

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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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 14<sup>th</sup> Amendment and the privacy interests found in the 9<sup>th</sup> 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

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

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

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

The length of time in foster care decreased from 290.6 to 235.6 days.<sup>2</sup> Each day in foster care costs \$24.90,<sup>3</sup> 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.<sup>4</sup> "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."<sup>5</sup>

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.<sup>6</sup> The cost of one year of care for an abused or neglected child at the DCF-run Connecticut Children's Place is \$339,000.<sup>7</sup>

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<sup>1</sup> 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.

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

<sup>3</sup> 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>>.

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

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

<sup>6</sup> *Id.*

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

The average cost of a year of foster care is roughly \$10,803.<sup>8</sup> 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

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<sup>8</sup> 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](http://www.dir.ct.gov/dcf/Policy/Fadopt41/41_50_6.htm)>.

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,

