour would be a more reasonable, although clearly discounted, hourly rate.

There is no court in this state that day in and day out has a more profound and immediate and lasting effect on families in our community than the Superior Court for Juvenile Matters. The system of justice requires that parents have an equal voice before the court so that judges can make the best decisions based upon complete and accurate information. DCF is not always right, and parents and children who are represented by zealous and fully prepared lawyers have the best chance of leveling the playing field. As much as DCF is charged with protecting the best interests of children, there are times when its own institutional bias, and stupidity, must be challenged by the child through the child's own attorney.

As detailed in information provided to you by the CCPA, studies have shown that improved legal representation and manageable caseloads have decreased the number of children removed from their homes, have decreased the length of a child's stay in foster care and as a result, have decreased not only the amount of money spent on foster care, but, more importantly, reduces the trauma to the children involved in these matters. My understanding is DCF's budget of \$900 million dollars has been approved to receive an additional \$75.2 million dollars. There should be consideration given to shifting just a few of the millions of dollars allocated to DCF to the CCPA to allow her to improve the legal representation for these children and their families.

Very Respectfully,


DOUGLAS J. MONAGHAN, ESQ.
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REMEMBER
WHEN

9/30/86

GUIDELINES FOR COURT TIME BILLING: JUDICIAL
DEPARTMENT FEE SCHEDULE EFFECTIVE 10/1/86

In implementing the new Judicial Department Fee Schedule for court appointed counsel in Juvenile Matters cases, the following guidelines for counsel billing will apply as of 10/1/86:

1. The new fee schedule changes the system for court time billing only, and will apply to all court appearances by counsel on and after October 1, 1986 - regardless of the date of counsel's appointment to the case.
2. The fee schedule for case preparation continues the same as in the past: \$20.00 for the first three hours of preparation on a case and then \$15.00 per hour thereafter until the case is completed. All case preparation must be itemized and other than for a detention hearing, no preparation done the day of a court hearing will be compensated. Preparation must be billed by the actual time spent - whether under the minute billing system or by the tenth of an hour. For counsel's assistance in billing preparation charges, a breakdown of the \$20 and \$15 hourly preparation charges by the minute (5 minute intervals) and the .1 of an hour is attached.
3. Under the new court time schedule, all court hearings will be billed under a descending hourly rate which has a maximum of \$135.00 per day. All cases heard and completed within a given hour (or hours) are included within the hourly payment(s). payment for the same hour may not be applied to more than one case.

The hourly rates include:

\$50 - for the first hour, or any portion thereof, for one or more cases

25 - for the second hour, or any portion thereof, for one or more cases

15 - for the third and each succeeding hour, or any portion thereof, for one or more cases, up to a maximum of \$135 per day

BILLING STANDARDS

In billing court time appearances, the following standards

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Jeanne Milstein
Child Advocate

STATE OF CONNECTICUT

ILD DV

18-20 TRINITY STREET, HARTFORD, CONNECTICUT 06106

TESTIMONY OF THE OFFICE OF THE CHILD ADVOCATE
BEFORE THE JUDICIARY COMMITTEE

February 26, 2007

Good morning Senator McDonald, Representative Lawlor, and members of the Committee. My name is Christina D. Ghio. I am an attorney and Assistant Child Advocate for the Office of the Child Advocate. Thank you for the opportunity to testify in support of Senate Bill No. 7238, An Act Concerning the Commission on Child Protection and the Chief Child Protection Attorney.

One of the most important things this legislature can do to improve accountability and outcomes for children whose families are involved with DCF is to ensure that all attorneys appointed to represent children and parents provide the highest quality of legal representation. Lawyers that provide good representation hold DCF and judges accountable by investigating the facts, researching the law, filing motions, making good records, and filing appeals if necessary. They challenge other attorneys to do the same. Most importantly, they meet with their clients, keep their clients informed, keep themselves and the court informed about the needs of their client and the status of the case, and take timely action on behalf of their clients. They make a difference in the lives of children by preventing unnecessary placement disruptions and ensuring that DCF provides appropriate services in a timely way in turn, enhances their chances to grow up safe and healthy in permanent, stable homes.

To ensure that children and indigent parents have high quality legal representation, we must structure the attorney appointment system in a way that attracts and retains highly skilled attorneys, provides them with good supervision, and incorporates quality assurance so that attorneys who aren't zealously representing their clients no longer receive contracts. Last year, this legislature began to address the poor quality of legal representation in child abuse and neglect cases by creating the Commission on Child Protection. While the Chief Child Protection Attorney, Carolyn Signorelli, is working hard to establish training requirements and practice standards, the Commission has insufficient resources to provide true quality assurance or restructure the compensation system to attract and retain highly skilled attorneys.

Senate Bill No. 1203 would establish the foundation for a system of high quality legal representation in three ways:

First, the bill makes clear that initial and in-service trainings will be mandatory and comprehensive. Such training is critical to improving the quality of legal representation. Child abuse and neglect proceedings are extremely complex. In addition to the law directly affecting the proceedings, lawyers must navigate the Department of Children and Families, the educational system, and the various public benefits and social services systems. They must be able to assess

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the circumstances of the family and child and advocate for appropriate evaluations and services. They must be able to identify and advocate for what is best for the child.

Second, the bill would establish an hourly rate of payment for attorneys, rather than a flat fee. While poor payment is no excuse for poor representation, the current flat fee structure acts as an incentive for attorneys to carry excessive caseloads. Prior to creation of the Commission on Child Protection, some attorneys had contracts to take up to 300 cases per year. As an attorney who has represented children in these cases, I can tell you it is simply not possible to provide good quality legal representation with that many clients. Additionally, an hourly rate reflects that some cases are more complex than others, requiring attorneys to spend increased time to best understand and advocate for a particular child.

Third, the bill would establish a payment rate for non-attorney professionals. In so doing, the bill would allow attorneys to employ professionals such as social workers and educational advocates. Such services are invaluable. Representing parents and children in child abuse and neglect cases is extremely challenging, because the law is complex and the children who have been abused and neglected have so many unmet needs. Working in tandem with skilled professionals would help attorneys, who typically serve in a dual role as attorney and guardian ad litem, properly identify their clients' needs and advocate for appropriate services.

Thank you for the opportunity to testify.

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STATE OF CONNECTICUT
JUDICIAL BRANCH

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Testimony of Deborah Fuller
Judiciary Committee Public Hearing
February 26, 2007

**House Bill 7238, An Act Concerning the Commission on Child Protection
and the Chief Child Protection Attorney**

Good afternoon. Thank you for the opportunity to submit written testimony in support of House Bill 7238, An Act Concerning the Commission on Child Protection and the Chief Child Protection Attorney. The Judicial Branch urges the Committee to act favorably on this proposal.

This proposal would facilitate improvement in the quality of legal representation for children and indigent parties, primarily in child protection proceedings. We strongly support this goal. It is impossible to overestimate how important adequate, competent legal representation is to the children and families that come before the Superior Court for Juvenile Matters.

As the Committee is aware, the main reason that the Commission on Child Protection was created two years ago was to address inadequacies in the existing system of representation. Since their inception, the Commission and the Office of the Chief Child Protection Attorney have made great progress. This bill will facilitate further progress. We note that section 2 of the proposal, which would raise the attorneys' hourly rate, would require additional resources for the Commission, and we would hope that those resources will be provided.

We would respectfully suggest two minor changes to the language, and have attached a suggested amendment to that effect.

Thank you for the consideration of this testimony.

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**Suggested Amendment to
House Bill 7238, An Act Concerning the Commission on Child
Protection and the Chief Child Protection Attorney**

1. In line 130, add "any contract application from" after "reject".
2. In line 184, delete "the Commission on Child" and insert "required on forms prescribed by the Office of the Child Court Administrator" in lieu thereof.
3. Delete lines 185 and 186 in their entirety.

Judiciary Committee

Public Hearing: February 26, 2007

Support for SB 7238

My name is John Kelley. I have practiced in the areas of family law and child protection law for sixteen years. I have had the opportunity to practice as a legal services lawyer, a private bar attorney, an attorney for the Department of Children and Families and as an attorney for Children In Placement (the Connecticut Court Appointed Special Advocates organization). I have also been given the chance to serve as the American Bar Association Rule of Law Liaison to Albania in 1997-1998. In that position I worked to help the Albanians improve their legal system. Recently I served in both Baghdad and Washington in positions with the United States Army. In those offices I attempted to help the Iraqi government improve their legal system.

I would like to provide to the committee a statement of support for Raised Bill Number 7238.

We all recognize the importance of the well being of children in our society. Most parents make considerable sacrifices so that their children are safe, happy, well-educated and prepared to become well adjusted and contributing members to society as adults. To ensure that outcome, parents search out the best resources for their children. They try to find the best teachers, the best doctors, and the best of any other professionals that will guarantee the success and well being of their children.

Some children, unfortunately, do not have parents like this. For these children, the struggle is not about academic or athletic achievement, it is about survival. These are the children in our Child Protection System. These children, more than any other children, need effective advocates. Many of these children have problems that require competent and professional help. For these children to receive that assistance they need strong voices on their behalf.

Under the present system of providing attorneys to parents and children in the Connecticut child protection system, we penalize lawyers for working on behalf of their clients. The present flat rate system disadvantages attorneys who work for their clients. The more they work on behalf of their children, the less they are paid.

This is not the way to build the rule of law for those who most need it. Good attorneys who care desperately about these children will work hard in their interests. But they will do it at their own expense. This is no way to build a strong system of representation for children and families in Connecticut.

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Law firms and businesses across this country know that to attract employees you must pay them a competitive salary. Further, once they have proven themselves, to retain them you must reward their efforts.

We have made some progress in Connecticut recently on behalf of children and families within the child protection system. The state is providing for the first time, through the Office of the Chief Child Protection Attorney, professional trainings. However, is it fair or reasonable to place additional demands upon those attorneys working in the field of child protection or those about to enter this demanding area of law without increasing their compensation?

You may get bright and enthusiastic lawyers who see the training opportunities as a chance to sharpen their skills. They may well use these trainings to improve their competence and then move on more lucrative areas of the law.

Furthermore, if we do not change the present system of payment for the attorneys, we are guaranteeing that they will need to maintain extremely high caseloads in order to make a living. This will inevitably come at the expense of the children and parents they represent.

The practice of child protection law is very specialized. Attorneys practicing in this area need to be experts in federal law, state law, state regulations, state departmental policies, medicine, psychology and education, at the very least. These lawyers are being asked to achieve this expertise at their own expense and with the promise of no financial gain. In addition we demand that not only do they know their child or parent, we ask that they talk to relatives, service providers and all who are involved with this child and their family. We expect that they attend all treatment planning conferences, administrative case reviews, school meetings and any and all meetings relating to this child and family. All of these efforts are made for \$500.00.

It is also important to recognize that the budget of the Department of Children and Families is over 900 million dollars. How do we hold this enormous bureaucracy accountable?

There is only one way to ensure the accountability of this huge agency. It is to provide poor and neglected children and their parents with attorneys who are given appropriate pay and resources. Only when the incredible imbalance of power is corrected will poor children and parents receive justice and Connecticut taxpayers receive the services they are paying for.

I am not only asking that you improve the pay for attorneys practicing in this area of law, I am asking that you improve the representation by providing the needed resources to attorneys practicing in this area.

The major imbalance in favor of the government can be corrected. By allowing attorneys who represent children and parents access to non-attorney professionals, the children and

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parents will be given a modicum of equality. As it stands now all the professional expertise rests with the state.

So what does this say to the Connecticut child who has been ripped from his home and thrown into a strange house?

What we in Connecticut are saying to this child is that we will provide you with an attorney. However, the more he or she talks to you and gets to know you and your needs, the less we will pay this lawyer.

I think our present system makes a mockery of our state motto: "That which is transplanted is sustained."

Is this what we want for the most vulnerable members of our state?

Respectfully Submitted,

John Kelley, Esq.

**COMMISSION ON CHILD PROTECTION
STATE OF CONNECTICUT**

**CONNECTICUT STANDARDS OF PRACTICE FOR LAWYERS
REPRESENTING PARENTS IN CHILD PROTECTION CASES**

Adopted by the Connecticut Commission on Child Protection on
November 16, 2006, pursuant to Connecticut General Statute § 46b-123c(3)
(Subject to Revision)

INTRODUCTION

These standards were adapted from, and track, the American Bar Association's "Standards of Practice for Attorneys Representing Parents in Child Protection Cases," adopted in August 2006. In keeping with its legislative mandate to adopt standards of practice, the Commission on Child Protection convened a Work Group consisting of attorneys currently practicing in the child protection field, including four juvenile contract attorneys.* The Work Group reviewed, discussed and revised the model standards to ensure their consistency with Connecticut law and practice.

All indigent parents and legal guardians of children ("respondents") subject to court proceedings involving allegations of child abuse and neglect are entitled to legal representation in proceedings involving child protection. These Standards are meant to apply when a lawyer is appointed for a parent or legal guardian in any legal action based on: (a) a petition of neglect or uncared for filed with respect to their child; (b) an action to terminate parental rights; or (c) a motion for reinstatement of guardianship.

The standards are divided as follows:

- I.** Connecticut Framework for the Appointment of Attorneys for Indigent Parents and Legal Guardians in Child Protection Matters.
- II.** Summary of the Basic Obligations of Respondent's Attorneys.
- III.** Basic Obligations of Respondent's Attorneys.

The standards include "black letter" standards, or requirements written in bold. Following the black letter standards are "actions." These actions further discuss how to fulfill the standard; implementing each standard requires the accompanying action. After the action is "commentary" or a discussion of why the standard is necessary and how it should be applied. When a standard does not need further explanation, no action or commentary appears.

Representing a parent in an abuse and neglect case is a difficult and emotional job. There are many responsibilities. These standards are intended

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to help the attorney prioritize duties and manage the practice in a way that will benefit each respondent on the attorney's caseload.

***Work Group Members:**

Paul Chill, Assoc. Dean UCONN; Martha Stone, Esq.; Ellen Morgan, Esq.;
Doug Monaghan, Esq; Mildred Doody, Esq.; Sue Cousineau, Esq.;
Lynn Cochrane, Esq.

I. CONNECTICUT FRAMEWORK FOR THE APPOINTMENT OF ATTORNEYS FOR INDIGENT PARENTS AND LEGAL GUARDIANS IN CHILD PROTECTION MATTERS.

A. C.G.S. § 46b-136. APPOINTMENT OF ATTORNEY TO REPRESENT CHILD OR YOUTH AND PARENT OR GUARDIAN.

In any proceeding on a juvenile matter the judge before whom such proceeding is pending shall, even in the absence of a request to do so, provide an attorney to represent the child or youth, his parent or parents, guardian or other person having control of the child or youth, if such judge determines that the interests of justice so require, and in any proceeding in which the custody of a child is at issue, such judge shall provide an attorney to represent the child and may authorize such attorney or appoint another attorney to represent such child or youth, parent, guardian or other person on an appeal from a decision in such proceeding. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part the cost thereof, it shall assess as costs against such parents, guardian, or custodian, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid for by the court in providing such counsel, to the extent of their financial ability to do so.

B. CONN.PRAC. BK. § 32a.1. RIGHT TO COUNSEL AND TO REMAIN SILENT.

- a. The judicial authority shall advise and explain to the parents or guardian of a child or youth their right to silence and to counsel prior to commencement of any proceedings.
- b. The parents or guardian of a child or youth and the child or youth have the rights of confrontation and cross-examination and may be represented by counsel in each and every phase of any and all proceedings in juvenile matters, including appeals, and if they are unable to afford counsel, counsel will be appointed to represent them if such is their request. The judicial authority shall appoint counsel for these parties or any of them (1) upon request and upon a finding that the party, is, in fact, financially unable to employ counsel, or (2) in the case of counsel for the child, whether a request is made or not, in any proceeding on a juvenile matter in which the custody of a child is at issue, or if in the opinion of the judicial authority the interests of child and the parents conflict, or (3) in the case of counsel for the child and the parent, whether a request is made or not, if in the opinion of the judicial authority a fair hearing necessitates such an appointment.
- c. Where the judicial authority so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, it shall assess as costs against such parent or custodian, including any agency vested with the legal custody of the child, the expense so incurred and

paid for by the court in providing such counsel, to the extent of their financial ability to do so. Reimbursement to the appointed attorney of un-recovered costs shall be made to that attorney by the judicial branch upon the attorney's certification of his un-recovered expenses to the judicial branch.

d. Notices of initial hearings on petitions, shall contain a statement of the respondent's right to counsel.

e. Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, ,uncared-for or dependent, shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of his right to retain counsel, and that if he is unable to afford counsel, counsel will be appointed to represent him, that he has a right to refuse to make any statement and that any statements he makes may be introduced in evidence against him. (Adopted June 24, 2002, to take effect Jan. 1, 2003)

II. SUMMARY OF THE BASIC OBLIGATIONS OF COUNSEL FOR INDIGENT RESPONDENT'S IN CHILD PROTECTION PROCEEDINGS.

A. GENERAL

- 1. Adhere to all contractually-mandated training and or mentoring requirements before accepting a court appointment to represent a parent in an abuse or neglect case, as well as all mandated ongoing training requirements.**
- 2. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules.**
- 3. Understand and protect the parent's rights to information and decision making while the child is in foster care.**
- 4. Actively represent a parent in the preparation phase of a case, when applicable.**
- 5. Avoid continuances (or reduce empty adjournments) and work to reduce delays in court proceedings unless there is a strategic benefit for the client.**
- 6. Cooperate and communicate regularly with other professionals in the case.**

B. RELATIONSHIP WITH THE CLIENT

1. Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel.
2. Act in accordance with the duty of loyalty owed to the client.
3. Adhere to all laws and ethical obligations concerning confidentiality.
4. Provide the client with contact information in writing and establish a message system that allows regular attorney-client contact.
5. Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceeding, any orders the client is responsible to follow and the potential consequences of failing to obey court orders or cooperate with service plans.
6. Work with the client to develop a case timeline and tickler system.
7. Provide the client with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule or court order.
8. Be alert to and avoid potential conflicts of interest or the appearance of a conflict of interest that would interfere with the competent representation of the client.
9. Act in a culturally competent manner and with regard to the socioeconomic position of the parent throughout all aspects of representation.
10. Take diligent steps to locate and communicate with a missing parent and decide representation strategies based on that communication.
11. Be aware of the unique issues an incarcerated parent faces and provide competent representation to the incarcerated client.

C. ROLE OF ATTORNEY FOR MINOR WHEN SEPARATE GAL PRESENT

When both a guardian ad litem and an attorney are present, the attorney's role "should mirror as closely as possible the attorney's role when representing "unimpaired adults." *Ireland v. Ireland*, 246 Conn. 413, 438 (1998) (en banc).

D. ROLE OF GAL FOR MINOR CHILD

The role of the GAL is to speak on behalf of the best interest of the child in the proceedings that are the subject of the GAL appointment. Once a court appoints a separate GAL to represent the child's best interest, the GAL's position on behalf of the child takes precedence over that of the parent or legal guardian within the context of the legal proceedings and the court's ultimate assessment of the child's best interest. *Tayquon H.*, *supra* at 704.

"While the best interest of a child encompasses a catholic concern with the child's human needs regarding his or her psychological, emotional, and physical well-being, when both a guardian ad litem and an attorney have been appointed for a child, their respective roles and the duties attendant to those roles should adhere to that basic distinction. Specifically, the guardian ad litem should refrain from acting as a second attorney for the child. Just as it is not normally the province of the attorney to testify, it is not the province of the guardian ad litem to file briefs with the court." *Tayquon H.* at 707. "The duties of the guardian ad litem, however, are contextually specific to the case at hand, and the scope of those duties should be set by the trial judge and communicated to the guardian ad litem. Because those duties may subsume those traditionally performed by counsel when counsel is the child's sole representative ... counsel's duties must be similarly articulated by the court." *Id.* at 707-708 and notes 19 & 20.

Commentary: The Appellate Court's discussion of the need for the trial court to set the parameters of the GAL's role and functions in a particular case results from a recognition that there is otherwise a lack of legislative or other guidance on this issue. See *Id.* at note 20. Since the legislature has delegated the responsibility to set Standards of Practice to the Commission on Child Protection, these Standards should serve as the necessary guidance to dually appointed attorneys and separate GAL's when representing children in child protection proceedings. See Section V. B. (5) below.

III. SUMMARY OF THE AUTHORITY AND DUTIES OF THE ATTORNEY/GAL AND THE GAL

A. BASIC OBLIGATIONS: THE CHILD'S ATTORNEY/GAL SHOULD

- 1. Achieve proficiency in legal advocacy and trial practice and obtain a working knowledge of the federal and state statutes, regulations and rules effecting children's rights and entitlements.**
- 2. Attend available trainings and seminars offered through or in conjunction with the Commission on Child Protection or other relevant training to ensure current working knowledge and proficiency in the areas outlined in III.A.(1) above.**
- 3. Ensure that each child client is aware that he or she has an attorney.**
- 4. Meet With Child.**
- 5. Obtain copies of all pertinent documents.**
- 6. Participate in all court appearances, case status conferences, negotiations, discovery, pretrial conferences, mediations, and whenever possible, treatment planning conferences, administrative case reviews and hearings.**
- 7. Inform other parties and their representatives that he or she is representing the child and expects reasonable notification prior to case conferences, changes of placement, and other changes of circumstances affecting the child and the child's family.**
- 8. Take steps to ensure that the case is processed in a timely manner consistent with the child's wishes and best interest.**
- 9. Counsel the child on *an ongoing basis* and in an age-appropriate manner concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.**
- 10. Develop a theory and strategy of the case to implement at hearings, including the development of factual and legal issues.**

11. Identify family members and professionals who may already be, or who may become, a stable and long-term resource for the child.
12. Participate in formulating a permanency plan for the child that is consistent with his or her expressed wishes.

B. ASSESS CLIENT PREFERENCES

1. The child's attorney should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance.
2. To the extent that a child cannot express a preference, due to age and/or development, the child's attorney/GAL shall make a good faith effort to determine the child's wishes.
3. To the extent that a verbal or unimpaired child does not or will not express a preference about particular issues, the child's attorney/GAL should determine if the child has no opinion and is willing to delegate the decision-making authority to the attorney/GAL, wishes the attorney/GAL to remain silent on the issue, or wishes a preference to be expressed only if the parent or other parties are not present. The position taken by the attorney/GAL should not contradict or undermine other issues about which the child has expressed a preference.
4. Determine if the child has the "ability to make adequately considered decisions."

C. ACTIONS TO BE TAKEN

1. Communicate and visit with the child.
2. Investigate the case.
3. File Pleadings.
4. Request Services.
5. Consistent with the child's wishes and best interests, the child's attorney should assure that a child with special needs receives the appropriate and least restrictive services to address any physical, mental, or developmental disabilities.
6. Negotiate settlements and participate in mediation.

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7. **Ensure that their clients' educational, health, and mental health needs are being addressed and met.**
8. **Report abuse or neglect:**
9. **Consider expanding the scope of representation.**

D. HEARINGS

1. **The child's attorney must attend all hearings and participate in all telephone or other conferences with the court unless a particular hearing involves issues completely unrelated to the child.**
2. **Explain to the client, in a developmentally-appropriate manner, what is expected to happen before, during and after each hearing.**
3. **Develop a case theory and strategy to follow at hearings and negotiations.**
4. **File Motions and Objections.**
5. **The child's attorney should present and cross examine witnesses, offer exhibits, and provide independent evidence as necessary.**
6. **Determine if the child should attend court proceedings.**

E. TRIAL PREPARATION AND PRACTICE

1. **Based upon the progress of the case and its status the attorney/GAL should amend and/or confirm the case strategy in consultation, as developmentally appropriate, with the child.**
2. **Identify, locate and prepare all witnesses.**
3. **Identify, secure, prepare and qualify expert witness when needed. When permissible, interview opposing counsel's experts.**
4. **Prepare and make all appropriate motions and evidentiary objections. Be aware of the need to make a record for appeal and ensure that any orders entered are in writing.**
5. **Prepare and present exhibits.**
6. **Request the opportunity to make opening and closing arguments.**

7. Prepare proposed findings of fact, conclusions of law and orders when they will be used in the court's decision or may otherwise benefit the child.
8. Determine whether child should testify.
9. Prepare the child to testify, if necessary.
10. The child's attorney should seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner.
11. The child's attorney should be prepared to address challenges to the child's testimony and statements.

F. POST-TRIAL/DISPOSITION

1. After disposition the child's attorney should seek to ensure continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.
2. The child's attorney should review all written orders to ensure that they conform with the court's verbal orders and statutorily required findings and notices.
3. The child's attorney should discuss the orders and their consequences with the child.
4. The child's attorney should monitor the implementation of the court's orders and communicate to the responsible agency and, if necessary, the court any non-compliance.

G. APPEAL

1. Explore the necessity of an appeal.
2. If the child's attorney determines that an appeal would be frivolous or that he or she lacks the necessary experience or expertise to handle the appeal, the lawyer should notify the court and the Chief Child Protection Attorney and seek to be discharged or replaced.
3. The child's attorney should take a position in any appeal filed by the parent, agency, or other party and participate fully in the appellate process, unless discharged.

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4. When the decision is received, the child's attorney should explain the outcome of the case to the child.
5. The child's attorney should discuss the end of the legal representation and determine what contacts, if any, the child's attorney and the child will continue to have.

H. DUTIES OF GAL FOR MINOR CHILD

A. DETERMINING THE CHILD'S BEST INTEREST

1. Meet with child.
2. To determine the child's best interest, the GAL must conduct thorough, continuing, and independent investigations.
3. Maintain complete written records.

B. ADVOCATING BEST INTEREST

1. Report incidents of child abuse.
2. Participate in formulating a permanent plan for the child that achieves his or her best interest.
3. Attend all court proceedings, including hearings, Case Status Conferences and pre-trials.
4. Whenever possible and if deemed necessary to ensure the child's best interest, attend treatment plan reviews, administrative case reviews, permanency planning conferences, Board of Education meetings.
5. Take whatever steps necessary to ensure child's best interest are protected.
6. Monitor the case.

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**There is no testimony for pages 2970 - 2975.
The next page is 2976.**

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COMMITTEE ON JUDICIARY : PUBLIC HEARING - 2/26/07

Testimony of Carolyn Signorelli
Chief Child Protection Attorney



Commission on Child Protection
State of Connecticut

Office of the Chief Child Protection Attorney

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COMMITTEE ON JUDICIARY : PUBLIC HEARING - 2/26/07

Testimony of Carolyn Signorelli
Chief Child Protection Attorney



Commission on Child Protection
State of Connecticut

Office of the Chief Child Protection Attorney

Good afternoon, Senator McDonald, Representative Lawlor and Committee members. My name is Carolyn Signorelli, and I was appointed Chief Child Protection Attorney by the newly created Commission on Child Protection on March 31, 2006. Thank you for the opportunity to speak in support of Raised Bill 7238, *An Act Concerning the Commission on Child Protection and the Chief Child Protection Attorney.*

Passage of this bill will be instrumental in ensuring that the goals of the legislation passed by this body in June of 2005 creating the Commission on Child Protection will be realized. By increasing the rate we pay child protection attorneys from a flat rate of \$500.00 per case for the first 30 hours of work to a minimum of \$60.00 per hour and allowing for payment to non-attorney professionals who assist attorneys in these matters, Connecticut will be following the recommendations of national and state experts in child protection law on how to improve the delivery of legal services to parents and children in child protection matters.

The United States and our Supreme Courts have recognized that the right to family integrity belongs to both parents and children and that this right has constitutional significance warranting protection under the due process clause and equal protection clauses of the 14th Amendment and the privacy interests found in the 9th amendment.

In recognition of the importance of these rights, Connecticut has statutorily granted parents and children the right to counsel in child protection proceedings in juvenile court. Although Connecticut has yet to address either Judicially or Legislatively whether there is a corresponding right to "effective assistance of counsel," it stands to reason that due process rights in such profoundly important and often complicated cases are meaningless without representation from competent zealous attorneys and at minimum the state is obligated to provide attorneys who consistently meet the bare minimum requirements of our Professional Rules of Conduct. Currently the state is not consistently meeting that obligation. Raised Bill 7238 is a clear step in the right direction to render the due process protections afforded families faced with the awesome power of the state to disrupt and sever their ties to each other forever meaningful.

Goals of Legal Advocacy in Child Protection:

Competent attorneys in child protection matters are vital to a system of justice that is accountable to its constituents and works as it is designed to work: the objective arbiter receives relevant information from all parties to a dispute and then based upon that information makes a decision that is consistent with the established facts and the law. Without knowledgeable and zealous advocates in juvenile matters our child welfare system does not function properly for the children subject to child protection proceedings because the voices of children and the positions of parents are not adequately presented to the judges hearing the cases.

We recognize that it is crucial to the proper functioning of our criminal justice system, that those accused of crimes, no matter how heinous their acts and no matter how clear their guilt may seem to be, are entitled to zealous competent attorneys who

are capable of ensuring the state can meet its burden to prove guilt beyond a reasonable doubt. Yet when it comes to parents, many of whom do not commit purposeful acts of neglect or abuse, but are struggling with the effects of poverty and past abuse themselves, we don't believe they are entitled to the same level of protection from state interference with rights that have been deemed "essential" "basic civil rights."

The importance of competent legal representation is magnified in child protection proceedings because the state's burden of proof is lower than in a criminal proceeding. As a result, it is easier for the state to interfere with a family's integrity, especially if the court is not hearing equally from all parties to the proceedings. Children in the system of course need protection on so many fronts; sometimes from abusive and neglectful parents, often times from bureaucratic failures that plague the child welfare system, and in some cases from overprotective child protection workers whose assessment of risk is flawed due to the pressure that possibly making a fatal mistake places upon them.

Quality legal representation in the child protection field requires attorneys to become educated in a unique, complicated field that encompasses a wide variety of knowledge in the law and social welfare, as well as skill in mediation and trial techniques. These attorneys are responsible for ensuring that due process rights are protected; that DCF has a valid basis for filing a petition of neglect or abuse in court; that DCF and other state agencies provide necessary services in a timely fashion to address the issues with which their client presents; understanding their client's presenting issues, whether they are facing domestic violence, substance abuse, mental health, educational, or vocational challenges; that their client receives whatever benefits or services to which they're entitled under federal and state statutes; and that any proposed permanent placement is in their client's best interest and will have the best

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chance for success. Attorneys for parents play a crucial role in assisting their clients to quickly provide the permanency, stability and nurturing their children deserve.

Lack of professionalism, skill and zealousness on the part of attorneys for parents and children short changes their clients and leads to unproductive court hearings, wasteful continuances, ignorance of entitlement statutes and available programs, complacency in the face of DCF and court delays, and drawn out trials. All of these problems have a devastating impact upon the system and its ability to achieve positive outcomes and permanency for children.

RB 7238

In order to combat the effects of high case loads and poor legal advocacy currently existing, the proposed bill contemplates the implementation of hourly compensation at an increased rate of \$60.00 per hour for child protection attorneys. This measure will improve outcomes for children and families in juvenile court by attracting and maintaining a greater number of high caliber attorneys, reducing caseloads, promoting more time devoted to cases, and the ability to monitor compliance with the Standards of Practice issued by the Commission on November 16, 2006.

Compensation to Attorneys: Juvenile Contract attorneys previously earned \$350.00 per case for up to 30 hours of work. The hourly rate thereafter is \$40.00 per hour. The Juvenile Contract Attorneys were given a rate increase of \$150.00 per case or and increase from \$11.66/hr. to \$16.66/hr for FY 2007. Studies indicate that the average child protection case requires anywhere from 15 to 20 hours of work which equates to an hourly compensation rate of \$25.00 per hour. If we contrast this to the rate of \$65.00 per hour for Special Public Defenders providing representation to criminal

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defendants, it becomes evident that Connecticut does not really believe the rights of these children and their families matter.

GOVERNOR'S BUDGET:

The Governor's budget included a 5% increase for an hourly rate to contract attorneys for a total increase of \$460,000.00 or an hourly rate of approximately \$36.00. This is insufficient to move to the \$60.00 hourly rate that the Commission requested in its budget options, which would require an additional \$6 million.

The Governor has provided funding in the amount of \$75,000.00 for the Child Welfare Law Specialty Certification program the Commission has initiated and \$45,000.00 in the following two years for training. The Governor's Budget Proposal did not include any additional positions for the Commission.

Without the ability to attract promising new attorneys and maintain those who become knowledgeable skilled advocates with reasonable compensation and to monitor the quality of services provided, certification and training alone will fail to result in any significant improvement to the system.

LEGISLATIVE PROPOSALS: RB 7238

In an effort to secure necessary reforms and funding, the Commission on Child Protection has proposed legislation to increase attorney compensation to \$60.00 per hour, to permit utilization of non-attorney professionals in client advocacy in order to promote a multi-disciplinary approach to child protection representation, and to provide adequate staff to implement the statute's requirements.

- 1) (Sec. 2(i)(1)). Increase Compensation to Child Protection Contract Attorneys:

Lawyers practicing in juvenile court under contract with the state would be paid \$60.00 per hour and be required to submit detailed billing statements to document services provided.

Rationale for Hourly Rate System:

The contract model we currently have must be retained and improved in order to provide representation necessary due to the high number of parties involved in child protection matters.

In order to combat the effects of high case loads and poor legal advocacy currently existing, the proposed bill contemplates the implementation of hourly compensation at an increased rate of \$60.00 per hour for child protection attorneys. This measure will improve outcomes for children and families in juvenile court by attracting and maintaining a greater number of high caliber attorneys, by promoting more time devoted to cases, and compliance with the Standards of Practice issued by the Commission on November 16, 2006.

Comparative Compensation:

<u>Lowest rates of private attorneys</u>	<u>Hourly rates Special P.D.'s</u>	<u>States w/ = COL</u>	<u>CTChildProtection Attorneys</u>
\$175.00 to \$225.00/hr.	\$65/hr. felonies	\$60 to \$100/hr.	Avg.: \$25/hr.

In Washington State a pilot program there implemented standards of representation, decreased caseloads and increased compensation rates for parent's attorneys. The pre-pilot and post-pilot measures of certain child welfare outcomes linked

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to court progress and intervention was performed by the National Council of Juvenile and Family Court Judges. The overall findings are summarized as follows:¹

The length of time in foster care decreased from 290.6 to 235.6 days.² Each day in foster care costs \$24.90,³ which means that each child spending 45 fewer days in foster care would save the state \$1,120.

Even more importantly, reunification rates under the pilot program in Washington increased from 36.8% to 56.4%, and cases involving the termination of parental rights decreased from 41.3% to 22.9%, leading to substantial savings. These outcomes are especially telling given that the cases conducted entirely after the initiation of the pilot program in which the parties had a *prior history* with the court were 6.9 times more likely to have an outcome of reunification than cases with a prior history conducted prior to the initiation of the pilot program, suggesting that better representation led to this preferred outcome. In the post-dependency order reunifications (80% of all reunifications), parents were successfully able to change their behavior, lifestyles, or situations to establish a safe environment for their children, even as monitored for the six months following reunification.⁴ "Data provided by the State of Washington, Office of the Administrator for the Courts indicate that a new dependency petition was not filed on any case that researchers coded as having an outcome of reunification."⁵

This increase in reunification of children with their families was found to result in such significant foster care savings that Justice Bobbe Bridge and Joanne Moore concluded that in Washington, the savings would fully offset the cost of the program on a statewide basis within a two- or three-year period.⁶ The cost of one year of care for an abused or neglected child at the DCF-run Connecticut Children's Place is \$339,000.⁷

¹ Technical Assistance Brief, attached: *Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation*, ©2003, National Council of Juvenile and Family Court Judges. All Rights Reserved.

² Oetjen, Jason A. *Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation*. 2003. Pg. 7.

³ In Connecticut, the basic foster care maintenance payment for a 30-day month for children ages 0-5 is \$745, ages 6-11 is \$756, and ages 12-18 is \$822, effective July 1, 2006. A higher payment is made for medically-complex children of \$1358.10. See: <<http://www.dir.ct.gov/dcf/Policy/Trmt36/36-55-25-2.htm>>.

⁴ Bridge, Justice Bobbe J. and Joanne I. Moore. *Implementing Equal Justice for Parents in Washington: A Dual Approach*. Pg. 37.

⁵ Oetjen, Jason A. *Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation*. 2003. Pg. 8.

⁶ *Id.*

⁷ Connecticut Voices for Children. *Foster Care: Helping Abused and Neglected Children*. Candidate Briefing: September 2006. Available at <<http://www.ctkidslink.org/publications/CB06FosterCare.pdf>>.

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The average cost of a year of foster care is roughly \$10,803.⁸ There are also costs associated with judicial review and DCF staffing for each case. Thus, removing 20% of children from state-sponsored care and placing them back with their families would save the state substantial amounts of money every year. Reducing the number of days children remain in out of home care by just 55 days would lead to an eventual cost savings in foster care expenses alone of \$1,435.00 per removed child each year or \$4,102,665.00 per year (based upon a 2 yr. avg. entry of 2859 children per year).

2) (Sec. 2(i)(2)) Encourage child protection contract attorneys to utilize a multi-disciplinary model of representation;

By increasing the hourly rate to \$60.00 per hour, there would be a sufficient appropriation to allow attorneys to bill at a lower rate for non-attorney work performed by social workers, investigators, and paralegals.

3) (Sec. 3(d)) Provide funding to create and fill additional positions necessary to complete the work of the Commission in a timely and effective manner.

CONCLUSION:

The inequities in the current system are overwhelming. Constitutional rights to family integrity are recognized by Federal and Connecticut Courts. However, in this state there is a major power imbalance between the various participants in the system. On the one side there are poor families, primarily represented by underpaid solo-practitioners, facing the unmatched resources of the government. These families need and deserve competent and zealous legal representation. A commitment to adequate protection of their rights warrants a substantial increase in the compensation paid to the

⁸ This estimate is an average of costs for the various age ranges and medically complex cases. See: http://www.dir.ct.gov/dcf/Policy/Fadopt41/41_50_6.htm.

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attorneys charged with that responsibility, as well as sufficient resources to monitor and support those attorneys.

The statistics cited above reflect the systemic cost savings that can result when quality legal representation is promoted through reasonable compensation, lower caseloads, increased training, and multi-disciplinary methods of case management and advocacy.

Reform of our current system of legal representation in child protection matters is crucial to the well-being of the children in our child protection system. Knowledgeable, zealous, skilled attorneys are the most effective means to hold the court system, DCF and other attorneys accountable to ensure that children's rights and well-being are protected, that various federal and state entitlements to benefits and services are honored, that creative solutions are fostered to resolve cases consistent with their client's interests, and if necessary, that the State be required to prove its allegations before it can disrupt or remain in a family's life. Promoting a legal system that provides for such representation will be a cost effective means to achieve the goals of quality representation, appropriate case management and service provision, and accountability of the system.

I respectfully request that this committee support RB 7238 to deliver competent and comprehensive legal services to those children and families dealing with the effects of poverty, violence, substance abuse, mental health issues, neglect and abuse in our juvenile court system. If you have any additional questions, I would be happy to answer them.

Respectfully Submitted,



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Carolyn Signorelli Cell: 860-729-8181

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Commission On Child Protection
State of Connecticut

Office of the Chief Child Protection Attorney

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MISSION STATEMENT

It is the mission of the Commission on Child Protection to ensure that children and indigent parents who require legal services and guardians ad litem in child protection, child custody and child support cases in Superior Court, receive high quality, competent and zealous representation. The Commission will execute a plan of reform, training programs and support services in order to assure that child protection attorneys and guardians ad litem are knowledgeable and trained in the substantive and procedural law applicable to these cases, capable of skilled advocacy and proficient in the subject areas that inform the issues their clients face.

FACT SHEET ABOUT THE COMMISSION ON CHILD PROTECTION

Enabling legislation: PA -06-187 was passed during the Special Session in June 2005 to address the growing problems associated with the provision of legal services to children and indigent parents in child protection matters. The Judicial Branch, which formerly administered the system of representation, was sued by the Juvenile Matters Trial Lawyers Association (JMTLA). The complaint alleged violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment and sought among other things a declaration that the pay rate for panel attorneys was insufficient and inimical to the interests of their clients. In dismissing the case due to JMTLA's lack of standing, the District Court, Droney, J. concluded:

Although the pay structure for appointed counsel representing indigent families and children in the Connecticut state courts may result in inadequate resources for effective representation in particular cases, the Association has not shown that it has standing ... Of course, the decision here on the standing of the Association does not mean that other parties could not raise these issues in this Court or the Connecticut Superior Court. Finally, it may very well be that an administrative or legislative review of the issues raised in this suit may be an appropriate course. Juvenile Matters Trial Lawyers Ass'n v. Judicial-Dep't, 363 F. Supp. 2d 239, 250 (2005).

In an analogous lawsuit in New York where family court attorneys were paid \$ 25 for out-of-court work and \$ 40 per hour for in-court work, with an \$800.00 cap, the trial court ruled:

In view of the documented imminent danger of ineffective assistance of counsel to indigent litigants in New York City Family and Criminal Courts resulting from the inadequate statutory compensation rates paid to assigned counsel, plaintiff bar association is granted a mandatory preliminary injunction directing payment of an interim rate of \$ 90 for in- and out-of-court work. N.Y. County Lawyer's Ass'n v. State, 192 Misc. 2d 424, 425 (2002). (The Appellate Court upheld a finding of standing on the prior appeal from the trial court's denial of the defendant's motion to dismiss. N.Y. County Lawyers' Ass'n v. State, 294 A.D.2d 69, 742 N.Y.S.2d 16, 2002 N.Y. App. Div. LEXIS 4822 (N.Y. App. Div. 1st Dep't 2002)).

In Connecticut, child protection attorneys currently receive \$500.00 per hour for the first 30 hours of work or \$16.66 per hour, and \$40.00 per hour for cases that exceed 30 hours.

Lowest rates of private attorneys	Hourly rates Special P.D.'s	States w/ = COL	CT Child Protection Contract Attorneys
\$175.00 to \$225.00/hr.	\$65/hr. felonies	\$60 to \$100/hr.	Avg.: \$25/hr. (for 20 hrs.)

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COMMISSION ON CHILD PROTECTION: PROGRESS IN FIRST 9 MONTHS:

The following is a list of measures the Commission on Child Protection has taken to improve the quality of legal representation in child protection matters since March 31, 2006 when the Chief Child Protection Attorney was hired:

1. Successfully Transitioned Program administered by approx. 180 Judicial employees to Commission in three months, including hiring staff to fill the 5 positions granted by legislation.
2. Within existing appropriation raised the per case fee from \$350.00 per client for first 30 hours to \$500.00 per single client (with \$1700.00 cap on sibling groups).
3. Established Pre-Service Training Requirement and Program for New Attorneys through collaboration with the Center for Children's Advocacy "CCA".
4. Established Mentor Program for New Attorneys.
5. Established In-Service Training Program for all contract attorneys through the CCA.
6. Obtained Scholarships for National Trainings through Federal Grant Funds in cooperation with the Judicial Branch and the Governor's Task Force on Justice for Abused Children (GTFJA).
7. Issued Standards of Practice for Child Protection Attorneys on November 16, 2006.
8. Obtained Technical Assistance from the ABA on Assessment Surveys and enlisted the assistance of Casey Family Services, Connecticut Adoption and Foster Care Program, DCF's Bureau of Adolescent Services, Attorney General's Office, GTFJAC in order to create and distribute the surveys.
9. Established Agreement with Lawyers for Children America and DCF to open their training programs to child protection attorneys.
10. Established Agreement with the CBA to provide Juvenile Law Track at Annual Meeting.
11. Established Family Matters Advisory Board, Quality Assurance Advisory Board and Magistrate Support Advisory Board.
12. Enlisted the assistance of the Hispanic and Asian American Bars, as well as minority contract attorneys, to form a Committee on Culturally Competent Legal Representation.
13. Provided Membership to the National Association of Counsel for Children to all contract attorneys and distributed resource materials to all attorneys.
14. Co-sponsored Forum on Models of Representation at Capitol with Casey Family Services, Voices for Children, Senator Donald Williams, CCA, the Judicial Branch, Office of the Child Advocate and others.
15. In collaboration with Voices for Children, enlisted and assisted Yale Law School interns to draft research paper on the efficacy of various models of representation.
16. Established informational website with resource links, training opportunities, practice tips, calendar of events, etc.
17. Submitted Budget Options to OPM seeking an appropriation for an increased rate of compensation to child protection attorneys of \$60.00 per hour, among other requests for staff and training funds.
18. The Chief Child Protection Attorney serves on the following boards and committees:
FWSN Advisory Board, State Court Improvement Information Technology Workgroup,
State Court Improvement Training Grant Workgroup, Governor's Task Force on Justice for Abused Children, Children of Prisoner's Committee, Appellate Advocacy Committee, Children's Trust Fund.
19. Collaborating with Attorney General's Office and Judicial Branch on creation and publishing of power point training tool for child protection attorneys.
20. Through collaboration of Child Advocacy Network submitted a legislative proposal for a pilot program to deliver legal services through a multi-disciplinary agency model, to improve the performance of contract attorneys, to pilot a loan forgiveness program for attorneys who commit to full-time child protection practice, and to enhance the capacity of the Commission on Child Protection to administer, evaluate and support this program.
21. Obtained approval of the Rules Committee of the Judicial Branch for a Rules change to recognize child welfare practice as a legal specialty and obtained commitment from the NACC to administer the ABA authorized certification program in Connecticut.
22. Secured funding for state of the art web-based database system to efficiently administer program, help manage cases, prevent conflicts, streamline billing procedures, monitor case activities and Standards compliance, collect outcome data, and measure program performance.
23. Secured CIP grant funds for Scholarships for contract attorneys to attend 3 day NITA Child Advocacy Trial Skills Training Program.
24. Organized in collaboration with Juvenile Courts and DCF Lunch Time Presentations by contract attorneys on legal topics addressed at the 2006 NACC Child Welfare Law Conference.
25. During the Fall of 2006, held meetings with contract attorneys in each Juvenile Court and performed needs assessment based upon input from attorneys, and in some instances, court personnel.

0029.8

PERMANENCY PLANNING FOR CHILDREN DEPARTMENT
AUGUST 2003

TECHNICAL ASSISTANCE BRIEF

**IMPROVING PERMANENT PLACEMENT
IN DEPENDENCY CASES:
A WASHINGTON STATE PILOT
PROGRAM EVALUATION**



NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES

002999

**IMPROVING PARENTS' REPRESENTATION IN DEPENDENCY CASES:
A WASHINGTON STATE PILOT PROGRAM EVALUATION**

Brief Authored by:

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Honorable David B. Mitchell
Executive Director
National Council of Juvenile and Family Court Judges

Mary Mentaberry
Director
Permanency Planning for Children Department
National Council of Juvenile and Family Court Judges



**NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES**

OJJDP

Office of Juvenile Justice and
Delinquency Prevention

**IMPROVING PARENTS' REPRESENTATION IN DEPENDENCY CASES:
A WASHINGTON STATE PILOT PROGRAM EVALUATION¹**

Improving legal representation for parents of dependent children is at the forefront of reform efforts throughout many jurisdictions across the country. As noted in the National Council of Juvenile and Family Court Judges' *RESOURCE GUIDELINES*, "Each party must be competently and diligently represented in order for juvenile and family courts to function effectively."² Proper representation by defense attorneys will help to ensure that parents of dependent children retain their right to due process, as well as assist the court in complying with state and federal case processing time frames for achieving permanency for and ensuring the safety of children.

In 2000, the Washington State Office of Public Defense (OPD) created a parents' representation pilot program, at the request of the state's legislature, to address the need for improved legal representation for parents. This pilot program aimed to provide enhanced legal representation to parents in dependency and termination cases.

Pilot Program Implementation

The Washington State Legislature appropriated \$500,000 to the OPD and mandated the following objectives for the pilot program:³

- Provide better representation to parents: Attorneys will communicate regularly with their clients, provide them with meaningful legal counsel and advice, and properly prepare their cases for court hearings and negotiations.
- Decrease the number of court delays caused by overburdened parents' attorneys: Reduce parents' attorneys' caseloads to manageable levels, and require them to refrain from requesting continuances based on their unavailability for court hearings due to over-scheduling.⁴
- Increase compensation for parents' attorneys: Raise the payment level per case to an amount more equal to the funding provided to the state for initiating and pursuing dependency and termination cases.

Complying with an additional mandate calling for the program to be implemented in both eastern and western Washington, the OPD chose the Benton-Franklin Juvenile Court and the Pierce County Juvenile Court to serve as pilot demonstration sites. This allowed the program to be tested in a rural setting (a combined Benton County and Franklin County juvenile court in eastern Washington) and an urban setting (Pierce County in western Washington).

In addition to demographic differences between the two pilot counties, the model of defense representation also differed. Benton-Franklin Juvenile Court contracts part-time with four private attorneys, while Pierce County Juvenile Court utilizes a public defender's office with one supervisor and four full-time parents' attorneys. The pilot program added two half-time attorneys to Benton-Franklin Juvenile Court, as well as two full-time attorneys to Pierce County Juvenile Court. The additional attorneys were necessary to meet the maximum caseloads of 90 cases per full-time defense attorney and 45 cases per part-time defense attorney established by the legislature. All pilot program attorneys are ultimately under the direction and supervision of the OPD.

The pilot program also increased the level of support staff and services available to parents' attorneys. The Pierce County Public Defender's Office added two paralegals and two social workers to decrease the

¹ This *Technical Assistance Brief* is adapted from a full report written by the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges that was submitted to the Washington State Office of Public Defense in January 2003. The author of this *Technical Assistance Brief* wishes to thank Melissa Litchfield, Dionne Maxwell, Ph.D., Sophia Gatowski, Ph.D., and Shirley Dobbins, Ph.D., who contributed to the data collection and analysis phases of the study. Additionally, the evaluation would not have been possible without the assistance of the clerks at the Benton-Franklin Juvenile Court and the Pierce County Juvenile Court.

² *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases*. (1995). National Council of Juvenile and Family Court Judges. Reno, NV, p. 22.

³ Bridge, B.J., Moore, J.I. (2002). "Implementing Equal Justice for Parents in Washington: A Dual Approach." *Juvenile and Family Court Journal*, Vol. 53(4), pp. 31-41.

⁴ Evaluation of this goal was not included in the current study due to budgetary and scope limitations. However, compliance with statutory timeframes was examined by this evaluation.

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staffing discrepancy between the Public Defender's Office and the Attorney General's Office and the Department of Social and Health Services. This funding allowed pilot attorneys to utilize expert evaluators, to increase discovery, and to increase the number of documents submitted to the court.⁵

County Demographics

	Benton County	Franklin County	Pierce County
Population	142,475	51,015	719,407
Persons under 18 years old	29.7%	34.6%	27.2%
Race			
White	86.2%	61.9%	78.4%
Black or African American	0.9%	2.5%	7.0%
American Indian, Alaska Native	0.8%	0.7%	1.4%
Asian	2.2%	1.6%	5.1%
Native Hawaiian, Other Pacific Islander	0.1%	0.1%	0.8%
Other	7.0%	29.0%	2.2%
Persons reporting two or more races	2.7%	4.1%	5.1%
Hispanic or Latino origin ⁶	12.5%	46.7%	5.5%
White, not of Hispanic/Latino origin	81.7%	47.6%	76.0%
Median Household Income	\$47,044	\$38,991	\$45,204
Dependency	1998	Benton-Franklin: 113	Pierce: 389
Petition	1999	121	402
Filings	2000	160	507
	2001	117	511

Role of a Pilot Attorney

Since July 2000, pilot attorneys have attended two specialized trainings per year and an annual conference. The following guidelines for pilot attorney practice were developed to reflect the "counselor-at-law" aspect of the attorney-client relationship:⁸

- A. Meet and communicate regularly with the parent
 - 1) Describe case procedures and timelines
 - 2) Enable parents to candidly communicate
 - 3) Facilitate agreements by realistically evaluating allegations and evidence with parents
- B. Ensure parents have adequate access to services, including visitation
 - 1) Explain the importance of reasonable efforts services to parent-clients
 - 2) Develop a thorough knowledge of the resources available to parent-clients
 - 3) Explore with parents ways to effectively participate in services
 - 4) Ask parents for feedback if obstacles prevent their participation, and follow up with the agency and in court when appropriate
- C. Prevent continuances and delays within attorney's control
 - 1) Treat dependency and termination cases as the highest priority
 - 2) Avoid over-scheduling whenever possible
 - 3) Request unavoidable continuances if they are needed for substantive reasons
- D. Prepare cases well
 - 1) Conduct high-quality, early case investigation
 - 2) Use discovery appropriately
 - 3) Prepare for and participate in settlement conferences and other resolution opportunities
 - 4) Obtain experts and evaluators for cases involving psychological, bonding, or similar issues, when appropriate
 - 5) Draft well-researched and written trial memoranda and other documents
 - 6) Litigate hearings and trials if no agreement is reached

⁵ For example, attorneys in Benton-Franklin were furnished funds for part-time parents' investigators and for expert evaluators.

⁶ According to the U.S. Census Bureau: "People who identify their origin as Spanish, Hispanic, or Latino may be of any race" so they are included here in the applicable race categories. See www.census.gov.

⁷ Although there was an increase in the number of petition filings, the annual increase was not found to be statistically significant.

⁸ *Supra* note 3.

National Council of Juvenile and Family Court Judges' Evaluation

In November 2002, the OPD contracted with the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges to conduct a limited evaluation of the pilot program.

The evaluation of the pilot program was based on data collected through a review of hearing protocols and procedures, and a comparative case file analysis of a random sample of dependency (or child protection) cases, both pre- and post-pilot program implementation. The evaluation gathered information pertaining to case demographics, compliance with mandated case processing timeframes, child's out-of-home placement, and case closure outcome and date.

Specifically, the evaluation reviewed court case files opened after January 1, 1998 with a case closure date between February 1, 2000 and July 31, 2000 (pre-pilot cases) or between February 1, 2002 and July 31, 2002 (pilot cases). These study periods ensured that both samples were subject to the same shortened case processing timeframes mandated by the Adoption and Safe Families Act and Washington State Statutes.

The final evaluation sample for data analysis included 144 cases.⁹ Three sub-samples were created out of the larger sample. The Pre-Pilot Sample was comprised of 57 cases, and the Pilot Sample was comprised of two sub-samples: those cases that were initiated prior to the pilot program implementation but were completed during the pilot (Pilot Sample A, 48 cases); and those cases that were opened after the pilot program implementation and utilized all of the practices of the pilot during their case history (Pilot Sample B, 39 cases).

Case Demographics

	Overall Sample	Pre-Pilot Sample	Pilot Sample A	Pilot Sample B
Number of cases	144	57	48	39
Total number of children	208	81	67	60
Average number of children per case	1.4	1.4	1.4	1.5
Average age of child at petition filing (years)	4.8	5.3	4.2	4.7
Mother incarcerated at some point during case	10.4%	7.0%	16.7%	7.7%
Mother's whereabouts unknown	9.0%	7.0%	14.6%	5.1%
Father incarcerated at some point during case	9.7%	8.8%	10.4%	10.3%
Father's whereabouts unknown	18.1%	19.3%	20.8%	12.8%
Previous history with the Department	77.1%	77.2%	77.1%	76.9%
Previous history with the Court	45.1%	52.6%	39.6%	41.0%
Interstate Compact for the Placement of Children	5.5%	10.5%	0%	5.1%
Indian Child Welfare Act	2.8%	1.8%	2.1%	5.1%

Petition Allegations

	Overall Sample (N=131)	Pre-Pilot Sample (N=52)	Pilot Sample A (N=44)	Pilot Sample B (N=35)
Mother				
Abused/Neglected	90.8%	47.5%	95.5%	85.7%
Dependent	100%	100%	100%	100%
Abandoned	0.8%	0%	1.1%	0%
Father				
Abused/Neglected	87.7%	82.1%	96.0%	85.0%
Dependent	100%	100%	100%	100%
Abandoned	1.4%	0%	4.0%	0%

⁹ The number represented by "N" throughout this *Technical Assistance Brief* is the number of cases in the study that contained appropriate documentation for analysis and therefore may fluctuate. The number represented by "n" is the number of cases out of the population (N) that fit the analysis criteria (i.e., the sample).

Petition Allegations (continued)

Other Caregiver				
Abused/Neglected	93.3%	100%	100%	83.3%
Dependent	100%	100%	100%	100%
Abandoned	0%	0%	0%	0%

The types of presenting problems of the parents that were noted in the petition did not have a statistically significant effect on the final outcome of the case. The presence of substance abuse as a presenting problem was also found to not have a statistically significant impact on the final outcome of the case.

Presenting Problems

	Overall Sample (N=94)	Pre-Pilot Sample (N=41)	Pilot Sample A (N=26)	Pilot Sample B (N=27)
Substance abuse	70.2%	75.6%	76.9%	55.6%
Domestic violence	24.5%	19.5%	38.5%	18.5%
Parents with criminal history	20.2%	17.1%	23.1%	22.2%
Mental health issues	17.0%	17.1%	15.4%	18.5%
Sexual abuse	12.8%	14.6%	3.8%	18.5%
Medical neglect	8.5%	7.3%	7.7%	11.1%
Severe physical abuse	4.3%	0%	11.5%	3.7%
Child developmentally delayed	1.1%	2.4%	0%	0%
Mother in foster care	1.1%	0%	0%	3.7%

Summary of Major Findings

Cases in the evaluation sample were analyzed for timing of hearings and statutory compliance, length of time in out-of-home placement, and case outcomes.

Timing of Hearings and Statutory Compliance

The Revised Code of Washington requires that:

- A *shelter care hearing* be held within 72 hours after the child is taken into custody (excluding weekends and holidays) (WASH. REV. CODE §13.34.060);
- A *fact-finding hearing* be held no later than 75 days after the filing of the petition, unless exceptional reasons for a continuance are found (WASH. REV. CODE §13.34.070);
- A *dispositional hearing* be held immediately after entry of the findings of fact, unless there is good cause for continuing the matter for up to 14 days (WASH. REV. CODE §13.34.110);
- The *initial review hearing* be held six months from the beginning date of the placement episode or no more than 90 days from the entry of the dispositional order. *Review hearings* are to be held every six months thereafter (WASH. REV. CODE §13.34.138);
- A *permanency planning hearing* be held in all cases where the guardianship order or permanent custody order has not previously been entered. The *permanency planning hearing* must take place no later than 12 months following the current placement episode (WASH. REV. CODE §13.34.145).

Percentage of Cases Compliant with Statutory Timeframes

	Pre-Pilot Sample	Pilot Sample A	Pilot Sample B
<i>Shelter Hearing</i>	61.8%; n=34; N=55	60.4%; n=29; N=48	58.3%; n=21; N=36
<i>Fact-Finding Hearing</i>	73.5%; n=36; N=49	72.7%; n=32; N=44	66.7%; n=20; N=30
<i>Disposition Hearing</i>	73.3%; n=22; N=30	84.8%; n=28; N=33	100%; n=25; N=25
<i>Review Hearing</i>	88.9%; n=24; N=27	81.8%; n=27; N=33	87.0%; n=20; N=23
<i>Permanency Planning Hearing</i>	63.9%; n=23; N=36	65.9%; n=29; N=44	100%; n=21; N=21

The majority of cases heard by both the Benton-Franklin Juvenile Court and the Pierce County Juvenile Court are compliant with statutory timeframes. Although slight decreases in the court's overall compliance with statutory time frames were observed in some areas (i.e. *shelter hearing*, *fact-finding hearing*, *review hearing*), there are significant reductions in the average number of days and the range of days from

removal to *shelter hearing*. During the Pre-Pilot Sample, the *shelter hearing* was held, on average, 6.35 days from removal with a range of 0 to 130 days. During Pilot Sample B, the *shelter hearing* was held, on average, 4.81 days from removal with a range of 1 to 22 days. The most common timeframe for both samples was 3 days. This reduction indicates a practically significant trend towards increasing future compliance.

Average (Mean) Length of Time from Court Event to Court Event in Days

	Pre-Pilot Sample	Pilot Sample A	Pilot Sample B
<i>Petition Filing to Shelter Hearing</i>	6.4	10.6	4.8
<i>Petition Filing to Fact-Finding Hearing</i>	67.0	77.5	75.9
<i>Fact-Finding Hearing to Disposition Hearing</i>	14.1	10.5	0.3
<i>Dispositional Order to Review Hearing</i>	97.1	135.7	109.7
<i>Removal to Permanency Planning Hearing</i>	344.8	369.7	251.9

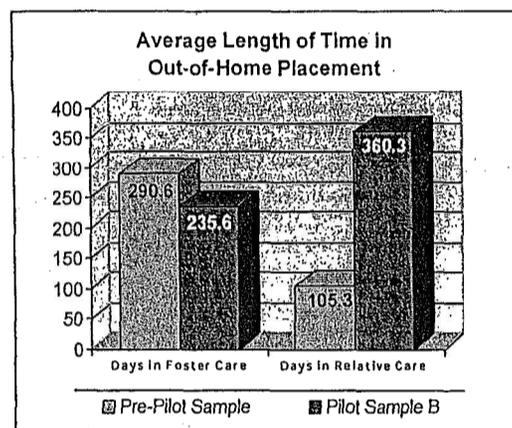
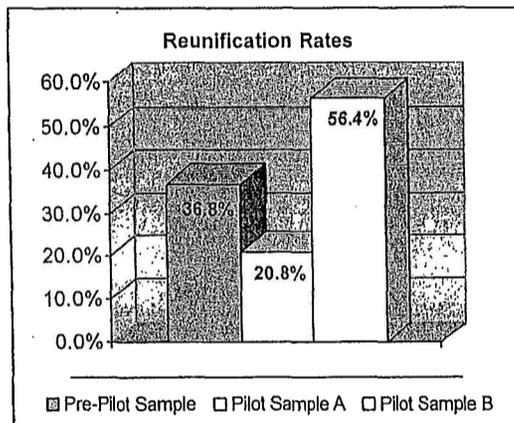
Length of Time in Out-of-Home Placement

When examining the length of time the child(ren) spent in out-of-home care across samples, only the Pre-Pilot Sample (N=20) and the Pilot Sample B (N=19) were compared.¹⁰ The average number of days spent in foster care or as a sibling between the Pre-Pilot Sample, 290.6 days, and Pilot Sample B, 235.6 days. In contrast, the average number of days spent in relative care increased from the Pre-Pilot Sample, 105.3 days, to Pilot Sample B, 360.3 days.

Case Outcomes

Cases in the Pre-Pilot Sample (N=57) and Pilot Sample B (N=38) resulted in reunification, at 36.8% and 56.4% respectively.¹¹ A large increase in reunifications can be seen between the Pre-Pilot

Sample, the timeframe without enhanced pilot program representation, and Pilot Sample B, the timeframe capturing cases initiated after pilot program implementation. In addition, cases involving termination of parental rights decreased from 41.3% in the Pre-Pilot Sample to 22.9% in Pilot Sample B. Adoption (51.1%) was the most common outcome in Pilot Sample A (N=47).



Previous history with the court was determined to be statistically significant with respect to the likelihood of reunification as an outcome. Cases in Pilot Sample A that had a previous history with the court were 2.9 times more likely to have an outcome of reunification than cases in the Pre-Pilot Sample with a previous history with the court. Additionally, cases in Pilot Sample B that had a previous history with the court were 6.9 times more likely to have an outcome of reunification than cases in the Pre-Pilot Sample. This statistically significant increase in the likelihood of reunification may correspond to the enhanced representation in the pilot cases.

¹⁰ Due to the nature and length of the samples, the Pre-Pilot Sample and Pilot Sample B were compared to examine the effects of the pilot program on the cases prior to program implementation against those cases receiving the full benefits of the completely implemented program without being influenced by the transitional timeframe (Pilot Sample A).

¹¹ *Ibid.*

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Data provided by the State of Washington, Office of the Administrator for the Courts indicate that a new dependency petition was not filed on any case that researchers coded as having an outcome of reunification.

Case Outcomes

	Pre-Pilot Sample (N=57)	Pilot Sample A (N=47)	Pilot Sample B (N=38)
Reunification	36.8%	20.8%	56.4%
Adoption	35.1%	51.1%	18.4%
Aged-out	15.8%	14.9%	7.9%
Custody, non-offending parent	3.5%	4.2%	7.7%
Parent obtained custody through Superior Court	7.0%	2.1%	2.6%
Permanent ward of the state	0%	4.3%	2.6%
Kinship guardianship	0%	2.1%	2.6%
Transferred to Tribal Court	1.8%	0%	0%

Conclusion

Although its scope was limited (i.e. restricted to an archival review of court records), the evaluation found a noticeable difference in case processing timeframes, time spent in out-of-home care, and case outcomes among each of the samples. While the pilot program may not be the sole explanation for these outcomes (e.g. other factors may include changes made by the court and child welfare agency including systemic reforms implemented to address ASFA compliance), it is evident that the pilot program succeeded in having a positive impact on the legal representation of parents of dependent children.

For more information about the Washington State Office of Public Defense Parents' Representation Pilot Program, please contact:

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PART 21
6552-6885

2007

006570

TESTIMONY OF DOUGLAS J. MONAGHAN, ESQ.
IN SUPPORT OF RAISED S.B. NO. 1269
AN ACT CONCERNING THE QUALITY OF LEGAL REPRESENTATION
OF CHILDREN AND YOUTH IN JUVENILE MATTERS

I am a solo practitioner with an office in Groton, Connecticut, in the practice of law for 26 years. I concentrate my practice in juvenile matters, primarily child protection cases. I serve as the secretary of the board of directors of the Juvenile Matters Trial Lawyers Association (JMTLA), with members who practice in every Superior Court for Juvenile Matters (SCJM) across the state. I am also a member of the Connecticut Bar Association, a member of its Committee on Children and the Law, a member of the New London County Bar Association and the National Association of Counsel for Children (NACC).

I am here to support passage of Raised S.B. 1269, although there are two other related bills with which S.B. 1269 must be reconciled. I have already testified in support of Raised S.B. 1203, introduced by the Select Committee on Children, and Raised H.B. 7238, introduced by the Judiciary Committee. My written testimony for those bills is on file.

S.B. 1269 is primarily an appropriations bill, although it does direct the Chief Child Protection Attorney (hereinafter "CCPA") to establish a pilot program to provide legal services to her clientele in juvenile matters "using a multidisciplinary agency model of representation." It also authorizes the CCPA to fund an independent evaluation of this pilot program and to establish a program to forgive law school loans for attorneys who commit to the full-time practice of law in the field of child protection. If the bill is funded as requested, it will also provide the CCPA with the capability of raising the rates of compensation for the lawyers who contract with the CCPA to provide legal services in juvenile matters cases.

There has been significant criticism concerning the quality of representation being afforded children and indigent parties in child protection cases in juvenile court. You may hear the testimony of children or parents who will tell you they never met their attorney, did not know they had an attorney, or maybe hardly ever had an opportunity to fully discuss their cases with their lawyers. There can be no doubt that such situations have occurred and it is disheartening and disappointing to those of us for whom such representation is a labor of love.

At the same time, there seems to be no dispute that the attorneys who have been doing this work have been grossly underpaid for years. In my written testimony submitted on H. B. 7238, I included the first page of the Judicial Department's fee schedule

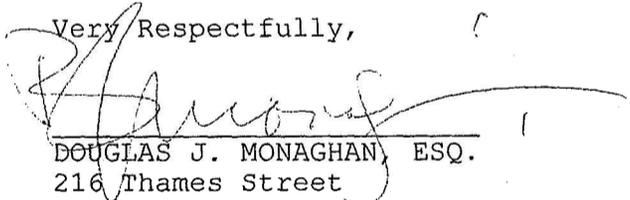
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dated 9/30/86 which reflected that attorneys were being paid about \$22.50 per hour for court time and roughly \$15.00 per hour for non-court time. The CCPA's testimony before this Committee, the Appropriations Committee and the Select Committee on Children this year has been that under the current compensation system based upon the data she has compiled, child protection attorneys are averaging about \$25.00 per hour! While I am not an economist, I don't think I'm going too much out on a limb to suggest that child protection lawyers are now actually being paid less when adjusted for cost of living and so forth than in 1986. Senator McDonald responded to my oral testimony on February 26, 2007, regarding H.B. 7238 by agreeing that the rate of \$25.00 per hour was "indefensible."

Since the creation of the Child Protection Commission and the arrival of the CCPA, there has been a serious effort to fulfill the mandate of the legislature to provide high quality, competent and zealous representation to parties in juvenile matters cases. The CCPA has instituted training, has developed and published Standards of Practice and has begun to systematically evaluate, with available resources, the quality of the lawyers who have contracts to provide representation pursuant to those contracts. But all of the good work being accomplished by the CCPA will be undone if she is not provided with the funding necessary to retain the competent, highly trained and zealous lawyers she needs to effectively represent this incredibly vulnerable population whose most important constitutional right, that of family integrity, is at risk.

Attached to my testimony as Exhibit A is an invoice from my auto mechanic I want to share with you. It is noteworthy for two reasons. One, you will see that I drive a 1992 Volvo with nearly 200,000 miles on it. This is my primary vehicle. Two, the hourly labor rate for the work performed on this vehicle is \$72.00 per hour. You are being asked by the CCPA to allow her to compensate child protection lawyers at the hourly rate of \$60.00. If you don't grant the CCPA's request, she soon won't even be able to hire auto mechanics to do this work.

Very Respectfully,


DOUGLAS J. MONAGHAN, ESQ.
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P.O. Box 7369
Groton, CT 06340-7369
860-445-8550
04/04/07

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Groton, CT 06340
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Fax: 860-405-0563



Service Invoice

3/13/2007	19078
DATE	INVOICE #

CUSTOMER NAME & ADDRESS	YEAR	MAKE	MODEL	ODOMETER
Douglas & Ann Monaghan 66 Clipper Court Mystic, CT 06388	1992	Volvo	244 Blue	192,810
	CUST #	STK#	VEHICLE IDENT NUMBER	
	1157	565	YV1AS8207N1472234	

QTY	ITEM	DESCRIPTION	RATE	AMOUNT
1	273459	Thermostat	19.34	19.34T
1.3	Shop Labor	Shop Labor Hourly - Pressure test cooling system for leak. Found leak at thermostat housing. R+R thermostat and gasket. Refill and pressure test cooling system.	72.00	93.60T
1	Coolant Note	Note- When flushing coolant during servicing, air bubbles may remain in cooling system which can take several days to clear. "Low Coolant" warning lamp may flash or illuminate during this time period. This illumination it is no cause for alarm. Call or stop by Eurocars and we will check and re-top coolant.	0.00	0.00T
		CT Sales Tax	6.00%	6.78

Thank You For Your Business

I HEREBY AUTHORIZE THE ABOVE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIAL, AND HEREBY GRANT YOU AND/OR YOUR EMPLOYEES PERMISSION TO OPERATE THE CAR, TRUCK, OR VEHICLE HEREIN DESCRIBED ON STREETS, HIGHWAYS, OR OFF-ROAD AREAS FOR THE PURPOSE OF TESTING AND/OR INSPECTION. AN EXPRESS MECHANIC'S LIEN IS HEREBY ACKNOWLEDGED ON ABOVE CAR, TRUCK, OR VEHICLE TO SECURE THE AMOUNT OF REPAIRS THERETO.

YOU ARE ENTITLED TO A PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. THE REPAIR PRICE MAY BE LESS THAN THE ESTIMATE. YOUR SIGNATURE ILLUMINATE YOUR ESTIMATE SELECTION.

TEARDOWN ESTIMATE- I UNDERSTAND THAT MY CAR WILL BE REASSEMBLED WITHIN _____ DAYS OF THE DATE SHOWN IF I CHOOSE NOT TO AUTHORIZE THE SERVICES RECOMMENDED.

1. I REQUEST AN ESTIMATE IN WRITING BEFORE YOU BEGIN REPAIRS.
2. PROCEED WITH REPAIRS, BUT CALL ME BEFORE CONTINUING IF THE PRICE WILL EXCEED \$ _____
3. I DO NOT WANT AN ESTIMATE.

CUSTOMER SIGNATURE:

Total \$119.72

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Jeanne Milstein
Child Advocate

STATE OF CONNECTICUT

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STATE OF CONNECTICUT
18-20 TRINITY STREET, HARTFORD, CONNECTICUT 06106
OFFICE OF THE CHILD ADVOCATE

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Jeanne Milstein
Child Advocate

Testimony of Jeanne Milstein, Child Advocate
Joint Committee on the Judiciary
April 4, 2007

HB 5676
HB 7238 SB 1269
SB 398

Good morning Senator McDonald, Representative Lawlor, and members of the Committee. My name is Jeanne Milstein and I am the state's Child Advocate. Thank you for the opportunity to testify today.

I support **Committee Bill No. 6285, An Act Concerning the Age of a Child with Respect to Juvenile Court Jurisdiction.** During the past six months, the Juvenile Jurisdiction Planning and Implementation Committee has closely examined the needs and experiences of 16 and 17 year old youth in Connecticut's adult and juvenile justice systems. My office has been committed to this effort and to our efforts to understand the experiences of children before they become involved with the juvenile and adult court systems. As a result of this work, I believe that Connecticut should raise the age of adult jurisdiction.

First, adolescents are very different from adults. They do not have the same decision-making capacity as adults. Their brains are simply not finished being built at sixteen and seventeen years of age. Acknowledging the differences between adult and adolescent brains is important because it has implications for the criminal culpability of adolescents. It is also important because it suggests that the way we respond to adolescents who engage in unwanted and illegal behavior may have a significant impact on the kind of adult he or she will become. In the adult system, we do not offer age-appropriate rehabilitative services or treatments. The inadequacy of the adult criminal system to address the unique emotional and developmental needs of teenagers is substantiated through research demonstrating that youth incarcerated in adult facilities are more likely to re-offend and commit more serious crimes than youth who are tried and treated in the juvenile system for the same crimes.

Second, the vast majority of the youth who are at-risk to enter and who are currently incarcerated at Manson and York have unique unmet needs and experiences that place them at-risk for detention and incarceration. We know that most have histories of significant trauma due to experiences of abuse, neglect, violence and substance abuse in their homes and communities. Many have been removed from their biological family and placed in and out of foster care and institutionalized settings, losing opportunities to form

In addition; we must commit to ending the practice of incarcerating children who have committed no crime. By investing our resources in assessment, diversion, early intervention, and treatment services, we can prevent many children and youth from spiraling down the path toward incarceration. For those youth requiring a higher level of service and security, and for whom there is no less restrictive alternative, the bill would permit placement in a staff-secure facility under the auspices of the Court Support Services Division or DCF.

I would suggest adding at least one very important provision: a limitation on the length of time any child could remain in a staff secure setting, with regular judicial oversight of any such stay. Such a provision would provide protection against the all too common problem of children languishing in highly restrictive settings.

I am also here today to testify **in support of Raised Bill No. 1269, An Act Concerning the Quality of Legal Representation of Children and Youth in Juvenile Matters**. On February 26, 2006, Christina Ghio, an Assistant Child Advocate, testified on my behalf in support of Senate Bill No. 7238, An Act Concerning the Commission on Child Protection and the Chief Child Protection Attorney. I urge you to support Raised Bill No. 1269 in conjunction with Senate Bill No. 7238. Senate Bill No. 7238 would establish the foundation for a system of high quality legal representation by making it clear that initial and in-service trainings will be mandatory and comprehensive; establishing an hourly rate of payment for attorneys, rather than continuing the current flat fee system; establishing a payment rate for non-attorney professionals; and by mandating that the Chief Child Protection Attorney oversee and ensure the accountability of attorney providing legal services to children and indigent parents. The bill before you today, Raised Bill No. 1269, goes a step, or two, further by establishing a pilot project to test the use of a multidisciplinary model of legal representation and by creating a pilot program for the forgiveness of law school loans for attorneys who commit to full-time practice of law in the field of child protection. I urge you to support these bills because I believe that high quality legal representation enhances system accountability and improves outcomes for children. Good attorneys make a difference in the lives of children by preventing unnecessary placement disruptions and ensuring that DCF provides appropriate services in a timely way, thereby increasing the likelihood that children will grow up safe and healthy in permanent, stable homes.

To ensure that children and indigent parents have high quality legal representation, we must structure the attorney appointment system in a way that attracts and retains highly skilled attorneys, provides them with good supervision, and incorporates quality assurance so that attorneys who aren't zealously representing their clients no longer receive contracts. Because Senate Bill No. 7238 and Raised Bill No. 1269 together accomplish these goals, I urge you to support them.