

**House Joint Resolution No 3: Representation for Parents and Children
in Child Abuse and Neglect Cases**

Issues and Options

Prepared for the Children, Families, Health, and Human Services Interim Committee
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House Joint Resolution No. 3 directed the Committee to "examine child abuse and neglect proceedings in order to determine how to best provide representation to families at an appropriate time in the child protective services proceedings to further the goals of balancing the best interests of the child, the rights of parents, and the possibility of reunification of the family and to provide prevention and early intervention strategies as early in the process as possible".

The Committee has concentrated its study on legal counsel for indigent parents, but has also reviewed the use of guardians ad litem and court-appointed special advocates for children. In looking at representation for all members of the family, issues and options have been identified and are presented below.

I. REPRESENTATION FOR PARENTS

Issue A: Should all parents receive legal counsel in child abuse and neglect cases that reach the court? At what point should legal representation be appointed for indigent parents in child abuse and neglect cases: removal, placement, termination of parental rights?

Background: The Committee has received information that variability exists around the state within and between judicial districts regarding the practice of appointing legal counsel for indigent parents involved in child abuse and neglect proceedings. The Child and Family Services Division indicated in testimony¹ the number of Judicial Districts in which counsel is appointed:

at the initiation of the proceeding	7
at the termination of the parental rights stage	7
at the adjudication stage	2
on a case-by-case basis	1

The Committee heard of the success of the treatment court approach in Yellowstone County where they appoint a public defender for all parents in treatment court upon acceptance into treatment court (success being defined as permanency for the child, either reunification or termination with a permanent placement.)

If more information is available to a parent earlier in the process, it could lead to a faster resolution when the parent fully understands the timelines and requirements of any treatment plan or other requirements to reunify the family. The Final Report of the recent Montana Child and Family Services Review indicated that areas needing improvement are:

- consistency in efforts to identify and address families' service needs;
- involving family members in case planning; and
- establishing contact with children and parents with sufficient frequency.²

Representation for a parent could provide more assurances that these areas receive attention and although counsel could make the system more adversarial, there is anecdotal information from a 1996 Court Assessment review that earlier representation of parents resulted in faster resolution of the case.³ Information received from the Yellowstone County Family Treatment Court also suggested that court-appointed counsel for parents did not have to result in a more adversarial process if defense counsel was part of a treatment team and that it also could result in faster resolution of a case.

The U.S. Department of Health and Human Services publishes Standards for Legal Representation of Children, Parents and the Child Welfare Agency. The Guidelines for Representing Biological Parents (and Legal Guardians) are:

Parents Need Counsel in All Court Proceedings: We recommend that States guarantee that counsel represent biological parents (or legal guardians) at all court hearings, including at the preliminary protective proceeding. Such representation should be provided at government expense when the parent or guardian is indigent.

They also recommend that biological parents (or legal guardians) have legal counsel in judicial proceedings, even when the out-of-home placement originates as a voluntary placement, and that a

biological parent should not be permitted to relinquish parental rights, even voluntarily, without the benefit of counsel.⁴

The 1995 Resource Guidelines from the National Council of Juvenile and Family Court Judges suggest that all parties have competent and diligent representation at every critical stage of the proceedings, including but not limited to adjudication, disposition, periodic case review, permanency planning, termination of parental rights, and adoption.⁵

In a 1996 audit by the Court Assessment Program, it was estimated that from 23% to 40% of custodial parents were represented by attorneys in proceedings for temporary investigative authority (TIA) and from 80% to 99% were represented in termination cases. For noncustodial parents, the percentages were even lower with estimates ranging from 6.76% to 18.22% in TIAs and from 57% to 81% in termination cases.⁶

Options: The Committee could make a recommendation from one of the following options:

1. Remain at status quo: Judges may appoint counsel anytime in the process. Judges must appoint counsel in Indian Child Welfare Act cases in any removal, placement, or termination proceeding; in other cases when a party requests a determination that the Department of Public Health and Human Services (DPHHS) need not provide preservation or reunification services; or at the time a petition for termination of a parent-child relationship is filed.
2. Recommend statutory changes to require appointment of counsel for indigent parents at an earlier stage of proceedings, i.e., show cause, adjudication, or disposition hearings for removal or placement of a child in addition to termination proceedings (from the current requirement at the time a petition for termination is filed or when preservation and reunification services need not be provided).
3. Forward a recommendation to the Law and Justice Interim Committee to urge consideration of appointment of legal counsel for all parents, guardians, or those with legal custody who are involved in child abuse and neglect proceedings that may result in removal or placement of a child or termination of parental rights as a part of that Committee's consideration in the development of a public defender system in the state.

Any recommendation that the Committee makes should acknowledge that additional data is necessary (see following) to find out the resources necessary to fully carry out Option 2 or

Option 3.

Additional Data Necessary

Issue B: At this point, specific data is not available on how many parents are already receiving legal counsel for removal, placement, and termination proceedings and how many additional parents would need services. Additional analysis would be necessary in order to determine how many children are actually served in 1 year in any capacity that brings the case in front of a court and to determine the number of parents that would need to have counsel provided. The addition of an unknown burden on the various public defender programs that exist separately in each county may not be reasonable, and to fully implement a proposal, additional information is necessary.

Background: The data that is available includes the information received from Shirley Brown in January 2004.⁷

Fiscal Year Ending June 2003	
Total Calls Received:	25,047
Total Reports Entered on Caps:	15,796
Total Investigations:	9,784
Total Placements:	1,447*
*A child may have more than one placement	

Information that I have extracted from data provided by the Child and Family Services Division from the Child and Adult Protection System (CAPS) for Fiscal Year Ending June 2003, on the following court events:

Unduplicated Show Cause Hearings:	474
Unduplicated Termination of Parental Rights:	309
Unduplicated Termination Hearings:	59
Duplicated Counts (child's ID may occur more than once):	
Show Cause Hearings	574
Adjudicatory Hearings	666
Dispositional Hearings	408* - rarely
Permanency Plan Hearings	296* - rarely
Termination Hearings	79*

Many children had more than one type of hearing, and children could have more than one of a specific type of hearing. Many duplicated entries showed that a court order was extended. Some necessary information includes how many parents are involved in these children's cases and how many parents were already represented by counsel (through the Indian Child Welfare Act and the counties that appoint at initiation of proceedings, before termination, or at termination). Reasons for extending court orders should be explored as they may provide information on excessive caseloads, overscheduling, and lack of resources.

The Office of the Court Administrator is working with staff of the Law and Justice Interim Committee and the Legislative Fiscal Division to determine existing public defender/appointed counsel costs and guardian ad litem costs that may impact the development of any proposal.

Option: Recommend that either the State Court Administrator or the DPHHS Child and Family Services Division, in cooperation with the other, determine the numbers of parents, guardians, or those with legal custody of children who would require legal counsel in removal, placement, and termination proceedings. Many parents are not married, are divorced, or even if married may have conflicts of interest. The Court Assessment Program may be an appropriate entity within the Court Administrator's Office to perform much of this information gathering and to serve as a liaison to the DPHHS. In any event, they have expressed interest in this area and would be a valuable resource in the development of any system. Without additional information, it is unknown how many additional resources would be necessary to implement representation for all indigent parents. This raises the question of a definition of indigency (see following).

Definition and Standards for Determination of Indigency

Issue C: The issue of a lack of definition of indigency is problematic in determining how many parents are involved in removal, placement, or termination proceedings. Many human services and public assistance programs use the federal poverty level to determine indigency, and the judiciary could adopt a similar approach, take any eligibility for a public assistance program as evidence of indigency, or develop a new definition based specifically on the cost of providing quality legal counsel. Income and assets may not be the only factors determining the need for appointment of counsel (parent as minor, mental competency, etc.) that a proposal should take into consideration. The Washington State Office

of Public Defense has a publication on the Criteria and Standards for Determining and Verifying Indigent Defense for reference.⁸

Option: Include, as a part of any recommendation, a requirement that a definition of indigency and a standard for a determination of indigency be developed. Indigency may not be the only qualification for appointment of counsel and other areas may require appointment. The issue of a sliding fee scale may also need to be considered.

II. REPRESENTATION FOR CHILDREN

Issue A: If an indigent parent is appointed legal counsel, does the child also need legal counsel? Is appointment of a guardian ad litem sufficient if the guardian ad litem is not an attorney or do children need both? Is the state adequately funding the current mandate for a guardian ad litem for each child alleged to be abused or neglected?

Background: In Montana as of January 2004, there are 14 local nonprofit programs, one district court, and three tribal Court-Appointed Special Advocate/Guardian Ad Litem (CASA/GAL) programs.⁹ Information received in October 2003 indicated that the programs have budgeted nearly \$500,000 for programs around the state in the current budget year, ranging from \$91,000 in Cascade County to about \$2,000 in the Livingston Judicial District startup program. Local programs exist in about 40 counties. In FY 2003, the state reimbursement to local programs was approximately \$90,000. It is disbursed in a one-time reimbursement of \$400 per case, which often includes more than one child. Also, the state district court program provided a one-time distribution to existing programs of \$32,000. The National CASA Association provided more than \$100,000 in funds for startup or expansion help (not maintenance). Local fundraising provided about \$250,000, and several counties provide in-kind support. CASA/GAL volunteers served about 54% of the children who entered out-of-home placements during the year ending September 30, 2002. The programs estimate the cost of serving one child with one volunteer at \$750 for training, screening, supervision, and maintenance of a local office.¹⁰

In areas where CASA programs do not exist, the counties usually contract with an attorney guardian ad litem. The Law and Justice Interim Committee has access to FY 2004 cost data that may or may not

be able to account separately for all costs attributable to guardians ad litem, court-appointed special advocates, court-appointed attorneys who are guardians ad litem and public defenders for representation for children in youth-in-need-of-care cases.

In 2000, Washington State passed a law requiring counsel to be appointed at a hearing for placement out of the home.¹¹ Guardians ad litem are also appointed for most children, and children over 12 years of age or their guardian ad litem may request counsel for the child. They make a distinction between the guardian ad litem who represents the best interest of the child and the legal counsel for the child who represents the child's wishes.

A National Center for State Courts "Representation of Children Survey" reported that in 43 states where judicial officers are authorized to appoint legal counsel for children in child abuse and neglect cases, 20 states appoint counsel in all cases. The variety of ways in which legal counsel were selected (respondents checked all that applied) include volunteers from the local bar association (37.2%), conscripts from the local bar association (20.9%), professionals dedicated to function (60.5%), and other means (44%). The entity responsible for administering the legal counsel program was the judicial branch--state (23.3%) or local (44.2%), other state level entity--other (30.2%) or nonprofit (2.3%), and the remainder at a local level (21%) or unspecified.¹²

Options:

1. Recommend that an accurate assessment be made of the cost to provide a guardian ad litem to each child alleged to be abused or neglected across the state.

2. Additional information on the number of children who may also need legal counsel is needed and should be included in any request of additional information (Issue I.B.). It is important to note that 20 states appoint counsel in all cases of child abuse and neglect, and that is an issue that warrants attention in the development of a public defender system.*

3. Develop standards for guardians ad litem (changes at the federal level now require training) and specify responsibilities when a public defender is also involved.

*State law (41-3-112, MCA) requires that the court shall appoint for any child alleged to be abused or neglected a guardian ad litem, if necessary at public expense. State law also provides authority for the court to appoint counsel for any indigent party (41-3-422, MCA).

4. Fund guardian ad litem and public defender programs sufficiently so that each child has an appointed guardian ad litem and a public defender if needed.

5. In developing any public defender/appointed counsel system, take into consideration the population of children who may require counsel and include a recommendation that may require attorneys to be specifically trained in child abuse and neglect issues.

III. WHERE DO CHILD ABUSE AND NEGLECT CASES FIT IN A PUBLIC DEFENSE SYSTEM

Issue A: Should the CASA/GAL program be included in a statewide public defender system or should it remain under the State Court Administrator? The Law and Justice Interim Committee is trying to determine what would constitute "public defender/appointed counsel" costs and what would constitute other administrative costs. As noted in the previous section, costs for court-appointed special advocates are set per case, regardless of how many children per case, and the amount of revenue from the state is set and does not cover all of the costs of the program. County in-kind services and nongovernmental donations fund the CASA/GAL program also. Guardians ad litem are required to be appointed in all cases, but these services currently are not being fully funded by the state. The equity of this situation would be even more questionable if all indigent parents receive court-appointed counsel funded through a public defender system and the CASA/GAL system remains only a partially funded state mandate staffed mainly by volunteers. Any proposal must address the equity between advocacy for children and representation for parents.

Background: The Law and Justice Interim Committee is developing recommendations for public defense in the state. The current option that the committee is pursuing is establishing a new public defender office with state assumption of all administration, including county public defender offices (as an Executive Branch agency).

For its study purposes, the Committee staff has prepared a definition of "Public Defender (or Appointed Counsel)", which means any attorney, whether under contract, court-appointed for a particular case, or a county public defender, who is assigned by a District Court Judge to represent any party in a case or proceeding, whether or not a determination of indigence has been made. This term

does not include guardians, mediators, or advocates appointed by the court, unless the appointment includes also acting as counsel in the court room. "Public defender costs" means any allowable expense incurred by the District Court for appointed counsel.

By these definitions, the costs of advocates for children, such as court-appointed special advocates or guardians ad litem, would not be public defender costs and would be state court administrative costs. The director for the state CASA/GAL program is supervised by the state Court Administrator, as is the Court assessment Program that is funded partially by a federal grant to assess and improve the cases in the child abuse and neglect system. There may be some confusion if the county doesn't have a CASA/GAL program and the court appoints counsel for the child--is that attorney acting as a guardian ad litem or a public defender and where would the costs and administration belong? The need for definite roles and responsibilities is apparent.

Currently, the costs of both to a certain extent (and regardless of whether they are, by definition, potentially "public defense costs") are mixed in state assumed District Court expenses that are allowed by 3-5-901, MCA, and include:

- expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority with regard to a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody;
- transcript and witness fees;
- expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;
- expenses associated with appointment of a guardian ad litem or child advocate for the youth;
- expenses associated with court-ordered alternative dispute resolution;
- expenses for appointed counsel for the youth;
- expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.

In developing recommendations for the administration of a public defender/appointed counsel system, the following information indicates that both representation for parents and representation for children is

provided in multiple forms in various states. A survey of "Other States' Use of Public Defenders to Represent Parents and Children in CHIPS (child protection) and TPR (termination of parental rights) Cases" by Judith Nord of the Minnesota Supreme Court, Court Services Division¹³ reported the following statistics for the representation of parents and the representation of children.

Representation of Parents

- 14 of the 25 states report that public defenders (PDs) never represent parents in CHIPS/ TPR cases. Instead, they either contract with private attorneys or use a variety of panels from which to appoint.
- 4 of the 25 states report that PDs always represent parents in nearly every CHIPS/TPR case.
- 7 of the 25 states report that PDs sometimes represent parents in CHIPS/TPR cases, usually on a county-by-county basis.

Representation of Children

- 14 of the 25 states report that PDs never represent children in CHIPS / TPR cases, instead, they either contract with private attorneys or use a variety of panels from which to appoint or instead use only guardians ad litem or guardians ad litem who are represented by counsel.
- 5 of the 25 states report that PDs always represent children in nearly every CHIPS / TPR case.
- 6 of the 25 states report that PDs sometimes represent children in CHIPS / TPR cases, usually on a county-by-county basis.

Of this study, over half of the states reporting never use public defenders for either children or parents. They contract with private attorneys or appoint from various panels for parental representation, and for representation of children they use only guardians ad litem or guardians ad litem represented by counsel. This would suggest that a public defender system alone does not resolve the issues that are unique to representing parents and children in child abuse and neglect cases. There may present a need for contract and appointed counsel outside a public defender system.

A distinction needs to be made between legal counsel for parents and children and the appointment of guardians ad litem, even if attorneys, and court-appointed special advocates. The latter's roles are required by state and federal law to represent the "best interests of a child". It is apparent from looking at other states that often children will be appointed a guardian ad litem and both the child and the guardian ad litem may also need to be represented by counsel.

The role of appointed counsel is to provide competent and diligent representation for a client at every critical stage of the proceeding. Parental rights are a fundamental liberty interest, however, protection of the health and welfare of the child is paramount and takes precedence over parental rights. There

may be an inherent conflict of interest between the "best interests of the child" represented by a guardian ad litem, the child's wishes, and each parents' wishes, which would also suggest the necessity for separation between a CASA/GAL program and a public defender/appointed counsel program. Because there may also be conflicts between parents, there may need to be an additional "conflicts" program to prevent conflicts of interest within a public defender/appointed counsel program.

Options: As a part of a recommendation to the Law and Justice Committee, the Committee may include one or more of the following options:

1. Maintain the administration of the state CASA/GAL program and its specific role in the child abuse and neglect proceedings under the State Court Administrator separately from the appointment of legal counsel in a public defender system. Each provides different services and the guardian ad litem in some states are also appointed counsel.
2. Explore the concept of funding equity between the prosecution of child abuse and neglect, representation for children, and representation for parents.
3. Request additional information from the CASA/GAL programs regarding whether a court-appointed special advocate or guardian ad litem is necessary if the child has been appointed counsel, and if both are necessary, how to define the roles of both.
4. Request additional data from the State Court Administrator, the Court Assessment Program, and the State CASA/GAL Program on all current funding sources, caseloads and the number of children by county, and all potential costs to provide a guardian ad litem or court-appointed special advocate for each child.
5. Require that any public defender/appointed counsel program make allowances for potential conflicts of interest between children and parents or legal guardians and that provisions be made for appointment of counsel for each without inherent conflicts of interest.
6. Specify that any costs for a public defender who participates on a treatment team be included as "public defender costs". It has been questioned whether the cost of a public defender participating in a treatment team in a treatment court should be a reimbursable public defender cost. Although the treatment team may not operate in a traditional adversarial model, if the public defender performs diligent representation and fulfills standards of professional responsibility toward the client, the costs for participation in that treatment team are legitimate costs that may save additional costs later and should be reimbursed by a public defender/appointed counsel model. If they require an alternative

method, it is suggested that whatever is instituted include the development of an alternate reimbursement scheme to support the goal of diligent representation and treatment court.

7. Take the quality of representation and other issues (see following) into consideration in the development of any public defender system.

IV. QUALITY OF REPRESENTATION AND OTHER ISSUES

Issues: There are many issues illustrated by the following studies that must be considered in the development of any system of public defense and appointed counsel, especially in relation to child abuse and neglect proceedings or other specialized areas of law.

Variable Costs

Cost data is not available in Montana, but a look at a neighboring state may at least provide information and a model for future study in this state. In 1999, the Washington State Legislature asked the state Office of Public Defense (administration of appellate defense) to develop a cost proposal to address parental defense and children's representation costs in dependency and termination cases and the impact of increased filings on indigent defense costs. They determined that depending on the county in which a family resides, payment for representation of parents, guardians, or legal custodians ranges from about \$169 per case per year to \$1,000 per case per year. County payment for children's representatives ranges from less than \$100 per case per year to \$1,200 per case per year (compared to an estimate in Montana of \$750 per child for a court-appointed special advocate/guardian ad litem¹⁴).

They discovered great variability in the payment from county to county and found the costs to be disproportionate compared to what the state spent on prosecution of these cases. Issues identified in the report identified the need for:

- case resources, such as experts;
- evaluation and investigation by independent social workers;
- standards of practice; and
- court efficiencies, such as indigency screening and reduction of court delay.

These issues are all areas in which Montana will need to develop additional information for creating a system of quality defense for parents and for children's representation and to avoid adding more responsibilities without adequate resources. The Washington State study process and implementation of pilot programs (see below) provide a model for developing necessary information.

Problems Legal Counsel Face in Child Abuse and Neglect Cases

In the National Center for State Court's survey on representation of children,¹⁵ a question was asked regarding the "biggest problems related to legal counsel for children in child abuse and neglect cases".** These answers to the question that follow (consolidated for this report) are the same issues that Montana will need to face regarding adequate representation for parents and children in any proposal including:

- profession needs mandatory training;
- funding/compensation;
- lack of recommended performance standards, establishment of statewide standards and consistency of representation, development of best practices guidelines to identify the most opportune time to have counsel appointed;
- caseload and compensation guidelines;
- increased technology;
- recruiting competent counsel, profession needs status;
- confusion when overlap between obligation to represent a child's best interests and traditional attorney role, lack of distinction between role of counsel for child and guardian ad litem, differentiation between legal counsel and guardian ad litem responsibilities (representing a child's best interests v. wishes), lack of defined duties;
- follow-up and status reports;
- identification of funds that may be available for particular types of children and dispositions;
- need for continuing representation and social work support; and
- lack of representation of parents.

** The specific question asked the respondents to identify the "biggest problems related to legal counsel . . . that the Center of State Court Administrators (COSCA) could address".

The issues identified above--role confusion and lack of defined duties and confusion and lack of distinction or differentiation between the obligation of a guardian ad litem to represent a child's best interests and a traditional attorney role--illustrate well the need for greater study and crafting of specific roles and responsibilities between public defense/appointed counsel and court-appointed special advocates/guardians ad litem.

Parent's Representation Pilot Program

The Washington State Office of Public Defense also created a parent's representation pilot program to provide *enhanced* (emphasis added) legal representation to parents in dependency and termination cases. The appropriation provided better representation of parents, decreased the number of court delays, reduced the attorney caseloads, required them to refrain from requesting court continuances due to overscheduling, and increased compensation for parents' attorneys to make it more equal to the funding provided to the state for initiating and pursuing dependency and neglect cases. The pilot program included one rural and one urban county, each with a different model of providing public defense. It also increased the level of support staff and services available to parents' attorneys, such as paralegals and social workers, and allowed use of expert evaluators and increased discovery. They also developed attorney practice guidelines.¹⁶

An evaluation of the pilot programs was performed by the National Council of Juvenile and Family Court Judges and found that there was a reduction in the average number of days it took to hold hearings--the overall number of days from petition filing to case dismissal decreased by 23.6 % (though there were some setbacks in delays between petition filing and fact finding and between dispositional and review hearings). There was also a 53.3% increase in the rate of reunification.¹⁷ The important point of this evaluation is that a public defender system needs adequate resources to positively affect the child abuse and neglect proceedings. If sufficient resources are not available for greater representation for parents and children, then priorities would need to be assigned and a system deliberately developed with adequate resources.

Standards

The U.S. Department of Health and Human Services published Standards for Legal Representation of Children, Parents and the Child Welfare Agency.¹⁸ The Guidelines for Representing Biological Parents (and Legal Guardians) includes a listing of responsibilities of an attorney prior to each hearing of the proceeding based on the ABA Model Rules of Professional Responsibility.

Options:

1. Investigate "other issues" that are vital for development of any proposal to provide appointed counsel for children and parents in child abuse and neglect proceedings, including:

- reasonable caseloads;
- adequate compensation;
- other resources such as investigators, independent social workers, experts;
- attorney recruitment and training for competent counsel;
- definition of roles for legal counsel, guardians ad litem, and court appointed special advocates;
- statewide standards of practice, performance standards;
- consistency and continuity in representation;
- need to use technology, have status and followup reports;
- need to know of resources that children can access; and
- lack of representation for parents is a problem for counsel representing children.

2. Recommend that either within a statewide public defender system or as a complement to it, that court-appointed counsel specialize in child abuse and neglect proceedings or family law.

3. Recommend that a statewide public defender system consider a Child Protection Unit that is parallel to the Department of Justice Child Protection Unit that assists county attorneys to support public defenders with difficult cases or in rural areas where there are few cases.

V. ALTERNATIVES

The following alternatives are not substitutes for representation nor would they provide legal representation for parents or children. They are items brought to the Committee's attention and may provide some assistance and education on or oversight of child abuse and neglect system proceedings.

Alternative A: The Committee has heard testimony from the CasCo Youth Project that provided lay information and assistance to parents involved in the process. It is not an alternative to public defense as testimony indicated that not all parents followed through on the referral, and cases that appeared to be heading toward termination of parental rights were referred to a public defender. A recommendation was offered that an educational component could be required in a court order, if a program existed. The Committee could direct development of a recommendation for development and funding for similar projects.

Alternative B: Interest has been expressed in providing an ombudsman for children or parents. Most ombudsman offices have been set up to protect the interests and legal rights of children in the child welfare and juvenile justice areas, especially state institutions, and to monitor programs, placements, and departments responsible for providing children's services. Ombudsmen receive, investigate, and respond to complaints and are not considered advocates.

A 2001 survey by the Rhode Island Office of the Child Advocate¹⁹ (considered the model by the American Bar Association) indicated that there were 25 states that had offices that could be considered as providing ombudsman services for children. There were many different varieties-- some independent, some within the health department, some legislative, and some attached to a governor's office. Some offices were general in nature, applying to all of state government, some were specific to child welfare. Many were intended to perform investigations on complaints for children in state care or facilities. Most did not specifically address parents' issues or complaints, except concerning the care of the children. This alternative would not specifically address the issues that concern representation for parents or children.

ENDNOTES

1. Exhibit #2, January 22, 2004, Children, Families, Health, and Human Services Interim Committee.
2. FINAL REPORT: Montana Child and Family Services Review. U.S. Department of Health and Human Services, (undated). Obtained from DPHHS website:
http://www.dphhs.mt.gov/services/reports/cfs_final_report.pdf
3. 1996 Audit, Court Assessment Program, Montana Supreme Court, pp. 14-15.
4. U.S. Department of Health and Human Services, Standards for Legal Representation of Children, Parents and the Child Welfare Agency, 6/20/2003. Obtained from website:
<http://www.acf.hhs.gov/programs/cb/publications/adopt02/02adpt7.htm>
5. Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases, National Council of Juvenile and Family Court Judges, Spring 1995.
6. 1996 Audit, Court Assessment Program, Montana Supreme Court, pp. 14-15.
7. Exhibit #2, January 22, 2004, Children, Families, Health, and Human Services Interim Committee.
8. See: <http://www.opd.wa.gov/Report%202.htm> for a list of publications by the Washington State Office of Public Defense.
9. Montana Advocate, CASA/GAL of Montana, January 2004.
10. October 31, 2003, memo from Ellen M. Bush, CASA/GAL Coordinator on CASA/GAL programs in Montana.
11. Washington (2000, c. 122, section 6.)
12. Ibid. "Representation of Children Survey - Summary of Survey Results," (National Center for State Courts) COSCA (Center of State Court Administrators) Courts, Children, and the Family Committee, July 2002 (Revised).
13. Information received in an e-mail from Judith Nord, Staff Attorney, Children's Justice Initiative, Minnesota Supreme Court.
14. Ibid, #9.
15. Ibid, #11.

16. "Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation," National Council of Juvenile and Family Court Judges, August 2003.

17. "Quality Representation of Parents Improves Outcomes for Families", Child Court Works, a publication of the National Child Welfare Resource Center on Legal and Judicial Issues. Volume 6, Issue 1 (April 2003).

18. Ibid, #4.

19. D'Ambra, Lauren, Esq. "Survey of Ombudsman Offices for Children in the United States", Rhode Island Office of the Child Advocate. Updated Version 2001.

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