



Statewide Trends

Parent Representation in Minnesota Child Protection Cases

Joanna Woolman, Mitchell Hamline School of Law

MN Parent Representation Overview



- 2009 change from state public defense system providing representation of parents to county run system
 - Nearly all parent attorneys in MN now work as part-time county contract employees
- Each county responsible for hiring and appointment of parent attorneys
 - No regulation or consistency of pay or contract terms

MN Parent Representation Overview



- Qualification standards for court appointment implemented by statute in 2013 (260C.163 Subd. 3)
- No mandatory right to counsel for parents under current statute (260C.163 Subd. 3)
- Inconsistent systems of appointment of attorneys for parents who want to appeal TPR

Statewide Survey of Parent Attorneys and CJI Judges



- **CJI Judges and Parent attorneys were asked:**
 - When a CHIPS Petition is filed, when is a parent appointed an attorney?
 - Do attorneys attend emergency protective care hearings?
 - What agency within the county is responsible for parent attorney contracts?
- **Attorneys were asked:**
 - What barriers to effective parent representation they encounter?
 - What, if any, changes would they like to see to their contracts?
- **CJI Judges were asked for comment regarding quality of parent representation they see**
- **40 Counties responded**

Parent Attorney Appointment



■ Pre-EPC

- Goodhue, Dodge, Fillmore, Olmsted, Wabasha, Kandiyohi, Jackson, Meeker, Itasca

■ At EPC

- Scott, Ramsey, Hennepin, Itasca, Morrison, Steele*, Sibley

■ Post-EPC

- Mcleod, Carver, Sibley, Dodge, Freeborn, Mower, Steele, Wabasha, Waseca, Winona, Brown, Fairbault, Lincoln, Lyon, Martin, Douglas, Todd, Beltrami, Cass, Clearwater, Hubbard, Sherburne, Becker**

*tries to appoint pre-EPC

**attorneys available for consult at EPC

Parent Attorneys Present at the EPC Hearing



- **Parents are represented at the EPC hearings:**
 - Goodhue, Scott, Ramsey, Dodge, Fillmore, Olmsted, Wabasha, Hennepin, Kandiyohi, Itasca, Sibley, Jackson, Meeker

- **Parents are not represented at the EPC hearings:**
 - Mcleod, Carver, Sibley, Dodge, Wabasha, Waseca, Winona, Brown, Fairbault, Lincoln, Lyon, Martin, Douglas, Todd, Cass, Sherburne, Morrison

- **Parents are represented only if attorney is appointed prior to the EPC and is provided with notice of the hearing:**
 - Freeborn, Mower, Steele, Beltrami, Clearwater, Hubbard

Barriers to Effective Representation



■ **Attorney Resources**

- Large caseloads
- Inadequate compensation
- Lack of support staff (law clerks, investigators, parent mentors, social workers)
- Scrutiny of fees/lack of funds
 - Travel/ out of pocket expenses
 - Appeal fees
 - Expert fees

■ **Counties that identified Attorney Resources as a barrier:**

- Mcleod, Ramsey, Dodge, Freeborn, Fillmore, Olmsted, Steele, Waseca, Lincoln, Lyon, Carlton, Lake, St. Louis, Beltrami, Cass, Clearwater, Hubbard, Sherburne

Barriers to Effective Representation



■ Working with County Social Services

- Untimely or limited discovery
- Not being served with County reports
- Inability to communicate with social worker without attorney
- Vague or out of date case plans
- Case plans that are too long
- Agency “data privacy”
- High social worker turnover

■ Counties that identified barriers related to social services:

- Scott, Ramsey, Dodge, Freeborn, Fillmore, Mower, Olmsted, Steele, Wabasha, Winona, Brown, Faribault, Martin, Sherburne, Carlton, Lake, St. Louis

Barriers to Effective Representation



- **Clients' Lack of Resources**

- Transportation
- Housing
- Lack of Representation (Dads)
- Mental health and substance abuse issues

- **Counties that identified clients' lack of resources as a barrier:**

- Mcleod, Carver, Goodhue, Scott, Sibley, Wabasha, Winona, Fairbault, Martin, Carlton, Lake, St. Louis, Douglas, Todd, Kandiyohi, Itasca.

Desired Changes to Contracts

- **Caseload limits**
 - St. Louis, Beltrami, Clearwater, Itasca, Hubbard
- **Reimbursement of expenses**
 - Dodge, Mower, Steele, Waseca, Itasca
- **Increase in compensation**
 - Wabasha, Hubbard
- **Payment based on time spent (rather than a flat fee)**
 - Olmsted, Sherburne
- **Contracts should be for full time employment with adequate support resources for attorneys**
 - Ramsey



Other Issues with Contracts



- **Appointments from “approved” list/random**
 - Mcleod, Wabasha, Winona, Fairbault, Lincoln, Lyon, Martin, Carlton, Lake
- **No (written) contract between attorney and County**
 - Dodge, Waseca
- **County Attorney’s Office negotiates parent attorney representation contracts**
 - Steele, Jackson, Meeker

Quality of Parent Representation

- 7 judges responded – very small sample
- 5 indicated they felt that parents were represented by qualified and in most cases experienced attorneys
- 2 judges has concerns about quality of representation and the impact of inexperienced attorneys on parents in the system



Mitchell Hamline Child Protection Program



- Multi-disciplinary model of parent representation
 - Includes attorney, parent mentor, and social worker as part of legal team
 - Includes community support group for parents after case leaves court jurisdiction
- Initial research indicates strong correlation between this model and parent engagement with agency and services
- **Reentry rate** (as calculated within one year of case dismissal) approximately 7 % (of reunified families)
- Goal to pilot in additional counties to assess impact on outcomes including reentry