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 country 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 have 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